

VISITORS AT THE LAW SCHOOL

The Board of Visitors of the Wisconsin Law School conducted a visit to the Law School on Friday and Saturday, March 13 and 14, 1970. Included in the visit were attendance at classes, a general meeting and small group meetings with administrators and Faculty committee chairmen to discuss the LEO program, Admissions and Size of the Law School, and Methods of Instruction. The visitors had lunch on Friday with a group of students and dinner on Friday with Faculty members.

Saturday morning was devoted to an open meeting, well attended by both students and Faculty for a general discussion of legal education. A luncheon meeting of the Visitors, for preparation of the report, concluded the visit.



Report of Board of Visitors

April 21, 1970

Chancellor H. Edwin Young
University of Wisconsin
Madison, Wisconsin

Dean S. L. Kimball
University of Wisconsin
Law School

RE: University of Wisconsin
Law School

Gentlemen:

The Board of Visitors of the University of Wisconsin Law School visited the Law School March 13 and 14, 1970. All present and former members of the Board and the members of the Board of Directors of the Wisconsin Law Alumni Association were invited to attend. The following participated in the program:

Justices of the Supreme Court B. Beilfuss, N. Heffernan and C. Hansen, Madison; Circuit Judge R. Orton, Lancaster; I. B. Charne and P. W. Cotter, Milwaukee; L. D. Gage, Jr., Janesville; F. Hamilton, Dodgeville; E. Larkin, Eau Claire; M. A. McKichan, Platteville; H. B.



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Rogers, Portage; J. C. Tonjes, Fond du Lac; J. P. Wilcox, Wautoma.

This is the first time any of us has participated in a formal visitation to the Law School and we express our appreciation to the Dean for instituting this kind of a program, and to the faculty and students for making it a very worthwhile event.

The Board of Visitors was greatly impressed by the sincerity and dedication of the faculty in connection with its teaching role. We were equally impressed with the sincerity and concern of the students for developing constructive improvements to cope with the problems facing the Law School. We commend the faculty and students for their open-mindedness and willingness to discuss these problems and work together for their solutions.

METHODS OF INSTRUCTION

1.1 *Curriculum and faculty selection.* Although many of us came to the meeting with some misgivings regarding the scope and emphasis of the present curriculum, all of us came away from the meeting impressed with the fact that the faculty was laying proper emphasis upon teaching subject matter which meets the needs of the Bar and the student body. There was not universal agreement among the Visitors with regard to whether more courses should be required for graduation from the Law School. Generally the Visitors were happy to see that in spite of a lessening of restrictions with regard to requirements for graduation, the great bulk of student hours are still spent in those subjects which have been traditional courses in the Law School. It would be fair to say that the Board of Visitors would have serious doubts about the advisability of further diminishing the number and variety of required courses in the Law School.

The Board of Visitors sensed from the student body a desire for greater opportunity for "clinical" experience.

The Board of Visitors appreciates that this is a very expensive type of teaching and that it must be studied to ascertain its real

value as distinguished from its popularity with students. However, we believe that this type of instruction should be encouraged even while the evaluation is being made. The Board of Visitors wish to commend the faculty for undertaking to expand the curriculum so as to produce greater opportunities for clinical experience.

The Board of Visitors believes that the Bench and the Bar will cooperate with the Law School in working out programs to give law students practical legal experience, and we urge the Law School to take advantage of resources in the legal community in this regard.

Shortly before the Board of Visitors convened on March 13, a reprint of an article by Dean Boden of the Marquette Law School had been widely distributed among members of the State Bar. The article, *Is Legal Education Deserting The Bar?*, 37 Insurance Counsel Journal 1 (January 1970), centered criticism on the law schools of the country for promoting "a new kind of legal education even more removed from the realities of law practice than the classical brand (involved in the case method)."

In our visitation, we made a special point of looking into the Law School with Dean Boden's concerns in mind. His article had focused on two points:

- (1) **Curricular offerings**, which he saw as shifting sharply away "from the purpose of training for technical competence toward the policy-making area;" and
- (2) **Faculty selection**, which he felt was replacing an earlier generation of law teachers with increasing numbers who have "entered law teaching directly from graduate law schools and without any experience in or exposure to the practice of law."

