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COMMENTS:

Discussant

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The professional schools are facing new demands on their curriculum arising from new as well as previously unfulfilled societal needs. Awakened awareness of their responsibilities in today's world presents the schools with a dilemma: some of the demands are of an enduring nature while others are ephemeral. To solve the dilemma, they must determine what society really needs of them and how to change and still avoid being caught in a whirlpool of fad and fashion. If the schools attempt to include every new "hot" subject, they may be saddled with faculty who become vestigial when the subject is found to be of short term significance.

A professional school's primary obligation is to teach the basics of its profession, and, while what is thought to be basic changes from time to time, we will assume for the moment that the basic basics are known or can, with some self-searching, be known.

Dean Kirby's paper is sensitive to our times. He recognizes that some of the demands and needs of law students and some of the demands and needs of a new clientele—the blacks and the poor—must be met. Can these demands be satisfied along with the provision of a basic education? The answer, I think, is yes, since many of the demands involve simply the providing of services to meet the needs of a new clientele. If service to a public is a major factor in what a profession does, than enlargement of that service should improve the profession. The legal profession is already making changes in an effort to handle efficiently the tremendous increase of information necessary for a lawyer. Law is changing from the free profession (solo practitioner) to a team-organized profession (very specialized professionals working in groups). While the practice of law is changing the 19th century model of the free professional still prevails, and this makes the task more difficult.

I suggest that we dissect the word profession in order to study what is needed by a professional school to make its product—the graduate—more professional and so, more responsive to his world. This position assumes that one accepts the notion that the purpose of a profession is to be beneficial to society and that the profession has ideal standards. If this is so, then setting up and following guidelines should improve the profession. In any event, the dissection provides us with an orderly way of taking inventory and a framework for looking at the needs of the future.

Perhaps if we chose as our guide a definition which allows for both the 19th and 20th century models of a profession, we may see the current

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situation more clearly, Ernest Greenwood provides us with such a definition. He states that a profession has five attributes: systematic theory, professional authority, community sanction, ethical codes, and professional culture. I should like to discuss these attributes separately.

**Systematic Theory.** Much of the law is based on systematic theory which is tied to formal education and the university. The theory underlies the skills which flow from a body of knowledge. One way to extend the systematic theory, in both law and medicine at least, would be to attach the theories of other disciplines to what is known in these professions. For example, in medicine, sociological and psychological theory would enable the physician to treat the patient more successfully. Medical schools might want to offer an advanced course in psychological dermatology, since many skin problems are said to be psychologically based. Courses in economics and the sociology of the poor should help lawyers deal with the legal problems of the poor. In family law or criminal law, courses might be added to the curriculum which combined sociological and legal theory. Law and medical schools cannot afford experts in all the behavioral sciences and the duplication of manpower which this suggests. They probably can, however, afford law professors who have knowledge of these sciences. Some professors can be trained in joint programs which are just beginning to appear in this country. Dean Kirby mentioned the Ph.D.-J.D. program started at Northwestern University. New York University has a Ph.D.-M.D. program and, in addition, a J.D.-M.A. program has been proposed in sociology, public and business administration. Both the shared use of departmentally based faculty and the professional schools employment of dual-trained personnel can be very important for the development and the broadening of systematic theory within the professions to include appropriate theories of the behavioral sciences.

**Professional authority.** The practitioner's authority over the client stems from the professional's special and extensive education and his license. The client who is usually ignorant about professional matters is almost forced to recognize the professional's competence and authority. To increase that authority, which in medicine, at least, physicians think of as important to treatment, students and faculty may have to engage in research. Therefore, the research mission Dean Kirby speaks of becomes especially meaningful when the researcher adds to knowledge which can be utilized for the benefit of the client. As this knowledge increases, the professional adds to his authority. A development of this kind may entail the use of research methods taught in other divisions of the university, but both medicine and law students must learn these additional research techniques if they are to maintain and enlarge their professional authority.

**Community sanction.** Society has given the professional control over his

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training centers, admissions, and his licensing systems. However, more recently communities have begun to attack the professions, and in New York City, at least, the individual "communities" want to run the public schools. This desire has extended to the hospitals where there has been a rash of sit-ins whose leaders demand the right to choose the physicians and decide how a hospital should be used. Near riots have occurred against social workers who have been distributing welfare funds. There is no reason to believe that these attacks on the establishment will not spread into the professional schools. Students in some schools of social work have attacked the tenets of the school and may be portents of the future. Community feedback is important, but it is difficult for the lay community member to know enough about law or medicine to make some of the decisions he is attempting to make. The professional schools must train their graduates broadly enough to enable them to communicate with their clients, especially their new clients.

**Ethical codes.** It is important for professional authority and for community sanction that the ethical codes of the professions be followed. While a public may not know specific canons of ethics, they do have a feel for what is right or wrong on many of the basic ethical issues, which are generally covered by canons of ethics. The law schools, according to Carlin, in his book, *Lawyer's Ethics,* have failed to teach these canons. The school's inability to effect a change in ethical attitudes is sometimes attributed to "anticipatory" socialization. Students, it has been reasoned, especially those who go to elite schools, may already know what to expect and take on the appropriate attitudes even before they arrive at these schools.

Carlin claims that it does not matter what school a student goes to; he does not learn ethics in the school. If he has not learned ethics during early family training, he gets it, or does not get it, "on the job." So that Carlin finds that the solo practitioner in the big city is less ethical than the lawyers in the large law firms. My own study of the "Wall Street Lawyer" confirms Carlin's findings about the stratification of the bar and the ethics of the lawyers in the large law offices. It is hard for me to believe however that no socialization takes place during the three years experience in law school. Thielen, for example, found in his dissertation on socialization of law students that some changes do, in fact, take place there.

An unpublished study of midwestern law students, through a series of situational questions on legal ethics, disclosed that a change from a less ethical position to a more ethical position occurred when first year law students were compared with third year law students. However, when prac-

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ticing lawyers from the same town in which the law school was located were compared with third year law students, it was found that the lawyers' attitudes toward legal ethics were the same as those of the first year students. This information about practicing lawyers supports Carlin's conclusions that the lawyer is socialized on the job. But the entire midwestern survey gives evidence in support of the theory that adult socialization occurs both in law school and after law school.

If these conclusions are correct, then perhaps the law school must look for a system which allows on-the-job training, something dentistry is already doing, while the student is still going to school. Interest in this type of training is evidenced by the growth in the number of summer boarders. Columbia Law School placement offices reports that in 1957 twenty-two students worked during that summer as compared to 222 in 1967.\(^6\)

If the professional schools take on the job of finding clinical work for their law students and then, with faculty help, ferret out the meaning of these experiences, the student will have a new mixture of experience which, if properly handled, may positively effect internalization of ethical norms. Professional culture. If Carlin is correct that law schools are not influential in helping students absorb ethical standards, perhaps the schools also fail to teach other pertinent norms of the profession. The principles are the same as those discussed concerning the ethical codes; i.e., how do you teach students the formal and informal norms of a profession?

If the professions accept these attributes described by Greenwood as important for their product... the graduate... then by improving and extending these attributes we may also be meeting the demands of a changing practice and responding to the needs of the blacks, the poor, and other minority groups, while providing stability and growth in professional school education.

\(^6\) Smigel, supra note 3, at 368.