REPORT OF THE DEAN

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University of Maryland School of Law 1977



Model of the Law School viewed from Fayette Street. The building in white represents the structure and location of the new law library adjacent to the Westminster Church.

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The status and development of the State University Law School is a matter of importance not just to the Dean and the faculty, but to the students, the alumni, and the profession as a whole. Law schools play a critical role in the formation of professional values and the development of professional competence, but for many years law schools have tended to assume that upgrading the quality of the institution was synonymous with distinguishing themselves from the practicing bar. In the belief that this is a profoundly mistaken notion of what professional legal education should be, I am submitting this report to the Bar of Maryland, as well as to the Regents and Administration of the University, the alumni, faculty, students and friends of the Law School.



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Some General Reflections

The completion of my third year as Dean will occur in February of 1978. The prognostications I was given three vears ago of the miseries of the position, the pending "end of the honeymoon," and the drudgery of law school administration have not fit my experience at Maryland. The leadership of the Law School continues to be exciting, challenging and pleasurable. I have cited in earlier reports some of the factors that make life so easy for a Dean at Maryland: a faculty that conducts its business with fundamental concern about the quality of the school and with a rare civility in its collegial relationships; a serious and talented student body which has revived many of the traditional student concerns (and signs of caring) about the school: the supportive administration of the Chancellor of the Baltimore Campus of the University, Dr. Albin O. Kuhn.

The preoccupations of a Dean, of course, change over the years. Some of my initial concerns, such as improving faculty secretarial support and helping students adjust to the peculiar rigors of their first year in Law School, are now ongoing programs — not new initiatives. The student newspaper which the Dean initially sponsored and supported is now a fully independent operation which, appropriately enough, takes rather critical views now and then of the administration of the School.

The School continues to be a lively place where we can laugh with (and at) each other. This last spring, the third year "Not Yet Passed the Bar Players" put on a Faculty Follies which was an uproarious two and one-half hour series of sketches and take-offs of the faculty. At our precommencement festivities, the faculty presented the "At Least You Can Act" Award in the form of a ham to the student who did the best faculty imitation at the Follies. We continue the now traditional nonsense of a spring

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debate on the "Latke Versus the Hamentasch" moderated this year by Judge Solomon Liss.

There are several features of the intellectual life of the school that continue to show strong growth. Although one cannot measure these things by the pound, it is clear that faculty productivity in terms of scholarly writing is drawing more national attention to the quality of the school. To cite a few examples, I would mention Professor Peter Quint's recent article in the Yale Law Journal on First Amendment limitations on the introduction of evidence, Professor Garrett Power's recent piece in the Virginia Law Review on the regulatory program of the United States Army Corps of Engineers, Professor Kenneth Abraham's article on the medical malpractice crisis in the Maryland Law Review, and Professor John Regan's series of articles on the legal problems of the dependent elderly for which he received his J.S.D. Degree from Columbia University.

The faculty continue their series of "Brown Bag Lunch Club" meetings which consist of noontime presentations of first drafts of papers, ongoing research, and discussions about teaching issues and matters of importance to the school. These informal discussion sessions add greatly to the intellectual climate of the school. The Law Review has improved substantially and is of a quality that reflects well on the school. The other student publications, the Maryland Law Forum and The International Trade Law Journal, have also been active and successful publications. The Moot Court Program, which is basically run by the students with the able assistance of Professor Richard Falcon, has placed a team in the National Competition Finals in New York City for the third year in a row. This is a most unusual record for any school, and it reflects the quality of our program and the extensive student interest and participation in Moot Court after the first year required program.

Last year I mentioned how disturbed many of the faculty

were over the quality of student writing. Perhaps we may be succeeding in communicating concern to our students. One of our responses to the problem, a new upper class course in Legal Writing, has had a sharp rise in enrollment. Over sixty students this year will take this three-credit intensive writing course, which is structured as an individual writing tutorial. The more I learn of the writing programs at other schools (e.g., a recent graduate supervising 50 or 70 students for writing for one credit), the more convinced I am that our first year seminars (limited to 20 students), where faculty directly supervise student writing in a year-long 7 or 8 credit substantive course, represents a unique commitment to quality legal education. Arguably, our finest writing programs are our upper class clinics, where letters, pleadings, motions and briefs are subjected to the cruel editing which is required by a high responsibility to real clients.

