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## Looking Forward from the First 100 Years

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INTRODUCTION: LOOKING FORWARD FROM  
THE FIRST 100 YEARS

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The easiest way to view a strong institution's past is as preamble of inexorable progress leading to an auspicious but stable present. Deans (and others) speak and write in that frame of mind all the time. Yet to me the prime lesson of the Cornell Law School's first one hundred years is how much change is apt to come in a short span of time. It would be foolish, indeed, to imagine that such dynamism will stop, abruptly, in 1987-88.

The school's central values have endured. It is a remarkable tribute to the wisdom of our founders' vision, and to the quality and commitment of those whose lives have realized and sustained that vision, that the Cornell Law School of today can stand proudly against the plans first sketched over 100 years ago. University-based legal education was important to Cornell's first president, Andrew Dixon White, even though Cornell University—"where any person

could study any subject”—was begun without it. In 1862, White wrote “There is needed a truly great university . . . to secure the rudiments, at least, of a legal training in which Legality shall not crush Humanity.”<sup>1</sup> Fiscal limits, a subject to which I, like any responsible dean, will return, delayed realizing a professional program at Coruell until a marked appreciation in the value of pine lands provided the resources. White’s final report as president, in 1885, framed the new unit’s purposes in phrases, its founders and their successors firmly embraced. This was to be a school that emphasized quality rather than quantity; in White’s words, sending out “not swarms of hastily prepared pettifoggers, but a fair number of well-trained, large minded, morally based *lawyers*”<sup>2</sup>—a school that did not allow “legality to crush humanity.”<sup>3</sup> It should prepare professionals who would not be content with success in a narrow sense, but would become “a blessing to the country at the bar, on the bench, and in various public bodies.”<sup>4</sup>

Compelling visions do not compel success. The new law school at CUNY Queens has a handsome ambition and, in some respects a good start, but anyone following its fortunes closely would have to say, “It’s much too soon to tell whether its founders’ vision will survive.” Similar realistic doubts surrounded the establishment of a law department at Cornell. Significant opposition came from within the university. Dean Boardman alluded to it when he told the school’s first students: “Some . . . have condemned the project as unnecessary, while others, either cynics, or haters of law and lawyers . . . , have indulged in spiteful sarcasms about the number and quality of existing lawyers and thereupon condemned an institution which would make more of them.”<sup>5</sup> The Albany Law Journal greeted the school with good wishes but minimal expectations: “We wish the school success, but we do not expect it.”<sup>6</sup> Why? Because of the large number of lawyers and law schools already in the northeast. There were at the time 47 law schools in the U.S. (a majority of them proprietary) enrolling 2,686 students. Continued the Albany Law Journal, “the University will be disappointed in the attendance upon this course.”<sup>7</sup> The contrary view on which the Cor-

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<sup>1</sup> Letter from Andrew D. White to Gerrit Smith (Sept. 1, 1862).

<sup>2</sup> Annual Report of the President of Cornell University for the Academic Year 1884-85 by Andrew D. White 55 (June 17, 1885) (unpublished manuscript available at Department of Manuscripts & University Archives, Cornell University Olin Library).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> D. Boardman, Manuscript of the First Lecture Delivered in the Cornell Law School at its Inauguration 3 (Sept. 1887) (unpublished manuscript available at Cornell Law School Library).

<sup>6</sup> Current Topics, 34 ALB. L.J. 81 (1887).

<sup>7</sup> *Id.*

nell trustees relied was based on demographic analysis suggesting that there was an upstate New York niche, so long as Cornell did not impose more rigorous admission or attendance requirements than Columbia, Michigan, or Yale. In light of New York's requirement of at least one year of law office clerkship, Cornell like these others, felt constrained to award its LL.B. degree after only two years and to admit students with as little prior education as one year of high school. Even with such accommodation, survival, let alone success, was not assured. As Dean Boardman said to the first entering class: "Whether we shall succeed depends upon ourselves and our successors, and remains to be demonstrated."<sup>8</sup> The school's aim he reduced to a single point: "The school is not here to make more lawyers but better ones."<sup>9</sup>

Cornell Law School went beyond survival to its current success only because successive faculties and deans responded creatively to changes in the social, educational, and professional environment with their eyes firmly fixed to that fundamental purpose—"not more lawyers but better ones"—and because those who care about the school have responded to its needs. Looking ahead, I am certain the next century will demand no less of all of us. The next decade or two hold enough foreseeable challenges and change and predictable needs to persuade me of that.

