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ADDRESS

THROUGH A CRYSTAL BALL: LEGAL EDUCATION—ITS RELATION TO THE BENCH, BAR, AND UNIVERSITY COMMUNITY

James W. Ely, Jr.*

The party is over for American law schools. The prolonged boom of the post-World War II era has finally turned sour. The number of law school applicants has fallen sharply, and some commentators foresee a more serious downturn in the next few years. Faculty meetings and legal education journals wrestle with a loss of momentum and manifest an unaccustomed air of forboding. A recent magazine headline “The Trouble With America's Law Schools” neatly captured the changed mood.1

Critics of legal education have suddenly appeared from every direction. In well-publicized remarks Harvard President Derek Bok has argued that too many of our best students are choosing legal education at the expense of other and more necessary pursuits.2 The notion that there are already too many lawyers and that newcomers will face a severe job glut has received widespread attention. If this were not discouraging enough to law professors, they also find themselves accused of complacency and lack of imagination in training students to deal with legal and societal problems. Of course, people often perceive social needs quite

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differently, and thus legal educators are receiving brickbats from all quarters. Many students find legal education stifling and the faculty remote and preoccupied with scholarly publication. Judges and practitioners question the level of practical training in the law school environment and seek greater emphasis on the acquisition of basic skills. Radicals see the law school as a handmaiden for corporate interests, while conservatives decry fuzzy-thinking liberal professors and call for greater attention to the economic implication of legal rules.

After decades of heady growth, legal education finds itself in a period of self-examination and doubt. Indeed, America's law schools seem to be undergoing something of an identity crisis. Such a process is always painful; yet no institution, and certainly not law schools responsible for the education of a professional group, can claim immunity from criticism. I believe that a season of introspection will ultimately yield positive results for the future direction of the law school. The debate has exposed some partly-submerged strains in legal education—strains which have much to tell us about the law school's relationship to the university and the legal community at large. Although my crystal ball offers no clear wisdom for the future, perhaps these remarks will help clarify our thinking about contemporary problems of legal education and possible courses of action.

We should start our inquiry by stressing the dichotomy between the law school's place within the university and its obligation to the legal profession. "Legal education's heritage," historian Robert Stevens has recently noted, "was one of an inherent conflict between the professional and the scholarly." This divided loyalty permeates nearly every aspect of law school existence. It is difficult to ride two horses at once, yet legal educators labor under the need to satisfy often distinct sets of expectations.

We must also recognize that the relationship between legal education and the university has always been somewhat uneasy. The modern

law school developed after the Civil War and only gradually replaced the traditional apprenticeship system of professional preparation. Almost from the outset, however, some commentators questioned whether the law school was an appropriate addition to the university family. Writing early in this century, Thorstein Veblen contended that "the law school belongs in the modern university no more than a school of fencing or dancing." The core of Veblen's objection, of course, was the vocational emphasis which he perceived in legal education. After all, a great deal of important training takes place outside the university framework. Although law schools eventually won a spot within the university, questions about their appropriate function remain. What is the purpose of legal education? Do law schools, as some of my friends in the liberal arts disciplines suggest, merely offer a glorified form of trade school education? Should professors emphasize law as an intellectual discipline and downplay practical considerations and the acquisition of professional skills? No easy or categorical answers are apparent.

This friction between the professional and the academic is particularly evident in the areas of faculty development and scholarship. Should new faculty be selected largely upon their potential for scholarly research? Is successful practice experience valuable in becoming a law teacher? To what extent should professors be permitted to practice law? What about the appropriate role for legal scholarship itself? These concerns, raised again and again in the faculty selection process, relate directly to the dual function placed on legal educators. What about the appropriate role for legal scholarship itself? Should law professors, like others in the university, face the dread prospect of publish or perish? If the primary goal of law school is professional preparation, then one may well question whether the faculty should really be expected to make significant contributions to scholarly literature. But if law schools are to establish their academic legitimacy within the university there can be no question that the faculty must be held to high standards of scholarly achievement. Thus, one cannot be surprised when university reward structures typically place great weight on the demonstrated ability of law faculty to produce substantial scholarship. Salaries, promotion, and

above all tenure, rest substantially on this issue.\textsuperscript{10} We must recognize that most law faculty will respond\textsuperscript{11} and that scholarship will tend to pull them away from strictly professional activities.

