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John A. Miller

University of Idaho College of Law, jamiller@uidaho.edu

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Idaho's Law School Plans for the Approaching Millennium

by John A. (Jack) Miller

We have a strong student body, a talented and committed faculty, and an excellent law school. In great measure the level of excellence we have maintained at Idaho is due to the quality of support we have received from the Bar over the years. I know that the Bar can be relied upon to continue to offer that support. In our turn, we are pledged to serving the needs of the Bar. In this article I would like to offer some of my views concerning the law school's future and to reflect upon its present state. In doing so I wish to respond to some of the thoughts and questions that have been raised in *The Advocate* and elsewhere concerning the future of legal education in Idaho.¹

This summer our dean for nearly a dozen years, Sheldon Vincenti, stepped down. Sheldon will return to teach at the law school after spending a year on sabbatical teaching and writing in Boston. In the meantime, I have been appointed as Acting Dean by Interim President Tom Bell with the approval by the State Board of Education. I am honored to have this opportunity to work in a different role with the faculty, with the Bench and Bar and with the law school's other friends to further enhance the quality of legal education in Idaho. Associate Dean Monique Lillard has also chosen to step down. I am grateful that Professor Neil Franklin, who has previous experience in the associate dean role, has agreed to assume that office.

I welcome discussion of the many challenges facing educators and practitioners. I have taught at four other law schools including a couple with prominent national reputations, and I believe our core curriculum compares favorably with any of theirs. Changes in technology, demographics, and economic circumstances require our constant adaptation. As we change at the College of Law, it is essential that we maintain a healthy exchange of ideas with the whole spectrum of lawyers engaged in practice. This exchange of ideas is a two-way street because we can and should help each other. By the same token we all have an obligation to speak carefully and with good command of the facts. Our aim should be the betterment of our shared profession. The good relations between the Bench, the Bar and the Academy in Idaho are no accident. Those strong ties are the result of the constant efforts of many people to make a positive contribution to the profession.

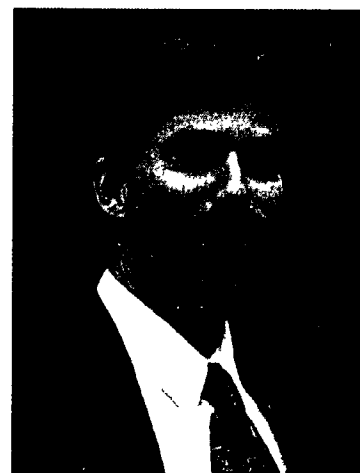
A Brief History

It may be useful to some of you to briefly review some of the bonds that have been forged over the years among the Bar, the Bench and the law school in Idaho.

The Board of Bar Commissioners serves as the school's Board of Visitors. Each year it visits the law school, sits in classes, and meets separately with the students, the faculty, and the central administration. As part of these visits the Commissioners offer advice, counsel, and support to the school. In addition, this past year Dean Vincenti, Dianne Minnich, and the Commissioners finalized plans for a conclave on legal education which was held in Boise, September 22 and 23. This conclave will undoubtedly be the subject of discussion in future issues of *The Advocate*. For the time being I will simply note that the conclave is clear evidence of the ongoing joint commitment of the school and the Bar to enhance the quality of legal education in Idaho. Other institutional ties between the Bar and the school include the Dean's service as a member of the Idaho Bar Foundation's board of directors and the Associate Dean's service on the Foundation's Continuing Legal Education Committee. At any given time there are usually several law faculty who serve on various bar section committees. In recent years the Idaho Trial Lawyers Association has augmented its involvement with the school and its students. The student section of the ITLA boasts a substantial membership. The ITLA now offers brief-writing awards to the students who write the best first year briefs. Those awards are presented annually at the law school's opening convocation so that incoming students can be acquainted with the ITLA and with the key role that writing plays in the litigation process. This year Darrel Aherin of Lewiston presented those awards. The opening convocation is also an occasion for the president of the Bar to address the students. This year Ron Wilper of Caldwell performed that duty admirably.

