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Now That You're in It, What Will You Get Out of It?: Advice on Law School from Those Who Have Been There and Beyond

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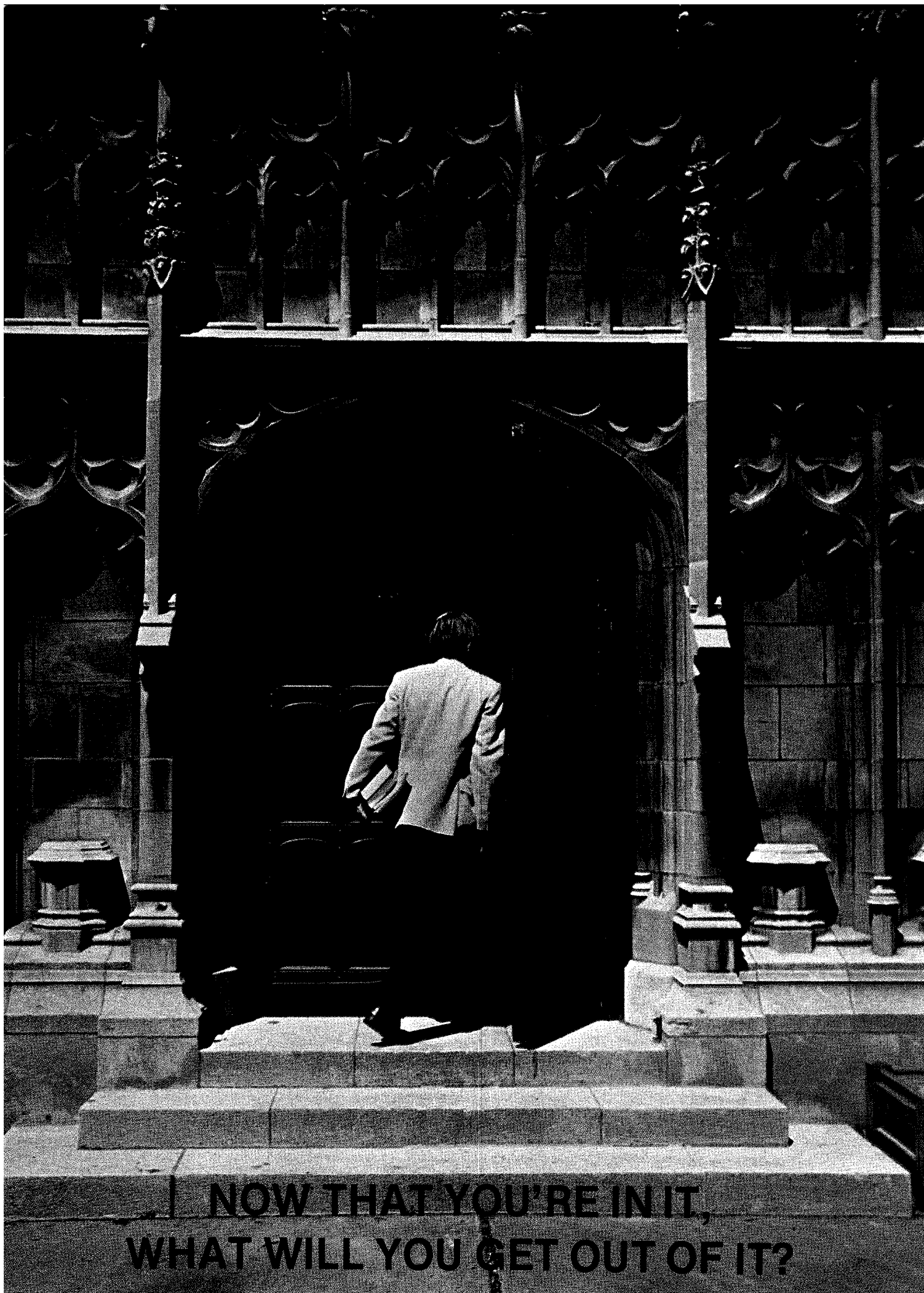
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NOW THAT YOU'RE IN IT,
WHAT WILL YOU GET OUT OF IT?

Advice on law school from those who have been there and beyond

There is a method to the madness of law school. To define that method, we asked a number of attorneys — each prominent in a particular field, from corporation to public interest — to offer their advice on threading through the madness to make the most of your legal education.

