

Tulsa Law Review

Volume 1 | Number 1

1964

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Recommended Citation

Maurice H. Merrill, *Random Thoughts on Legal Education in Oklahoma*, 1 Tulsa L. J. 1 (2013).

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INTRODUCTION

RANDOM THOUGHTS ON LEGAL EDUCATION IN OKLAHOMA

Maurice H. Merrill*

One of the axioms of law school administration is that the law review provides one of the most effective adjuncts to the basic teaching program. With the inauguration of the Tulsa Law Journal, legal education in Oklahoma takes one more step forward. While we are extending congratulations to the school and to its new in-

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structional tool, it may be appropriate to glance briefly at the past, and then to consider some tasks of the future.

Legal education in this state has come a long way since the first territorial legislature adopted a statute directing the admission to the practice of law of those who satisfied the admitting court, by examination or by certificate of admission elsewhere, that they possessed the requisite capacity. No educational requirements were specified. Instruction in the law was confined to the traditional method of "reading," within some lawyer's office, or, perhaps, on one's own. Interestingly enough, one must be admitted anew in each district court. He could not be admitted to the bar of the Territorial Supreme Court until he had achieved admission in one district, in spite of the fact that the Supreme Court was composed of the judges of the several district courts.

Formal requirement of examination as a means for determining capacity to practice law, still without reference to scholastic achievement, was introduced by the territorial legislative session of 1905. The examination was to be administered by the Supreme Court, but permission was given for the appointment of a commission of five lawyers to "assist" in the task. The same law contained the first formal recognition of law school training. In any county in which there might be located a law school, the Supreme Court, on petition from the school authorities, might appoint a special committee to attend the commencement exercises and to examine the graduates touching their qualifications for practice. The act did not indicate whether the examination was to be public in nature, as an integral part of the commencement exercises. Such a proceed-

ing might have added spice and interest to them. Unfortunately, the large enrollments of today preclude introducing this feature into the mass productions presently masquerading under the name of commencement exercises.

It is doubtful that this provision for examining graduates at their own law school ever was put into effect. So far as I know, there was no law school in the Territory to which it could have applied. Possibly it was preparatory in nature, for shortly there was under way a movement to establish a law school in Oklahoma.

Despite the rudimentary requirements for admission to practice, the quality of the bar, at least, the quality of its leaders, was very high. Within a few years after statehood, Justice Oliver Wendell Holmes wrote to a group of law students at the University of Oklahoma:

"I have heard such very good arguments from the gentlemen of your bar that I sometimes mention Oklahoma as a good example for the rest"

Holmes, J., was not one who honored the Scriptural admonition, "Suffer fools gladly." Obviously the men who called forth such an encomium *were* good. It was natural that they should be concerned about the proper training of the young men who were to follow them. From this bar came the impetus for the first systematic provision of legal training in Oklahoma.

This first provision took the form of an evening law school, staffed by practicing lawyers, affiliated with the Epworth University, an institution then maintained in Oklahoma City by the northern and the southern divisions of the Methodist Episcopal Church. However, the ultimate objective of the group was the establishment of a school with a full time faculty under the auspices of the state university. In this they were in line with the established traditions of the southern and mid-western states from which most of them came. They were practical, as well, since none of Oklahoma's privately sponsored colleges possessed the resources or the stability essential for the foundation of a first class law school.

Their continued efforts brought about the opening of the University of Oklahoma Law School in the fall of 1909. The Epworth operation was continued through the Spring of 1910, to complete the training of the group who had started there. By arrangement, however, these men received degrees from the University of Oklahoma and their names are carried as its graduating class of 1910 in law. With that Spring, the Epworth University law school closed its doors, and formal legal instruction within the state concentrated at Norman.

As the years passed, the growth of Oklahoma City and of Tulsa produced a need for instruction in law, particularly in the evening, at these two cities. Originally, this need was met by the organization of independent schools, unaffiliated with general institu-

tions of higher education. In minor degree, there have been temporary essays at similar training in other localities within the state. But Oklahomans have concurred with the general thought of the country that professional training best can be assured stability of support and vigor of scholarship through affiliation with firmly rooted academic organizations. Today, the state possesses three law schools, and only three, each flourishing under the auspices of an established university. Each is approved by the American Bar Association. Two maintain law reviews as part of their teaching program, one being the Tulsa Law Journal, whose advent we now welcome.