Our findings on both points as they touch the Law School of the University of Wisconsin follow.

Something more than 50 courses and seminars were being offered by the Law School in the 1970 spring semester. Some 660 law students were enrolled for 8,985 credit hours, an average of 13-14 semester

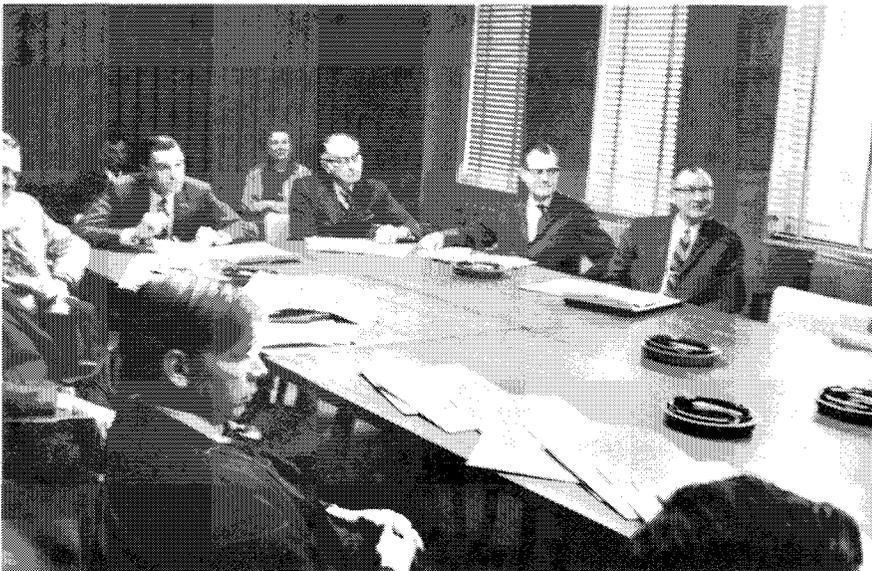
hours per law student. Singling out what might be regarded as non-traditional law courses (and including on the list Jurisprudence, Legal Services Seminar, the Clinical Program and the Seminar on Policing Problems), the list attracted a total of 541 student enrollment hours, or less than 7 per cent of all student class hours. If Jurisprudence and the courses listed parenthetically with it are considered within the range of traditional courses, the fraction of law student hours devoted to non-traditional courses drops to below 4 per cent.

We differ individually in respect to some details of the curriculum but we are uniformly of the opinion that at the Wisconsin Law School the purpose of the faculty and administration in experimenting with curriculum changes is for the better training of professionals qualified for the practice of law, and that the graduating classes consist of very high quality law students.

On the faculty selection front, a look back over the dozen persons added to the Law Faculty since 1965 reveals that:

- . . . Seven of the 12 had a decade or more of private or governmental practice before coming to teach at Wisconsin;
- . . . Only 3 of the remaining (one of them, Dean Kimball himself), went at once into teaching upon graduation from law school.

When the thought is added that the list of recent faculty additions includes a former Chief Justice of Wisconsin (Professor George Currie), a former General Counsel of the U.S. Disarmament Agency and former law partner in the Washington firm of Arnold, Fortas and Porter (Professor George Bunn), Professor Stuart Gullickson (with 17 prior years, largely in trial practice, at Wausau), and the highest ranking permanent staff lawyer for the U.S. Department of Labor (Professor James Jones), it is difficult to fault the faculty selection process at Wisconsin for indifference to practical experience. Nor is practice between law school and law teaching indispensable to the development of fac-



ulty people who are lawyers' lawyers, as the careers of men like Professors Beuscher, Campbell, Feinsinger, Foster, Spencer Kimball, and Remington attest.