The questions we asked them covered the areas of practical courses such as counseling and legal writing; clinical education; specialization; values of particular courses offered; professional and ethical courses; active seeking of minority students by law schools; and government and public interest training.

The attorneys could respond to one or several of the questions, and their comments are as varied as their careers. One thing unifies their answers: they each write from a particular position and emphasize the need to concentrate now — while you're still in school — on what kind of lawyer you'll be.

— The Editors

ROBERT W. MESERVE, *Harvard '34*, is "a simple trial lawyer" with *Newman, Meserve, King and Romero in Boston* and past President of the ABA, the Boston Bar and the American College of Trial Lawyers.

Many of my successful contemporaries deplore many things in current law school education. They vaguely realize that many things are taught differently now, that many new things are taught, and that many courses — which they studied with zeal — have vanished from today's curriculum. They really believe that the law student of today should ask nothing better than to track exactly their courses and training, since those courses and that training have enabled them to do so well in the practice, to line their pockets and to make contributions to the bench, to the bar and to society. This, of course, is human and natural. It is also arrant nonsense — and smug. At least part of this rejection of what is new is instinctive: a response to what appears to be a devaluation of the oldster's hard-earned knowledge.

It is always easier to accept the first part of the Latin tag *tempora et mores mutant* — "times and customs change" — and to ignore the rest, *et nos in illis mutantur* — "and we must change with them."

Some sad memories of my inadequate preparation for the trial of cases lead me to believe that there should be some place in the law school curriculum for the teaching of trial practice — as an art, not a discipline. But this is almost my only conclusion.

I don't believe that any form of curriculum change will bring it about, but I surely hope that there is adequate recognition of the probability that most political leaders will be lawyers as they have been since the beginning of our history as a nation, and that they should be conversant with political ideas and ideals and some of the practical skills needed to achieve their realization.

I do believe that law schools are quite effective in

their search for minority enrollment. Perhaps I shall, in my lifetime, see my personal hope realized — that lawyers will be available in all ethnic segments of our society as leaders and role models. Surely attitudes and actions are improved over those of forty years ago.

As I reflect on my own education, I am quite sure that, except perhaps as a mental discipline, the study of medieval land law or the forms of procedure in the King's Bench in 1635 contributed little. And I surely would have benefited, as a trial lawyer to be, if I had had a more modern course in evidence or had studied (as I might have done) Taxation, Administrative Law or Federal Procedure. But there were no courses, as I recall, in Labor Law, Securities Regulation or Antitrust, and, if I were to study the paths into which the practice was to lead me, they would surely have been more helpful than Bills and Notes.

But who, in 1934, would have perceived those needs? And who could have taught those courses in terms of the needs of 1954, let alone 1975? My selection of courses demonstrates my admitted inadequacies as a prophet, but does it not also suggest that, basically, course content is only part of the game? Was it not important to learn — as the best of us did — to mind our manners, not to be afraid of hard work, to develop habits of thought, to acquire a methodology for self instruction? Is the acquisition of useful factual knowledge a major part of legal education; and what facts can we be sure will be important? In this sense, is today much different than 1934?

In the phrase attributed to a great American mayor, do my questions merely indicate my ability to rise from higher to higher platitudes? Oh, for the ability to stroke a cliché until it purrs like an epigram.

RONALD A. MAY, *Vanderbilt '53*, is a partner in the Little Rock firm of *Wright, Lindsey and Jennings* and Chairman of the ABA Section on Science and Technology.

I do not believe law students are being effectively trained for today's practice of law. My only suggestions as to how they might better be trained would be as follows: first, there should be no de-emphasis on strong academic training during at least two years of law school. I am afraid this means the elimination of most Law and the Elephant courses, to use Dean Thomas Ehrlich's felicitous expression. It has reference to such courses as law and psychology, law and literature and, regrettably, law and technology. Thereafter, by comprehensive, well planned clinical work during the third year, more effective training would occur.

Naturally, this work should include some emphasis on professional ethics. I am aware that many schools are experimenting with such clinical work. Unfortunately, the number of law professors who can participate meaningfully in clinical work is insignificant.

There are too many fundamental areas of law and too

"Practicing law without knowing the game"

many basic skills in law to be learned in law school for any school to presume competence to teach a legal specialty, except on the graduate level. Similarly, since the most effective service by lawyers "in the areas of governmental and public interest practice" comes from lawyers who have turned to those areas after achieving competence in practice, it would seem obvious that these are not appropriate subjects for the law school curriculum.

