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Part-time and First-rate Legal Education: Some Random Observations

Stanley E. Harper, Jr.*

I.

Dean Frank R. Strong, of the Ohio State University, in his presidential address before the assembled members of the Association of American Law Schools emphasized the theme that in contemporary American legal education, "Good is Not Good Enough."¹ In the course of his address, Dean Strong paused briefly to discuss part-time legal education. He stated frankly that "it is difficult to reconcile first-class legal education with part-time legal education."² And a paragraph later he added, "Assuming that, as their spokesmen insist, the evening law schools are performing as well educationally as are the day schools, may this not but demonstrate that neither method can today lay claim to achievement of truly high quality legal education?"³ But Dean Strong did not conclude that part-time legal education should be abolished; rather he suggested that a limited number of part-time divisions, affiliated with a university law school, might remain in operation in order to educate "students of promising calibre whose inability to study law at all would constitute a real loss to the legal profession and to society."⁴

Dean Strong then, although he does not endorse part-time legal education, at least recognizes that the part-time law school may have a purpose on the contemporary scene. His position is neither as antagonistic as that of Dean Lehan K. Tunks, of Rutgers University,⁵ nor as favorable as the positions of Deans Russell Niles, of New York University,⁶ and Robert Kingsley, of the University of Southern California.⁷

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² Id. at 125.
³ Id. at 125.
⁴ Id. at 125.
Having clearly assumed his position on part-time legal education, Dean Strong, consistent with that position, intimated that he was disturbed by the "numerical significance of the part-time law school." In light of Dean Strong's disquiet, it might be well before moving on to other matters of part-time legal education, such as the quality of student or the planning of a curriculum, to survey the statistical significance of part-time legal education from 1947 to the present.

Nineteen hundred and forty-seven is a convenient year to use as the source of a post-war enrollment trend; it was the first post-war year in which the law schools gained a full year of experience in handling, often on the basis of an accelerated program, the G. I. enrollment boom. During 1947, 51,688 students enrolled in the American law schools. Of these students, 36,999 were enrolled as full-time students in the day classes of 104 approved law schools. Six thousand seven hundred and twenty students were enrolled as part-time students in the evening classes of thirty-two approved law schools. The remaining 7,296 students, primarily evening students, were enrolled in unapproved law schools.

In 1948, 56,914 students enrolled in the American law schools, and then over a period of seven years, enrollment declined to 40,158 in 1955. From 1956 to 1960, enrollment has increased gradually. In 1960, the latest year in which statistics have been compiled, there were 43,695 law students. In 1960, 28,295 students were enrolled in day classes of 132 approved schools, 12,086 students were enrolled in evening classes of forty-eight approved schools or divisions, and 3,314 students were enrolled in unapproved schools. In 1960, the State of California accounted for more than half of the student population of the unapproved law schools in the United States.

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9 All of the enrollment statistics quoted in this paper may be found in the pamphlets, Law School and Bar Admission Requirements in the United States. The pamphlets appear yearly through the auspices of the American Bar Association. The statistics are submitted by law school deans and compiled by Dr. John G. Hervey, Adviser to the Section of Legal Education and Admissions to the Bar, of the American Bar Association. The same enrollment statistics, as prepared by Dr. Hervey, may be found in the yearly bound volumes of the Journal of Legal Education.
10 The term "approved law school" or the term "accredited law school" refers to that law school approved by the Section of Legal Education, of the American Bar Association.
The 1960 statistics indicate among other things that thirty per cent of the students in approved law schools in the United States were enrolled in the evening classes as part-time students. If one considers, however, that part-time legal education is limited to the metropolitan center, then a different statistical yardstick might be utilized. In the United States, there are twenty-six metropolitan centers wherein there is an opportunity for the prospective law student to choose between full-time or part-time accredited legal education within the metropolitan area. Within these centers, there is a total of sixty-two law schools approved by the American Bar Association. The metropolitan centers vary in size from New York City to Hartford, Connecticut. Some of the schools within the metropolitan centers are national law schools, some are local law schools, some are solely evening law schools, and some are multiple division schools. Sixty-four per cent of the law students in the approved law schools of the United States are enrolled in the law schools in these twenty-six metropolitan centers. And within these same metropolitan centers, forty-three per cent of the students are part-time law students. From these 1960 statistics then, one might conclude, along with Dean Strong, that part-time legal education does have a "numerical significance."

