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LIBERAL EDUCATION AND THE LEGAL PROFESSION

Eighth Annual Roy R. Ray Lecture*

by

James O. Freedman**

As a former law professor and law school dean, I have examined, with a mixture of excitement and intimidation, the topics addressed by my distinguished predecessors at this podium. The titles of their presentations are exciting because they indicate the important contributions that the Roy R. Ray Lectures have made to the intellectual capital of the law. But they are also intimidating because they make me ask myself, "What have I to say, as a law professor turned university president, to students and professors who are now more deeply engaged than I am in studying the great, enduring questions of the law?"

And yet I think there is, or should be, a tight and sinewy bond between the academic enterprise I have taken on and the one that, for the moment, I have left behind. For liberal education and legal education grow out of the same tradition of humane learning. Indeed, legal education can be no stronger than the base of liberal education upon which it rests. And so I would like to consider with you the responsibilities that the legal profession has for improving the quality of liberal education.¹

INTRODUCTION: THE LEGAL PROFESSION AND PUBLIC POLICY

In this 150th anniversary year of the publication of the first volume of *Democracy in America*, Tocqueville's observations are as fresh as ever. You will recall his famous comment on our profession: "If I were asked where I place the American aristocracy, I should reply, without hesitation, that it is not among the rich, who are united by no common tie, but that it occupies the judicial bench and the bar."² From the earliest days of the Republic, lawyers have played an influential role in the determination of public policy. As members of the American aristocracy to which Tocqueville refers, lawyers have joined their professional skill with their sense of social responsibility.

* Delivered at Southern Methodist University School of Law on March 27, 1985.

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1. See also Freedman, *The Law as Educator*, 70 IOWA L. REV. 487 (1985).

2. A. DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 279 (H. Reeve trans., F. Bowen rev., P. Bradley ed. 1945).

ity to provide policymaking leadership at the national, state, and community levels.

The conviction that lawyers have a responsibility to be policymakers was perhaps put with greatest force by Harold Lasswell and Myres McDougal in their important essay arguing that "the proper function of our law schools is . . . to contribute to the training of policy-makers for the ever more complete achievement of the democratic values that constitute the professed ends of American polity."³ This conviction has been reinforced by the widespread assumption that a legal education, by inculcating that mysterious art called "thinking like a lawyer," prepared persons trained primarily as generalists to take on policymaking responsibilities in the most substantively demanding areas of public concern.

Thus, lawyers have regularly ventured beyond their technical preparation in the making of public policy. The breathtaking legislative initiatives of the New Deal, for example, were conceived and administered primarily by lawyers.⁴ Similarly, lawyers have held dominant policymaking positions in many of the significant public initiatives in the decades since the New Deal, for example, the founding of the United Nations, the administration of the Marshall Plan, the creation of the Peace Corps, the waging of the War on Poverty, and the mounting of the civil rights movement.

In the making of foreign policy, too, lawyers have played a central role. More lawyers have served as Secretary of State during the twentieth century than members of any other profession.⁵ Because most of these lawyers had achieved professional eminence at the establishment bar, it was doubtless assumed that they could readily master the complexities and subtleties of foreign policy.

And even when lawyers do not have direct responsibility for the making of public policy, they often exert a substantial influence on those who do. For this reason, it is important that the legal profession step forward to help the nation address one of the most prominent issues on the public agenda today: the issue of educational quality.

During the past decade, book after book, report after report, by educator or task force or blue-ribbon panel, has addressed the question of excellence—and the lack of it—across the broad spectrum of American education. The first wave of books and reports emphasized the weaknesses of the nation's high schools.⁶ Now we are in the midst of a second wave, and this

3. Lasswell & McDougal, *Legal Education and Public Policy: Professional Training in the Public Interest*, in *STUDIES IN WORLD PUBLIC ORDER* 46 (M. McDougal & Assocs. eds. 1960).

4. Some of the most influential were Felix Frankfurter, James M. Landis, Adolf A. Berle, Jr., Charles E. Wyzanski, Samuel Rosenman, Dean Acheson, Thomas G. Corcoran, and Benjamin V. Cohen. See generally J. FREEDMAN, *CRISIS AND LEGITIMACY: THE ADMINISTRATIVE PROCESS AND AMERICAN GOVERNMENT* (1978); A. SCHLESINGER, JR., *THE COMING OF THE NEW DEAL* (1958).