If the law school is to sustain the high quality of its teaching and research in pursuit of White's enduring vision, it will, one hundred years from now, be as different an institution as the current institution appears in comparison with the school in its early years. Consider the magnitude of such change. The program Dean Boardman launched on the top floor of Morrill Hall one hundred years ago this past September had a student body of 55, a faculty of three (not counting the dean, who did not teach), and a library collection. By several counts (student body, faculty, library volumes) that school was one-tenth the size it is today. But other less quantitative measures of change hold the more interesting stories of the past 100 years.

Those years teach that the history of a law school is a part of, not apart from, the history of our nation. Wars, depressions, and deep political divisions can be read in detail in the history of the Cornell Law School, as can shifts in educational philosophy and social values. Whatever plans those who tend the school may make, they are inescapably subject to this larger reality. A second reality is the school's tight link both to the university and to the legal profession. This dual allegiance provides balance. It has also been a

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<sup>8</sup> D. Boardman, *supra* note 5, at 4.

<sup>9</sup> *Id.*

source of constant tension. From the very beginning, the law school has embarrassed Cornell's more academic units. As early as 1889, a resolution was introduced at a meeting of the board of trustees, which called for raising the school's admissions standards to the level required for admission to the general course of the university and for increasing the LL.B. program to three years. The law faculty opposed the change so long as bar requirements remained as they stood. (The law faculty, I should note, spoke as an entity, being sufficiently different to be the first group of faculty in the university appointed to and entrusted with a particular program.) Some years later Liberty Hyde Bailey, Chairman of the Department of Agriculture, argued vehemently that Morrill Act funds, secured by litigation from New York State, should not be devoted to supporting law. He did not prevail and those funds represented the bulk of the \$110,000 expended to build Boardman Hall in 1891-92. The creative tension between academy and the profession, less overt today, still frames the school's challenges and opportunities.

One prime lesson of that first century is that we should not take for granted the present placement of law school education in relation to elementary, secondary, and collegiate education on the one hand and supervised professional experience on the other. It took at least the first third of Cornell Law School's one hundred year history for it and other law schools to secure recognition and ultimately regulatory support of the comparative advantage of university-based professional education over proprietary school training and law office apprenticeship. During the same period, through a series of intermediate moves, the law degree became established as a graduate degree (nearly unique worldwide in this respect) preceded by four years of undergraduate education. In 1897, the school extended its degree program to three years. In 1898, it adopted entrance requirements as rigorous as those for the university's basic program, namely completion of a four year high school course. The changes halved the entering class, an effect that was repeated each time it tightened standards. In 1907, the school introduced a four year law program, with the incremental fourth year recommended for those without any prior college education. What was recommended became required in 1911. In 1919, two years of prior college became an admissions requirement and the four year program was abolished. In 1924, the trustees voted to place the program on a graduate basis, retaining, however, the six-year Arts-Law course.

Despite the growth of formal admission criteria, the school suffered a high rate of attrition. I don't know if a Cornell dean or faculty member ever said to an entering class: "look to your right, look to your left, only one of you will be here for graduation", but

that was statistical reality at several points in this period. Of course, not all attrition was academic. Concern about improving prediction led Cornell to be a pioneer in the development and use of the LSAT in the late 1940s. This common denominator allowed graduates of small and distant and unknown colleges to establish their qualifications for study at a school like Cornell. That, combined with the disruptive effect of World War II and the Korean conflict, opened up a national exchange. By 1948, seventy-eight percent of Cornell Law students had received their prelegal education at schools other than Cornell. The figure now is ninety percent. Today, the student deck is reshuffled between undergraduate study and law, with law school admissions standards, geography, and often intervening work experience producing the dispersal. When this spread is combined with the dominant law school view that no particular pattern of undergraduate education is required or even recommended, the direct consequence is that almost nothing beyond basic intellectual skills and chronological maturity, plus such qualities of character and personality as can be determined through references or interviews, can be assumed about those entering this or any similar law school. The gain is in diversity of educational background and experience, the corresponding loss is in ability to rest legal education on any assumed prior preparation—knowledge, language skills, disciplinary command—or career aim.