Dean Strong believes that the "numerical significance" of part-time legal education has a deleterious effect on legal education in general. In his address, he stated that "the existence of many evening law schools, educating a large proportion of those coming to the Bar, fosters the generalization that training for law need not be full-time to be sufficient for the professional needs of the students as a lawyer or for the demands of the profession as a whole."

If one couples Dean Strong’s statement with the fact that between 1947 and 1960, enrollment in the

11 Los Angeles, Cal.; San Francisco, Cal.; Denver, Colo.; Hartford, Conn.; Washington, D. C.; Miami, Fla.; Atlanta, Ga.; Chicago, Ill.; Louisville, Ky.; New Orleans, La.; Boston, Mass.; Detroit, Mich.; St. Paul-Minneapolis, Minn.; Kansas City, Mo.; St. Louis, Mo.; Newark, N. J.; New York City; Cincinnati, O.; Cleveland, O.; Columbus, O.; Tulsa, Okla.; Philadelphia, Pa.; Pittsburgh, Pa.; Dallas, Tex.; Houston, Tex.; San Antonio, Tex. Seattle, Wash., for example, is not listed among these metropolitan centers; only full-time accredited legal education is offered in that city. Indianapolis, Ind., for example, is not listed; only accredited part-time legal education is offered in that city.

12 Each one of the sixty-two approved law schools selected is within twenty-five miles—a reasonable commuting distance—of the downtown area of one of the metropolitan centers listed in the previous footnote.

full-time approved law schools dropped 8,704 while enrollment in the part-time approved law schools increased 5,366, one might draw the conclusion that part-time legal education in approved law schools is slowly driving full-time legal education to the wall. But the apparent decline of full-time legal education cannot be attributed basically to the growth of part-time legal education.

Much of the gain in the enrollment of the approved part-time law schools may be attributed to the fact that since World War II, a great number of the unapproved part-time schools became approved part-time schools. The growth then has been primarily at the expense of the unapproved law school. In Ohio, for example, in 1947, there were 1,100 evening students enrolled in unapproved part-time law schools. Shortly thereafter, the great struggle to improve the standards of part-time legal education began in Ohio. Today in Ohio, there are 1,100 students enrolled in approved part-time schools, and none in unaccredited schools. Dean Strong was one of the leaders in the battle in Ohio to raise the standards of legal education.

On the other side of the coin, the decline in total enrollment in the approved day law schools has followed an interesting pattern. The national law schools, such as Harvard, Yale, or Chicago, have maintained their high-level enrollments. On the West Coast, what with the expanding population, many of the day law schools have enjoyed substantial increases in their enrollments. The University of California, at Berkeley, for example, has more than doubled its enrollment since 1947. In short, the backlog of World War II veterans has disappeared, the "pool" of prospective law students has in recent years been filled by the thin ranks of the depression generation, the national law schools have maintained their enrollment levels, and the West Coast schools have benefited from an explosive migration into their region. Some law schools, however, had to suffer enrollment losses. And it is in the Midwest, that region somewhere between the Appalachian Mountains and the Great Plains, that the student population in many of the approved day law schools has dropped precipitously from the relatively high enrollment of 1947. Of course, the 1947 statistics for many Midwestern schools are relatively inflated because of trimester accelerated programs; however, the enrollment statistics for the

day law schools in three Midwestern states, Ohio, Kentucky, Tennessee, indicate the enrollment differential between 1947 and 1960:

<table>
<thead>
<tr>
<th></th>
<th>1947</th>
<th>1960</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ohio</td>
<td>1419</td>
<td>674</td>
</tr>
<tr>
<td>Kentucky</td>
<td>486</td>
<td>226</td>
</tr>
<tr>
<td>Tennessee</td>
<td>754</td>
<td>382</td>
</tr>
</tbody>
</table>

Fortunately the decline in enrollment in these sample Midwestern states has leveled off. It might also be noted that enrollment in the part-time schools in these same states declined in total numbers between 1947 and 1960, but in total numbers the decline was not as steep.