MELVIN L. WULF, *Columbia '55*, is *Legal Director of the American Civil Liberties Union and the views expressed here are his own and not the ACLU's.*

Law students must resist the orthodoxy which is the fundamental ingredient of the law school curriculum. If students accept the conventional notions that the law is static, that the status quo is sacred and that change, if it must really come at all, must come gradually, they will have missed the intellectual excitement that accompanies the application of skeptical criticism.

The fact is, of course, that the law — like the social and economic structure — is designed to serve the interests of the rich and the powerful and, to paraphrase W. H. Auden, to accustom the poor to their sufferings.

Law students must focus especially on two general areas of the law: constitutional law and the various courses that explicate the economic system, such as corporations law, contracts and taxation. As to constitutional law, students must learn how best to utilize the law aggressively so as to protect the rights of minorities and dissidents and to expand those rights so that those voices can be heard *effectively* for the purpose of improving their human condition.

As to the law of economics, students must understand how that body of law is used to serve the interests of those in power to give them every advantage and to maintain their grip on their special privileges.

It is never enough for law students to read only law. They must read Veblen, Marx, Shaw, Dostoyevsky, Edmund Wilson, C. Wright Mills and other social critics, so that they understand the game. The law is merely the rules of the game. And, if you practice law without knowing the game, you are only a passive instrument of your employer. If you know the game, however, you will hopefully be selective in choosing for whom you work, thereby serving your own integrity and principles.

JUSTIN A. STANLEY, *Columbia '37*, is a *partner in the Chicago firm of Mayer, Brown and Platt and President-Elect of the American Bar Association.*

It seems to me that the essential task of the law schools is to develop and sharpen the analytical skills of students. The schools should not be obliged either to provide "clinical" courses or to graduate "specialists." Training of this sort can come after law school, and it could and may very well be provided by the organized bar under the general supervision of the Supreme Courts of the several states or by independent institutes which offer courses in continuing legal education. Should this seem too great a burden for the aspiring lawyer, let me

suggest that the law schools could conceivably complete their job in two years, so that the total time spent in preliminary training might not exceed that presently required.

There are, however, several obvious and disturbing gaps in the education of most graduating law students. One is their appalling lack of knowledge of English grammar and usage. Words are the tools of our trade. The skilled lawyer, whether a litigator or not, must know how to use them. Many of those graduating with high rank in their classes from some of the so-called best law schools have demonstrated that they don't know simple basic rules such as those governing the use of "I" and "me." Moreover, if they had to choose between using "reticent" and "reluctant" they might be forced to guess.

I think it fair to say, further, that there has been insufficient attention paid to legal history, to the history of our profession and to professional responsibility. It is true that course demands are great and time is limited. It is also true that law schools ought not to be grammar schools. Despite that, law schools should graduate literate people who know something of the profession they are about to enter and who will take pride in its history and its ideals of professional conduct.

I respectfully submit that, *faute de mieux*, a prescribed summer reading course which would include such books as Strunk's *The Elements of Style*, Pollack's and Maitland's *History of English Law*, Heath's *College Handbook of Composition* and *The Code of Professional Responsibility* — followed by an examination upon the return to law school — would be a step in the right direction.

WILLIAM PINCUS, *George Washington '54*, is *President of the Council on Legal Education for Professional Responsibility.*

Law students who do not have a substantial clinical experience are not being effectively trained for today's practice of the law. By clinical experience I mean providing a lawyer's services to clients under the supervision of a law school as part of the law school curriculum and for credit toward the law degree. By substantial I mean approximately one-third of the time spent in law school. On the basis of these standards one would have to conclude that only a small percentage of today's law students are being effectively trained for law practice.

The latest annual survey conducted by our organization, the Council on Legal Education for Professional Responsibility (CLEPR), shows that approximately 24 percent of all full-time second- and third-year law students are receiving some kind of clinical training, even if it does not measure up to what would be adequate. This is encouraging since it is a vast improvement over the situation of only a half dozen years ago.

Students should have good classroom teaching in the basic theories of the law under which we operate. These include torts, contracts, criminal law, real property, constitutional law, evidence, procedure and professional

only makes you a passive instrument . . .”

responsibility. There should be some elective academic subjects. In this way the law student will have the benefit of classroom and library and of supervised clinical work. The law student would then be prepared not only to think as a lawyer but to act as a lawyer.