5. They include Elihu Root, Charles Evans Hughes, Henry L. Stimson, Dean G. Acheson, John Foster Dulles, William P. Rogers, and Cyrus R. Vance.

6. E. BOYER, *HIGH SCHOOL: A REPORT ON SECONDARY EDUCATION IN AMERICA* (1983); T. SIZER, *HORACE'S COMPROMISE* (1984); *ACTION FOR EXCELLENCE: THE IMPERA-*

one emphasizes the weaknesses of the nation's colleges and universities.⁷

These books and reports—with the repetitive and persistent drumbeat of their warnings and lamentations—have captured the attention of the public, of the press, and of parents. They have provided new catch words that, virtually overnight, have become a new generation of clichés. They declare—in the language of their titles—that the United States is “a nation at risk,” obligated “to reclaim a legacy,” compelled to make a greater commitment to “action for excellence,” required to renew its “involvement in learning.” The most widely disseminated report of 1984, *A Nation at Risk*, has given us the memorable and menacing image of a “rising tide of mediocrity.”⁸ And the most recently publicized report of 1985, *To Reclaim a Legacy*, charges that the humanities curricula in many colleges and universities have “become a self-service cafeteria through which students pass without being nourished,” so that they remain ignorant of “a common culture rooted in civilization's lasting vision, its highest shared ideals and aspirations, and its heritage.”⁹

The rhetoric of crisis that these reports employ, complete with apocalyptic predictions and flamboyant imagery, threatens to obscure the disturbing substance of their conclusions. But the issues they raise cannot be ignored. If the legal profession is to continue to provide national leadership in the forging of public policy, it must once again be prepared to move into unfamiliar territory. Lawyers must once again apply their generalist training to solve the specialized problems associated with strengthening the quality of higher education.

I want to suggest, first, why the legal profession has such a significant stake in the quality of higher education, and particularly the quality of liberal education. Then I want to enunciate three themes that I hope the legal profession will espouse in order to improve the quality of liberal education.

TIVE FOR EDUCATIONAL REFORM, A REPORT TO THE NATIONAL COMMISSION ON EXCELLENCE IN EDUCATION (1983); EDUCATING AMERICANS FOR THE 21ST CENTURY, A REPORT TO THE AMERICAN PEOPLE AND THE NATIONAL SCIENCE BOARD (1983); A NATION AT RISK: THE IMPERATIVE FOR EDUCATIONAL REFORM, A REPORT TO THE NATIONAL COMMISSION ON EXCELLENCE IN EDUCATION (1983).

7. E. BLOUSTEIN, EDUCATION AT THE CROSSROADS: THE IMPERATIVES OF OUR TECHNETRONIC AGE (1982); SIGNS OF TROUBLE AND EROSION: A REPORT ON GRADUATE EDUCATION IN AMERICA, SUBMITTED BY THE NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE (1983); IN THE NATIONAL INTEREST, HIGHER EDUCATION AND THE FEDERAL GOVERNMENT: THE ESSENTIAL PARTNERSHIP, [REPORT OF] THE NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES (1983-1984); INVOLVEMENT IN LEARNING: REALIZING THE POTENTIAL OF AMERICAN HIGHER EDUCATION, FINAL REPORT OF THE STUDY GROUP ON THE CONDITIONS OF EXCELLENCE IN AMERICAN HIGHER EDUCATION, SPONSORED BY THE NATIONAL INSTITUTE OF EDUCATION (1984); A SEARCH FOR QUALITY AND EXCELLENCE IN BACCALAUREATE EDUCATION, PROJECT FOR REDEFINING THE MEANING AND PURPOSE OF BACCALAUREATE DEGREES, ASSOCIATION OF AMERICAN COLLEGES (1984); INTEGRITY IN THE COLLEGE CURRICULUM: A REPORT TO THE ACADEMIC COMMUNITY, PROJECT ON REDEFINING THE MEANING AND PURPOSE OF BACCALAUREATE DEGREES, ASSOCIATION OF AMERICAN COLLEGES (1985).

8. A NATION AT RISK: THE IMPERATIVE FOR EDUCATIONAL REFORM, A REPORT TO THE NATIONAL COMMISSION ON EXCELLENCE IN EDUCATION 5 (1983).