II.

Many of the Midwestern full-time law schools have not had a national reputation, an expanding regional population, or adequate scholarship or student loan funds to sustain them at full operating capacity during the recent lean years. And during these same years, many law schools, not only the Midwestern schools, have become aware of a supposed recent phenomenon, the full-time student who has outside employment. Of course, the working, full-time student is not a recent phenomenon. In the past, even great professors have worked while they attended a full-time school. A casual reading of *A History of the School of Law, Columbia University* will illustrate the point. Richard R. B. Powell worked and took graduate courses while he was in law school. Professor Herman Oliphant taught English classes while he attended the University of Chicago Law School and he graduated with honors. But former professor, and now Justice William O. Douglas, was a bear for outside employment. A description of his employment activities is worth quoting:

He was quite without funds, but he wished to see if he could work his way through a first-rate law school. In November of his first year he dropped out of classes for a month to spend his time in the Law Library formulating a course in

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15 *A History of the School of Law, Columbia University* (Goebel ed. 1955).
16 *Id.* at 267.
17 *Id.* at 266.
18 *Id.* at 288.
law that he sold to a correspondence school for enough money to support himself for the rest of the year. During his second and third years he worked three or four hours a day for Underhill Moore, besides tutoring ill-prepared graduates of leading colleges in languages, mathematics, and other subjects they found they needed in law school. From February to June each year he read examination books for various members of the faculty. Meanwhile he served as an editor of the Columbia Law Review and found time to be married on August 16, 1923, to Mildred Riddle.

Apparently outside employment did not stunt the intellectual growth of these men. And others among us have admitted that we worked while in law school.\textsuperscript{19} The past, however, may not be a guide to the present. A recent committee of the Association of American Law Schools, the Committee on Definition of a Sound Educational Program, suggested that some outside employment for the full-time student might be beneficial. "A student assistantship or part-time employment as a law clerk for a judge or law office can be a successful segment of law study just as law review or moot court work can be. Also, some employments are far less demanding than others."\textsuperscript{20} The committee hastened to add, however, that if outside employment required the school to reduce classroom hours and lengthen the residence period in order to accommodate the working student, then "the use of this device sacrifices those values to legal education which lie in the intellectual discipline and favorable environment for learning engendered by devotion of substantially all working time to the study of law."\textsuperscript{21} The committee suggested that "The most significant single remedy for this problem is for the member school to develop financial aid of all kinds, such as scholarships, loan funds, and student assistantships."\textsuperscript{22} Finally, the committee concluded, "If financial aid for students is not developed far beyond present levels there will be an inevitable deterioration toward all legal education being part-time."\textsuperscript{23}

\textsuperscript{20} Report of the Committee on Definition of a Sound Educational Program, Association of American Law Schools, Program and Reports of Committees 51, at 58 (1959).
\textsuperscript{21} Id. at 58.
\textsuperscript{22} Id. at 59.
\textsuperscript{23} Id. at 59.
It is at this point that the relative decline in enrollment in many day law schools and the problem of the working student return to the doorstep of the part-time law school. The prior discussion in this paper has pointed out that the problem of reduced enrollment in the day law schools may not be attributed basically to the part-time law school. Undoubtedly, many students in recent years who have entered day law schools have found it necessary because of financial problems to withdraw and enroll in a part-time law school. Scholarship or loan funds would have made it possible for these students to remain in a day law school. Scholarship and loan funds would also make it possible for full-time students to reduce or abandon outside employment. Scholarship and loan funds, however, will not induce substantial numbers of students who might in the future attend a part-time law school to attend a full-time law school. In short, scholarship and loan funds will not make all future legal education full-time.

