Hyman Remembers

by Jacob D. Hyman

Until the spring of 1946, my only contact with Buffalo was when Ernest Brown, then assistant dean at the University of Buffalo Law School, visited me in my office at the Office of Price Administration in Washington. The visit occurred because I had written to Harvard, where I had attended law school, saying that I was interested in teaching in a law school, and asking if they knew of any openings. I was interested, because after five years with a law firm in New York City, I spent four years with the U.S. Department of Labor in Washington, where I worked for the duration on the legal staff of the OPA and enjoyed the colleagueship of a distinguished group of lawyers, many of whom were on leave from law schools across the country. It seemed to me that if law schools were inhabited by persons of that caliber, I would like to work in such a place.

That visit from Ernest led to a visit to Buffalo. One entered the city in those days through the New York Central terminal, a most impressive building. Downtown Buffalo confirmed the architectural impact of the terminal. St. Paul’s and St. Joseph’s Cathedrals, the red fortress that was the Erie County Savings Bank, the Prudential Building, the Ellicott Square, the old Post Office, the towering City Hall, and County Hall. I wondered what architectural marvel would house the law school which I was about to visit. It turned out to be a nice old mansion, compatible architecturally with its neighbors on and near Eagle Street—but, a law school?

Any reservations on that score vanished when I met its faculty. In addition to Ernest Brown, a most impressive lawyer, there was Louis Jaffe. I was told by an OPA colleague, a distinguished law school professor, that Jaffe had written one of the best law review articles he had ever read. Philip Halpern was then acting dean. A long-time teacher at the school, at the time counsel to the New York State Public Service Commission, and later a Supreme Court judge, he was seen even on brief acquaintance to be an extraordinarily well-informed and penetrating lawyer. There were also Arthur Lenhoff, a judge in Vienna who had fled just before the Anschluss and who quite evidently was a legal scholar of encyclopedic learning and broad interests; and Carlos C. Alden, a most distinguished gentleman, a master of New York Civil Procedure, who had been teaching at the school for 44 years and had been dean for 32 of them. I learned that such notable scholars as David Riesman and Mark DeWolfe Howe had been teaching there before the war took them to other activities. All in all a rather impressive place, confirming my belief that teaching law would be a fine thing to do.

But what about Buffalo? Apart from the architectural beauty of its downtown, there were the incredible broad streets lined with double rows of arching elms, which have since fallen victim to the Dutch Elm disease, the mansions on Delaware Avenue and Lincoln and Chapin Parkways, Delaware Park, the Albright Art Gallery, and the magnificent Kleinhans Music Hall. A visit to Chancellor Capen provided a brief look at a small but interesting university quite close by. Obviously, Buffalo had much to offer, and I decided to come.

The Law School was started in 1887 by a distinguished group of lawyers and judges who felt that the community needed this training ground for the legal profession, as the Medical and Dental Schools had been started not long before to meet a similar need in those professions. In 1936 Chancellor Capen brought in Francis Shea as dean. Working at the time for the federal government in Washington, he had previously spent several years with one of Buffalo’s leading law firms. He had succeeded in bringing a few more young Washington lawyers of diverse but outstanding talent, including Jaffe, Howe, and Brown.

The school’s student body was just rebounding from the decline of the war years. The entering class was about 130, compared with second and third year classes of about 50 each. The wartime classes were on a year-round, accelerated program, and there was a graduation in September, 1946. The commencement speaker, a Supreme Court Justice and an alumnus, decried the falling off in legal education that had taken place when the old ways of the school were overrun by the Harvard invasion. Yet there was little dissent from the statement of purpose that Dean Howe had formulated in 1941:

Although the primary concern of the School is to educate men and women for the practice of the law, ‘it cannot be insisted upon too often,’ as a distinguished American judge has reminded us, ‘that a university law school is part of a university. Intellectual issues are its concern—the systemization of knowledge at once significant and susceptible of scientific ordering, the continuous critique of all law-making and law-administering agencies in those aspects that are peculiarly within the competence of scholars, and the promotion through formulated reason of wise adjustments of the multidirdinous and increasingly conflicting interests of modern society.’

The underlined portions identify what have always seemed to me the three somewhat disparate goals of a university law school. As times and society change, the
specific focus for each of those goals will change, but the goals remain. As I see it and have experienced it, the school over the past 40-odd years has been true to that difficult undertaking, under successive deans encountering different circumstances within the school, in its relation to the university and to the larger community.