9. W. BENNETT, TO RECLAIM A LEGACY: A REPORT ON THE HUMANITIES IN HIGHER EDUCATION 27, 4 (1984).

And, finally, I want to outline the special contributions that the legal profession can make in the shaping of educational policy.

I. THE SIGNIFICANT STAKE THAT THE LEGAL PROFESSION HAS IN THE QUALITY OF HIGHER EDUCATION

Lawyers should take a particular interest in improving the quality of liberal education, both for the sake of our society and for the sake of our profession. Education has been indispensable to the creation and preservation of America's democratic institutions. As the Northwest Ordinance of 1787 proclaimed, "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."¹⁰ Between the beginning of the American Revolution and the end of the Civil War, as Daniel Boorstin has pointed out, a "college-founding mania" took hold of the nation.¹¹ New colleges and universities sprang up rapidly and everywhere, and today the nation has more than 3,000 institutions of higher learning.

The phenomenon of American higher education has intrigued and mystified foreign observers because, unlike educational systems elsewhere, it has no hierarchical structure or central organizing plan. It can hardly be called a "system" at all. Instead, it is a vast galaxy of institutions—large and small, public and private, nonsectarian and religious, uneven in quality, scattered with careless abandon across the reach of a continent. However puzzling it may be to foreign observers, our very lack of system proved to be a significant advantage in the shaping of a new society. Invigorated by an unconstrained spirit of adventure and experimentation, American education and American democracy have flourished and matured together.

As Alan Nevins writes in his stirring history, *The State Universities and Democracy*, "The struggle for liberty . . . is always a struggle for equality, and education is the most potent weapon in this contest."¹² The potency of that weapon for social change was well understood by Lyman Beecher, the Presbyterian clergyman, in 1836:

Colleges . . . break up and diffuse among the people that monopoly of knowledge and mental power which despotic governments accumulate for purposes of arbitrary rule, and bring to the children of the humblest families . . . a full and fair opportunity . . . , giving thus to the nations the select talents and powers of her entire population.¹³

Beecher was talking about nothing less than the diffusion and redistribution of intellectual capital.

Nowhere is the intimate and reciprocal relationship between education and democracy more forcefully expressed than in the great educational and social experiment of the Morrill Act of 1862, an experiment that not only established the land-grant institutions but also opened a frozen classical cur-

10. DOCUMENTS OF AMERICAN HISTORY 131 (H. Commager ed. 8th ed. 1968).

11. D. BOORSTIN, THE REPUBLIC OF TECHNOLOGY 62 (1978).

12. A. NEVINS, THE STATE UNIVERSITIES AND DEMOCRACY 17 (1962).

13. L. BEECHER, A PLEA FOR COLLEGES 15 (1893).

riculum to the scientific and technological knowledge of a new age and made higher education available to what the Act called the "industrial classes."¹⁴ Rather than perpetuating an elite of gentlemen-scholars, the Morrill Act called into being a new kind of university, created without European precedents, hospitable to all comers, and designed to prepare Americans to be Americans. The land-grant university opened the pursuit of excellence to farmers' children, artisans' children, and storekeepers' children. The founders of the land-grant institutions west of the Mississippi did not wait for a network of preparatory schools to develop. They did not deplore the miserable state of education on the frontier. They did not shrink from a task that seemed impossible.

Instead, in the bold way of Americans, they grasped the importance of setting high goals first and allowing practical solutions to develop in consequence. And so they announced the opening of their classes, offered remedial preparation to the adventurous handful of undereducated students who enrolled, and within ten or twenty years secondary schools dotted the landscape. It was the creation of the universities that called the community high schools into being. No wonder Emerson noted in his journal in 1867 that "[t]he treatises that are written on university reform may be acute or not, but their chief value to the observer is the showing that a cleavage is occurring in the hitherto firm granite of the past, and a new era is nearly arrived."¹⁵

Thus our aspiration toward the achievement of both goals—broad accessibility and educational excellence—has been essential to maintaining and enlarging democratic values. As the educated classes have expanded to include more women, more members of minority groups, and more members of economically disadvantaged groups, our society has reaped rich rewards. The broader the social base of those attending college, the stronger the intellectual base of our democratic society.