Students in American law schools enjoyed after World War II, through the auspices of the G. I. Bill of Rights, a universal educational largess. A law student received tuition, books, supplies, and a monthly stipend for living expenses. If the student worked, however, his monthly stipend was reduced proportionately to income earned. This particular provision applied to many law students in the part-time schools. And yet, many law students chose to attend part-time schools. A comparison of the enrollment of first-year students in day and evening classes in 1947 at the height of the G. I. Bill in the several New York City law schools with first-year enrollment statistics in 1960 is interesting. In 1947, in Brooklyn Law School, Fordham University, New York University, St. John’s University—all multiple-division schools—and in Columbia University, a full-time day school, there were 708 full-time first-year students and 427 part-time first-year students. In 1960, in the same schools, there were 702 full-time first-year students and 426 part-time first-year students. With or without universal scholarship funds, part-time and full-time legal education have continued operations side by side in a relatively stable metropolitan center. Neither form of legal education has driven the other to the wall.

In his address, Dean Strong has attributed the persistent enrollment of students in part-time law schools to two basic reasons. First, there is a tendency among members of the bar
"to encourage the view that law school need not be a full-time occupation for the energetic young man."  

Second, members of the bar imply that "there is something weak and lazy about the law student who gives his full time and energies to law-school study."  

Apparently then, if Dean Strong could still the shenanigans of the over-speaking practicing bar and afford loan funds and scholarships to law students, the part-time law schools would disappear quietly, and unlamented, from the scene. But there are reasons, perhaps as cogent as those advanced by Dean Strong, to explain why students attend part-time schools.

Today, the average part-time student is a graduate of a full-time college program. He has enjoyed the cultural milieu provided by the college campus. Perhaps he has served two years in the armed forces. Inasmuch as he is an educated man, he has the capacity to earn $5,000 or $6,000 per year as a beginning salary with the promise of early salary increments. If he is not married, he is thinking about getting married. If he is married, he is thinking about fathering some children. He is twenty-three or twenty-four years old or older, and he has been with life for a time. This man is difficult to reach with a federal or alumni scholarship loan. If he borrows $6,000 for living expenses and tuition over a three-year period and consumes some of his savings, he will owe $6,000 when he graduates and will have lost perhaps $15,000 in potential earnings, a loss of something like $21,000 plus savings. Even a modest scholarship might not induce him to enter a full-time law school. If he is so induced, he may end up working part-time. In all probability, he will apply for admission to a part-time law school believing that he can earn a quality legal education over a longer period of time.

On the other hand, seventy per cent of the students in American approved law schools are full-time day students. The day student is perhaps younger and not married. He has probably not as yet served in the armed forces. If he is married, his wife works. If he is single, he is willing to utilize loan funds and incur an indebtedness. Perhaps he has a scholarship that covers tuition and basic living expenses, or an independent source of income, or even wealthy parents. If none of these financial supports is available, and he attends a full-time school,

25 Id. at 125.
he works. He works because it is rather difficult to digest a rich diet of law on an empty stomach. Neither the full-time students nor the part-time students are weak and lazy. No one is seeking an easy way out.

III.

And so it is that we come to discover Dean Strong's numerical significance of the part-time law school and some of the reasons that underlie that numerical significance. The factual discovery of a numerical significance, however, does not relate directly to Dean Strong's thesis that "it is difficult to reconcile first-class legal education with part-time legal education." 26

In determining that contemporary legal education is "good" at the opening of his address, Dean Strong stated that the teachers are relatively competent and that they use modern teaching techniques. 27 He added that present-day law students, who have completed at least three years of college—and more likely four—with at least a minimum average necessary for graduation, are also relatively competent. 28 Good teaching and good law students are present in approved part-time schools as well as in approved full-time schools. Good, however is not good enough.

If legal education is about to embark upon a new campaign to bring it to a level which is "distinctly superior," 29 legal educators will be quick to discover that part-time legal education has become—fortunately or unfortunately, depending on one's point of view—intimately intertwined in the various status levels 30 of legal education; and they will discover that some part-time legal education is more first-rate than some full-time legal education.