I should hasten to reject the notion that solid scholarship and excellent teaching are somehow opposite values at war with each other. Although one occasionally hears this argument advanced,\textsuperscript{12} I believe that it is without merit. Indeed, scholarship and teaching should be complementary. Teaching often raises important and interesting questions that warrant further investigation, while scholarship should serve to enrich one's ability to conduct a stimulating class. Roger Cramton of Cornell, (immediate past) President of the Association of American Law Schools, has put the matter succinctly: "[y]ou are fooling yourself if you believe you can maintain freshness, depth, and interest through a lifetime of law teaching without engaging in the discipline and creative effort of scholarship. . . . [T]he stimulating younger teacher of 35 will become the old bore of 55."\textsuperscript{13} Moreover, law school life provides sufficient opportunity for professors to develop scholarly projects. While effective law school teaching is a labor intensive activity requiring substantial preparation, it falls far short of consuming a faculty's full working time. Having emphasized that it is entirely appropriate for universities to expect scholarship from law faculty, I should also stress that institutions must strive to assist their faculty in meeting academic objectives. Specifically, adequate library facilities, a regular sabbatical policy, and research funds are requests that faculty may legitimately make of their school.

Granting the importance of scholarship to the legal academic, there is a significant problem in defining the function of legal writing. Is such scholarship intended to meet the needs of practitioners or to impress other professors? Stevens has observed:

In general, the leading academics have failed to provide the profession's scholarship. . . . Indeed, to have written the standard practitioner's work in a substantive field of law might well be the kiss of

\textsuperscript{10} One scholar has maintained: "In practice . . . published writing always is given the highest priority in terms of criteria for tenure and salary. Whatever law schools say, their behavior sends strong signals to their faculty that teaching, institutional activities, and public service are to be done at the professors' own risk. Only publication is safe." Bard, Legal Scholarship and the Professional Responsibility of Law Professors, 16 CONN. L. REV. 731, 733-34 (1984).

\textsuperscript{11} For a trail-blazing study of the research and writing activities of senior law faculty, see Swygert & Gozansky, Senior Law Faculty Publication Study: Comparisons of Law School Productivity, 35 J. LEGAL EDUC. 373 (1985).

\textsuperscript{12} See Bard, supra note 10, at 743-46.

\textsuperscript{13} Cramton, What It's All About: Teaching and Scholarship, AALS NEWSLETTER (President's Address), Jan. 1985, at 3.
death for one who wants to be employed in one of our leading law
schools. . . . [T]his confusion—and I think schizophrenia is the right
word—has had a paralyzing effect. I suspect that the reason there is
little good legal scholarship—and all too often little scholarship—is that
the typical teacher in a typical law school knows that it is not quite
socially acceptable to write a 'professional' article and yet is not quite
comfortable writing the 'academic' one. 14

The uncertain goal of legal scholarship has yielded two classes of litera-
ture. Law reviews15 are filled with highly technical articles which closely
analyze appellate decisions. At the same time, we find grandiose reflec-
tions about political philosophy, legal history, and social order, topics
with scant interest for busy practitioners. The audience for this latter
category is really other professors or perhaps the occasional judge. There
is widespread agreement that law review articles are too long and overly
documented and that a significant split exists between the interests of
many academics and the needs of the practicing bar. Put bluntly, much
of what academic lawyers turn out in the name of scholarship is of little
utility to the average lawyer. We know that most law review articles
have a low readership and that even academic lawyers regard much of
the literature as worthless. 16

It is surely an unfortunate state of affairs when law professors fail to
produce the leading professional works. Perhaps what is needed to re-
solve this problem is a broader definition of acceptable scholarship. Uni-
versities, as we have seen, are entitled to insist that the faculty engage in
creative intellectual activity about the law. Arguably, however, universi-
ties should be more open to understanding that creative scholarship may
take a variety of forms, including some of immediate service to the legal
profession. A professor serving with a state law revision commission or
participating heavily in bar association continuing legal education pro-
grams should receive recognition for these important contributions. Not
all the faculty need be urged to author the traditional tomes.

14. Stevens, American Legal Scholarship: Structural Constraints and Intellectual Conceptual-

15. In sharp contrast to other disciplines, law periodicals are usually managed and edited by
students. For a treatment of the evolution of this unique practice, see Swygert & Bruce, The Histori-
cal Origins, Founding, and Early Development of Student-Edited Law Reviews, 36 HASTINGS L.J. 739
(1985).