Other contacts between practicing lawyers and the law school abound. Every year we operate a trial advocacy program for our third year students that is taught in large measure by practitioners from Idaho and elsewhere. This year, for instance, Noel Larrivee from Missoula, Newal Squyres from Boise, Alan Kirtley from Seattle, and Bob Ward from Boston taught in this program. We also regularly employ bar

members to teach as adjuncts. This year, for example, Bill Mauk of Boise, Jon Bauman of Boise, and Pete Volk of Moscow are all teaching semester-long courses at the law school. Our clinic frequently draws upon the expertise of local practitioners. Most recently Ann Dwelle and Bob Liston-Wakefield have performed this service. Other bar members come to the school to lecture. For example, Bill Batt of Boise has come to the school the last two years to lecture about limited liability companies, and Dawn Reynolds and Frances Thompson worked in our ADR course last year. By the same token the law faculty has consistently made itself available for CLE programs both through the Foundation and through other forums. I believe I speak for my colleagues as well as for myself when I say that we count it as a signal honor to be invited to address the bar. To my knowledge every member of our teaching faculty has participated in continuing education as a presenter. As examples, I note that two of our professors, Craig Lewis and Mark Anderson, were presenters at the most recent bar convention, and Professor Maureen Laflin was a presenter at last spring's Idaho Practical Skills Course. Professor Art Smith was a presenter last June at a seminar jointly sponsored by the Foundation and the Bar's Natural Resources Law Section. I am delighted to have been invited to make CLE presentations in Pocatello and in Boise this coming year. Moreover, our law review's symposium issue is published in conjunction with a CLE program in Boise each year. Over the years members of our faculty have participated



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in the drafting or redrafting of statutes and rules relating to such areas as the corporate code, the probate code, the tax code, and the rules of evidence. Most recently Professor Dale Goble served as a leading force in the development of Idaho's new administrative procedure act. These sorts of enterprises are mutually beneficial since they enhance the expertise of our faculty while providing a valuable service to the public.

An important resource to the Bar is the school's law library. Library Director Lei Seeger and her fine reference librarians, Christopher Noe and Joan Pilgram (lawyers all), make a concerted effort to assist lawyers around the state with their research needs. If you need a copy of something we have in our library, we will provide it for a modest charge. Just call (208) 885-6521.

The judiciary has also been a traditional ally of the school. The Supreme Court and the Court of Appeals have heard oral arguments in our courtroom on many occasions as a way of acquainting the students with the appellate process. Our moot court teams have been honored by the Courts' willingness to judge their arguments. Many of the justices have delivered talks and speeches at the law school over the years. We have offered our support to the court system in our turn through the service of our faculty on various committees appointed by the Supreme Court. In recent months Professors Joann Henderson, Dennis Colson, Elizabeth Brandt, and Maureen Lafflin were all serving on such committees.

This is an incomplete sketch of the interconnections among Bench, Bar and Academy. Doubtless there is more that could be done to enhance the relationship between the law school and the Bench and Bar. We at the law school are committed to doing our part on this score. But it is important to recognize the strong ties that already exist, and it is important to honor those persons who have given of their time and effort to forge those ties.

Long Range Planning Will be a Joint Effort

Though I see much to praise in the present arrangement, I believe it is advisable that the law school enhance its efforts to engage in long range planning. A long range planning committee with members drawn from the Bench, the Bar, the Academy, and other interested groups is a desirable approach suggested to me by former Justice Robert Bakes last summer. As this proposition develops, some consideration needs to be given to how this body would interface with the law school's other advisory body, the Board of Bar Commissioners, which as noted above serves as the school's Board of Visitors. Care should be exercised to see that

the important, traditional connections among the school, the Bar, and the Judiciary are not undermined. Even so, I see merit in the idea of a distinct planning body. The goal of a long range planning committee would be to assist the law school to plan years, even decades, into the future with respect to such matters as physical plant enhancement, fund raising, recruitment and placement of students, and technological developments.

New Technology Will Enhance Legal Education

New technologies must be incorporated into legal education. This is something that represents an ongoing challenge and opportunity to us all. And it is already being done. Last year the law school expanded and completely revamped its student computer lab facilities. This summer we began rewiring the law school with cable that will give us the capacity to teach and work in ways that are new and innovative. Already some of our faculty are using the internet to communicate with students outside the classroom. The potential is enormous. It is my hope to have an interactive video class taught from Moscow in Boise and/or Idaho Falls this spring as a pilot project. At present the resources involved, high tech classrooms and microwave transmitters, are scarce commodities. I am told that the hardware for one interactive video classroom costs about \$100,000. Developments in this area will take some time. But we will move ahead to examine how well suited this technology is for law teaching.