First-rate legal education apparently demands first-rate teachers. Presently, there are approximately 1,500 full-time law teachers in American legal education. One-third of these

26 Strong, op. cit. supra note 2.
28 Id. at 120.
29 Id. at 121.
30 One law professor has described the concept of "status" in legal education as follows: "Our law school is so bush that you have to prune the doorway to get into the place. Let's face it. Harvard ranks first and our school is last. All the other schools are somewhere in the middle engaged in a struggle for status."
teachers, about 500, are associated with part-time legal education. Some of the full-time teachers associated with part-time legal education teach only evening classes; but a majority, those who teach at multiple-division schools, teach both day and evening classes. Among the 500, there are at least several first-rate scholars who use first-rate teaching techniques and who enjoy first-rate salaries. Perhaps none of the 500 is as outstanding as a number of the faculty members of several national law schools, and yet there are members of full-time day faculties who enjoy neither the prestige nor salary advantage of some of the 500. In short, neither full-time legal education nor part-time legal education has a monopoly on first-rate teachers, nor is there a prospect that either is likely to gain that monopoly in the future.

Perhaps first-rate legal education demands first-rate students. Dean Strong apparently has in mind admission standards far above the minimums required presently by some schools. But until the science of psychology and the technique of measuring motivation are more exact, there will be a debate about the proper admission standard. A casual reading of the Harvard Law School Dean's Report, however, will reveal an admission standard that is not only first-rate, but almost ideal: 31

On the Law School Admission Test our new students have a median score better than 93% of the many thousands who have taken this examination. This is higher, we know, than the median at any other school. The number of candidates who come to us with exceptional academic and extracurricular honors seem to grow each year. We could, if we wished, fill one whole section with Phi Beta Kappas and another with Student Body Presidents.

The admission standards of the New York University School of law also make interesting reading: 32

In the day division the average law school admission test score for the September and February entering classes was a little above the 70th percentile and the average in the evening division was in the 78th percentile.

One would learn from these statements that, in some respects, Harvard has the highest admission standards and that the admission standards of all other law schools run downhill from

32 Report of the Dean of the School of Law, New York University 7 (1959-60).
there. On the other hand, one learns that the admission standards in the New York University School of Law Evening Division are relatively high and that many full-time law schools will have to raise their admission standards radically to equal even those standards. Finally, if neither the admission standards of Harvard Law School nor New York University are first-rate, and if all law schools must better the Harvard standards, then the most unseemly battle for student talent in the history of American education will ensue. Class presidents and Phi Beta Kappas will become academic bonus babies. Therefore a first-rate admission standard probably means that law schools should set an admission standard that will ensure the entering law student a reasonable mathematical chance to graduate with his class.

Finally, first-rate legal education demands first-rate school facilities. Dean Strong would probably suggest that a law school could not claim that it offered first-rate facilities unless the law school were affiliated with a university. Presently, seven approved evening law schools and four multiple-division law schools are not affiliated with a university. One approved day law school is not affiliated with a university. A number of the part-time law schools would, however, welcome university affiliation in order to attain first-rate standards. And yet, twenty-eight law schools with evening divisions are affiliated with universities. Admittedly the facilities of a large number of the twenty-eight are presently first-rate.

**IV.**

Even if it is admitted conditionally that some part-time law schools along with some full-time schools have today assembled a first rate faculty, set first-rate admission standards, and provided first-rate facilities, the part-time law schools must face up to a serious problem—Time—if they are to provide first-rate legal education.

Dean Lehan K. Tunks, of Rutgers University, in years gone by had presided over a multiple-division operation. He was overwhelmed by the evening student’s time problem. His hyperbolic description is challenging.\[^{33}\]

This multiple operation provides regular law students with the exhibit of the quick evening sortie of night students into the law buildings and their even quicker rush home.

to families and bed, which denigrate the effort supposedly demanded of the regular law student.

The metaphor is apparent. For the part-time student, law school is an hiatus between work and bed. Of course, the metaphor might have been more severe. Time is a tyrant, and the evening student cowers under his merciless lash. Or a more lengthy reverse metaphor, applicable to the full-time day student, might have been suggested. Time is an endless sun-swept sea upon which the student drifts serenely, and academic handmaidens anoint him with distillations of wisdom. Or finally, the metaphor might have been made applicable to all students, part-time and full-time. Time is Everyman's jealous mistress.