16. For instance, Professor Bard emphasized "the low enlightenment power of most law schol-
arship" in arguing that "most law professors are not competent to produce scholarship that yields
new knowledge about law and its institutions." Bard, supra note 10, at 734, 732. Two commenta-
tors have bluntly declared that "legal scholarship is in many ways a bad joke." Konefsky & Schle-
gen, Mirror, Mirror on the Wall: Histories of American Law Schools, 95 HARV. L. REV. 833, 848-49
(1982). The classic critique of law review literature is Rodell, Goodbye to Law Reviews, 23 VA. L.
Let us consider the other side of the coin. How should the law school define itself in relation to the legal profession? One could well ask whether the law school has any real function apart from professional preparation. The law school was developed as an institution offering instruction in the knowledge required to succeed in practice. Whatever professors might hope, very few students look upon their legal studies as a purely academic exercise. Despite a pleasing self-image of the law school as an ivory tower, almost no school can afford to ignore the career-oriented dimensions of its mission. Such a seemingly mundane matter as the failure rate on a state bar examination can have a dramatic impact upon a school’s ability to attract the best students. To stay in business, law professors simply must prepare their students to meet successfully the entry requirements of the profession. To a degree, then, Veblen was correct: there is a vocational component inherent in legal education.

Thus, in the last analysis, law schools must balance their university obligations with a need to serve the profession of which they are an integral part. A cursory glance at a typical law school curriculum demonstrates how much professional concerns are at the heart of the enterprise. Rhetoric about curriculum reform only masks the reality that few fundamental changes have been implemented in decades. Basic substantive law courses and the casebook method reign supreme. None of this is very surprising, or likely to change in the near future. But maintenance of an appropriate equilibrium requires a willingness both to hear the concerns of professional leaders and to make periodic adjustments in the law school program. Faculties must not confuse their momentary convenience with the long-range needs of students and the practicing bar.

This discussion of the divided intellectual heritage of the modern law school sets the stage for an examination of a current source of tension between practitioners and academics. Perhaps motivated in part by Chief Justice Warren Burger’s repeated criticism of the quality of trial lawyers, bar leaders and judges in several states have succeeded in imposing a requirement that students must take certain subjects in law school before being eligible for the bar examination. Indiana and South Carolina have been leaders in this movement, and recently the Board of

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17. R. Stevens, supra note 6, at 210-16.
Governors of the Oklahoma bar approved a resolution requesting that certain subjects be reinstated as part of a required law school curriculum.\textsuperscript{20} Because I believe that this approach is fundamentally misguided, I would like to take a few moments to examine its implications.

We should start by recognizing the legitimate concern of the bar associations that law students receive adequate professional training. That task has devolved squarely upon the law school. Moreover, law faculties in my opinion have been remiss in shaping—or more accurately, failing to shape—the curriculum. Among the more dubious of the so-called “reforms” of the 1960’s was the tendency to eliminate required courses at both the undergraduate and professional level. As a direct result, the curriculum at many schools has become an incoherent jumble and the sequence of courses a total mystery. Law faculty have exacerbated this problem by promoting a proliferation of specialty courses in areas which often reflect the research interests of particular professors. Likening the upper class curriculum to “a vast smorgasbord,” William Burnett Harvey of Boston University declared that the typical program “reflects no coherent educational philosophy.”\textsuperscript{21} By not keeping their own house in order, law faculties have invited some of the external pressures which they now feel. Several leading undergraduate programs, with the University of Tulsa foremost among them, have moved to restore greater unity and rigor to their curriculum. Law professors should consider following suit.

Nonetheless, I believe that the externally-mandated curriculum approach is seriously flawed. First, it is not at all clear to me that it will accomplish the objective of producing better lawyers. Students only retain a small percentage of the precise legal knowledge which is presented in any course. Moreover, rapid changes in the law are likely to render obsolete much of what students are taught today. For example, the adoption of the Uniform Commercial Code and major changes in the law of landlord/tenant and criminal procedure have completely superseded much of what I “learned” in law school in the early 1960’s. There will be a dangerous tendency to impose narrowly-professional courses on law schools. These may be of immediate value to employers, but of dubious

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long-range benefit to students. If anything, law schools should give more attention to the study of legal history, jurisprudence, and economics, courses which seek to broaden the perspective of law students. We should bear in mind Sir Walter Scott’s admonition: “A lawyer without history or literature is a mechanic, a mere working mason.” 22 Mastery of technique and method and the ability to use reasoning, not particular pieces of information, should be the principal product of a sound legal education. Additionally, a number of law students do not intend to engage in active practice and have little interest in professional skills.

