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Introduction to Section IV: Reflections about Legal Education

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Introduction to Section IV: Reflections about Legal Education¹

Section IV of the *Tradition, Innovation & New Beginnings* issue of the Dickinson Law Review contains three articles that address the topic of legal education. Although the first and last article were written almost 100 years apart, they illustrate some of the common threads that have appeared over time in discussions of legal education. One might easily imagine that the article entitled *College Graduation as an Entrance Requirement to Law Schools*² is a 21st Century article, responding to developments such as the 2016 recommendations of the ABA Task Force on the Future of Legal Education³ or questions that may be addressed by the new ABA Commission on the Future of Legal Education that was established in August, 2017.⁴ This article was, however, written in 1914 by Walter Harrison Hitchler, who later became dean of Dickinson Law and explained why the law school was willing to accept applicants who were not college graduates.⁵ In addition to pointing out a number of distinguished lawyers and jurists who had not graduated from college, Hitchler's article compared the bar passage rates and law school GPAs of students who were college graduates and those who were not, cited the cost of a legal education, compared legal

1. By the law review staff.

2. W. Harrison Hitchler, *College Graduation as an Entrance Requirement to Law Schools*, 19 Dick. L. Rev. 31 (1914).

3. See REPORT AND RECOMMENDATIONS, AM. B. ASS'N TASK FORCE ON THE FUTURE OF LEGAL EDUCATION 3 (2014), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.authcheckdam.pdf. The recommendation stated:

To expand access to justice, state supreme courts, state bar associations, admitting authorities, and other regulators should devise and consider for adoption new or improved frameworks for licensing or otherwise authorizing providers of legal and related services. This should include authorizing bar admission for people whose preparation may be other than the traditional four-years of college plus three years of classroom-based law school education

Id.

4. See *Comm'n on Future of Legal Education*, ABA (2017), https://www.americanbar.org/groups/leadership/office_of_the_president/futureoflegaleducation.html.

5. For additional information, see Mark W. Podvia, *Walter Harrison Hitchler*, 16(1) Cumberland Cnty. History 3 (1999); Daniel J. Flood, *Eulogy for Harry Hitchler*, 64 Dick. L. Rev. 1 (1959).

training to medical training, asked whether a college education was necessary in order to learn the “culture” of the law, and asked what sort of examination, if any, should be required as a prerequisite to entering law school. Although the context has changed, all of these are questions that remain relevant—and the subject of discussion—today.⁶

The second article in this section is a 1996 article written by Bob MacCrate.⁷ The title of this article is “*The Lost Lawyer Regained: The Abiding Values of the Legal Profession*,” but it focuses on legal education, as well as the legal profession. Including a Bob MacCrate article in this section on legal education is altogether fitting because one cannot overstate the impact that Bob MacCrate and the MacCrate Commission Report have had on U.S. legal education. This article—like the MacCrate Report itself—stresses the interrelationship of U.S. legal education and legal practice. As the article explains, law schools are “the unifying experience for the great majority of lawyers, and the judiciary in each state” and the profession’s gatekeeper for that jurisdiction.⁸ The last sentence of this article offers a perspective that might also be true today: his concluding observation was that the ongoing discussions about legal education show a profession that is “determined to respond to the challenge of change by building an educational continuum that will sustain the abiding values of the legal profession.”⁹

6. In addition to the ABA initiatives cited above, the influential Carnegie Foundation report on legal education addressed a number of similar issues. See William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond & Lee S. Shulman, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (Jossey-Bass 2007), available at http://archive.carnegiefoundation.org/pdfs/elibrary/elibrary_pdf_632.pdf.

7. In addition to his many other accomplishments, Robert MacCrate chaired the *ABA Task Force on Law Schools and the Profession: Narrowing the Gap*. Because of his leadership, this Commission and its 1992 report are known as the MacCrate Commission and the MacCrate Report. For a link to the report, see https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2013_legal_education_and_professional_development_maccrate_report.authcheckdam.pdf. As a testament to the continuing impact of the MacCrate report, in 2013, the ABA issued its report entitled “Twenty Years After the MacCrate Report: A Review of the Current State of the Legal Education Continuum and the Challenges Facing the Academy, Bar, and Judiciary,” https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/june2013councilmeeting/2013_open_session_e_report_prof_educ_continuum_committee.authcheckdam.pdf. In 2016, the National Conference of Bar Examiners had a plenary session at its annual bar admissions conference devoted to continuing impact of the MacCrate Report.

8. Robert MacCrate, “*The Lost Lawyer Regained: The Abiding Values of the Legal Profession*,” 100 *DICK. L. REV.* 587, 615–616 (1996) reprinted in 122 *DICK. L. REV.* 153 (2018).

9. *Id.* at 619.

The third article in this section, which is entitled *Changing the Modal Law School: Rethinking U.S. Legal Education in (Most) Schools*, was written in 2012 and reflects both new themes, as well as some of the same themes that appear in the Hitchler and MacCrate articles. The author, Nancy Rapoport, brings to the article a wealth of experience and perspectives, including her service as a dean and a professor at multiple law schools, her service in senior roles in University administration, her previous experience in private practice, and her current work as a bankruptcy law expert. This article starts by noting that the senior lawyers she talks to are frustrated by law graduates' failure to move from drafting competent memos discussing current case law to providing useful advice to clients. Her article talks about the need for U.S. law professors to adjust their assumptions about their students' academic backgrounds. She also asserts that if law professors want their graduates to be competent lawyers—which may not be a goal of all law schools or professors—then professors need to recalibrate their own goals and rethink how they should convey their material. In the course of offering a number of useful concrete suggestions about things that schools and professors could do, she offers a 21st Century perspective on some of the same themes that Hitchler was writing about 100 years ago including the preparation of incoming law students, the impact of the bar exam on students, and the range of skills that make one a good lawyer. Her article also addresses topics such as the critical role of the lawyer as a problem-solver, the importance of students learning a variety of skills, including “extra-legal competencies,” and the fallacy of the unitary model of law school.

The *Dickinson Law Review* hopes that you will enjoy (re)reading these articles about legal education that span more than 100 years.

Laurel Terry