But none the less, evening law schools have had a time problem. A number of years ago, the American Bar Association set a standard that stated that a full-time day law student should attend law school for at least three years and that an evening student should attend classes for at least four years. Assume that during the three years the day student accumulates eighty credit hours. If the evening student were to accumulate eighty credit hours in eight semesters, necessarily he would carry ten credit hours per semester. A law student should study three hours for every hour in class. Hence, the evening student would spend forty hours per week in class and preparing for class. In addition he would spend forty hours in his regular employment. An eighty-hour week obviously involves dashing and split-second timing. If under these circumstances, time is not a tyrant, at least time is a problem.

The full-time day student, on the other hand, cannot waste time either. Today the number of credit hours required for graduation in the various full-time law schools varies from perhaps eighty hours to about ninety hours.34 Perhaps a fair average for graduation among the schools is eighty-four hours. Consequently, if the full-time day student is to earn his eighty-four hours for graduation, he must average fourteen credit hours per semester, for a total of six semesters. Fourteen class hours require forty-two hours of class preparation, or a total of fifty-six hours in class and class preparation. And if the same full-time student is in addition employed twenty-five hours per week, he is working and studying eighty-one of his waking hours. At this point, Dean Strong will ask, What Makes Sammy Run?

34 New York University School of Law, for example, requires a minimum of eighty credit hours for graduation. Stetson University School of Law requires ninety-two hours.
The full-time day student can follow a more reasonable time pattern. He might attend class and study for a total of fifty-six hours per week. In addition, he might spend three hours per afternoon, five days per week, as suggested by the Committee on Definition of a Sound Educational Program, as a student assistant, as a law clerk, as an employee in some other less demanding work. Such work (the Committee observed, as noted above) "can be a successful segment of law study just as law review or moot court work can be."35 A more fortunate classmate, however, might spend the same fifty-six hours in a class and class preparation and then devote perhaps ten valuable hours to law review, moot court, or legal aid service. These classmates would be occupied during their waking hours, seventy-one and sixty-six hours, respectively. The student who worked as a law clerk would spend eight hours per day, seven days per week (fifty-six hours), and three hours per night, five nights per week (fifteen hours), attending class, working, and studying. His classmate, in attending class, studying, and working on moot court or law review, would spend eight hours per day and three hours per night, five days per week (fifty-five hours), and six hours on Saturday and five hours on Sunday (eleven hours). If he attended a lecture sponsored by the law school on a week night, he could make up the lost study time on Saturday.

A similar time pattern can be designed for the part-time student. During the eight winter semesters encompassing a four-year period, the part-time student would be required to carry eight hours of classwork. In the eight semesters then, he would earn sixty-four credit hours. He would spend eight hours in class and twenty-four hours in class preparation, for a total of thirty-two hours per week during the regular semesters. In addition, he would be required to attend four summer terms varying in length from ten to eleven weeks. He would earn five credit hours each summer, or twenty summer credits over a period of four years. During the summer terms, he would attend class and prepare for class thirty-two hours per week. The schedule, designed for earning eighty-four credit hours does not, however, permit time for the evening student to experience the value of law review, moot court, or legal aid. Therefore, it is suggested that the part-time student attend a

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ninth semester in the fall of the fifth year. This semester would not carry credit, but would be required for graduation. During the semester, the student would participate in a legal aid clinic one evening per week. In metropolitan centers, in which all part-time law schools are located, there is no reason why legal aid services cannot be offered in the evening. There are several advantages in evening legal aid service. First, the members of the public who seek legal aid are generally more able to come to the legal aid center during evening hours when they are not working. Second, members of the practicing bar might, through a committee of the bar association, volunteer their services in aid of the regular staff of the legal aid clinic. Third, the evening students might be split into small groups so that each man would have an opportunity to advise a "client" on one of the several evenings of the week.