I have often mentioned the quality of the faculty which I admire most (other than the good grace with which they accept their Dean): their spirit of self-criticism, a general restlessness which leads the faculty to analyze the quality of what we are doing and explore new possibilities. This year is no exception. The faculty established a new Curriculum Study Committee, chaired by Professor William Reynolds, which is seriously analyzing what we should be doing at the Law School. The Committee is assessing whether we are fulfilling our commitments to the profession and to the public by our present educational program. Should we be placing more emphasis on writing or counseling and negotiation and litigation skills? Should we be rearranging our required courses to meet new needs? How should we go about teaching the ethical responsibilities of the profession? As part of this study of our curriculum, the committee is seeking help from alumni, faculty and students through questionnaires. collecting views about our present curriculum and suggesting ways we could improve it. This is obviously a rather long-term study, but we hope to have some significant results by the beginning of the next school year.

Last year I wrote at length about the importance of the clinical programs at Maryland and I took some pains to describe clinical education. I am convinced clinical education, properly run, offers extraordinary rewards in terms of melding the intellectual tradition of a university with the clarifying adrenalin of practice, inculcating high standards of practice and preparation in future members of the Bar, and creating a setting in which discussion of ethical issues becomes a serious and challenging enterprise rather than a rehearsal of pieties. Nevertheless, the practice of law under close faculty supervision in a setting which encourages considerable reflection on the nature of the intellectual and strategic and personal problems encountered in the law is a difficult form of teaching to manage and to structure. Unlike the classroom, where the orthodoxy of Langdell's case method and generations of great teachers provide a vardstick for our efforts, we are searching for a coherent tradition of clinical legal education. Under the leadership of our new Clinical Coordinator, Professor William Kerr, the teachers who supervise student practice "clinics" have committed themselves to a process of review and analysis of their programs that will, we think, generate some significant improvement in the quality and structure of our clinical programs. This self-study and evaluation enterprise at Maryland could be an important model for clinical education nationally.

Building Program

One of our major efforts at the Law School is a building program — something I had not anticipated when I became Dean in 1975. I was then, and still am, primarily concerned with the quality of what goes on inside the 4

School rather than the physical plant. But our space needs have become so severe that they can no longer be ignored. The present buildings, completed in 1965, were inadequate by the early 1970's, due primarily to the extremely limited library facilities and the absence of room for office expansion. We have, in the last few years, coped with the lack of faculty and student organization office space by converting storerooms, seminar rooms and even an underutilized classroom to office space. We now have reached the limits of our physical plant. The combination of day and evening programs, plus continuing legal education offerings (of which more, later in this report) has meant our classrooms are being used in a most efficient manner, 9:00 A.M. through 10:00 P.M. each week day. We have added five trailers of offices behind the Law School which hug the Westminster gravevard wall and are unaffectionately known as Kelly's Trailer Park.

The shortage of offices is a function of the dramatic growth of the student body after 1965 and matching faculty growth; the qualitative change in student activities requiring space for student publications like *The International Trade Law Journal* which were unheard of in 1965; and the changing nature of our program which shifts some of the classroom emphasis of third year to officeintensive clinical programs.

The need for offices, however, pales beside the overriding problems of inadequate library space. We now store some 20,000 to 25,000 volumes — almost one-fifth of our collection — in a warehouse near the campus. We have crammed seating in every conceivable space in the library. So, our first priority was to create a library which would be an asset to the Law School and the University.

We have received remarkable cooperation and support from the State and University authorities, and now have finished plans for a fine library addition to the present buildings. The indications are that this building will be in the Governor's Capital Budget, and we are hopeful that the General Assembly will approve the funds in time for a construction start in the summer of 1978. The building is modern in style, but designed at the same scale, and brick finish, as our existing buildings. It will satisfy our two basic needs by providing space to house some 250,000 printed volumes and adequate seating for our students.

There will be, we hope, important side effects of the new building. The entrance will be adjacent to our present student lounge and will enable us to improve the student leisure space in the school. The library will also provide rooms where student study groups can assemble. The new building, therefore, will go a long way toward making the school a more attractive place where students will want to be more of the time, and thus it may undercut some of the commuter school atmosphere of our present physical plant. Once the new library is constructed, the old library will be converted to the office space we need.