What needs to be stressed in clinical education are high standards of performance, a sense of professional responsibility and adequate supervision of the student. Legal education should not emphasize specialization, leaving this to post-graduate education.

JOHN A. SUTRO, *Harvard '29*, is an advisory partner with the San Francisco firm of Pillsbury, Madison and Sutro.

I believe that law schools today are more effectively training law students to practice law than in years past. Those law schools of which I have knowledge over the years have recognized that a law student, to be prepared to practice law, should do more than read reported cases and law review articles and attend class; for example, most law schools have moot court competition. It is only in recent years, however, that law schools have given greater recognition to the desirability of training law students to practice law, have required courses in ethics and have provided students with the opportunity for clinical education.

With respect to counseling, a person either has or does not have the ability to recognize the problem that exists, to analyze that problem, and to know how to do the necessary research to obtain the correct answer to it. It is true that curriculums of the law schools with which I am familiar greatly assist those students who do have the basic ability to develop these capabilities.

Legal writing is one of a lawyer's most important tools. I assume that professors at law schools make this point to their students, but if a student does not have a good vocabulary, a sound knowledge of grammar, and the ability to express himself clearly, succinctly and persuasively, I do not think he will learn this at law school. This is something he should have developed at high school and at college.

Clinical education should stress what the phrase implies, namely, how to handle a case from the filing of the complaint to the entry of judgment. This would include preparation of pleadings, whom to serve and where to file the pleadings; all facets of discovery, including taking of depositions; preparation of interrogatories and answers to interrogatories; preparation of pretrial motions, preparation of opposition to such motions, and appearance in court in support of or opposition to such motions; preparation for trial, including review of the facts with friendly witnesses; preparation of cross-examination of adverse witnesses and marshalling of exhibits; and the trial itself, which would include opening statements, examination and cross-examination of witnesses, objections to and resisting objections to questions to witnesses and exhibits offered in evidence, drafting of jury instructions, and argument of the case to the jury or to the court; and preparation of or opposition to post-trial motions.

I do not believe that a law school should emphasize specialization. Most students, I suspect, do not have any specific field of law in mind when they attend law school. They acquire that interest after they are in practice. They can then develop their expertise in a particular field by taking advantage of programs offered by the Practising Law Institute, by continuing education or by programs offered by law schools such as Hastings Center for Trial and Appellate Advocacy in San Francisco.

Most law schools today, I believe, give courses relating to the ethics of the profession and to the proper conduct of lawyers. I am wholeheartedly in favor of such courses. Bar examinations which heretofore did not include questions in this field are now doing so, as in California.

Permit me to make one observation: I believe law schools exist for the purpose of teaching a young person to respect the law and to think like a lawyer. Regardless of the courses offered, a law school cannot make a lawyer.

JAMES D. FELLERS, *Oklahoma '36*, was President of the American Bar Association during 1974-75.

The actual exposure to conflicts and ethical problems is especially critical. This is an area which we have slighted in law schools and is the one area which, more than any other, we cannot afford to slight. Students should all be exposed to substantive law, of course; likewise with respect to legal theory. But the groundwork in these fields is far less important than a firm grasp of professional ethical dilemmas and how they should be resolved.

Recently we learned that a bare majority of candidates for admission to the bar in California were able to demonstrate a minimal proficiency in legal ethics. Although I was not really surprised by this result, I still was disappointed. I would hope that bar examiners will make this section of their examination increasingly more difficult and that they will continue to demand that, in order to be admitted to the bar, this ethical portion must be passed.

It is vital that the public and the profession should be vigilantly protected and that those individuals who do not have a firm grasp of legal ethics not be admitted to the bar. A culling during the bar admission process is a far more efficient, as well as effective, means of insuring that only those who are ethically qualified to practice law do so. This is preferable to being dependent on bar disciplinary procedures to eliminate the unqualified, especially since the latter can be done only following an ethical breach. Neither public interest nor our professional image are furthered by waiting for ethical mistakes to crop up rather than by ensuring that they do not occur.

Law schools, I believe, will respond to a much increased emphasis on ethics in bar examinations. I hope they will all offer actual courses in professional responsibility and that they will also encourage that ethical problems be considered in all courses, as well as in

"The more the practice of law changes, the

clinical ones. Future law students will be far better prepared thereby for both the bar and for practice.