In addition to legal aid clinic, the ninth semester would include one evening per week of trial or appellate moot court. Each student would be required to participate in at least one trial or appellate session. Finally, those students who were eligible for law review and who desired to participate in its publication would have the opportunity to join the staff. The remaining ninth-semester students, not eligible for law review, would be required to write a paper of substantial length on some legal subject. For this project, the student would be assigned to a faculty adviser. Papers of special merit should be published in a law review or bar journal and the remainder would be bound and catalogued in the library in order to impress the students that the required paper was not mere "busy work." The ninth semester would require of each student approximately thirty-two hours' work per week.

Obviously throughout his law school career, the part-time student would be employed approximately forty hours per week. He might be employed as a store manager or professional engineer or corporate accountant, employment fields not related to law. On the other hand, he might be employed as a patent agent trainee, as a legal services officer (responsible for clearing products with F. T. C. regulations) for a large corporation, as a field examiner, auditor, or hearing officer for federal and state departments of taxation, as an insurance adjuster, as a field examiner for the NLRB, as a government economist, as a social worker in domestic relations court, as a probation officer, as a state legislator, as a city councilman or county commissioner, or...
as a court deputy or clerk, all of these positions being related to the law or to the public service. In short, no matter what the position, the part-time student's employment will be responsible employment and a valuable experience that utilizes his college training.

Throughout his entire law school career, the part-time student would follow a time schedule quite similar to that of the full-time day student. The part-time student would spend eight hours per day, five days per week in his regular employment (forty hours). He would be in law classes three hours on Monday evening, two hours on Wednesday evening, and three hours on Friday evening (eight hours). He would study four hours on Tuesday evening, four hours on Thursday evening, eight hours on Saturday, and eight hours on Sunday (twenty-four hours). His seventy-two-hour week would compare favorably to the sixty-six or seventy-one-hour week of the full-time day student.

The proposed time schedules and credit-hour outline should lead to first-rate legal education for both full-time and part-time students. Part-time legal education would be "reconciled" with full-time legal education. If it be argued that the suggested time schedule for the part-time and full-time students is too difficult (perhaps students will study during the week, but never on Sunday), then time spent by both full-time and part-time students in class preparation may be reduced. Lawyers, however, seldom enjoy the benefits of a forty-hour week. Or if it be argued that full-time and part-time students should be occupied during at least eighty of their waking hours, then suggested class preparation time may be increased. Reduction or increase of study time will affect part-time and full-time students equally. In short, time is Everyman's jealous mistress.

The suggestion that part-time students be required to earn credits during an eleven-week summer term may, on first consideration, appear impossible of fulfillment. In some quarters at least, summer is not a time for study—in spite of air conditioning. Professors, however, study and write during the summer months. A number of full-time law schools sponsor summer terms for students who wish to accelerate or make up lost time. Since World War II many part-time law schools have sponsored required programs. In Ohio in particular, the evening law schools have required summer programs in order that in four years a part-time law student may earn more than eighty-four credit hours.
Under the suggested curriculum outline, the part-time student will not maintain a seventy-two-hour pace fifty-two weeks in the year. The winter semesters of the part-time schools involve thirty-two weeks of study as do the semesters of the full-time law school. Some schools claim to operate on the basis of eighteen-week semesters, but these eighteen-week semesters include Christmas and Easter vacations and other school holidays. With the ten or eleven-week summer term the part-time student will spend forty-two or forty-three weeks in classes. Although the day student spends only thirty-two weeks in classes, his long summer, unless he is financially independent, will not be a vacation. The full-time student, after leaving classes in late May finds employment usually until the Labor Day weekend. He will find employment for forty or fifty hours per week as a life guard, or park policeman, or greenskeeper, or beer truck driver's helper, or wall washer, or camp leader, or perhaps on rare occasions employment as a summer research assistant at his law school. Christmas and Easter vacations and breaks between semesters belong to the part-time student as well as to the full-time student. After a summer term, the part-time student is away from school for four or five weeks, until the ensuing fall semester begins. Furthermore, the part-time student enjoys a two or three-week paid vacation from his regular employment, probably during the month of August or early September.