Another rather unusual building opportunity has arisen — the availability of the Westminster Church which is adjacent to the Law School. The Church was closed by the Presbytery of Baltimore early in December, after long years of minimal use by a small congregation. The Church and accompanying Parish House were built in the 1850's over a graveyard dating from 1792. The graveyard is perhaps most famous as the burial place for Edgar Allen Poe, but it also houses the tombs of many of the most prominent figures in Maryland history after the Revolutionary War.

The Westminster Church and graveyard would be an attractive addition to the School. It is one of the most interesting historic locations in Maryland, not only for the Poe gravesite but also the popular tours of the strange "catacomb" portion of the graveyard lying underneath the Church buildings. The Church and Parish House need renovation, but no structural changes, to become a fine set of historic rooms. The Church is not, strictly speaking, essential for our program in the way the new library building is: we cannot put a modern library in a Church over 100 years old; converting the Church to office space would be needlessly expensive, unsatisfactory, and destructive of the old building's character. Yet the Church would add greatly to our School by making available to us some handsome space, underscoring for our students the historic heritage of the Law School, and leavening the rather utilitarian brick and cinderblock of our existing buildings. It would be an honor to become the custodian of the Westminster Church and fitting for the University creatively to reuse one of Maryland's historic sites.

How then would we plan to use the old Church? We can



Model of proposed library addition (in white) viewed from corner of Baltimore and Greene Streets. build a small connection between the Church and the new library and create a dignified and beautiful reading room which, on appropriate occasions, can be used for ceremonial functions and lectures. The Parish Hall can be used for library-related functions such as a staff lounge or Law Review offices.

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I have thus far been reviewing the opportunity and our ambitions for the Church. There is, however, a significant financial reality to address. The "non-utilitarian" nature of the project, and the operating and capital expense posed by the Church for the University require private funding. We are busy working on cost estimates for the preservation and renovation of the entire site. They will probably run in the neighborhood of \$500,000. Needless to say, it would be a very large undertaking for us to raise this amount of money for the Law School. We think, however, that the historic preservation would be attractive to many donors who would not otherwise be interested in the school. We plan to begin shortly to test the feasibility of financing the project, and we are hopeful of success. We will keep you posted.

Admissions

The admissions process is one of the most difficult aspects of the operation of the Law School. This is so not only because of the huge number of applications and the inherent difficulty of the decision-making process, but also because of the agony which applicants experience in waiting for a decision and in taking the risk of rejection. Although nothing can really overcome the cold reality of waiting or rejection, we have taken at least one step this past year to try to ease the process for applicants. This was the hiring of a full-time admissions director, Jim Forsyth, one of whose major functions is to be accessible to applicants to discuss law school, law study, and the 8



admissions process. Jim's counseling function extends not only to our applicants but also to others contemplating careers in the law, a function which we believe is important for a State law school to perform.

Law study can be quite a shock when first encountered in law school. While it may be difficult (as well as unwise) to relieve the anxiety of being called on to recite in Socratic style, we have begun programs to acquaint prelaw students with the nature of law study. The role of our admissions director has already been mentioned. In addition, for the past few years, our students have run an orientation program one evening during the summer for students accepted for admission in the fall. The acceptees sit in on a summer session class and engage in discussions with instructors and law students. This year, we are planning an informal program to introduce applicants to the school during the regular academic year. In addition to meeting with the admissions director, applicants tour the building, sit in on a class, and discuss with their student guides the reality of life as a law student.

Perhaps the most striking feature of the admissions process is the tremendous number of applicants for admission: 1572 last year. The 1977 entering class contained 251 students: 190 in the day division and 61 in the evening division.

While the overall class size has remained consistent for the past several years at roughly 250, the relative size of the day and evening divisions has changed. In past years, the size of the entering day class was set at 175, the evening class 75. However, in order to keep admissions qualifications for the evening class consistent with those for the day class, the admissions committee often had to offer evening places to applicants who would have preferred to attend law school full-time. In order to solve this problem, the faculty authorized the committee to offer day places to as many as 190 of the 250 persons in the entering class. This turned out to be the appropriate balance for the 1977 entering class: all entering students were able to enroll in the division which was their first choice.