1.2 *Marking system.* The Board of Visitors considered the various proposals with regard to revision of the marking system. The Board of Visitors was opposed to the institution of an unlimited pass-fail system. However, the Board recognized the advisability of considering some alternatives to the present grading system, such as a limited pass-fail system or the Harvard system. If the present system is continued, the Board feels that consideration might be given to modifying the use to which grades are put; for example, the Board agrees that the use of the grading system to rank people numerically in a given class is misleading. We also question the propriety of including first semester grades in considering qualification for Law Review or other honors.

1.3 *Length of study.* The Board of Visitors did not feel that the length of law school formal study should be shortened from the three years to two years. As indicated above, the Board of Visitors would not object to a change in the kind of instruction being given during some of the third year. However, it was felt that the responsibility for the training of lawyers could not be shifted from the third year of law school to some type of an apprentice program without much more study and consideration than has been given to the matter up till now.

1.4 *Size of classes.* The members of the Board of Visitors were privileged to visit the small classes in which problem solving techniques were employed in lieu of strict adherence to the case method. We felt that this teaching device was valuable and seemed to be very productive. The Board of Visitors understands the economic problem involved in attempting to reduce the teacher-pupil ratio. However, it supports the premise that smaller classes and closer teacher-pupil relationships are valuable and therefore it will support the Law School faculty in its endeavor to promote

such programs.

From the brief exposure we had it would appear that such classes would be valuable in both the first year and third year of the Law School curriculum. The Board of Visitors was unable to determine whether it would be more important in the first year than in the third year or vice-versa.

1.5 *Non-law classes.* The Board of Visitors endorses Law School faculty control over non-law school courses which may be taken for Law School credit. We believe that the Law School faculty should continue to determine the circumstances under which law school credit will be given for non-law school courses.

1.6 *Methods of instruction, summary.* The Board of Visitors concludes that the Law School is, despite very real difficulties, acting effectively within the limits that hamper solution to some basic instructional problems. From observations of the classes we visited and from discussions with a number of law students we were impressed that the School is producing graduates with well developed skills of analysis and reasoning indispensable for useful and effective practice of the law. We were impressed, too, by the breadth and depth of their perception of many of the problems we discussed with them or heard them talk about; they were not simply arid technicians. This kind of product can come only from a school that has a faculty possessing substantial competence and teaching skill. There are problems, serious ones, apparent in what has become the mass production character of legal education. Students complain, the faculty complains, about massive class size and the comparative absence of close student-faculty relationships in the educational process. To the credit of both students and faculty, serious efforts are going into rearrangements that enable, hopefully, every student to have at least a few of his 90 credit hours working in small groups and closely with a faculty member. But existing limitations on funds permit this only by making large classes still larger to free time for creation of smaller

teaching units. The Visitors are satisfied, however, that mere rearrangement cannot supply the entire answer and that, for the student body of almost 700, substantially more faculty is needed.

ADMISSION AND SIZE OF LAW SCHOOL

2.1 For lack of time the Board had little opportunity to inquire into the many problems which exist in respect to admission policy and size of the Law School. We request that the Dean re-schedule these items for our next meeting. Nevertheless, pending further study, we want to include in this report some comments on the admission problem.

We are impressed with the statistics which show that over the past ten years there has been a remarkable increase in the qualifications of students applying for admission (i.e. increase in grade point average and LSAT scores) which illustrates the high national standing of the Law School.

The Board is concerned with the fact that some of the smaller communities in the state are having difficulty in attracting students for practice in their areas and that many good students leave the state and do not return to practice in Wisconsin.

We also recognize the problems involved in limiting the number of non-resident students.

A resident who began Law School at the University of Wisconsin in Fall, 1969, entered with a class drawn from 25 states and the District of Columbia. Without leaving Wisconsin the resident was able to attend a national law school with a nationwide reputation for quality. After graduation, the national standing of the Law School will have value to him throughout his life. All this the resident gets at a cost far less than he would spend at any other national law school.

Understandably then, there are heavy pressures on the admissions process at the Law School. Two out of every five residents who applied for admission in Fall, 1969, were turned down (as were three out of every five non-residents). Moreover,

150 or more of the residents turned away last year had credentials suggesting they had at least a fifty per cent chance to produce a passing average at the Law School.