CHARLES D. KELSO, *Chicago '50 and Columbia '62*, is Professor of Law at Indianapolis Law School, Indiana University, and editor of *Learning and the Law*.

First, it is difficult to know accurately or to speak clearly about whether law students are being effectively trained for today's law practice. Does a "no" show high standards or a particular perspective on certain facts? Would a "yes" indicate low standards? The difficulty is that there are many different kinds of practice, and there are no articulated, agreed-upon standards for the quality of practice or for effectiveness in teaching.

Of course, if schools were to target on today's practice, they should press for new relationships with practitioners and employers and should emphasize the precise varieties of specialized roles. In fact, however, most schools are seeking to educate people for lifetime careers that relate to law. Their efficiency should be judged in light of that mission. That is no easy task either. But to give a more direct response, let me suggest that students are now being trained at least as effectively for today's practice as they once were for yesterday's practice — and probably better.

Second, the professional relationships between lawyers and other people should be stressed earlier in the curriculum. Students should perceive the humanness in those relationships and the application of standards governing them as equal in importance for lawyering as the legal roles which govern relationships in society. Experimentation is necessary to determine the best methods of teaching. Until conclusive results appear, what seems indicated is a combination of conventional instruction, clinical and simulation (perhaps TV and/or computer assisted).

Third, clinical education should stress how to practice law well (I almost said in the "grand style") and to see in the people and the cases some echoes of the more sweeping vistas found in the course books.

Law schools which can afford the investment should be pathfinders for ways to bring specialization options into the curriculum. I hope some school tries Dean Michael Sovern's 2-1-1 plan whereby students return for the last year of law school after a year in the practice.

Fourth, to improve our courses in professional and ethical conduct we need more data on the current practices of lawyers and on how legal institutions are working. And we need more thoroughly developed theories of ethical conduct in the light of which lawyer work and the Code can be evaluated — particularly in the areas of office decisions and advising clients.

ROBERT M. ERVIN, *Florida '47*, is executive partner in the Tallahassee firm of *Ervin, Varn, Jacobs and Odom* and Chairman of the ABA Section on Criminal Justice.

Increased emphasis on practical legal education reflects not a diminishing of the traditional academic subjects, but a recognition that the adequate education of a competent, ethical lawyer requires more.

Present clinical programs and internships for which academic credit are given, however, suffer certain inherent limitations. Those programs are by and large restricted to either "in house" practice court type courses dealing with hypothetical cases or to internships in governmental offices or in agencies providing legal services to the indigent or disadvantaged.

Unfortunately, neither experience is particularly well suited to best prepare law students for the professional role that most graduates will ultimately assume: that of practitioners in private law firms providing legal services (civil or criminal) to non-indigent clients. This practical area of legal education, once met by apprenticeship (formal or informal) prior to admission to the bar, remains largely unmet in today's legal education.

Through the simple and economic expedient of expanding present internship programs to give academic credit for one term (quarter, trimester, semester, etc.) of full-time clerkship in a private law firm, law colleges would improve the quality of legal education and tap the greatest source of expertise in the day-to-day practice of law.

The institutional and personal economic benefits of such a program are readily apparent. The minimal supervisory cost to the institution for such a program would be far less than the cost of student resident study for the term. Students, particularly those of marginal means, would be aided by the income produced to offset the cost of legal education while clerking full-time. Such a program would be in marked contrast to the present system which actually discourages students by requiring that, to have the benefit of clerking, they must either carry the double load of school and work or interrupt their legal education.

The benefits to be derived from such a program are not merely economic, however. Students would, during the term of clerkship, work with practicing lawyers on real cases for real clients. They would experience in that association a broad range of recurring practical legal tasks, ranging from initial legal "diagnosis" to client relations. Through such association with practitioners during clerkship, students would be introduced to the impact and influence of the traditions and ethical standards of our profession on the day-to-day practice of law.

BERNARD GOLD, *Harvard '55*, is assistant general attorney for the *National Broadcasting Company*.

Like many corporations, NBC does not have the facilities or resources for on-the-job training of the kind required by law school graduates. Consequently, we look for lawyers with some experience — anywhere from two years up, but preferably about five or six years. This is not, however, a reflection of a shortcoming of present day legal education, as it is a need for the seasoning and judgment that generally comes only with actual experience. Equally good lawyers have come to us from widely different educational and legal backgrounds. These have included lawyers from minority groups, which is some indication that law schools have been effective in seeking

nore—like Paris—it remains the same . . . ”

minority students. The greater emphasis on practical training that I believe exists in most law schools today is a great step forward and one which I strongly recommend.