My second reservation about this movement is even more fundamental. An externally-mandated curriculum reduces the discretion of faculty and students to direct legal education. Experimentation and diversity are inhibited. Proud of their hard-won academic reputations, most law faculty will resent any suggestion that their schools should teach trade subjects. Allowing outsiders to control the curriculum would undermine the autonomy and intellectual independence of law schools, and to that extent, reopen the question whether such schools really belong in a university setting. John Cribbet of the University of Illinois stated it well: “If a legal education is designed solely to prepare the student to pass a bar examination, to know the rules (whatever that may mean), and to learn “the tricks of the trade,” then the law school does not belong in the modern university.” 23 On this issue the tension between the academic and the professional is plainly exposed.

This does not mean that the concerns of the bar are misplaced, only that the technique chosen in some states is unfortunate. If the primary worry is that new lawyers lack adequate skills training and need a period of seasoning, the state bars may wish to consider imposition of an apprenticeship or clerkship obligation. Such a requirement exists in England for both aspiring barristers and solicitors. 24 A time of intense supervision by practicing lawyers would assist the fledgling attorney far more effectively than could ever be the case in an academic situation where most professors do not engage in regular practice. Law school graduates might receive only a qualified license to practice until they had successfully completed an apprenticeship experience. I realize that there

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22. W. Scott, Guy Mannering 294 (1917).
are numerous problems with the administration of such a program, but this approach strikes me as more promising than efforts to impose a curriculum on reluctant law faculty. A less ambitious program to sharpen professional skills might be accomplished by placing students as interns with law firms and agencies.

The second topic that has been raised by the current debate over legal education is the vitality of the third year of law school instruction. Again President Bok's remarks frame the issue for our consideration. He observed that "legal education often seems tedious after the first year," and decried "the striking lack of professional commitment displayed by many [law] students." This dissatisfaction has been echoed by scores of law professors. The irregular attendance, poor preparation level, and disinclination to participate in class discussion demonstrated by so many third year students are the subject of constant complaint. We must face an unpleasant reality: in sharp contrast to the situation in other professional and graduate schools, third year law students frequently do the least effective work. Over a decade ago, Professor Paul Carrington of Duke Law School authored a controversial report which called for the abolition of a required third year for American law schools. Additional professional training beyond two years of formal education would be based on a medical school model. The Carrington proposals received little support from the legal community and were no doubt too sweeping in character. But the Carrington report does have the virtue of forcing legal educators to focus on the purpose of the third year. It also reminds us that there is nothing sacrosanct about the current course of legal study. I suspect that unless a greater sense of mission can be restored to the third year program, we will once more hear calls for its abolition.

What is the problem with the third year? What, if anything, can be done to remedy it? I submit that the academic flabbiness of the third year program can be traced to two causes. Part of the blame rests squarely with the law school incentive structure. A disproportionate number of the academic goodies, such as law review membership and

26. See Margolick, supra note 1, at 22.
27. One scholar has concluded: "In short, the popular conception of law student life as a mixture of long hours pouring over casebooks and endless discussions of the contents of those books is more myth than reality. By the fifth semester, many students have the equivalent of a two-day work week and discuss their studies rarely, if at all. At least intellectually law school appears to be a part-time operation." Stevens, Law Schools and Law Students, 59 VA. L. REV. 551, 653 (1973).
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peer ordering within the class, are determined on the basis of first year grades. The pressure to achieve these rewards coupled with the natural enthusiasm of being in a new environment generally produce eager and alert first year students. But with the completion of the first year experience, many students, perhaps resigned to a middle-of-the-class ranking, simply shift their minds into neutral and do just what is necessary to get by.