We may have reached a stable resting place, but that is not self-evident. Indeed, past changes suggest that is improbable. One possible future path would involve creation of joint programs between undergraduate units and law schools drawing together courses of study focused on particular areas of practice—labor law, international trade, and law and technology, to pick three examples. Another path might involve more explicit links to professional experience. Nearly all students graduating from Cornell Law School today have had one or more summer clerkship experiences in law. Many have, in addition, come to law school with prior law-related experience. This represents an important ingredient in the present situation—one of which we take little conscious account but might, through co-op programs or the like.

Growth in student diversity of a fundamentally different sort is still very much in progress. One need not go back many years to find gender, race, ethnicity, and religion exercising a powerful determining force on whether one was likely to consider law study, could be admitted to a law school, or might pursue particular avenues in the profession after graduation and bar admission. (There is excruciating irony in the fact that one of the Law School's most generous supporters, a top member of the class of 1918, never rose

above legal assistant in the firm where she was “fortunate enough” to find a position.) Cornell Law School was never immune to the social attitudes of which such barriers were built. Yet it can be proud of the role it has played in their erosion. The pace of change in law school demographics has at once been impressively fast (compared to many other disciplines) and too slow. This is a critically important area of change and one that is far from played out in either direct effect or long term consequence.

It is widely observed that the legal profession is changing—in structure, work methods, career patterns, and values. Even as individual lawyers experience greater mobility, the profession is dividing along increasingly distinct lines. For economic and other more subtle reasons those same lines threaten to cleave legal education—a phenomenon we alternately ignore and lament. Year by year, the graduates of Cornell Law School move in greater proportion to the large private firms serving commercial clients. Part of the apparent shift is simply that large private firms are today larger collections of lawyers than they were a few years back. It is unmistakably the case, however, that far fewer graduates of Cornell and other top schools are *beginning* practice in smaller firms in small communities or in the public sector. The story is very different at less selective institutions. This illustrates my point about the growth of parallel divisions in the profession and legal education.

I have no detailed recipe for Cornell Law School’s response, but I do know it would be disastrous for us to ignore these major shifts in the professional environment to which our graduates go. It seems to me vital that the curriculum and research done at the Cornell Law School turn toward, not away from, the segment of the legal profession that draws most of our graduates. Such attention must be both empirically-based and rigorously, though helpfully, critical. At the same time, I would not have our school acquiesce in its becoming a pathway to a single segment of the profession. We must find ways to preserve true career choice for our students.

When Cornell Law School was established, the school’s future was seen solely in terms of the needs of the state, and upstate New York at that. With important exceptions; early classes were drawn from upstate New York and made their careers in New York. I say that with important exceptions; that first law school class of 55 included a student from Japan. International law was included in the required second year curriculum of this class. From the start, this law school has looked out toward the world from Ithaca, N.Y., and drawn the world to it. In 1948, this outward looking perspective was reflected in the creation of a law degree with specialization in international affairs. Today, the school is in reality, not simply aspi-

ration, a national law school with important international programs. I believe Cornell's future path ought to involve an even further outward reach from Ithaca.

I would be unfair to our school's history if I did not conclude with a word about deans and alumni. In 1919 Dean Woodruff concluded an interesting account of Cornell Law School's beginning years in the *Cornell Law Quarterly* by observing: "The law school has now for thirty years conferred its benefactions. To what extent has there been requital?"<sup>10</sup> He answered his own question suggestively: "The law library has been the recipient of generous donations, but other opportunities for appreciation of the work of the school have with some few exceptions not been availed of by our former students and other friends. . . . The best friends of the law school should be its former students. . . . Its future should . . . enlist their sympathy and helpful interest. The claims of the school will never be exhausted."<sup>11</sup> There followed a list of needs, including an addition to Boardman Hall. In the years since (now nearly seventy), the friends of the law school, including most notably its former students, have responded generously and repeatedly to the school's needs. Without that support, Cornell Law School would today be an embarrassment to its founders' dreams. Because I am confident that future deans will, like Woodruff, be direct in identifying the needs of a dynamic institution and that its friends will respond, I am excited about our school's future, even as I am proud of its past. If this is to be the school we would have it be, educating not "more lawyers but better ones," its "claims will never be exhausted."

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<sup>10</sup> Woodruff, *History of the Cornell Law School*, 4 CORNELL L.Q. 91, 112 (1919).

<sup>11</sup> *Id.*