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## SYMPOSIUM

### FOREWORD

JAMES P. WHITE\*

The intent of the Symposium committee was to produce a series of papers discussing the relationship of legal education to the legal profession, both reflecting upon the past twenty-six years during which I served as Consultant on Legal Education to the American Bar Association (ABA), and looking forward to the future of legal education and the legal profession.

The role of the Consultant on Legal Education to the ABA, and that of the staff of the Consultant's Office, is to effectively administer the accreditation of law schools project of the ABA and to provide service, information and consultation to the ABA, to bar admitting authorities, and to law schools relating to legal education in the United States. The ABA, through its Section of Legal Education and Admissions to the Bar (the Section) and through the Consultant on Legal Education to the ABA, is the national law school accrediting agency as recognized by the United States Department of Education.

The Consultant represents the ABA and the Section at significant legal education functions and meetings of various legal and higher education organizations, and provides information and counsel to law schools, their deans and faculties regarding accreditation. The Consultant interacts with the Conference of Chief Justices and the National Conference of Bar Examiners on behalf of the ABA and the Section, and is responsible for legal education outreach, both nationally and internationally.

In part the Symposium reflected upon law schools of twenty-five years ago and those of today, looking to law schools in the new Century.

Many changes in law schools and American legal education have occurred during the past twenty-five years. Smaller classes, new forms of instruction including increased interdisciplinary courses, growth of clinical education and of legal writing and increased emphasis on ethics have occurred. The composition of the student body and the faculty have significantly changed and continues to change. Law libraries now, together with the rest of the law school, make use of the latest technology. The growth area in legal education is in advanced degree programs, now offered by over one-half of the ABA approved

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\* Professor, Indiana University School of Law—Indianapolis. B.A., J.D., University of Iowa; LL.M., George Washington University; LL.D., University of the Pacific, John Marshall Law School, Widener University, Campbell University, Southwestern University, Quinnipiac College, California Western, Roger Williams; Jur. D., Whittier College. Consultant on Legal Education to the ABA, 1974-2000.

law schools on a wide range of subject matter and increasingly for foreign trained lawyers. The curricular offerings of law schools have exploded. All of these factors have caused faculty growth and expansion. The internationalization of the curriculum and the ability of American students to study abroad is astounding. The support staff for a law school now includes recruitment, financial aid, student counseling, placement, alumni relations, development, technology support and pro bono activities. All of these developments make the American legal education a recognized model throughout the world.

After welcoming remarks by Dean Robert K. Walsh, Chairperson of the Section of Legal Education and Admissions to the Bar of the ABA, Martha Walters Barnett, President-Elect of the ABA and Dean Norman Lefstein of the Indiana University School of Law—Indianapolis, the Symposium program began with the topic: *What the Legal Profession Expects of Law Schools*.

The first speaker was Chief Justice Randall T. Shepard of the Indiana Supreme Court. He observed that, “[l]awyers receive most of what they expect from their school during the three years they spend as students.”<sup>1</sup> He stated that there were five demands of the law school graduate: “Honor My Degree,” “Train Good Lawyers,” “Provide Useful Scholarship,” “Contribute Toward Ethical Conduct,” and, “Honor the Practitioners.”<sup>2</sup> He elaborates these five demands in detail in what he suggests are the expectations of the individual law school graduate and of the organized bar.<sup>3</sup>

He stated that “practitioners also expect that their views will be respected in discussions about the training and continuing education of lawyers. Those who toil outside the academy are entitled to have their observations addressed on the merits. This occurs sometimes, and sometimes it does not.”<sup>4</sup>

Responding to Chief Justice Shepard was Phillip S. Anderson, the immediate past president of the ABA. Mr. Anderson observed that the two most pressing issues facing the legal profession today are the matters of multi-disciplinary practice and multi-jurisdictional practice. The globalization of the profession and the pressures of clients for full service of their needs in every jurisdiction, both here and abroad, require that all segments of the profession, the professorate, the practicing bar and the judiciary address these two pressing issues that will affect the profession for decades to come.<sup>5</sup>

Also responding to Chief Justice Shepard was Robert A. Stein, Executive Director of the ABA. In response to Chief Justice Shepard’s question: “What does the legal profession expect from the law schools?” Mr. Stein stated that the

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1. Randall T. Shepard, *What the Profession Expects of Law Schools*, 34 IND. L. REV. 7, 7 (2000).