Because substantial numbers of residents are being turned down for admission, some members of the Board felt that consideration should be given to further reduction of non-resident enrollment. For a number of reasons, however, there is a question whether further reduction of non-resident enrollment is the solution to the problem. Only 80 (28%) of the 285 law freshmen in Fall, 1969, were non-residents.

We recognize that substantial reduction in non-resident enrollment threatens the national character of the Law School and with it the quality and national reputation the School enjoys. Non-resident enrollment among Law School freshmen has fallen steadily over the past five years, from 33 per cent in 1965 to 28 per cent in 1969. No other law school of Wisconsin's standing has so small a non-resident component, and at the present 28 per cent level the School may be close to losing its national base.

The Law School, however, has come up with an interesting proposal for relieving the problem of Wisconsin applicants denied acceptance under prevailing admissions standards. An experimental pre-admission program is being offered for Summer, 1970, to applicants ineligible under conventional standards but with credentials suggesting a substantial chance of success if admitted to the Law School. The experimental program would be limited this year to 60 participants, as many as 30 of whom could expect to win admission for the coming fall by their performance during the 8-week summer program. The 8-week program would involve two first-year law courses, not taken for credit or grades, but simply to determine the question of admission to the Wisconsin Law School.

As this is written, the Law School is prepared to offer the experimental pre-admission program in Summer, 1970. The program poses problems for an otherwise rejected applicant since he must fore-

go 8 weeks of summer employment in addition to laying out the cost of participating in the program. Yet if he gains acceptance at Wisconsin through the program he can cut the overall cost of his legal education to a point well below anything he can achieve elsewhere and, in addition, get an education at a good bit better law school than he is likely to land in otherwise.

LEGAL EDUCATION OPPORTUNITIES PROGRAM

3.1 The L.E.O. program was organized to recruit and assist students of disadvantaged racial and ethnic groups and encourage their entry into the legal profession. It is administered by three faculty members, Professors Macaulay, Bilder and Church, and three students, Miss Hines, Mr. Parsons and Mr. Friends.

At the briefing meeting of Visitors on Friday, March 13, 1970 at 9:00 a.m., Professor Macaulay outlined the Law School's Legal Education Opportunities Program and presented some of the problems which it faced.

The cost, on a total aid basis, is \$2,123 per student or approximately \$20,000 for the current enrollment. The funds have been provided from general W.L.A.A. scholarship funds (\$15,000), a special scholarship fund in honor of Charles Bunn, and faculty, student and Student Bar Association gifts (\$9,000).

There are nine L.E.O. program students (two of whom are funded through a combination of ABA CLEO program and loans) enrolled in the first year class for the current academic year. Three are in the second year class and one in the third year.

Mr. Macaulay observed that somewhat typically of all students, the first year is extremely difficult for L.E.O. students. Some of them, while possessing qualifications for acceptance in the program, have deficiencies in pre-law educational and general experience backgrounds which require special attention and additional scholastic help. This assistance is not always easy to provide because of limited funds and also an understandable resistance to admitting a need for special treat-

ment. Of the nine first year students it is probable that at least 50% will complete the first year with passing averages. In concluding his remarks Mr. Macaulay cited a number of needs to be filled if the program is to continue to operate successfully:

An assured source of funds.

An active and successful recruiting program.

A means of assisting some of the black students to reach the level of other students.

In the afternoon on Friday a round table discussion was held at which representatives from faculty, students and Visitors were present. The problem areas of the L.E.O. program were thoroughly discussed.

Need for funds. Some source of permanent financing is essential. Present sources (particularly W.L.-A.A. scholarship funds, faculty and student gifts and the Charles Bunn fund) were discussed. Possible federal and state sources were discussed. Representatives of the Student Bar Association outlined a proposed appeal to the State Bar for contributions to the program. Justice Beilfuss volunteered to explore the possibility of submitting the program for funding through the Federal Omnibus Crime Control and Safe Streets Act of 1968.

All present, particularly Visitor members, pledged their efforts to develop sources of funds.

