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ADMISSION TO LAW SCHOOL: NOT BY COMPUTER, NOT BY CHANCE

Edwin M. Schmidt*

Many articles have been written on admission since the "crisis" or "crunch on law schools" began in the 1968 to 1970 time frame.

In my opinion, too many of the recent articles on law school admissions were written by individuals with only a smattering of knowledge or experience of the actual process. It is my hope that this will not be just another article but one that lays to rest some of the fears, reservations, and suspicions about law school admissions held and often expressed by the members of the Bar. Unfortunately, some members of the profession are scarred by an admission denial of one near and sometimes dear to them. Their valuable support is teetering on the brink at this critical time of need of all forms of support. If the article fulfills my hope, that should be sufficient justification for including this type of contribution in a scholarly publication.

If there is a fair criticism of the law school admission process generally, I suppose it is the contention that not enough has been done to educate the candidate on how to apply to a law school that might accept him. There is a reasonable lawyer-like answer to this, i.e., that the applicant who studies the available materials should be able to figure out whether his chances for admission to any law school are reasonably good and if they are, to what law schools he might be able to gain admission.¹ Another answer is that most law schools were, and some still are, thinly staffed with admission personnel. Staff shortages make it very difficult to disseminate word of mouth advice to large numbers of candidates. Most candidates seem to expect this personal touch as the other disciplines have been better organized and able to handle graduate and professional school candidates in this manner. A

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1. R. STRICKLAND, *HOW TO GET INTO LAW SCHOOL* (1974). This work combines the available materials with sound advice.

most informative article on law school admissions appeared in the August issue of the ABA Journal entitled *Law School Admissions—A Different View* by Peter A. Winograd.² Mr. Winograd was formerly involved in the admissions process at Georgetown University Law Center and at the New York University School of Law, two of the largest and most prestigious law schools in the country. He currently is serving as Director of the Law School Program of the Educational Testing Service at Princeton, New Jersey. I recommend this article to the busy attorney.

I shall attempt to answer some of the questions or complaints, often hard to distinguish, that are put to persons in the admissions process. Why an admission test at all? What good is it? How can a test and other impersonal factors possibly select who can study anything much less law? How can a computer select law students? And so on. Before answering these questions a review of the admission figures for the University of Tulsa College of Law, which are typical figures for accredited law schools, will reflect why these questions are now asked and hopefully explain why some misunderstandings have inevitably occurred.

| 1969 | | 1970 | | 1971 | | 1972 | | 1973 | |
|---------|--------|---------|--------|---------|--------|---------|--------|---------|--------|
| Applied | Admit. | Applied | Admit. | Applied | Admit. | Applied | Admit. | Applied | Admit. |
| 85 | 85 | 323 | 150 | 819 | 168 | 1316 | 203 | 1009 | 195 |

The decline in applications in 1973 may be misleading without explanation. The number of candidates taking the LSAT increased slightly for fall 1973 admission but the number of applications declined slightly nationally. The best reason given for the decline in applications nationally appears to be "self select-out", as most law schools reported an increase in the quality of applicants. Additionally, the University of Tulsa College of Law charged an application fee for the first time. It is believed all U.S. law schools now charge an application fee.

The Law Schools Admission Test has been used by many law schools since its inception in 1948. The year 1961 is generally referred to as the year the test was refined to its present state of reliability. The most prestigious schools have long had an admission problem but this was not too disturbing because until about 1970 there were other very good nationally known schools to attend. For years, some schools required applicants to take the test for no apparent admission reason; that is, there was space in the entering class and the applicant was

2. 59 A.B.A.J. 862 (1973).

admitted nearly regardless of scores. Perhaps only the poorest qualified applicants were even counselled that their successful completion of the first year was unlikely. So as long as the test did not have a substantial effect on admission to some school, there was little criticism of it and little publicity about it.

In the abstract, there is little disagreement that only the best qualified should be admitted to law school, as with admission to medical school, dental school and the other healing disciplines. However, when the rejected applicant is in your "family", he should be admitted because Historically, law schools in the U.S. were available to anyone who had the then current entrance requirements and there were empty seats in most beginning classes. Entrance to a law school became almost a constitutional right, a sort of Jacksonian democracy idea that anyone was entitled to try. Now it appears we in the profession must learn to live with the limited admissions that our brothers (and sisters) in the medical professions have grown accustomed to. The applicants and the public in general accept the situation quite well and this should inure to benefit the image of the profession, but some members of the profession are disturbed.

Understandably, not many practitioners keep informed about the Standards for Approval of Law Schools even though they are promulgated by the American Bar Association, the practicing attorneys' organization, and not the Association of American Law Schools. Reference to the LSAT first appeared in the Standards on an insert page dated June, 1961. The provision read in pertinent part: "The Council is of the opinion that LSAT, administered by the Educational Testing Service of Princeton, New Jersey, should be required of all applicants for admission to the approved schools."

The Standards of the ABA for Legal Education, dated November 1, 1969, include factors bearing on approval of law schools under twenty topical headings. "VI Admission Requirements" continued the provision unchanged. The current Standards adopted by the House of Delegates at the February, 1973, mid-winter meeting provides in Section 503 of Chapter V entitled "Admissions" as follows: "All applicants, except those physically incapable of taking it, should be required to take an acceptable test for the purpose of determining apparent aptitude for law study. A law school that is not using the Law School Admission Test administered by Educational Testing Service should establish that it is using an acceptable test."