2. *See id.* at 7, 9, 11-13.

3. *See id.*

4. *Id.* at 14.

5. *See* Phillip S. Anderson, Immediate Past-President, American Bar Association, Address at the Indiana University School of Law—Indianapolis Symposium, *Law Schools and the Legal Profession: A Conference in Celebration of Twenty-five Years of Service by James P. White* (Apr. 8, 2000).

legal profession expects law schools to: produce good lawyers; provide legal scholarship with a healthy balance between theory and practice; and, encourage professors who are concerned about how the law actually works to be actively involved in law reform activities.<sup>6</sup>

The paper presented by Professor Deborah L. Rhode of Stanford was on the topic of *Securing Professionalism and Competency: The Role of the Law Schools and the Legal Profession*.<sup>7</sup> She calls for a focus on preparing all law students for the challenges of modern practice and stresses the obligation of law schools to develop strategies for all law students to engage in pro bono activities.<sup>8</sup> She stated that legal education has a unique opportunity and corresponding obligation to make pro bono involvement a rewarding and rewarded opportunity so that students are instilled with a sense of professional responsibility for the public interest.<sup>9</sup>

Commenting on Professor Rhode's paper was Dean Harry J. Haynsworth of William Mitchell College of Law.<sup>10</sup> He began by stating:

Professor Rhode's paper is both elegant and provocative, and I concur with most of her critique of current legal education. I disagree, however, with her conclusion that the American Bar Association ("ABA") Law School Accreditation Standards ("Standards") inhibit needed structural changes in legal education.

. . . In the approximately twenty-five years I have served on ABA site evaluation teams, each law school I have inspected has unique features and customs. The differences between these law schools have been at least as striking as their similarities. Moreover, even if this criticism was accurate in the past, it clearly is not the case today.<sup>11</sup>

Dean Haynsworth discussed the ABA Temporary Distance Education Guidelines and his belief that they provide multiple opportunities for flexibility and innovation and that in the future pedagogically sound distance learning methodologies will be accepted by the academic community.<sup>12</sup>

The second day of the Symposium opened with the topic: *The Law Schools and the Profession: Working Together to Achieve Diversity*. Herma Hill Kay of the University of California-Berkeley School of Law (Boalt Hall) opened stating: "A diverse classroom is necessary to adequately prepare all law students for the practice challenges they can expect to see in their careers in the 21st

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6. See Robert A. Stein, *What the Legal Profession Expects of Law Schools: A Response*, 34 IND. L. REV. 15, 15 (2000).

7. See Deborah L. Rhode, *Legal Education: Professional Interests and Public Values*, 34 IND. L. REV. 23 (2000).

8. See *id.* at 42-45.

9. See *id.*

10. See Harry J. Haynsworth, *Temporary Distance Education Guidelines Provide Opportunities for Flexibility and Innovation*, 34 IND. L. REV. 47 (2000).

11. *Id.*

12. See *id.* at 54.

Century.”<sup>13</sup>

She decried the decline in minority enrollment at most of the nation’s law schools. At the University of California at Berkeley’s Boalt Hall, for example, about thirty-three percent of law students were minorities in 1996.<sup>14</sup> But after a referendum that year banning affirmative action in admission decisions, the figure dropped to twenty percent in 1997, and has declined since.<sup>15</sup> And, for those inclined to think such statistics do not have an impact on their own education or practice, she pointed out that today’s minorities will make up more than half of the U.S. population by the year 2040, according to government estimates.<sup>16</sup>