There is a lesson in all this for the legal profession: Just as the developing land-grant institutions influenced the development of high schools and raised the general educational level of communities throughout the country, so the law schools can be a force for excellence in liberal education in the universities to which they belong. In exerting that force, the legal profession must take note of the fact that legal education and liberal education share common roots. From before the American Revolution until the settlement of the West, liberal education and legal education recognized no dividing line. Humanistic legal studies at the undergraduate level were considered necessary to the proper education of eighteenth-century gentlemen and statesmen. Throughout the Age of Enlightenment, the formal study of law, then in its infancy, held a secure place in the liberal arts curriculum on both sides of the Atlantic. At Yale, for example, the Chancellor Kent Professorship of Law and Legal History was established in 1801, some forty years before there was

14. 7 U.S.C. §§ 301-308 (1862).

15. XVI JOURNALS AND MISCELLANEOUS NOTEBOOKS OF RALPH WALDO EMERSON, 1866-1882, at 52 (R. Bosco and G. Johnson eds. 1982).

a Yale Law School. Still earlier, when George Wythe and James Wilson presented their lectures on law to undergraduates at the College of William and Mary and the University of Pennsylvania, they were following a tradition set by Blackstone in his Oxford lectures of 1753.¹⁶

In his recent book, *Law and Letters in American Culture*,¹⁷ Robert A. Ferguson recovers the lost tradition of humanistic learning that provided a common context for legal and literary achievement in the first half-century of the new nation. Ferguson points out that lawyers made up half of the country's leading literary critics, wrote many of its major works of literature, and controlled most of its important literary societies and journals. As he notes, "[n]o other vocational group, not even the ministry, matched their contribution" to the early American literary tradition.¹⁸ Even country lawyers knew the Bible, Shakespeare, and Milton as thoroughly as they knew Blackstone, Mansfield, and the Constitution. John Adams, Thomas Jefferson, Alexander Hamilton, and James Madison were produced by the same literary and legal tradition that produced Washington Irving, William Cullen Bryant, Richard Henry Dana, Jr., and Francis Parkman.

Both strands of learning—the literary and the legal—concern themselves with the dilemma of the human condition, the consequences of individual decisions and actions, the tolerance of conflicting views, the balancing of freedom and authority. These themes are the grist of the novelist's imagination, the poet's vision, and the essayist's insight no less than of the lawyer's craft.

The close traditional association between lawyers and literature has become increasingly difficult to maintain. But the law remains a learned profession, and it is incumbent upon lawyers to champion and reaffirm the importance of the nexus between legal education and liberal education. Indeed, the strength of the one depends directly upon the strength of the other. The quality of the legal profession can rise no higher than the educational preparation of those who enter law school.

Students entering law school today were educated in a period following massive changes in American higher education, including the abolition of many curricular requirements, a declining faith in the value of classical works of history and literature, and, most disturbing of all, a weakening of the self-disciplined will toward excellence. These students often have had no more than a dilettante's exposure to the central teachings of the liberal arts. Too many suffer from what Vartan Gregorian has called "historical amnesia."¹⁹ Too many know virtually nothing about the important universe of the biological and physical sciences. Too many have had scant experience with interdisciplinary inquiry. And too many have had only minimal acquaintance with international studies. These deficiencies would be a handicap for any citizen, but they are disastrous for students who aspire to the

16. R. STEVENS, *LAW SCHOOL* 21 (1983).

17. R. FERGUSON, *LAW AND LETTERS IN AMERICAN CULTURE* (1984).

18. *Id.* at 5.

19. Gregorian, *1984: The Humanities and an Enlightened Citizenry*, *FR* 54 (1984).

policymaking responsibilities that have traditionally been the province of lawyers.

And within law schools, no less than within undergraduate colleges, the insistent student demand is for specialized, narrow, practical preparation, not breadth of inquiry and general knowledge. Yet the world for which lawyers are being prepared will require both more specialization *and* more breadth of knowledge. As Paul Valery, the French poet, recognized, the trouble with our times is that "the future, like everything else, is no longer quite what it used to be."²⁰