This diminished level of student interest contributes directly to making many upper class courses rather boring. The casebook method, if it is to be a successful basis for instruction, requires a substantial amount of class participation. By simply disengaging, students can frustrate classroom dialogue, thereby rendering the educational experience tedious. 29

The second factor which undermines the third year is the long reach of the marketplace. Nurtured no doubt by the endless rumors of contracting employment opportunities, many students are virtually obsessed with job prospects. 30 Now one can readily understand the desire of students to locate suitable professional opportunities, and nothing I say here is intended to belittle such attitudes. Nonetheless, we must also recognize that the job hunt impacts negatively on the educational process in at least two ways. A large number of students accept “part-time” employment, but are in fact working far longer than the twenty hours per week permitted under the ABA definition of a full-time student. There is no need to belabor the obvious: to the extent that a student’s time and energy are engaged elsewhere, quality of classroom performance will suffer. 31

Similarly, the job placement operation occupies a central and increasingly intrusive place at many law schools. A Stanford law professor recently described his school as merely “an adjunct to the hiring hall.” 32 The intensive placement activities of the past decade have certainly had a deleterious effect on the third year program. From an educational standpoint, time spent away from classes in job interviews is simply lost. Student absenteeism is especially heavy in the fall months of the third year.

30. Roger Cramton has aptly observed: “[T]he frantic search for legal employment is the most striking and unpleasant feature of today’s law school milieu. . . . [O]ut of control, the obsession with job-hunting has displaced education as the central focus of many law students.” Cramton, President’s Message on Improving Student Placement, AALS NEWSLETTER, Sept. 1985, at 1.
31. Wade, supra note 29, at 759.
32. As quoted in Margolick, supra note 1, at 36.
and proves very disruptive to the classroom routine. And what does it
tell us of student priorities? Some time ago one of my students at Vander-
bilt explained that he would be away from school for an entire week in
order to pursue interviews with several law firms. How should the
faculty respond to this situation? Unfortunately, many simply follow the
course of least resistance, reasoning that if the students no longer care,
then why should the faculty. Employers compound this difficulty by the
standard practice today of making hiring decisions based on only two
years of law school work. The loud and clear message is that a student’s
record during the third year counts for little in determining career oppor-
tunities. Perhaps unwittingly, employers have contributed to the wide-
spread student view that the third year is largely irrelevant and a time for
academic relaxation.

No easy resolution to the malaise of the third year is at hand. Any
meaningful change will require the cooperation of the ABA, the AALS,
law schools, and university administrations. Meanwhile, inaction may
prove fatal to the continued existence of a third year course of study.
What then might be realistically done?

1. The law faculty must restructure school incentives to deem-
phasize the first year. Roger Cramton has proposed adoption of a pass/
fail system in the first year, so that a student’s class rank would rest
solely on performance in the upper division courses. While I am not a
champion of this approach, it does represent the kind of innovative
thinking that will be necessary.

2. Law faculty must be prepared to give low grades to third year
students whose performance warrants such a result. In my experience,
many professors are reluctant to fail a third year student regardless of the
quality of his or her work. Such permissiveness must end.

3. The ABA should prod law schools to enforce more vigorously
the limits on part-time employment. Consideration might even be given
to reducing the permissible number of working hours. The University of
Tulsa, for instance, allows only fifteen hours of outside work. The diffi-
culties of policing employment restrictions do not excuse the current ten-
dency to ignore them altogether.

4. However sensitive a task, current placement procedures must be

33. Cramton, President's Message On a Recurrent Unpleasantness: Grading, AALS NEWSLET-
34. For a discussion of the corrosive effect of grade inflation on student performance, see Wade,
supra note 29, at 758-59.
overhauled. As we have seen, students have a tremendous emotional
stake in the placement program. Moreover, many law schools use a suc-
cessful placement operation as a recruiting tool to attract students. The
placement office, given the intense career emphasis of students today, will
not disappear. Recognizing this, we should strive to reduce the disrup-
tive aspects of the job quest. It would help considerably if employers
withheld hiring decisions until the end of law school—thereby signaling
students that the entire course of study is important. I realize that such a
policy depends upon a degree of self-restraint by employers, but the fact
that this proposed change would work to their long-range benefit by
strengthening the educational program should help overcome any initial
resistance.

Lastly, before our crystal ball grows completely dim, we should take
a sober look at the implications for legal education of the sharp drop in
the number of law school applicants. There was a 10.4% decline in 1984,
and in 1985, applications fell by an estimated 14%. If this trend con-
tinues, few law schools will be unaffected. The already hectic scramble for
the best students will be intensified.

What has happened? No one could have expected the enormous
growth of the 1960's and 1970's to continue indefinitely. Many attribute
the downward movement to market conditions, and doubtless this is part
of the answer. The perceived oversupply of lawyers also serves to dis-
courage applicants. A preliminary 1985 report for the AALS and LSAC
also examined demographic trends, the changed focus of undergraduate
studies, and the experience of other graduate disciplines, but stopped
short of linking these factors with the decline in the law school applicant
rate. Continued analysis of the reasons for this drop is necessary be-
cause it may point us in some direction that will reverse the process. For
the purpose of these remarks, however, I shall assume that there is prob-
ably little that law schools as a group can do in the foreseeable future to
arrest the general decline in the applicant pool.