What, then, of the future? Legal education, as Pound has said of the law, "must be stable and yet it cannot stand still." To the successfully tested methods of the past we should adhere. The arable fields of legal education should remain in cultivation. But holding fast to that which has been proved good must not lend us to neglect the opportunities for improving our methods and for extending the usefulness of legal education.

As we have noted, the relationship between the practicing bar and the instrumentalities of legal education historically has been very close in this state. There are present today additional manifestations of the continuance of this community of interest.

The bar, rightfully, is concerned with the health and the vigor of the state's law schools. The Oklahoma Bar Association maintains a committee specially charged with responsibility for surveying them and for advancing proposals for their improvement. More recently, under impetus stemming from the Association's Committee on Long Range Planning, a special committee on Pre-Legal Education Counseling has been set up, concerned primarily with the problem of informing young men and women concerning the nature of the lawyer's work and the responsibilities, the services and the rewards of a career in the law. This is a wise and forethoughted response to the problems raised by the glamorization of the natural and the mechanical sciences in recent years. It is well that we stress the importance of these studies. Yet what will it profit us to conquer the worlds of nature and of mechanics if we let our society disintegrate through failure adequately to understand the significance of the law that furnishes the social matrix essential to the development and the enjoyment of our scientific accomplishments? From many sources, including those already mentioned, has come a project for raising funds, through the instrumentality of the Oklahoma Bar Foundation, to strengthen the programs of the law schools of the state, particularly by providing the funds to support distinguished professorships. To maintain and increase the quality of their service, all the schools urgently need a program of this sort. It will enable them to attract and hold teachers of high ability and inspirational spirit against the competition coming alike from the monetary rewards of practice and the higher salaries obtainable

at schools elsewhere. Current events make it clear that funds for such purposes are attainable for the glamorous areas of science and related fields. It is no less important that the preparation for the public profession of the law be similarly supported. It is heartening to see recognition of this fact on the part of the bar.

More and more, the institutions of learning recognize that education is a life long process. Continuing education for adults increasingly is of concern to these institutions. The need is especially great in the professions. In the field of law, the Oklahoma Bar Association has conducted for years an outstanding program of continuing legal education, largely based on short local institutes. The faculties of the several law schools have participated actively therein. There is every reason to anticipate the expansion of this program. Institutes exploring in greater depth topics of wide scope are being advocated. The law schools doubtless will be called upon to play a significant role in the development of such a program. Their ability to respond to this call will be in direct proportion to the broadening of their resources.

Legal aid programs become of greater importance as the evolution of constitutional law makes the provision of effective representation for the indigent defendant in criminal matters an inescapable necessity. No less pressing is the call for adequate representation of the needy in civil transactions, regardless of whether these transactions result in litigation. To a marked degree, students in our law schools already are cooperating with legal aid programs in certain localities. While this is a public service, it also is an educative process. Definitely, it will be to the public advantage to devise means whereby this cooperation can be expanded.

Another area in which cooperation between the bar and the schools can result in a significant public service is in respect to what may be termed legal research at the level of the public interest. How do our present laws and legal institutions work? What are the weak spots in our law, substantive and procedural? The various committees of our bar association continually are dealing with specific problems to which questions such as those just set down apply. To attain the proper solution to the problems detailed investigation in many areas, often involving contact with many departments of knowledge, is essential. Activity in this line, participated in by the law faculties, by the law students, by the practicing lawyers, and, within the limits set by their official status, by the judges would be greatly in the public interest. Obviously, the greatest benefit would come from the provision of the basic foundation for the effective betterment of our legal order. But there would be many other advantages. The teachers would gain a new insight into the place of law as a means of ordering society, new knowledge of the details of the subject matter which they teach. The students would acquire skill in techniques of research and insight into the practical working of the law. Incidentally, stipendiary compensa-

tion might solve some of their pressing budgetary problems. The lawyers would profit by the opportunity to look at the law in perspective rather than in focus upon the problem of success or failure in particular cases. The judges would develop new insight into the conditions underlying the controversies over which they must preside. Into this promising field for public service, the Oklahoma Bar Association and the Oklahoma Bar Foundation are preparing to enter. There is every reason to anticipate therefrom great progress in legal education in its broadest significance.

These, then, are some of the ways in which the effectiveness of legal education in Oklahoma may be enhanced and in which its sphere of influence may be widened. The *Tulsa Law Journal*, it may be anticipated, will portray in its pages, from time to time, the progress that is made.