Judge Henry Ramsey, Jr., a retired California judge and former Howard University School of Law dean, denounced what he called “preemptive surrender”—the tendency of law schools to abandon affirmative action programs to avoid being sued rather than letting them be tested by the courts.<sup>17</sup> Ramsey reminded the conferees to focus not on what is being denied to minority students, but on what is being denied to society by excluding them from various forms of higher education.<sup>18</sup>

Justice Rosalie E. Wahl, a retired Justice of the Minnesota Supreme Court, then told of entering law school at middle age and becoming the first woman member of the Minnesota Supreme Court. She stressed that for law to represent all citizens, lawyers must be representative of all citizens and reflect the demographic composition of the United States. She emphasized the need of more lawyers who are persons of color and women and who are interested in serving the individual citizen. She emphasized her belief that affirmative action is necessary to make the legal profession reflective of American society. She praised the ABA’s Section of Legal Education and Admissions to the Bar for its early efforts to require law schools to engage in affirmative action efforts.<sup>19</sup>

The final session was entitled *Legal Education in the Twenty-First Century: Predicting the Future*. Dean John Sexton of New York University Law School observed that:

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13. Herma Hill Kay, Professor, University of California—Berkeley School of Law (Boalt Hall), Address at the Indiana University School of Law—Indianapolis Symposium, *Law Schools and the Legal Profession: A Conference in Celebration of Twenty-five Years of Service by James P. White* (Apr. 8, 2000).

14. See Herma Hill Kay, *The Challenge to Diversity in Legal Education*, 34 IND. L. REV. 55, 65 (2000).

15. See *id.*

16. See Kay, *supra* note 13.

17. Henry Ramsey, Jr., *Response to Dean Herma H. Kay’s Affirmative Action Paper*, 34 IND. L. REV. 87, 92 (2000).

18. See *id.*

19. See Honorable Rosalie Wahl, Justice of Minnesota Supreme Court (retired), Address at the Indiana University School of Law—Indianapolis Symposium, *Law Schools and the Legal Profession: A Conference in Celebration of Twenty-five Years of Service by James P. White* (Apr. 8, 2000).

For me, the lesson is the inevitability of a diversification of legal education product, and I think that is the big backdrop for everything we discuss as we look forward in legal education. In our age, consumers drive product development. They demand product differentiated by price. These maxims, whether we want to disregard them or not, apply to legal education. Ultimately therefore, they will trump policies and rules from on high, even from the American Bar Association that are designed to preserve and protect old orders, unless those old orders can justify their existence. So, the single most important thing we have to keep in mind, I think, are in my view, the inevitability of diversification, we will see major changes in the structure and content of legal education.<sup>20</sup>

Responding was Susan Westerberg Prager, Provost of Dartmouth College and former Dean of UCLA Law School. Provost Prager stated that she agreed with Dean Sexton that the future portended change for the legal profession, for the demand and delivery of legal services, and for the education of the future members of the legal profession.<sup>21</sup> She stated that in the world of legal education it is important to maintain and nurture law schools and degree programs designed to inculcate the values of the profession and to produce graduates who will effectively serve societal needs.<sup>22</sup>

The program concluded with Willard L. Boyd, President Emeritus of the University of Iowa observing that while the profession and hence, law schools are changing, we must be always true to the fundamental essentials of the profession, to serve the public good.<sup>23</sup>

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20. John Sexton, Dean of New York University Law School, Address at the Indiana University School of Law—Indianapolis Symposium, *Law Schools and the Legal Profession: A Conference in Celebration of Twenty-five Years of Service by James P. White* (Apr. 8, 2000).

21. See Susan Prager, Provost of Dartmouth College, Address at the Indiana University School of Law—Indianapolis Symposium, *Law Schools and the Legal Profession: A Conference in Celebration of Twenty-five Years of Service by James P. White, Response to John Sexton, Dean of New York University Law School* (Apr. 8, 2000).

22. See *id.*

23. See Willard L. Boyd, President Emeritus of University of Iowa, Address at the Indiana University School of Law—Indianapolis Symposium, *Law Schools and the Legal Profession: A Conference in Celebration of Twenty-five Years of Service by James P. White, Concluding Remarks and Adjournment* (Apr. 8, 2000).