A law school enrollment that reflected general population characteristics would be 13-14% nonwhite. The nonwhite percentage at the Law School is currently less than 3%. A representative of the SBA presented cost projections for expanding the L.E.O. program over a five year period to support 64 students annually (10% of total Law School enrollment by 1973-1974.

[Detailed projections were presented in exhibits distributed to the visitors indicating the costs for LEO programs of various sizes. All projections showed costs vastly greater than known available funds.]

Recruiting. Problems involved in recruiting disadvantaged students for the program were discussed. Most of the black students felt, and the L.E.O. Committee agrees, that they would be more effective recruiters than white students or faculty and that at the present time at least the range of recruitment should be unlimited. There are not sufficient eligible black and other disadvantaged students in Wisconsin to limit efforts to them. Nor, at this point in time, with the need to produce eligible applicants, can



much time be devoted to high school level students though that source ought to be developed for the future. An active recruiting program is being planned. At the present time there are 35 applicants for the fall, 1970, term and more are anticipated.

Entrance requirements. The application of the Law School's entrance requirements were reviewed, particularly with reference to disadvantaged students. In general the black student does not want nor feel the need for special consideration except perhaps the recognition that the L.S.A.T. score does not reflect an accurate standard of comparative achievement levels of whites and blacks, because it is designed for white students. The black student does not want the requirements for entrance or for graduation lowered for his benefit. However, he wants his qualifications for entrance and for graduation judged upon fair and comparable bases. Special consideration should be given to the standards for admission on a fair basis of evaluation of legal aptitude. Perhaps the L.S.A.T. score should be weighed less heavily or should not be considered at all. Perhaps more subjective standards are necessary to correctly judge qualifications of the individual applicant.

Maintaining levels of scholarships. The development of programs to assist students with low academic averages to achieve and maintain satisfactory scholarship levels were discussed. A number of methods for developing mutual assistance programs without compromising self-respect were suggested. It was felt that black and white students should strive for a more casual, natural, and less apprehensive relationship, which would result in joint study groups and exchange of information and ideas. However, the students felt that the problem was less one of racial barrier than one of academic achievement. In other words, the informal self-help groups were composed of students with relatively comparable grade levels with little opportunity for the lower grade level students to mix with those at the higher levels. There



appeared to be a general receptivity on the part of the L.E.O. students to some program for tutoring or other scholastic help.

3.2 Conclusions.

(1) The L.E.O. program is a very worthy program which should be continued and expanded.

(2) W.L.A.A. should assist the Law School and the joint faculty-student committee in securing funds to expand the program.

(3) While it is recognized that at the present time recruiting probably has to be extended beyond the state, greater efforts should be made to interest Wisconsin students to attend Law School.

(4) The Admissions Committee should study and inaugurate fairer methods of determining eligibility for entrance of black and other disadvantaged students, taking into consideration the inherent limitations of our present aids for evaluation.

(5) L.E.O. students should be less sensitive to seeking and accepting assistance in their studies, and other students and faculty should be more imaginative in developing programs to help the L.E.O. students, particularly in their first year.

BUDGET

4.1 More consideration ought to be given to whether the Law School receives its fair share of the University budget and the extent to

which budget limitations present a serious threat to the future of the School.

BOARD OF VISITORS
UNIVERSITY OF WISCONSIN
LAW SCHOOL
Bruce F. Beilfuss—Chairman

In Memoriam

ROSAMOND E. RICE

Rosamond Eliot Rice, wife of Emeritus Professor William Gorham Rice, Jr. died in Madison on Wednesday, April 8, 1970. She was 74 years old.

A native of Cambridge, Massachusetts, Mrs. Rice was the granddaughter of Charles Eliot, longtime President of Harvard University. She was a graduate of Radcliffe College and a resident of Madison since 1923, when Prof. Rice joined the Faculty of the Law School.

Mrs. Rice had long been prominent in a number of organizations, including the League of Women Voters and the Democratic Party of Wisconsin.

In addition to her husband, she is survived by three children: Andrew Rice, Washington, D.C.; Timothy Rice, Syracuse, New York; and Mrs. Christian Rendeiro, New Haven, Connecticut, as well as by several grandchildren. Her six brothers and sisters also survive.