The best lawyers will be those whose minds have been opened to the rich experience of western and eastern civilization, whose spirits have been enlarged by exposure to philosophy, art, music, literature, and drama, and whose horizons have been widened by the study of the natural and social sciences. A student who has been well prepared for law school will have gained experience in independent thinking, an appreciation of the interconnectedness of life on this planet, a capacity to challenge every form of dogma while responding to the art and philosophy and poetry of many cultures. A firm grounding in the liberal arts helps to elevate law students' aspirations, broaden their outlook, quicken their consciences, and heighten their sense of responsibility to their clients and to society. A lawyer who has not contemplated the enigma of the human condition will be a technician perhaps, but a professional never.²¹

Law schools have done their best to overcome the stigma of Burke's observation that the study of law sharpens the mind by narrowing it. They have sought to broaden their curricula by adding courses that draw upon such disciplines as anthropology, economics, philosophy, psychiatry, and sociology. But efforts to broaden the law school curriculum have necessarily and properly been limited. The obligation of law schools to cover a widening expanse of basic ground constrains their capacity to make room for additional interdisciplinary courses.

And so if we are to broaden the preparation of lawyers for positions of public leadership, the only practical way is to strengthen the liberal education they receive in their undergraduate years.

II. THE THEMES THAT THE LEGAL PROFESSION SHOULD ADVOCATE IN LIBERAL EDUCATION

In acknowledging the significant stake it has in improving the quality of

20. P. VALERY, REFLECTIONS ON THE WORLD TODAY 135 (F. Scarfe trans. 1948).

21. See F. FRANKFURTER, OF LAW AND MEN 103 (P. Elman ed. 1956); L. HAND, THE SPIRIT OF LIBERTY 66 (I. Dilliard ed. 1952). Learned Hand said further:

I venture to believe that it is as important to a judge called upon to pass on a question of constitutional law, to have at least a bowing acquaintance with Acton and Maitland, with Thucydides, Gibbon and Carlyle, with Homer, Dante, Shakespeare and Milton, with Machiavelli, Montaigne and Rabelais, with Plato, Bacon, Hume and Kant, as with the books which have been specifically written on the subject.

Id. at 81.

liberal education, I hope that the legal profession will advocate the strengthening of three specific areas: science education, interdisciplinary education, and international education.

A. Science Education

As part of the effort to strengthen liberal education, we must broaden it to embrace a more rigorous education in the sciences. The Rockefeller Foundation's Commission on the Humanities, in its 1980 report, made the point well: "Liberal education must define scientific literacy as no less important a characteristic of the educated person than reading and writing."²²

It is now a quarter-century since C.P. Snow delivered his famous Rede Lecture at Cambridge University on "The Two Cultures and the Scientific Revolution."²³ In that lecture, he drew attention to the fact that "the intellectual life of the whole of western society is increasingly being split into two polar groups,"²⁴ which he identified as the literary intellectuals and the scientists. Lord Snow described the "gulf of mutual incomprehension"²⁵ that existed between the two groups. Across the gulf there was "sometimes (particularly among the young) hostility and dislike, but most of all [a] lack of understanding" and "a curious distorted image of each other."²⁶ He lamented that gulf of mutual incomprehension because, as he said so well: "This polarization is a sheer loss to us all. To us as people, and to our society. It is at the same time [a] practical and intellectual and creative loss . . ."²⁷

The polarization to which Lord Snow referred was of fundamental significance when he spoke in 1959. It is perhaps of still greater significance today. In the period since Lord Snow described the "two cultures," the world has become more exciting and more dangerous, largely because of the achievements of science and technology. The disciplines that comprise science and technology influence the form and content of our culture so extensively that virtually every major decision we make, whether it be political, economic, social, or moral, must take account of their accomplishments.

Yet the expanding authority of science and the increasing influence of technology have not been accompanied by a corresponding enlargement of our capacity to make informed political and social and moral judgments. Let me review one set of examples. Developments in legal thinking and advances in medical technology are rapidly converging to create new social and ethical dilemmas—dilemmas that require the attention not only of lawyers and physicians, but of those devoted to the study of religious thought and social values as well. In both law and medicine, questions now arise regularly that cannot be answered by simple reference to legal principles or medi-

22. THE HUMANITIES IN AMERICAN LIFE, REPORT OF THE ROCKEFELLER FOUNDATION COMMISSION ON THE HUMANITIES (1980).

23. C.P. SNOW, THE TWO CULTURES AND THE SCIENTIFIC REVOLUTION (1959).

24. *Id.* at 4.