During the last 40 years, the school has become increasingly effective in working toward that difficult, three-pronged goal under changing conditions of location, student body, faculty, and university. Under Dean Jaffe, the nice old mansion on Eagle Street gave way to the efficient building now used by the courts. Under Chancellor Capen, most of the university’s professional schools were relocated from downtown to the Main Street campus. Under Chancellor Furnas, the decision was made that the Law School should follow when resources were available. That stirred the endless debate as to whether the Law School should be downtown, close to the bar and the courts, or whether it should be close to the rest of the university, facilitating interdisciplinary work important for the law by both students and faculty. The problem did not seem so acute then, because the trip between the campus and downtown was easy.

When the merger with SUNY occurred in 1962, the problem of location was confronted on a wider scale: where should the new State University at Buffalo be located? The Main Street campus was far too small for the projected university center. That debate raged for several years, the Amherst site being selected with the general understanding that there would be a rapid transit facility connecting that campus with downtown. There was no serious consideration being given by the university administration to reversing the Furnas decision that the Law School should be with the rest of the university. There are real disadvantages to the distance from downtown as things now stand; but despite that, the clinic and trial practice programs of the school, begun when it was downtown, have thrived and grown in scale and strength. And the proximity to the rest of the university has stim-
ulated interdisciplinary work by both faculty and students. Just recently, with the spurt of growth in the town of Amherst, the possibility of extending the rapid transit to the Amherst campus becomes real again.

With the merger, a major decision had to be made as to the size of the Law School: should it, as primarily a professional school, become much larger, or should it become a research institution with limited student enrollment? The fact that it was to be the only state law school strongly pointed toward increasing the size of the student body. A canvass of existing law schools in the state indicated that, despite new and larger buildings since World War II, they were operating at capacity and favored a substantial student body at the state school. So, the decision was made to plan a school for about 800 students and a faculty of at least 40.

The law school that was built on the Amherst campus is a beautifully planned building for its purpose, thanks to the talents and commitment of Wade J. Newhouse. He was chair of the building committee when a move to the campus was being considered before the merger and resumed that role afterwards. It was because of his effort that John Lord O'Brien Hall was the first academic building on the campus. Its effectiveness has been seriously impaired, not because of any defect in the plan of the building, but because it has become the hub of the enormous traffic flow through the major building complex on the Amherst campus.

With the reliance that had come to be placed upon the LSAT as a predictor of performance in law school, a sharp drop in failures was expected and occurred. But over the years, the faculty has come to believe that excessive reliance on the numbers would deprive the school and the profession of many highly competent persons whose life and work experience indicated that they would enrich both the school and the profession. Their diversity in background of the students has increased markedly in recent years.

More striking has been the increase in the number of women and minorities. Ever since it began, the school had one or two, perhaps three or four, women in every class. In the 70s there was a sudden jump to a representation of between 30 percent and 50 percent, for which happy development the school cannot claim very much credit. It is otherwise with the minority representation. In the 60s and early 70s the consensus of the nation was awakened to the injustice of the patterns of racism and ethnocentrism that had become woven into the fabric of American life. Resources were being made available for corrective steps, and the school, under the vigorous direction of Dean William Hawkland, took advantage of them, and found other resources, to implement a special program of admissions and support designed to remedy the distressing lack of minority representation in the American bar. With the enthusiastic and unflagging support of the faculty, the program has been continued, although its form has been modified from time to time in the light of experience. There is no doubt that it has succeeded in bringing a substantial number of minority men and women into the law, both in the practice and on the bench.

Consistent with its long-standing commitment to bring to the study of the law the growing knowledge and insights of the sciences, and particularly the social sciences, the school's faculty since the merger has been enriched with scholars who, in addition to their legal training and skills, are soundly versed in other disciplines. Over the years, resources for faculty compensation were never adequate for the kind of faculty the school sought. Before the merger, recruitment to a considerable extent depended upon appeals to the opportunity to serve the profession effectively with interesting colleagues, albeit with modest compensation; a sort of pro bono approach. The alumni were appealed to, and responded then as they have continued to do, providing financial help without which the school could not have achieved the quality that it has. But it has not always been possible to hold faculty. Former Buffalo law teachers are now found at Columbia, CUNY, Iowa, Pennsylvania, Stanford, Wisconsin, and Yale, among other schools.

The growth of the State University of New York at Buffalo toward a place among the leading public research universities of the nation has enhanced the attractiveness of the school both to students and to faculty. Interdisciplinary scholarship and training on a far wider range of problems has become possible. These gains outweigh the loss of the broad, informal relationship with faculty in other disciplines which was a characteristic of the Law School in the days of the small University of Buffalo.

From my perspective, the history of the Buffalo Law School since the late 30s has been a series of increasingly large steps toward the achievement of those goals of legal education which were sketched by that very distinguished legal scholar, Mark DeWolfe Howe, when he was dean, and carried forward by Louis Jaffe, who was my mentor.

The author has been a law professor at SUNY Buffalo Law School for 41 years and was dean from 1953-1964.