Pro bono work serves a two-fold purpose in providing practical experience combined with community service. Efforts should also be made to establish cooperative programs with other types of local institutions. For example, most local bar associations have an ethics committee. An internship with such a committee, especially if in conjunction with class discussion, can be invaluable in inculcating proper professional and ethical standards.

LEWIS H. VAN DUSEN, JR., *Oxford '35*, is Chairman of the ABA Committee on Ethics and Professional Responsibility and past president of the Pennsylvania Bar.

There has been a great deal of discussion recently concerning the quality of advocacy in the state and federal courts. The Chief Justice of the United States has repeatedly stated that he believes the quality is inferior and that the law schools should do something about it.

The answer is to train better advocates and not to abolish the adversary system. In addition, there is some thought that the present law school curriculum devotes insufficient attention to changes required in the law or to efforts needed to educate the public as to their rights and the manner in which they can be enforced through lawyers.

In my opinion, law students attending the best law schools in this country are effectively trained for today's practice of law. The law schools give them the tools they need in order to undertake the tasks to which a lawyer must address himself, whether he be representing an individual client, an association, a corporate entity or a governmental unit. They develop his ability to think analytically and they teach him how to use the English language effectively, both by means of oral presentations and by means of the written word.

I do not think it is especially important which courses a law student chooses to take, as it is the case system by which they are taught that is important. However, a lawyer should be familiar with the art and techniques of negotiation as well as those related to the presentation of a position to a court or an administrative agency. These techniques are best learned by a clinical education and, if time and instruction are available, it would certainly be well for a law student to be trained in the art of advocacy and the art of negotiation.

I think that law students can be trained in professional and ethical conduct by means of the case system and that this subject should be taught just as contracts or torts are taught. Frequently, this subject is presented in a lecture fashion which I think is a mistake, as it should be taught by means of developing specific problems, questions and propositions which will show the gray areas as well as those that are black and white.

I think that governmental and public interest practice should be covered in the law school curriculum and

should be available to all law students. It is an important part of their legal education today.

It must be recognized that the law is a body of doctrine and that there is a legal answer to every legal question which can be found by an analysis of the existing case law. It should be taught as it is taught, by having the student mentally put together the various pieces of the puzzle until he sees the whole. He should not be shown the whole and then told how it was put together.

JAMES P. WHITE, *Iowa '56*, is Professor of Law at Indianapolis Law School, Indiana University, and consultant on legal education to the ABA.

Students are being effectively trained for today's and tomorrow's practice of law. There has been a dramatic increase in instruction which offers to law students something in addition to the traditional law school training skills. While the casebook method continues to be the most widely used method of instruction in the first year of law school, many new methods of law school teaching are in the process of development and wide use, including extensive use of current materials, team teaching by practitioners and full-time law teachers, and growth in inter-disciplinary programs of instruction.

The best known program to stimulate development of clinical legal education is the Council on Legal Education's program for professional responsibility. The Council has distributed over \$5,000,000 to law schools to enhance the development of clinical curriculum. Clinical programs tend to emphasize a very low student/perceptor ratio and a heavy emphasis on litigating skills and great attention to the development of professional responsibility. Clinical legal education will, in my opinion, be an important part of law school curriculum in the future. However, it must involve careful supervision and not degenerate to being simply a legal clerkship for which credit is granted.

Law schools must be free to adopt and encourage experimentation and diversity in legal education. Accreditation and approval of law schools should not impede innovation in legal education, but rather should enhance it. Public authorities must be encouraged to accept a diversity of form in legal education and not expect a long school curriculum to simply conform to a list of subjects which a particular committee of bar examiners believes should form the basis for a bar examination at a particular time.

Of particular concern is the entire cost of legal education and the fact that additional resources are needed for law schools to adequately supply their very specialized type of instruction. Twenty years ago law school classes tended to be all large and very uniform in format, essentially the casebook method. We now have a very wide range and a variety of courses.

In order to perfect and develop these courses, resources have to be developed for legal education. Resources have to be allocated for these instructional costs, for soaring scholarships and loans, for scholarly

research and for community services.

