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## Problems of the Modern Law School

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largely to the fact that these efforts have not been backed by careful study or by any coordinated plan. State publicity bureaus and experimental bureaus have lacked continuity, which is a defect inherent in every political body. Dr. Turner believes that in a state university, there exists a continuing institution divorced from the constant upheavals of politics which can furnish the scholarly and coordinated effort necessary to real accomplishment along these lines. These ideas have fired the imagination of all who have listened to Dr. Turner.

It is through the graduate school, of course, that this service in the State of West Virginia is to be undertaken. It is this aspect of the graduate school which Dr. Turner particularly emphasizes.

The inauguration was designed to picture the possibilities implicit in this idea. It was for that reason that each professional school gave a program designed to show what it could do for West Virginia and President Turner summed up the whole in his very able inaugural address. In this number we print the remarks of Dean Hutchins of Yale University and Ex-Governor Cornwell who were the principal speakers on the Law School Inaugural Program. We believe that they lay down concrete suggestions as to how Dr. Turner's conception of graduate work may be realized by the Law School in particular.

Needless to say, the editors of the *QUARTERLY* are enthusiastic over Dr. Turner's attitude toward this kind of work. His new policy in our opinion not only offers the opportunity of constructive service to the state but also will bring the faculty into closer touch with the actual problems of the law and thereby make them more efficient and interesting teachers. Congratulations from the Law School are therefore tendered to Dr. Turner because of his inspiring conception of the future of West Virginia and his vigor and courage in attempting to make it a reality.

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PROBLEMS OF THE MODERN LAW SCHOOL.—We quote in full the remarks of John J. Cornwell, Ex-Governor of West Virginia, and new, General Counsel of the Baltimore and Ohio Railroad, which he made on the occasion of the Inauguration of President John R. Turner. We include them among our editorials because they express so fully the ideas of the editors. Governor Cornwell spoke as follows:

“I do not know whether I was more flattered than mystified at finding myself on the program for a brief address after accepting

an invitation to be present in the belief that I should only participate to the extent of presiding. I am sure had I been permitted to do that and had Mr. Ambler been assigned the task I am undertaking, this part of the proceedings would be more interesting than I can hope to make it.

Nevertheless, I am glad to be here. I hope and really believe that this day's work is an important event in the life and in the history of the West Virginia University.

I believe that the president to be installed today brings with him high ideals and a vision which, if realized, will make the University a greater power and give it a wider influence within and without the State than it has ever had before.

I shall not try to discuss in detail the very commendable ambition of Dean Arnold to make the Law School of more practical value to the Bar and to the people of West Virginia. I need only say I am greatly impressed with his plans as I understand them, especially his idea of making the School a department of research of legal problems and of the legal aspects of industrial problems.

It appears to me that such a work, properly organized and conducted, can be of great assistance to members of the Bar throughout the State and be of material aid to our courts and of great practical benefit to the students.

Then, I infer from a paragraph in a letter Dean Arnold wrote me that he is desirous of having the School put on a graduate basis and that he is more interested in the quality than in the quantity of its product. I do not think he ever made a sounder suggestion in his life.

In the industrial world standardization and quantity production are the catch-words of the hour. They imply lower costs of production because of greater output. They imply lower overhead costs and greater profits. Not always are these hopes realized by manufacturers, but certainly that is the present trend and the universal aim.

I fear the same spirit or theory is creeping into some of our colleges and our universities, crowded as most of them are to the very doors with students, a very large per cent of whom neither hope to get or actually want, fundamentals and new ideals. On the other hand, many are seeking the shortest cut to a profession that will enable them to accumulate wealth, or at least as they see it make an easy living. There is undoubtedly a tendency in many universities to run students through the mill at high speed and turn them out in droves, standardized, in quantity production.

Far too many of such products have never been real students. Far too many lack the disposition and inclination to pursue their

studies when once they have obtained their diplomas and are able to engage in their professions.