In addition to the evening students, all of whom are parttime, the entering class included six part-time students in the day division. The part-time day program was instituted two years ago to accommodate persons who can only attend part-time but whose job or family responsibilities do not permit them to attend the evening division; the program is limited to a few students each year.

The number of applicants this past year was not as high as it was in the peak application year: 2454 in 1972. This drop is consistent with a nationwide lowering of interest in law school, and it also reflects the wider publication of the school's standards of admission: applicants whose credentials are not competitive are probably discouraged from making application. Nevertheless, the number of applicants remains much higher than the number in the early 1960's. For example, in 1963 there were 496 applications for 180 places in the entering class. Also, the nature of the applicant pool has changed over the years. For example, many more women and blacks are now applying to the law school.

The recent drop in the number of applications has had no apparent effect on our entering classes' numerical qualifications, which have remained consistently high. The class which entered in August had an average Law School Admission Test score of 621 and an average undergraduate grade point average of 3.25. (These are the averages for the entire class, including day and evening, minority and non-minority.) The entering students had attended 102 undergraduate colleges and universities. There were 96 women (38%) and 22 blacks (9%). (In 1967, women constituted about 5% and blacks about 1% of the entire student body.) There were 35 non-residents (14%), representing seventeen states from Massachusetts to Hawaii.

Although we have no statistics regarding the age of entering students prior to last year, it appears that more students are entering law school at an older age or after having been out of college for a period of time. Of course, the evening division continues to attract students who, in general, are older and more experienced than day students. The average age of the entering day class in 1977 was 24; eleven percent were age 30 or above; the oldest was 44. About half of the entering day students had graduated from undergraduate school at least one year prior to enrolling in law school, and 17% had graduated at least five years before.

Admissions decisions at the law school are made by a faculty admissions committee, within overall policy set by the faculty. Much mystery surrounds the process and a word in explanation of it may be appropriate. The great majority of the applicants are qualified in the sense they are likely to pass in their law school studies. Who among them should be selected? The school's primary objective is to train superior lawyers. However, that objective is not a usable standard by which to make decisions in individual cases. It is simply impossible to make a prediction of success as a lawyer with any degree of confidence. This is due to the variety of jobs lawyers perform, the subjective nature of the personality characteristics which are involved, and the lack of hard evidence in support of particular personality characteristics as contributing to success in the legal profession. The Law School Admission Council, in conjunction with the American Bar Foundation, is presently engaged in a study which attempts to identify the characteristics of the competent lawyer and, if identifiable, how these might be discerned in a rational admissions process. Until the results of that study are in, it is likely that the Law School — like most other schools will continue to use as its primary admissions standard the selection of those students most likely to do well in law study. The primary criteria used by the admissions committee in making this decision are the applicant's undergraduate academic record and score(s) on the Law School Admission Test (LSAT). There are many studies which support our conviction that there is a high correlation between these factors and a student's law school grades. Of course, they are only a crude measure and there are some applicants who are not predicted well by them, although it is extraordinarily difficult, if not impossible, to predict the exceptions. Nonetheless, the admissions committee believes grades and test scores are reliable enough that ordinarily applicants who have very strong records have an excellent chance of being admitted, while applicants with poor records have very little chance of being admitted.

Of course, there is much more to an applicant than

grades and test performance and the committee tries to evaluate other factors as well. These are particularly important in close cases, where undergraduate grades and LSAT scores do not permit meaningful differentiation among applicants, and in unusual situations (for example, when an applicant has been out of college for many years. thus rendering the undergraduate academic record somewhat less meaningful compared to other experiences). Factors which can have a bearing are the place where the applicant went to school, the nature of his or her coursework, evidence of motivation and maturity. experience signifying interest in law or in making significant contributions to the community, and evidence of intellectual skills and character. (Because personal characteristics are better related by references whose evaluation is based upon long association with the applicant, the interview continues to play a small part in the admissions process.) A decision is never made on the basis of the numbers alone. An applicant's entire record (including application, transcripts, references, etc.) is carefully reviewed. However, as noted above, an applicant with a low record in terms of the combination of undergraduate grades and LSAT score(s) is unlikely to be admitted, in view of the likelihood (supported both by national studies and our own experience) that the applicant will not perform as well in law school as other applicants with stronger records.