The concerns of the judiciary and the practicing members of the bar parallel those of the legal profession in an important aspect of legal education: how best to teach professional responsibility. It seems that the best method is to supplement all course instruction with additional instruction in the area of professional responsibility. I feel it is improper to limit a law student's exposure to the mandates of the Canons of Professional Ethics only through one required course of law school study. The method of instruction in this area should be pervasive, and the instructors should be encouraged to discuss questions of professional responsibility whenever possible in their courses.

With a steady stream of law school graduates becoming members of the bar, the law schools must not become complacent. The American public is entitled to expect more from its lawyers, and the law schools must respond in effectuating these expectations.

JACK W. LEDBETTER, *Texas '57*, is a partner in the Austin, Texas firm of Watkins, Ledbetter, Hayden and Ramsey and Chairman of the ABA Standing Committee on Legal Assistance for Servicemen, as well as associate editor for the ABA Section Journal on Real Property, Probate and Trust.

It appears to me that the vast majority of the law schools in the United States are very much "in touch" with the needs of modern society and the rapidly evolving legal problems.

The principal deficiency, as I see it, is that the law schools are still failing to train students to progress from the point of "thinking like a lawyer" to the point where they can effectively apply such thought process to the practical situations and problems one faces in the active practice of law.

A law school curriculum should include courses designed to aid the student in developing much needed skills. Seminar type courses in which students can gain experience in counseling and mediation by actual participation in such activities are helpful. These courses can operate in the format in which students participate in trying to solve hypothetical practical problems or can take the legal aid type approach with students participating in actual cases.

The lawyer is the last professional "jack-of-all-trades" in American society. The one trait which marks the competent lawyer is his or her ability to quickly see the factual and human aspects of the client situation even though the lawyer has never personally been involved in such activities. This means that the lawyer must have a broad understanding of business, commerce, human relations, personnel, psychology, sociology and finance.

Clinical education should be encouraged to allow the students to participate in the solution of actual legal problems and should stress to the student his or her duty to use best efforts to aid the client in solving the particular problem. Intern programs, where students participate with local law firms and other organizations for law school credit, should be encouraged wherever feasible.

In my opinion, legal education should *not* greatly emphasize specialization. As I stated previously, I believe

one of the great qualities of the lawyer is his ability to see all sides of a situation, and this only comes from a broad educational and personal background. After one develops the broad basis, he or she is then in a position to narrow his or her practice into a specialized area. This should not occur until the lawyer has been in practice for several years.

The unique position in which the lawyer has been placed makes it imperative that he and she act only in accordance with the highest professional and ethical standards. This cannot be learned in one course in ethics, although such a course in basic rules and precepts is essential. The development of professional and ethical standards should be a part of every course in law school. Different types of ethical questions arise out of each type of professional transaction, and the instructor can create an awareness of these problems by including them in discussions during regular course activities.

Also, so far as I know, all major law schools are making a strong effort to encourage enrollment by qualified minority students. The problem seems to be specifically one of "qualification," and, until the undergraduate and secondary school training of minority students is greatly improved, there will continue to be a relatively small number of minority students qualified to handle the rigors of modern law education.

Further, it is my understanding that the law schools today have greatly expanded their course offerings to include a broad spectrum of government and public interest law. Certainly, there is a great deal more education in this area than ever in the past. Whether or not this is "enough" is always subject to debate, but, from my limited experience, I would not be willing to criticize the law schools in this regard at this time.

BRIAN D. FORROW, *Harvard '50*, is vice president and general counsel for the Allied Chemical Corporation.

As long as I can remember, I have resisted various pressures in the direction of specialization. As a corporation's general counsel, I find to my delight that I am one of the last of the general practitioners. Once you understand my perspective and my personal predilections, you will probably not be surprised by what follows.

I believe that law students are being effectively trained for today's practice of law by generalists and by specialists. I might add that the more the practice of law changes, the more — like Paris — it remains the same. So far as I am concerned, the case for changes in the law school curriculum has yet to be made.

In law school I would take the view that the law itself is enough of a speciality and would again establish as broad a base as possible. The basic skills to be acquired in law school are how to read a case, how to read a statute and how to write a memorandum of law and a brief. Since all too many lawyers cannot write effective English, I would urge the development of writing skills throughout one's education, including written projects of various kinds during law school.