It is also possible that new technologies could be utilized to enhance continuing legal education opportunities in Idaho. Perhaps new programs emanating from Moscow will be possible through the use of interactive video. If so, I would favor implementation in a fashion that takes advantage of the existing program carried out by the Idaho Law Foundation. As mentioned earlier the school's associate dean serves on the Foundation's Continuing Legal Education Committee. In this way our efforts are coordinated with the Foundation's. There is no inherent reason why the law school should operate a continuing education program in competition with private operations and with the Foundation's program. In this regard, an important thing to understand about CLE programs is that they are financially risky as evidenced by the fact that the Foundation's programs resulted in an overall deficit last year. I believe that the law school can serve the Bar best by contributing in a cooperative manner within the existing framework. As we enlarge our technological capabilities to educate around the state, we should share those capabilities with existing continuing education providers.

It has been suggested that the law school is the logical choice for providing the additional education needed for licensing specialties. At present the Supreme Court has chosen to authorize specialty licensing through certain sections of the Bar. I see nothing inherently flawed with such an approach. If called upon I would do all that I could to assist in the specialty licensing enterprise. But, even assuming the availability of interactive video to bridge the geographic barriers, other obstacles are present. We have a permanent full-time teaching faculty of fifteen people, one of the smallest law faculties in the United States. Should those people be diverted from their instruction of law students in order to teach advanced level courses for practicing lawyers? If not, should video attendance of regular law school courses count toward specialty accreditation? Serious resource and technical questions are raised by the licensing of specialists that are quite appropriately addressed to the various sections of the Bar. Who would know better than they what level of experience and training is appropriate for a particular specialty? If specialty certification involves a testing component, perhaps the law faculty could assist as exam preparers and graders in their areas of specialty. While I was teaching in Florida some years ago, I performed this service for the Tax Section of the Florida Bar. There may be other ways in which we can contribute. If so, we stand ready to do so, provided that this contribution does not reduce the quality of our efforts to educate law students.

Is Bar Admission Necessary?

It has been suggested that tenured faculty should be admitted to the Idaho Bar on motion.² I endorse this idea in principle. However, many of our faculty are already admitted. Moreover, bar admission has not been a barrier to our faculty's frequent interaction with the Bar. At the latest bar convention, for example, at least seven members of the law faculty were present.

Some of those present were members of the Bar. Others, myself included, were not. We would welcome bar membership, limited or otherwise, but we do not feel excluded by the present arrangement. To the contrary, we feel a sense of collegiality and support from all sectors of the Bar. As I have tried to indicate in my earlier remarks, we stand ready to serve the Bar as it has always served us. But it is well to remember that we at the law school have one primary task, the teaching of students. The Bar and its membership have other distinct tasks. Each body and each person is entitled to some measure of respect and autonomy in the performance of their assigned tasks.

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Idaho's Law School Plans for the Approaching Millennium

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Career Services Placed 85% of '94 Class

Over the past several years our career services efforts have been quite good despite limited financial and staff resources. We have one staff person, LeAnn Phillips, who devotes about half her time to career services. With LeAnn's able assistance our graduates are finding work in a highly competitive market. Over 85% of the class of 1994 reported that they were employed full time within a year of leaving law school (and that was with over 12% failing to respond to our request for information). Last year we had 219 interviews on campus and 208 job postings. I would like to expand our career services office, but in the meantime it is important to see what has been and is being accomplished with the present resources. If any of you are interested in hiring this year, please call LeAnn Phillips at (208) 885-5817.

The Idaho Law Review - An Important Teaching Tool

Four years ago the Idaho Law Review began publishing a fourth issue entitled the Annual Review of Community Property. The Annual Review is the only publication in the country devoted to issues of community property law. The idea for the Annual Review originated with members of the Idaho Bar's Family Law Section. Linda Pall, of that Section, continues to serve as a member of the issue's advisory Board. Recently our law review converted to in-house type setting in order to speed production and to gain greater control of costs. Besides the community property issue, the law review publishes three other issues annually, including a symposium issue that is tied to a continuing legal education program in Boise. Law reviews are a valuable resource to anyone interested in the law. They are also important teaching tools for law students. Some schools such as Chicago, Yale, and Harvard have several law reviews. They also have much larger student bodies. They have much greater funding. The size and scope of the Idaho Law Review is right for Idaho. Our students do a commendable job. They deserve our encouragement and our support.