It is not unusual for admissions officers at colleges and universities to seek a broad geographic balance or good athletic teams and, to achieve those objectives, to admit qualified applicants over other applicants with higher academic potential. While our law school's admissions process has not sought to meet those specific objectives, it does include another very important objective: the training of minority lawyers. Although our special admissions program has been in existence for ten years, it has been the subject of considerable publicity lately because of the Supreme Court's review of *Bakke*. Unlike many other schools, this law school has been candid about its program in order to assure the broadest understanding of the issues involved.

It is important to understand that every student admitted to the law school, whether white or black, is believed by the admissions committee to be well qualified to study law and to become a competent lawyer. Indeed, although special consideration is given to applications by black students, the average minority student admitted to the law school today is at least as well qualified, in terms of undergraduate grades and LSAT scores, as the average student of any race admitted 15 years ago. The success of the progam is reflected, in part at least, in the relatively low failure rate among minority students: about 3% among students admitted in the past four years. Moreover, most minority students have law school averages well above the minimum necessary to pass.

The current law school policy, adopted pursuant to a policy of the Board of Regents promulgated in 1971, sets a goal that the entering class have the same proportion of black students as the proportion of blacks in the population of Maryland (18%). However, the number in the entering classes in the past several years has been below that figure. For example, last year there were 31 (12%) and this year there were 22 (9%). The number of minority applicants to the law school and the number who have actually enrolled at the school have been going down. Although the reasons for this decline (which is consistent with national trends) are unclear, it seems likely to be related to the growing demand for gualified blacks both at other law schools in the nation and in businesses and other occupations. Since our program is different in some respects from that of the University of California in Bakke, and since it finds its justification, at least in part (unlike California) in a need to relieve a history of *de jure* racial discrimination in Maryland, the effect on our program of a decision in *Bakke* is difficult to predict. We await the decision of the Supreme Court with something more than curiosity.

Continuing Legal Education

One of the most exciting developments in our Law School over the past two years has been the extraordinary growth of our involvement in post-graduate continuing legal education. In the fall of 1975 Professor Laurence Katz assumed a new title at the Law School: Associate Dean for Continuing Legal Education. Larry felt that the most appropriate way for the Law School to be involved in continuing legal education was to take the rather unselfish position that a non-profit joint enterprise with the organized Bar would be the proper vehicle to upgrade the quality of continuing education programs available to lawyers in the State of Maryland. Accordingly, we proposed to the then President of the Maryland State Bar Association, Woody Preston, that a separate organization be created as a joint venture of the two state law schools and the State Bar Association. The Maryland State Bar Association liked the idea, and ultimately a new entity was formed with the ponderous title: The Maryland Institute of Continuing Professional Education for Lawyers, Inc. (MICPEL). The members of the Board of this new organization by and large come from the various local bar associations around the state. After a rather lengthy and elaborate search process, Dean Katz was chosen as executive director in October of 1976.

MICPEL is housed in a converted storeroom area in the basement of our present library wing. The space gives MICPEL a self-contained set of offices which reflects its status as an independent corporation funded largely from



revenues derived from the continuing education programs it sponsors for lawyers.

MICPEL has, by all accounts, been an enormous success. The key to this, of course, is Larry Katz who excels at anything he does, whether it is classroom teaching or running a demanding and fast-growing organization like MICPEL.

MICPEL sponsors a very wide range of programs: from so-called "long courses" offered in the evening at our law school for 6 to 10 weeks (e.g., Antitrust Law for the Business Lawyer, Modern Real Estate Transactions, Criminal Trial Advocacy); to 3-hour specialty programs on "Defending the Drunk Driver," "The New Federal Estate Tax Return," and all-day programs on Trial and Appellate Practice. Subjects presented by the Institute range from Accounting, to Search and Seizure, to the Rights of the Handicapped. MICPEL programs are conducted all over the state. There have been substantial offerings in Salisbury, Easton, Frederick, Cumberland, College Park, and of course here in Baltimore. There is now a growing library of materials, written and video-taped, available to the Bar.