This upgraded requirement is a recognition of the established re-

liability of the test scores, combined with undergraduate GPA as an accurate predictor of first year success in law study. Over 400 validity studies have been completed, as well as other worthwhile research, in producing the LSAT. Presently, a study is ongoing hopefully to inject a reliable predictor factor as to the contribution the candidate will make to the profession after he completes his study. Recently completed research produced a braille test for blind applicants. I mention these studies and research to emphasize that the persons involved in creating and supplying data to law school admissions personnel are never standing still and continually strive to provide the most accurate predictor factors possible. The bibliography of the Law School Admission Council now includes twenty publications and ETS, through the Law School Data Assembly Service, provides eight different computer print-outs to aid admissions personnel in determining the best qualified candidates.

There appears to be some feeling in the Bar that the teaching profession is not acting responsibly in this "crisis". Phrases like "playing God" are heard by faculty admissions personnel. Then President-Elect Chesterfield Smith of the American Bar Association, in speaking to the members of the Law School Admission Council at the annual meeting in June, 1973, made the point very clearly that he and the members of the governing body of the ABA were well aware that admission to the Bar to a large extent was passing from the practicing attorney to the teaching profession. He cautioned admission personnel to maintain an awareness of the necessity to admit students who represent various segments of the social and economic levels of our country. President Smith indicated he felt the Bar was pleased with the increased qualifications of persons applying and being admitted to law schools. As mentioned above, only the sponsor of a rejected applicant seems to disagree. A rejection frequently produces the reaction that the use of the Law School Admission Test in any manner and the use of computers in processing data is wrong and so is the whole admission process. Mention of the over four hundred validity tests and the ongoing testing of the test does little to assuage the emotionally involved member of the Bar. It is difficult, if not impossible, to explain the admission process to the interested and unemotional person in the few minutes time generally available to the busy attorney. Explanation to the emotionally involved is not possible.

A most common misconception about the test is that it is an IQ type test. The annually published Pre-Law Handbook of the Associa-

tion of American Law Schools and the Law School Admission Council, the annual Law School Admission Bulletin and other source materials stress that the test is designed to measure certain mental abilities important in the study of law and not IQ. It is designed to measure the ability to understand and reason with verbal, quantitative, and symbolic materials. It is a skill assessment that is made and not a test of the grasp of specific subjects. This accounts for the fact that some high grade point average students from good colleges and universities, possessed of a high IQ, sometimes do not score well. It is reasonably possible that these individuals, if allowed to enter law school, would by hard work successfully complete the curriculum and compile a mediocre record. But, it makes more sense that these individuals pursue studies in an area in which they excel and that the better qualified candidate be allowed to enter law school. A denial of admission in this type situation is obviously more difficult when the father, the grandfather and the greatgrandfather all were attorneys and the firm bears the name of X, X and S. Who is to carry on the practice? A denial puts a strain on relations with the alma mater. Additionally, every unhappy member of the Bar seems to feel he has or should have some influence on the governing body of the state university, which body should "straighten out that law school bunch." We in the profession maintain that the practice of law is not a business but a profession, a public trust, and that only the most qualified should be allowed to handle the affairs of another.

Basically, the admission process at the accredited law schools does not vary greatly. As Mr. Winograd points out in his article, most law schools do not conduct the admission procedure by the numbers or by computer. People are involved in the selection process. Some law schools have larger admission staffs than others. The larger or better staffed may include full-time lay personnel above the clerical or secretarial level. A Director of Admissions may be a multi-degreed administrator or a psychologist. But regardless of the staffing, the ultimate responsibility rests with a faculty admissions committee and with the Dean, in other words, members of the profession. How many lay people and how many members of the profession actually look at a particular file obviously varies with the school and with the content of the file. At the University of Tulsa, the most hopeless candidate's file is reviewed by at least one lay person and two members of the profession. A borderline admission candidate's file may be reviewed by as many as six members of the profession. Actually, any faculty member may review and make recommendation on a file.

At the risk of unduly prolonging this article and causing the reader to turn to something more promising within the issue, I want to touch on another common admission procedure that is generally misunderstood by the members of the Bar. That is the general policy of not granting personal interviews with applicants in the law school admissions process. A number of schools have experimented with psychological and sociological tests for the applicant to complete or an essay to write on a particular subject, followed by an interview with a trained interviewer, a psychologist for example. This is followed by a faculty interview using varying numbers of faculty members. These efforts were measured by accepted standards and found to add nothing to the admissions process and in fact one study produced a negative factor. The unfairness to the applicant with limited means of requiring or granting interviews is obvious. Here at The University of Tulsa we have adopted a rather middle ground approach where the candidate who presents himself is allowed to talk to a member of the faculty admissions committee who attempts to answer questions beyond the capability of the administrative staff. However, the faculty member does not have the applicant's file and he does not make a report of the interview. Applicants are invited to view the facilities and are encouraged to talk with students who are available for this purpose.

Obviously other fears and reservations about the current admissions process have been expressed but any attempt to recall all of them or to treat any of them exhaustively would be counter-productive to my hope expressed at the beginning of this writing.

It is my firm belief the academic profession has acted responsibly under the circumstances in this new situation. It is regrettable that some alienation of alumni and other members of the Bar has occurred but with the understanding that is developing, this breach between the law faculties and the Bar should be closing. We need each other too much to ever grow apart.