25. *Id.*

26. *Id.*

27. *Id.* at 12.

cal considerations alone. When, for example, does human life begin? When does the moment of death occur? When, and at whose instance, should life-sustaining procedures be withdrawn from a human being? Who should decide, and by what criteria, which of several patients will receive a limited resource, such as an artificial heart or access to a kidney dialysis machine?

We have entered a brave new world in which genes can be modified, in which human beings can be conceived in a test tube, in which life can be prolonged by extraordinary medical procedures that are increasingly routine. As the achievements of medical and scientific research continue to mount, the conduct of that world will become even more perplexing philosophically and more ambiguous morally.

Lacking an adequate appreciation of the basic principles of science and technology, most Americans cannot command the breadth of perspective necessary to make the decisions that confront a society so extensively influenced by the achievements of science and technology. For a nation that aspires, in Lord Snow's phrase, "to think with wisdom" about the social and political consequences of scientific achievement and technological development, the inadequacy of liberal education in the sciences is profoundly disturbing.

History has long since vindicated Tocqueville's judgment that "[s]carcely any political question arises in the United States which is not resolved, sooner or later, into a judicial question."²⁸ It is now clear that many of the most far-reaching scientific and technological questions will also tend to be resolved, sooner or later, into judicial questions. For that reason, lawyers will inevitably be called upon to frame these difficult new questions. In doing so, they will need to reach beyond the intellectual universe in which they feel most at home. But the lawyers of the next generation will be competent to frame scientific and technological issues as judicial questions only if they have been liberally educated in the intellectual context in which these issues arise.

And quite beyond the needs of our own profession, if we are to vindicate Jefferson's faith that an educated citizenry is the safest repository of democratic values, we must broaden the base of liberal learning to include a greater appreciation of the principles of science and technology. In so doing, we will bridge the "gulf of mutual incomprehension"²⁹ between the two cultures that C.P. Snow warned against in 1959 and thus enrich the quality and humanity of our civilization.

B. Interdisciplinary Education

In addition to broadening the base of liberal education in the direction of the sciences, we must also broaden it in the direction of interdisciplinary education.

28. A. DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 278 (H. Reeve trans., F. Bowen rev., P. Bradley ed. 1945).

29. C.P. SNOW, *THE TWO CULTURES AND THE SCIENTIFIC REVOLUTION* 4 (1959).

There have been many changes since the time when higher education comprised four basic disciplines: philosophy, theology, medicine, and law. But none is more striking than the way in which the university of the late twentieth century has become a tangle of specialties and sub-specialties, disciplines and sub-disciplines.

As our capacity to extend scientific inquiry has increased, as our ability to quantify historical and sociological analysis has become more sophisticated, as our ingenuity in criticizing literature and the arts has become more refined, the number of discrete areas of academic specialization has multiplied dramatically. At last count, American colleges and universities were offering 1,100 different undergraduate majors and programs. Of these, nearly half were in professional or occupational fields. One wonders, indeed, what an Aristotle or a Leonardo da Vinci or a John Henry Newman would make of the complexity of a modern university course catalogue.

Too often, the increasing tendency toward specialization in modern universities has had fragmenting consequences for the life of the mind. As students of broad-ranging imagination find niches behind rigidly drawn disciplinary bounds, their intellectual horizons grow narrower. They learn to frame only those questions that can be addressed through the specialized methodologies of their particular disciplines. They become victims of what Ortega y Gasset described in *The Revolt of the Masses* as "the barbarism of specialization."³⁰

Without opportunity for creative discourse among educated persons throughout the university, without a broad understanding of the premises and assumptions of other disciplines, few dare pursue those expansive and untidy problems that push across the artificial barricades between disciplines. It is only by encouraging a collaborative dialogue among scholars and students in many disciplines that a university can fully explore the dilemmas that arise at those uncertain frontiers where the values of technology, medicine, and law confront the values of philosophy, religion, and ethics. By insisting upon the ultimate indivisibility of human knowledge, we will enlarge the range of our students' experience and encourage creativity in the discovery of new knowledge and the synthesis of new understanding. And we will reaffirm our commitment to defining the University not chiefly as an ever-expanding, increasingly fragmented universe, but as part of an integrated commonwealth of liberal learning—a commonwealth in which the contributions of every discipline are essential to achieving intellectual wholeness.