Is there any advantage to our Law School from housing MICPEL? I suppose it would be nice to have a continuing education program that is exclusively ours. The long courses which were previously conducted under law school auspices have, in effect, been donated to MICPEL. We are making an investment through MICPEL in high quality legal education programs for the practicing bar of this state. The glory and the money are not ours, but there is a professionalism about our contribution to MICPEL that is important to our school. We are joining with the practicing bar in an enterprise to improve the quality of law practice in this state. The Law School has been a force in the creation and operation of the new Institute. Not only, of course, does the Institute involve Larry Katz and the new Associate Director, Bob Dyer, but on occasion, both students and members of the faculty have been able to help in specific programs. For example, Professor Michael Millemann helped teach an excellent program, together with Dennis Sweeney of the Legal Aid Bureau, on Social Security disability claims, and Professor Abraham Dash edited the highly successful Maryland Trial Practice Manual which accompanied a two-day course on basic trial practice. We are making a contribution in partnership with the profession, and the product is first-rate! Needless to say, we are proud of the role our Law School has played in the creation and growth of MICPEL.

Alumni

One of the most encouraging developments in the Law School over the past two years has been the increase in alumni involvement-in the school. The Law School Alumni Association has become a more active organization. Its membership has increased significantly; it has made a generous contribution to our new Law School Fund; and it has increased substantially the scope and importance of the annual mid-winter luncheon meetings. The Executive Committee of the Association, under the able leadership of the Honorable Harry Cole, has been meeting regularly at the Law School, and the Association has sponsored two successful reunion programs in the spring and the fall of factors 1977, featuring Professors Russell Reno, John Brumbaugh and John Ester giving their different "Reflections on a Changing Law School." Alumni Day was held on Nevember 22nd. It good returning alumni a chance to visit classrooms in the afternoon, to visit with the Dean before the main program and, following refreshments after the program, to have dinner at the Chambord Restaurant in downtown Baltimore.

Each semester we continue to sponsor the Alumni Seminars. These programs are informal sessions in which prominent alumni talk to students and answer their questions, usually about the nature of their practice. Our speakers have included Charles Fisher on the pleasures of practice in rural Maryland, Sam Cook on the practice of abor law, Larry Rodowsky on large firm practice, Arnold Weiner on defense practice, and Alan Wilner on practice before the Maryland General Assembly. These programs continue a series initially sponsored by the Alumni Association, and they are a pleasant and low-key setting in which alumni are involved in the informal education program of the Law School.

One of the most significant developments of Alumni support for the school is the splendid first year of the Law School Fund. The Fund is an unincorporated, voluntary group of alumni and friends of the Law School, the purpose of which is to conduct an annual giving campaign to raise private funds to be channeled directly to the Law School. In its first year of operation during 1977, the Fund, under the exceptional leadership of Norman Ramsey,

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raised \$22,000 for the school. It was a strong initial effort, and the funds generated a significant impact on the School during these times of a rather stringent State fiscal climate. We hope that the continued growth of the Fund will enable the Law School to improve substantially through alumni support.

Resources

In last year's report I described in some detail the issues raised by the American Bar Association in its reevaluation of accreditation of the Law School. In essence, the A.B.A. focused on the disparity between the resources available to the Law School and our extraordinarily ambitious program. Under prodding by the A.B.A., and with the cooperation of the State, the University has substantially improved the funding of the School over the past few years. More important, the University has recognized that the School requires continued funding to improve its resource base commensurate with other State law schools. Perhaps the most dramatic increase of all has been in the book acquisition budget of our library which now compares favorably to that of any law school in the nation. We are seeking for the coming years some increases in faculty salaries and funding to sustain our program of using part-time faculty in the curriculum. The chief means of funding this improved budget at this time appears to be another tuition increase. The \$500 per semester tuition-day resident students, may be increased to \$600 in 1978-1979. This 20% increase is high, and it is unfortunate that the students may bear the brunt of most of the operating costs increases for the school. We will look increasingly to private support through the Law School Fund for the extra resources which can make the difference between a good State school and an absolutely first-rate place.

This has been a busy year; in fact so busy that the Dean's Report is noticeably, and no doubt blessedly, shorter this year. It has been another satisfying year. I believe it is fair to say there is a sense of momentum at the School — a conviction that we are not only operating a fine program but that we are getting better each year. I am enormously pleased with the quality of Maryland, and satisfied that our instinct for self-criticism bodes well for an even more promising and exciting future for the school.

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