Because the head of the law department of a large corporation, especially of a railroad, finds his company a rich harvest for ambulance chasers and expert damage lawyers, it may be that he is inclined to pessimism with respect to the tendency and the methods of some of the members of the profession. To use the current phrase of this period of wide-spread stock speculation, he becomes a "Bear" on the market for lawyers.

But let me insist that my present feeling was *not* acquired solely and exclusively as the head of the Law Department of The Baltimore and Ohio Railroad. I admit my experience there in the last six years has strengthened it, but it was derived from a quarter of a century of practice in our State and Federal Courts.

I would not want to be guilty of uttering a discordant note, but I do not think I am when I am discussing the question of quality as against the quantity of the output of the law schools, especially as it is one of the thoughts I understand is in the mind of Dean Arnold. It is one of the things, I think, with which Dean Hutchins has been dealing vigorously.

And why not?

This is not a factory to turn out automobiles or other mechanical devices.

It is dealing with humans, men who leave the University wearing its label, bearing the stamp of its approval. They become members of an honorable profession. When they become members of the Bar they are officers of the Court and assume a great responsibility—a responsibility too often unappreciated.

How desirable, even necessary, that they have a thorough knowledge of the history of our Government and a reverence for its fundamental laws and its institutions as well. How necessary they be men of character and of high ideals. How necessary they have some training in modern business.

Certainly I am not here to indict the legal profession or to cast reflections upon its members, but it is painful to one who has to do business with lawyers to find the slipshod and unbusiness-like way in which some of them who have gone out from this University in the past, deal with business entrusted to them.

I would as soon try to collect money from a bankrupt creditor as to get from some members of the Bar I have known, money collected by them.

It is happily true that these dilatory, indifferent and sloven ones are the exception and not the rule. But it is equally true that not all of that type are dead. The species should be allowed to become extinct like the dodo.

So, I heartily approve, as I believe you approve, of Dean Arnold's desire to look carefully to the quality of his product even if it tends to lessen the quantity of his output. We do not want lawyers who are not proud of their profession or who do not aim, at least, to adorn it.

So, the field of opportunity of research to aid in the industrial development of the state is an open and a wide one. That is true also in the matter of codification of our laws and the drafting of future state statutes.

I do not mean that a mill should be created here to grind out new legislative proposals. Enough of these originate in the fertile brains of ambitious legislators without any aid or suggestion from a law school. However, inasmuch as we are suffering from loosely drawn statutes, obscure in their meaning and difficult of interpretation, could members of the Legislature be invited and induced to submit to a properly organized department of this school for study and criticism, bills prepared by inexperienced draftsmen, Legislative committees might be saved time and labor, and serious errors obviated. This work, too, ought to be interesting as well as helpful to students. The consideration of such proposed bills might be handled in a student legislature in which parliamentary procedure and a study of the Constitution could be combined.

I said I would not encourage new legislative proposals. Of course, new statutes are necessary to meet the changing industrial, economic and social conditions. Everybody recognizes that.

But the tendency of the times to *do everything* and *cure everything* by legislation has run to a very great length. Interstate transportation companies, operating in many different states, in which often there are conflicting statutes and conflicting regulations or rules established by Commissions, already find it difficult to do business. The most alert legal staff can not prevent occasional infractions of statutes, orders or ordinances, sometimes with costly consequences.

This can better be appreciated when you recall there are five thousand separate Federal Statutes which affect in some way the steam interstate railroads and about twenty thousand statutes in all the states of the same character.

Add to these all the Commission orders in the various states and the ordinances of the cities, towns and villages through which the big railroads operate and you can visualize some of the troubles of a General Counsel of a trunk line railroad.

As an illustration of the idiosyncrasies of local legislative enactments let me recall that not a few towns on the Baltimore and Ohio have a speed limit of 8, 10 or 12 miles an hour for railroad trains with an automobile speed limit of 15 to 20 miles per hour.

The trains follow the railroad track through the outskirts of the town, while the automobiles in flocks snort through the streets crowded with pedestrians. Some of our regulatory State and Federal Statutes are equally absurd and inconsistent. So, let me repeat again, I am not advocating more laws or a department here to stimulate the incubation of them.