C. *International Education*

Having suggested that the base of liberal education must be broadened to include greater emphasis upon science education and interdisciplinary education, I want now to suggest that universities must give increased attention to international education. As American citizenship has increasingly come

30. J. ORTEGA Y GASSETT, *THE REVOLT OF THE MASSES* 107-14 (1932).

to mean world citizenship, the need for policymakers with an understanding of other nations, other cultures, other literatures, other modes of thinking, and other languages has become urgent.

Since the conclusion of World War II, the United States and the other nations of the world have become increasingly interdependent, through political and military relationships, through international trade, through exchanges of technology, and through scientific and intellectual cooperation. This process has been accelerated by the fact that, during the same period, the developing nations of the world have assumed greater political prominence and asserted greater independence of thought and action than at any prior time in history.

For these reasons, the fortunes of this country are now tied inextricably to conditions in the many nations of the world. If we are to live peacefully in this world, our universities must bring a global perspective to liberal education so that students can appreciate eastern civilization no less than western civilization and can comprehend the awful complexities and promising subtleties of the international environment.

One of the United States' most distressing deficiencies is our growing inability to communicate with the other nations of the world because of a lack of proficiency in their languages.³¹ Yet the study of a nation's language often reveals the values of a foreign culture more tellingly than a dozen treaties. It illustrates the intimate bonding that exists between style and content, between cadence and substance, between idiom and national character. It makes clear that human beings are as much the creatures of their language as they are its makers.³²

It is only in recent years that American business has recognized that strong foreign language skills, coupled with a willingness to learn about other cultures, helps to account for the phenomenal success of the Japanese in capturing such a large market share for so many of their products in this country and around the world.

Our national interests, both economic and diplomatic, require that we develop a versatile competence in foreign languages. Yet we have made little progress in doing so. During her service as Secretary of Education, Shirley Hufstедler pointed out that "[i]n the Soviet Union, there are almost 10 million students of English, but there are only 28,000 students of Russian in the United States."³³ Similar ratios, which can only be described as alarming,

31. STRENGTH THROUGH WISDOM: A CRITIQUE OF U.S. CAPABILITY, A REPORT TO THE PRESIDENT FROM THE PRESIDENT'S COMMISSION ON FOREIGN LANGUAGE AND INTERNATIONAL STUDIES (1979); REPORT OF THE GOVERNOR'S TASK FORCE ON FOREIGN LANGUAGE STUDIES AND INTERNATIONAL EDUCATION [to Gov. Terry E. Branstad, State of Iowa] (1983).

32. Alfred North Whitehead made the point tellingly: "Language is the incarnation of the mentality of the race that fashioned it. Every phrase and word embodies some habitual idea of men and women as they ploughed their fields, tended their homes, and built their cities." A. WHITEHEAD, *THE AIMS OF EDUCATION AND OTHER ESSAYS* 66 (1929 & photo. reprint 1967).

33. Hufstедler, *Open Letter to a Cabinet Minister*, N.Y. Times, Jan. 11, 1981, § 6 (Magazine), at 42.

exist for Japanese and Chinese, despite the fact that the world is at the threshold of what many believe will be "the Century of the Pacific." Admiral Bobby R. Inman, former deputy director of the CIA, warned in congressional testimony in 1981 that our nation's ability to gather intelligence has been severely compromised by our deteriorating competency in foreign languages, thereby "presenting," as he said, "a major hazard to our national security."³⁴

When Professor Richard N. Gardner of Columbia Law School returned from his service as ambassador to Italy in 1981, he asked a disturbing question:³⁵ "Would anyone consider a foreign ambassador in Washington to be qualified who could not read *The Washington Post* or *The New York Times*, could not understand what was being said on the evening news, could not talk on delicate matters without an interpreter?" Indeed, at the time of the war in Vietnam, not a single American-born specialist on Vietnam, Cambodia, or Laos was teaching in an American university or working in the State Department. And at the time of the revolution in Iran, only six of the 60 foreign service officers assigned to the United States Embassy in Teheran were even minimally proficient in Farsi, the language that the Iranians speak.³⁶

At the moment, our national interest is deeply engaged in Central America. Knowledge of Spanish is, of course, incomparably more widespread and accessible than knowledge of Vietnamese or Farsi. Yet much of the news and intelligence that policymakers must rely upon comes to them through translators, interpreters, and intermediaries. Once again, we are compelled, as we were in Vietnam and Iran, to make foreign policy in a cultural vacuum.