Skills Training Teaches Students to Think Like Lawyers

We have four clinical offerings. This is quite remarkable for a school of our size in a

rural setting. We have a general clinic in which students primarily represent indigent persons in the local court system in civil and criminal misdemeanor matters. Our students also serve as public defenders in the tribal courts on the Coeur d'Alene and Nez Perce Indian Reservations. Four years ago we added a third component, an appellate practice clinic where students represent clients before the Idaho appellate courts and before the Ninth Circuit U.S. Court of Appeals. Last year we added a new clinical experience for our students. In conjunction with Idaho Legal Aid, our students now represent Native Americans in civil cases. We have received much positive feedback from judges before whom our students have practiced in all of our clinical settings. We have a strong clinical program at Idaho, and we are proud of it. Expansion in the future is a possibility, but major resource questions must be addressed before that can happen. Long ago the legal profession opted for a model of education different from the medical school model. I do not know all the reasons for this approach, but certainly cost must have been a factor. A

We live in a time of inescapable change. It is my wish that we should seize the opportunities those changes bring and turn them to good use for Idaho's law students and for the public they will one day serve.

medical school costs upwards of twenty times the cost of a comparable size law school. Clinical education is expensive. Most law schools, including Idaho, depend heavily upon federal funding for their clinical programs. Over thirty percent of the funding of our clinic rests on this soft money. There is a distinct chance that this money will disappear in the near future. Expansion of our clinic in such a setting represents a great challenge.

Skills training has many aspects. Every class in the school teaches lawyering skills of one sort or another. Some do it explicitly, as in our clinical program. Others teach skills by simulation such as in our legal writing, trial advocacy, practice court, ADR, and lawyering process courses. Most law school classes teach something we loosely call "thinking like a lawyer." This type of thinking includes thinking by analogy, thinking critically and analytically, and thinking about legal policy as well as about legal authority. Many among us would argue that learning to think like a lawyer is the most important aspect of a legal education. For my part I see writing and analytical skills as key to the future success of any lawyer. I believe our central obligation is to teach our students to become their own teachers because the education of a lawyer is never done. I am interested in enhancing all aspects of our program. One area where some expansion may be particularly warranted is in the use of public service externships for classroom credit. Such programs must be carefully supervised in order to avoid accreditation and other problems. Even so, I intend to devote some of our resources to a pilot project in this area, possibly as early as this spring.

Law School Dorm and Meeting Facility May be in the Future

A law school dorm has been proposed by former Dean Vincenti for several years. An expanded law school facility with additional dining, living, and meeting facilities would be a valuable asset. An apartment or two to house visiting lawyers and teachers is also highly desirable. Our efforts to obtain such a facility will continue. Obviously, funding is a major issue. One avenue we are exploring this year is the remodeling of an existing dorm very near the law school into a law school dorm. This building, Shoup Hall, is the subject of a redesign project in the School of Architecture this fall. The project is being jointly sponsored by the law school and the university housing office. A law faculty member and a law student will work as liaisons between the law school and architecture class as the architecture students and their teachers work on a redesign specifically tailored for the needs of law students.

Exploring Expansion into Southern Idaho

From time to time one hears the suggestion that the law school needs a physical presence in southern Idaho. This is an idea we have been considering. Of course, funding is an issue. The physical plant and the staffing costs would be significant. I am certainly open to discussing the various approaches that might be taken. One possibility would be the establishment of a position in Boise to oversee student externships and internships in southern Idaho and to work with the Bar on continuing education and related matters. Such a person could also work to enhance law alumni relations.

There are many positive and worthy events taking place in legal education in Idaho. Other beneficial changes are welcome. In the coming days I invite any of you who read this to contact me with your ideas. My phone number is (208) 885-6208. My FAX number is (208) 885-7609. My e-mail address is jmiller@uidaho.edu. We live in a time of inescapable change. It is my wish that we should seize the opportunities those changes bring and turn them to good use for Idaho's law students and for the public they will one day serve.

ENDNOTES

1. In a recent issue of *The Advocate* Neal Newhouse, a member of the Idaho Bar, offered his views on the future of legal education in Idaho. Neal Newhouse, Guest Opinion: Idaho's College of Law - Where Should It Be Going?, 38 *The Advocate* 26 (1995).

2. *Ibid* at 27.

John A. Miller is Acting Dean and Professor of Law at the University of Idaho College of Law. He is a 1976 graduate of the University of Kentucky College of Law. In 1987 he received an LL.M. in Taxation from the University of Florida College of Law. Prior to entering teaching he served as the chief tax counsel for the State of Kentucky. He has served as a visiting professor at Gonzaga University College of Law, the University of Richmond College of Law, the University of Florida College of Law, and the College of William & Mary, Marshall-Wythe School of Law.

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