As for subject content in the part-time and full-time curriculums there need be little, if any, difference. Jurisprudence and international law are less strangers in some part-time curriculums than in some full-time programs. Furthermore, the case approach, the problem method, and the seminar are as familiar to the part-time classes as to the full-time classes.

Finally, even the evening student's regimen of evening class hours may be alleviated. New York University, for example, is inaugurating a program for part-time students in which one of the evening classes is replaced by a Saturday session. New York University also has recognized that the part-time student may hold a position which permits him to take a regular daytime class during the early morning hours in lieu of an evening or Saturday class.86

The part-time program then can be planned reasonably as a first-rate program. Dean Niles, of New York University, who believes in the first-rate part-time law school program, has written: 37

Recently the distinguished dean of one of the great law schools in the Middle West asked me why we did not drop our night school. I asked him why he did not add one. It is my judgment, after more than thirty years of experience, that the ablest of employed students deserve an opportunity to study law and that the opportunity should be afforded by the strongest schools not by weak or marginal schools. Economic snobbery has no place in our profession or our society.

The Midwestern dean might admit to the partial soundness of Dean Niles’ statement or to the possible merit of some of the foregoing random observations, or he might even admit that the “modern part-time division is very different from the night school of Justice Frankfurter’s day,” 38 and yet he would argue that part-time legal education could never be first-rate legal education. The Midwestern dean knows that part-time law schools will never capture the heady, crackling, spirited, culture-laden atmosphere of the full-time law school. This atmosphere, like fog, is difficult to measure; its dimensions are limitless, if tangible. And yet, if its dimensions cannot be taken, perhaps the heady atmosphere may be described in part.

Each morning lively full-time students arrive at the law school well-prepared to challenge and be challenged. In class, the repartee between professor and student is exciting, even electric. After class, particularly in the large full-time schools, all 125 students in the section gather round the professor’s desk for further intimate exchange of ideas. The conversation, 126 strong, then moves to the professor’s office. He welcomes the visitation, for he knows that he will have ample time for research and writing during the long, hot summer. Only lunch can break the spell. Lunch is even more exciting. The law students will now have the opportunity to digest the culture afforded by the other disciplines on campus. Law students and graduate students break intellectual bread together, and the

37 Id. at 2.
38 Report of the Dean of the School of Law, New York University 7 (1959-60).
entire meal, like salad dressing, is a homogenous blend of law, psychology, sociology, and even anthropology. Lunch completed, the law student seeks the quiet of the library. Here he remains dutifully each afternoon until 5:00 p.m., Monday through Friday, studying his sixty hours. If he is a member of the law review, he may substitute this intellectual adventure for an afternoon in the library. Because such intellectual excitement is at the expense of an afternoon of study, he will make up for it by Saturday study—but never on Sunday.

Assume now that it is 5:00 p.m. Somewhere deep in the library stacks someone, perhaps a custodian sweeping up, snaps on an artificial light. The lively atmosphere evanesces, and a stultifying pall settles down. It is the Denigrating Hour. Momentarily now the denigrating part-timers will drag upon the scene. Here they come, one by tired one. Some of these men were once day students in the liberal arts colleges of national universities, but now they are tired men, enervated by their grubbing in the market place. They have dirty fingernails, which one day, perish the thought, may grasp the edges of the profession and pull it into the nineteenth century. They enter the classes, and soon the air is redolent with heavy garlic odors. In the background, one discerns the muted rumble of digesting suppers hurriedly consumed. Class begins, but all too soon, the mortmain of sleep muffles the rule in Shelley’s Case. Idly, almost as if mesmerized by the sound of his own tired voice, the lecturing part-time instructor stumbles on. Mercifully a bell rings, and momentarily the rear end of democracy, struggling for a place in the sun by artificial light, is galvanized into action. And so to bed.

It would do little good to bottle the daytime atmosphere and place it air-wick-like in the evening classes. Some misguided professors have suggested that it be done. And they have suggested other artificial props. Only sunlight can excite the atmosphere, or the mind.