Again, it is a question of quality, not quantity. Let us study how we may codify and simplify the necessary laws and get rid of the unnecessary and irritating ones.

I think it is due in small part, at least, to the very many laws that we occupy the unenviable position of being the most lawless nation on earth. The more statutes we have the more infractions while frequent or easy violations of some laws breed a disrespect for all law.

Our national crime bill amounts to ten billions of dollars per annum. That is a staggering sum—three times the cost of the whole Federal Government and eleven times the cost of the Army or Navy.

The condition is growing worse instead of better. It can not continue without sapping the foundations of our Government and endangering our whole legal, social and economic structure.

There is no single group that can do more toward correcting it than the lawyers provided they themselves are law-abiding citizens with a proper understanding of the problems of Government and are of the type and character of men out of which lawyers ought to be made.

Unhappily, it is a fact that a certain type of criminal lawyers are making more criminals by the way in which they conduct the defense of their clients—through the abuse and villification they inflict upon state witnesses and officers of the law.

The Courts have the power and it is their duty to protect officers who have the difficult and often thankless task of enforcing the laws. It is discouraging to officers and encouraging to the lawless element to permit counsel for law-breakers to vilify, insult and humiliate men who risk their lives in making arrests and who are not in a position to resent insults that are heaped upon them by counsel for accused in an effort to acquit their clients through prejudice implanted in the mind of some member of the jury.

Lawyers occupy a prominent position in their respective communities. This is especially true in the small towns and smaller cities such as we have here in West Virginia. Their opportunities to become leaders in every sense of the word is very great. Their opportunity to render public service is equally great. They are quasi-public officials.

Public respect for law and for Government is increased or

lessened as the public gains or loses confidence in judges and members of the Bar.

For that reason a tremendous responsibility rests upon this and every other law school in the country to exercise care and caution as to the kind of human material they use to make lawyers."

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### EDITORIAL NOTES

SOME PHASES OF THE PROBLEM OF MOTOR-CARRIER REGULATION.—There is a variety of problems arising out of the phenomenal growth of the automobile industry, the exigencies of which are causing sweeping changes in heretofore well-settled legal principles in other branches of law, aside from the immediate question of the regulation of the employment of automobiles as common carriers. Whether the almost complete reversal of attitude towards free competition in the field of the law of public utilities is due entirely to the automobile, may be doubtful, but certainly the initial impetus of the legal retreat away from the doctrine of *laissez faire*, is due to it. Most, if not all, of the legislative bodies of the republic have definitely declared a new policy or a new principle to be followed in regulating the business of the common carriers in the automobile form in requiring certificates of public necessity and convenience to be obtained before automobile carriers are permitted to operate.

In 1900<sup>2</sup> the Supreme Court of Appeals of West Virginia decided that a municipality could not grant an exclusive franchise for the use of its streets to an Electric Light Company. In 1927 in the case of *Monongahela West Penn Public Service Company, et al. v. State Road Commission*,<sup>3</sup> the same court emphatically decides for the policy of protection of established utilities where the service rendered is efficient and economical. It may be said that this change of front is due to the declaration of a new policy by the legislature in the enactment of the Road Law, yet in the same year the same court reversed the order of the Public Service Commission<sup>4</sup> requiring one of two gas companies located in the same community to serve a manufacturing industry because its

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<sup>1</sup> 40 HARV. L. REV. 882.

<sup>2</sup> *Clarksburg Elec. Light Co. v. City of Clarksburg*, 47 W. Va. 730, 35 S. E. 994 (1900). See also *Charleston Gas Co. v. Kanawha Gas Co.*, 58 W. Va. 22, 50 S. E. 876 (1905).

<sup>3</sup> 104 W. Va. 183, 139 S. E. 744 (1927).

<sup>4</sup> *United Fuel Gas Co. v. Public Service Commission*, 103 W. Va. 306, 138 S. E. 388 (1927).