Although I may be resisting a trend, I have serious doubts about the value of clinical education during law school. Law students simply do not know enough about

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the law to derive much benefit from clinics. Nor can law schools be expected to teach a lawyer how to try a case. On the other hand, clinics may help to bridge the gap between law school and law practice.

And so far as training in professional and ethical conduct is concerned, I believe that it is desirable and appropriate for the law schools to familiarize the students with the Canons of Professional Ethics.

I believe that many of us are haunted by John Dean's question, how could so many lawyers get mixed up in a thing like Watergate? But we should not forget that many lawyers could not and did not get mixed up in it, and that ultimately it was the lawyers who turned the rascals out.

JAMES J. BIERBOWER, *Georgetown '49 and George Washington '54*, is a partner in the New York firm of Bierbower and Rockefeller and Chairman of the ABA Section on General Practices.

Those who oppose the clinical side of legal education frequently charge that clinical courses are "anti-intellectual" and will reduce law schools to trade school status. That criticism rests on the assumption that clinical courses are intended to take over law school curricula and eventually to replace all non-clinical courses. Nonsense. Clinical courses should compliment and be a counterpoint to the traditional curriculum.

One of the major satisfactions of law practice is the pleasure of dealing with the intellectual concepts of the law at the same time one is immersed in the action of representing specific clients. All that the exponents of clinical education argue is that law students should also share in the excitement of the interplay of action and intellect.

The co-existence of action and intellect in law schools implies that we have a long way to go in developing clinical courses. Too many clinical courses now are how-to-do-it courses for law students hungry to discover the location of the courthouse. Much remains to be done in developing courses that bridge the gap between the purely clinical and the purely intellectual. These courses should encourage students to think about the practice of law, as opposed to thinking about "The Law" in the abstract.

The case method and the Socratic method were not created overnight. It will take some time to develop more practice-oriented courses that will stimulate students intellectually as well as train them practically.

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At a meeting in London in January 1973, the Law Ministers of the British Commonwealth noted "the widespread shortage of expert legislative and legal draftsmen and the importance of taking early steps to overcome this shortage." Additional evidence from Australia, Canada and the United States indicates that

this shortage is world-wide. Worse, the shortage extends beyond legislative drafting to legal drafting generally.

The need is all the more striking when it is realized that, whereas only a minority of lawyers now participate in litigation, other kinds of lawyers are called on to prepare definitive legal instruments almost daily. No other legal discipline is more pervasive.

The importance of legal drafting reflects two things that have been happening to the practice of law. First, the professional emphasis has been shifting from after-the-fact litigation to before-the-fact planning. And second, the increasing complexity of modern life has been accompanied by an increase in volume of legal problems and, more important, the proliferation of factual contingencies to which the legal planner must address himself.

What this adds up to is the increasing need to specialize. The need for specialists in drafting derives from the almost inevitable complexity of the subject matter, especially when the instrument must be integrated into a system of instruments; the financial, social or political importance of the subject matter; and the not always visible inadequacy of most lawyers as draftsmen.

Superior drafting requires a special kind of temperament and, even among the many lawyers who have it, there is a general lack of training. In the United States, there is little training in draftsmanship; of that, very little is being provided by the law schools; and of what is, none is adequate.

Unfortunately, the general run of lawyers and most law professors are oblivious to this fact. How else can we explain why the authors of most books on legal writing trivialize legal writing in general.

The irony is that, while preening themselves on their modernity, the law schools' efforts to keep abreast of social change consist largely of adding new subjects (welfare, poverty, women's rights, environmental law) without in any significant way reflecting the fact that the major role of the lawyer has been steadily shifting from advocacy to planning of a kind that usually culminates in a definitive legal instrument. The law schools remain, in this respect, woefully out of date.

The failure to reflect the prevailing orientation of the legal profession is shown most obviously in the proceedings of bar groups, whose gatherings are still dominated by the minutiae of litigation and in a perfectionism that becomes spurious when its preoccupation with symptoms diverts attention from ultimate causes. Today's overburdening of the courts could be significantly alleviated by spending more professional effort to reduce the judicial input generated by substandard legal instruments than in merely lubricating judicial procedure.

To summarize, the law schools probably cannot be expected to contribute significantly to the discipline of drafting until they are not only so motivated but also provided with adequate teaching methods and materials. These tools are not likely to be provided by the institutionalized sources of power currently controlling the academic community; they are more likely to come from professional sources and demands outside of that community. 