COMMENTS:

Discussant

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I am neither a professional educator nor a dedicated participant in any bar association. So when I received Professor Pollack's flattering invitation to be a part of this program, I found it necessary to do some reading. I read the Arden House I and II Reports, the transcript of the 1966 Round Table Discussion, referred to by Mr. Darrell, a few law journal articles, and a number of annual reports. My general reaction was, and is, that a great deal of unnecessary soul searching has been expended in debating the law school's role in continuing legal education.

It seems to me that without the dubious benefit of unified planning, of a control organization to establish and maintain a single set of standards and curricula, without, in brief, a single answer to the question of whether continuing legal education is the primary responsibility of the bar or of the law schools, continuing legal education has done very well. Perhaps not well from the standpoint of what a few gifted and motivated planners, sitting in lofty judgment, would conclude that lawyers ought to want, but very well from the only meaningful standard that can and should be employed in this area: What do lawyers in fact want, what are they willing to pay for, what will they take time out of a demanding schedule to attend? From that standpoint, continuing legal education has done well. And it has done so, most importantly of all, irrespective of whether the program has been initiated and sponsored primarily by the bar or primarily by the law school. Judging solely from my admittedly limited experience, the identity of the sponsor has no discernible effect on the quality and content of the program. And I suspect that this is true because in all instances, it is the practicing lawyer who is the customer, and the customer has the right and the power to get the quality and the content which he wants—no more and no less.

As indicated by our Chairman, my involvement with continuing legal education has been solely as a lecturer with four different institutions, the Ohio Legal Center Institute, headquartered here in Columbus, the Institute for Continuing Legal Education, headquartered in Ann Arbor, Michigan, the Annual Tax Institutes sponsored by the Cleveland Bar Association, and since 1954, as a lecturer in one of the classes given by Case-Western Reserve University Law School in its evening program for lawyers. Each of these institutions is differently sponsored, but each one provides programs which are strikingly similar in most material respects. Let us take a closer, but brief, look.

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The Ohio Legal Center Institute operates solely in Ohio. It is the major continuing legal education institution in Ohio. It is a separate, nonprofit organization which was created and is maintained under the joint sponsorship of the Ohio State Bar Association and the Ohio State University College of Law. Its physical plant is located right on the University campus, and it has easy access to the Law School, its faculty, and its facilities. Its principal subsidy, however, comes from the Ohio State Bar Association, and it is probably fair to say that the Bar Association is the senior partner in this joint sponsorship. I am aware that in the early days professors were generally reluctant to participate in the various programs. Now, however, with the growing popularity and success of continuing legal education programs generally, many professors, like many practitioners, ask for the opportunity to participate.

The Institute for Continuing Legal Education, in Michigan, is very much like the Ohio Legal Center Institute. Although most of its presentations are in Michigan, it also conducts programs outside of the state. The Michigan Institute, like its Ohio counterpart, is a nonprofit organization which was created under the joint sponsorship of the Michigan Bar Association, Wayne State University Law School and the University of Michigan Law School. Unlike its Ohio counterpart, however, the Michigan Institute is very closely linked with the University of Michigan Law School. It is housed in the same building, its director is a professor at the Law School, and many of its expenses are borne by the Michigan Law School. It has very easy access to the Law School faculty. Probably for this reason, it has made somewhat more extensive use of law school faculty personnel as lecturers, particularly in the early days, but even here the majority of lecturers have been practitioners.

The continuing legal education program at Case-Western Reserve University Law School is more in the pattern of the traditional law school curriculum. It is not a series of two- or three-day institutes. Rather, it consists of evening classes, on a semester basis, conducted right at the law school. It is entirely a law school project. The subjects presented, however, and the content of most of the courses, reflect the specific needs of the practitioner. Thus, for example, during the current semester, seven courses are offered, including "modern real estate transactions," "estate planning for lawyers," "labor arbitration," and similar, practice-oriented courses. Despite the fact that the program is directly a part of the law school, five of the seven instructors are practicing lawyers.

By contrast to the other three institutions, the Annual Cleveland Tax Institute is entirely a project of the Bar Association. It is sponsored, planned, organized and staffed by a committee of the Cleveland Bar Association. Indeed, it is rather jealously guarded by the sizable tax bar of Cleveland. Although it has no law school affiliation whatever, the quality
of its presentations is just as high as in the other institutions. In fact, one of the problems of management is to keep a few of the perennial lecturers from becoming too erudite.

In comparing all four of these institutions, I am impressed by the similarity in intellectual level at which the programs are pitched, the bread-and-butter aspects of choice of subject matter, and the relative mix of professional teachers and practicing lawyers. The sponsorship does not seem to affect these important attributes. I would guess that the sponsorship is determined in each case by the availability of leadership in the particular community at the time when the need for continuing legal education is manifested sufficiently strongly by the customers, the practicing lawyers. In many cases, the Bar has supplied that leadership. In appropriate cases, the Law School has filled a void. In all cases, the identity of the sponsorship and the content of the program is determined by the local market place, by the interplay of supply and demand. And that, I submit, is the way it ought to be.