Of course, the shrinking number of law students will not be equally
distributed among existing schools. There will be relatively little impact
at the most elite institutions. But for the vast majority, these will be

35. See Crampton, supra note 30, at 2 (suggesting that regional job fairs would remove the
hiring process from individual law schools); see also Evangelauf, Law Deans Blast Hiring Process for
36. Blodgett, Law School Applications Plummet, A.B.A. J., May 1985, at 47; see also Vernon &
Zimmer, The Demand for Legal Education: 1984 and the Future, 35 J. LEGAL EDUC. 261, 262
years of challenge and stress. 38 Perhaps to some extent schools can develop more imaginative ways to recruit prospective students. But I fear that the potential here is limited. Every institution will be endeavoring to do precisely the same thing. Moreover, aggressive recruiting and scholarship aid programs are quite expensive. 39

A more promising route is the establishment of special programs. This permits law schools to offer a unique course of study which both enhances the external visibility of the school and serves to attract students interested in that particular field. The University of Tulsa's National Energy Law and Policy Institute is a good example of this type of special offering. Although such programs entail added costs in both financial terms and faculty time, there may be little real choice if schools are to put themselves in the best position to weather the coming storm.

Yet even the most innovative programs and successful recruiting campaigns will not totally offset a national applicant decline. Thus, in the last analysis, law schools face a difficult array of options. They can continue to admit law students at the current rate. This approach would keep the classroom full, but would mean that a higher percentage of applicants must be enrolled. Indeed, it is generally thought that some law schools will soon be de facto operating at an open admissions level. 40

Aside from puncturing the self-esteem of law professors, does the drop in law school applications pose any real problem for American society? Perhaps not. To many this will sound like good news. 41 But the bottom line is that law school graduates as a whole will have somewhat less imposing credentials in the future.

On the other hand, law schools might respond to the applicant decline by seeking to maintain high academic standards through a determination to reduce the size of incoming classes. This policy, however, is less likely to find ready acceptance. For many universities, economic considerations will dictate that law school enrollments hold steady. Law faculty are highly paid in relation to professors in other disciplines. It will be extremely difficult to justify this differential unless law schools

38. Stevens has observed: "... with the decline in the number of law students, some law schools could expect a rough passage through the 1980s. For some of the less prestigious private schools, even accredited ones, it could be the end of the road." R. STEVENS, supra note 6, at 276.
41. See Besharov & Hartle, supra note 36 (suggesting that the declining pool of law applicants may stimulate greater interest in extending legal services to the middle class).
continue to produce adequate revenue to cover their operating costs. For two decades university administrations have looked upon law schools as units that generated income, and they are almost certainly not going to accept a situation in which law schools threaten to drain revenue from other aspects of university life. For much the same reason law professors are most unlikely to revert to the pre-World War II practice of failing a high percentage of law students.

The likely outcome, then, will be classes composed of students of lower academic quality. This need not be a disaster for either legal education or American society. Bear in mind that most lawyers of the nineteenth century were trained by apprenticeship. Such renowned attorneys as Alexander Hamilton and John Marshall received only the most skimpy formal legal education. And most law schools operated virtually at a basis of open admissions well into the twentieth century. What the change will mean, however, is that the incoming level of students will require dedicated and effective teaching. Professors will be called upon to rethink classroom techniques for the presentation of material. They must be willing to increase their availability to students for assistance outside the classroom. Ironically, this shift will likely coincide with heightened pressure on law professors to establish their credentials as productive scholars. Without careful delineation of what is expected, law professors will suffer a period of intense role conflict.

In his Essays Francis Bacon warned: "He that talketh what he knoweth will also talk what he knoweth not." No doubt some may feel that I have already strayed over this fine line, so I propose to halt these reflections before I commit any further trespasses into unmapped terrain.

42. See 1 The Law Practice of Alexander Hamilton 45-48 (J. Goebel ed. 1964).
44. See R. Stevens, supra note 6, at 37-38, 221 n.38.
45. F. Bacon, Of Simulation and Dissimulation, in The Essays of Francis Bacon 18 (Heritage House 1944).