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## A Law School Dean's Review (reviewing Albert J. Harno, Legal Education in the United States (1953))

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## BOOK REVIEWS

### A Series of Reviews of

**LEGAL EDUCATION IN THE UNITED STATES.** By Albert J. Harno. San Francisco: Bancroft-Whitney Co. (Survey of the Legal Profession), 1953. Pp. 211. \$3.50.

#### INTRODUCTION

A major survey of legal education in the United States deserves the very thoughtful consideration of anyone concerned with professional training for the law. Dean Harno's history and evaluation of legal education in this country under the title *Legal Education in the United States* falls in this category. The importance of the subject and of the book commends the wisdom of the editors of the Law Review in having the volume reviewed by four different persons. In this way we are afforded the benefit of the observations of a trial judge, a business executive who has been a teacher of International Trade, a practicing lawyer and a law school dean.

The reader will find that all four reviewers have placed a favorable evaluation upon the volume. It is clear that Dean Harno approached his task with commendable objectivity; one does not discern any indication of a defensive attitude with respect to the criticisms of contemporary American legal education with which most of us are familiar. In fact, there is more that could be said on the positive side than Dean Harno has brought out in this compact study. Just to take a single example, one might refer to the lively interest which has been displayed by a number of law schools and by the Curriculum Committee of the Association of American Law Schools in the subject of curricular integration. In its very nature, curricular planning, in such terms, is comprehensive and not to be characterized as the piecemeal sort of thing which Dean Harno finds more prevalent. For added measure I invite attention to the large-scale collaboration in the preparation of materials for instruction in Labor Law, which had its inception in the Labor Law Round Table of the Association of American Law Schools and which has achieved fruition under the leadership of Robert E. Mathews. That is a notable example of high-level law teacher-practitioner effort for the betterment of legal education.

Our practicing attorney, Mr. Arch Cantrall, is well known as a severe critic of contemporary legal education. He has set out in his review a "practitioner's prescription" for improving the situation.

The most important thing which can be said in a brief introductory statement is that there is a very heartening interest within and without law schools in improving legal education. Careful stock-taking and re-examination of objectives are very much in order, and it is the impression

of this schoolman that law teachers generally are concerned about doing a better overall job, whatever the quality of program and performance in a particular school may be at the present time. It is significant that practically all of the criticisms which Dean Harno has discussed are self-criticisms. It remains to match humility with the vision and zeal required for constructive action on a broad front.

Jefferson B. Fordham †

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#### A LAW SCHOOL DEAN'S REVIEW

*Legal Education in the United States* is an invaluable book for anyone wishing to have in readily available form the broad outlines of the history and growth of professional law schools. It is a most valuable essay also on the present status of legal education in this country. Dean Harno recognizes the twofold criticism which law schools today must meet; that is, that they are not sufficiently practical or that the curricula are lacking in breadth. These criticisms are not necessarily inconsistent and both may be valid. Dean Harno emphasizes that this is a period of self-criticism for the law schools and of much "activity and ferment" within them. He notes the growth of tutorial programs alongside the case method, the movement to bring legal education into closer contact with the social sciences, and the beginnings of factual research programs, which in some instances have resulted in completed studies. He mentions the recurring agitation concerning appropriate prelegal programs and the failure of the law schools to establish prelegal requirements other than in terms of years, the failure also to solve the problem of the teaching of ethics, and he notes that the approach of the schools to the solution of their problems has been usually "piecemeal and not comprehensively." According to Dean Harno, soul searching of a more comprehensive type is almost "nonexistent among the schools . . . but a minor fraction of them even have committees on curriculum . . . only a pitiful few have committees on aims and objectives." "This situation in the schools," Dean Harno concludes, "shows a major weakness in legal education."

Quite properly Dean Harno takes a broad view of his subject. His essay is not a report of an intensive examination of any one school. He is dealing with a nationwide institution of legal education, and he is concerned with general characteristics and problems. Moreover, and this is particularly appropriate for a book prepared for the Survey of the Legal Profession, one frequent point of reference in the volume is the Bar's concern with general standards for prelegal and legal education, and these standards inevitably have to take legal education in the broad as though it were one institution. But as Dean Harno surely would agree, professional legal education—even university legal education—is in another sense

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not one institution but many. The present ferment, as he notes, has produced many variations among the schools. Some schools indeed, including the one with which I am connected, have gone after curriculum problems most comprehensively. This apparently is one important variation which probably is duplicated in the same or in other ways in diverse schools. If law schools are taking advantage of their abilities and opportunities, there should be more than incidental variations between schools and, for that matter, within a particular school, when different periods of growth are compared. If major variations do not exist, then it would seem that an additional criticism can be levelled at legal education; namely too great conformity to a standard model. An intensive study of a few institutions might reveal whether or not there are useful variations.

Perhaps there is a problem of too great conformity and standardization. If so, the case method may have contributed to this result. Dean Harno speaks of the case method as a "system of instruction which in the hands of an able and skillful teacher is unexcelled as an instrument of education," and most of us would agree. But the attractiveness of the method has made other innovations more difficult. A more fundamental reason is probably the natural desire to settle what are, at bottom, somewhat intellectual matters through majority decisions, whether this be within a school or within an association. One consequence of this is an approach to the problem of legal education on what appears to be the incorrect basis that changes, if they are to be introduced, must come in many schools at once, and perhaps even through coercion. This seems somewhat odd in a society which still has a fairly fundamental belief in free enterprise. Nor am I sure that it can be argued successfully that uniformity or coercion is required, because in education the bad methods drive out the good. When serious changes are proposed in legal education it would be unfortunate if a rigid conformity requires the experiment to be imposed on all, or not to be tried at all. Legal education requires flexibility, and proposals serious enough to be urged on all perhaps, at least, should first meet their test in one or two places. This may have a certain relevance to the problem of legal clinics and also, perhaps, even to the problem of prelegal subject requirements.

Dean Harno is certainly correct in his description of the present period as one of self-criticism for the schools. Self-criticism sometimes leads to an exaggerated emphasis on method, on the curriculum and on purely institutional arrangements. Those who have lived through inquiries into method and curricular changes may be permitted to doubt whether any utopia comes much nearer in this exaggerated way. Perhaps what we need instead are fairly quiet experiments and innovations accomplished by those who have faith in them. Self-criticism, in any event, should not obscure the accomplishment of the law schools in this country in developing a disciplined liberal education for a profession of leadership. This accomplishment is very much in the tradition of the early distinguished professors of law who sought to find a place for law within the framework of the