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The Student and Law School Governance

Ralph F. Bischoff*

AT A RECENT MEETING of a university Board of Trustees, discussion centered on three problems—perhaps one should say three aspects of one problem—the solution to which will affect the university and its role in our quickly-changing society. I refer, of course, to the violence of a few student extremists who are disrupting the normal activities of the university, to the new emphasis on a Black student separatist movement and to student demands for responsibility in the governance of the university. Of the three, the latter is clearly the most important; its solution should aid in solving the difficulties created by the other two. But student violence and Black separatism-versus-integration foster more headlines. Confrontations at Berkeley and San Francisco State and Queens and Chicago, to name but a few, are the subject of debate between both academics and non-academics. Even the local tradesman asks: “What’s wrong with you fellows? Are you running scared?”

A recent lead article in the *New York Times* questioned whether a small New England College had not bitten off more than it could chew when it registered nine percent Blacks in the student body, in view of the new emphasis on Black control over courses in Black culture. Brandeis University recently faced both the issue of confrontation and Black separatism when Black students occupied an administration building to enforce the demand for autonomous control over such courses. Faculty committees have been forced by fast-moving events to concentrate on up-dating disciplinary procedures which were traditionally geared to punishing cheating on examinations rather than non-peaceful interference with university activities. More and more universities are recognizing that many radical students and radical professors are not so interested in having their views seriously considered as they are in anarchy and revolution.

Most law schools have been in the enviable position where student violence has been at a minimum and where the number of Black students who could under any standard be admitted has raised slight possibility of Black separatism. It has been easier in a law school to concentrate on procedural measures which will bring its governance up to date and which will reaffirm the fundamental idea that an educational institution must foster and protect the privilege of rational discussion. How many law schools have seized the opportunity to affirmatively reconstruct the governance of the institution with an eye to greater student responsibility is unknown. It should be the current focus of activity of every law school community. By student responsibility I am not referring to the obvious,

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that each student on enrolling is assuming an obligation to conduct himself in a manner which is compatible with the functioning of the school or university. What I do emphasize is the need to include students in the governance of the law school.

The important question, therefore, for a school of law is not whether students should participate but to what degree. Should they concentrate on increased autonomy over what is traditionally thought of as "student affairs"? This would include student organizations, publications, dormitory regulations, a student honor system and social events. Should they, in addition, participate in the formulation of curriculum and graduation requirements? Should students have an influence in establishing policies in such fields as faculty tenure, promotion, sabbaticals or salaries and in administering the same? If the answer to the demand for greater student responsibility is in the affirmative, should student participation be confined to the committee level or should it include the ultimate policy-making body, the faculty?

At the outset, therefore, the law school community, *i.e.*, trustees or the equivalent, administration, faculty and students, must agree on a fundamental premise, namely, the extent of real student interest in the affairs of the school. As a corollary they must determine whether there is an area of uniquely "faculty affairs" in which students should have no voice. Joint planning is necessary and this may include changes in the existing by-laws of university and school. My own experience during the past year leaves little doubt in my mind as to the direction in which law schools must go. Not only am I actively connected at New York University School of Law with all aspects of the issue of increased student responsibility, but I have enjoyed the additional perspective as trustee of a liberal arts college which is actively engaged in creating a new role for students within that institution. Whatever may be the situation in an undergraduate school, traditional student activities do not play a leading part in law schools. To the degree that they do exist, our professionally-minded and more mature students are obviously capable of autonomous control over them. This should be true of extra-curricular activities such as student organizations and the student newspaper, as well as government of a law school dormitory. Thus, any semblance of direct faculty control over our dormitory has been removed.

Student responsibility must also find its place in the broader areas of law school curriculum, graduation and other academic requirements and academic and non-academic discipline. Can it be honestly said that these are not "student interests"? At New York University School of Law students are currently voting members of the Executive Committee of the Faculty which recommends policies to the faculty, enforces all academic discipline and participates in other disciplinary action. The weight to be given student participation is an important issue. In the case

of the Executive Committee it is three students out of a total of twelve. It should also be noted that for the first time this committee represents different elements of the faculty, as well as the students. Students are also voting members of the Curriculum Committee and constitute half of a newly constituted Faculty-Student Committee whose jurisdiction is best described as "catch-all." In all of these instances, both student and faculty members will, I believe, attest to the fact that "it works."

At least two questions are outstanding. What is the best method of choosing student representatives for these committees and to what degree should students participate in the debates and decisions of the highest policy-making body, the faculty? At several institutions student representatives are elected by the governing board of the student organization. At others they are elected by the general student body. Our procedure in this first year has been based on consultation between faculty members and student leaders, followed by appointment by the Dean who currently appoints all committees. Up to now students have appeared in faculty meetings to argue for or against a particular policy but have been asked to leave before a vote was taken. It has been strenuously argued that if students are responsible enough to debate and vote within a committee which is recommending a policy to the highest policy-making group, they should also participate in a similar way in the final decision-making process. With this I agree.

Less unanimity is found when it comes to such questions as faculty appointments, promotions, sabbaticals or salaries. Most law schools continue to regard these areas as primarily "faculty affairs," except for the indirect influence of the currently popular student polls. It has been urged, however, that students should be represented on the committees which consider these problems and which have to administer the policies in individual cases. The solution in these more marginal spheres should await the experience with student responsibility in matters of curriculum, academic standards and discipline.