Moreover, as the locus of world politics and international trade is shifting from countries that speak English, Spanish, German, and French to countries that speak Russian, Chinese, Japanese, and Arabic, the United States is failing to keep pace in the education of men and women who can read and speak these languages.

It would be easier for all of us, of course, to continue insisting that the rest of the world learn English. But such an expectation has already placed Americans at a serious disadvantage in the international marketplace and at an even more serious disadvantage in diplomatic affairs. By expecting others to learn our language while we do not attempt to learn theirs, we are isolating ourselves from a wide range of opportunities—diplomatic, economic, and cultural. We are limiting our capacity to trade in ideas no less than in services and products.

The goal of international education must be to help students to understand the values that other nations hold and the customs that they follow.

34. *Hearing before the Subcomm. on Postsecondary Education of the House Committee on Education and Labor*, 98th Cong., 1st Sess. 1 (1983).

35. Gardner, *Selling America in the Marketplace of Ideas*, *N.Y. Times*, Mar. 20, 1983, § 6 (Magazine), at 61.

36. See P. SIMON, *THE TONGUE-TIED AMERICAN* 54 (1980).

The development of this understanding is not only important for enhancing our ability to function effectively abroad, both politically and economically. It is also important for reducing the misconceptions that so frequently result from cultural differences and for creating a foundation of international trust.

III. THE CONTRIBUTIONS THAT THE LEGAL PROFESSION CAN MAKE TO EDUCATIONAL POLICYMAKING

I have urged that the legal profession assume a special responsibility for improving the quality of liberal education. I have also urged that it place specific emphasis upon science education, interdisciplinary education, and international education. But the challenges that the legal profession will face in improving educational quality, unlike many of those that have yielded to the mastery of lawyers throughout our history, cannot be met by such familiar lawyerly expedients as the drafting of legislation that accommodates competing interests or the filing of a law suit.

One of the most disheartening aspects of American history is the uneven, episodic nature of the attention that has been given to improving the quality of education. When a deficiency is dramatically displayed, Americans can be aroused to respond promptly, as they did in enacting the GI Bill of Rights and in responding to the Soviet Union's launching of Sputnik. But once the initial burst of response has subsided, Americans have found it difficult to summon the patience to stay the course. But it is precisely the capacity to stay the course that will be needed as Americans respond to the many recent reports cataloguing a decline in educational quality.

Lawyers, more than other professionals, understand that a broad measure of social consensus is an essential element of social cohesion, especially in a heterogeneous nation of such diverse peoples and interests. They understand, too, that only the formation of a social consensus—drawing order, gradually, out of a welter of divergent views—can produce lasting social change. That is why the persuasive arts of the advocate are so urgently needed.

Lawyers appreciate as well that there are limits to the capacity of specific institutions to produce social change. In no institution are these limits more evident than in education. As Diane Ravitch has written in *The Troubled Crusade*, "Probably no other idea has seemed more typically American than the belief that schooling could cure society's ills." And she concludes, "Sometimes schools have been expected to take on responsibility for which they were entirely unsuited. When they have failed, it was usually because their leaders and their public alike had forgotten their real limitations as well as their real strength."³⁷

The legal profession has a special capacity to point out that Americans have been slow to develop a sense of institutional competence and institutional limits, especially in the making of educational policy. Americans too often have viewed education as a ready vehicle for the correction of deep-

37. D. RAVITCH, *THE TROUBLED CRUSADE* xii (1983).

seated social ills of the kind that formerly were regarded as within the domain of other institutions, such as the family and the church.

The present moment provides lawyers with extraordinary opportunities to exert policymaking leadership in achieving excellence in higher education. In exerting that leadership, lawyers must assert a vision of what an emphasis upon liberal education will contribute to American society. And they must work with other leaders of the American community over the long period of years that will be required to achieve these goals.

CONCLUSION

A liberal education that is enlarged to emphasize science education, interdisciplinary education, and international education will better prepare an educated citizenry for the twenty-first century. And it will better prepare a new generation of lawyers to assume the responsibilities of leadership that will be required to sustain democratic values and social order in the next century. I leave you with the fervent hope that in the years ahead the legal profession will work to preserve and strengthen liberal education in this country.