

SCHOOL OF LAW

FYI ___ Autumn 2005 Dean's Letter

Do you remember your first day at Columbia Law? I've heard that some graduates made life-long connections shortly after walking in the door. I've also heard that for others, especially those dealing with their initial exposure to American culture and language, it was a bit of blur at first!

I think all would agree that the first day marks the beginning of an adventure, and I tried to portray it as such in my remarks to the newest members of our community (attached).

Statistically, our new students are off the charts. For the second year in a row, more than half of the class scored in the top one percent on the LSAT. Even our 25th percentile LSAT score is up to 168, a new high for us, which is the 97th percentile – meaning that more than 75% of our entering class scored in the top three percent of all test takers. Our minority enrollment is 36%, the highest since 1999, and 46% of our new students are female.

We've been able to recruit four new faculty members over the summer: Clarisa Long from the University of Virginia is our new Max Mendel Shaye Professor of Intellectual Property Law. Elizabeth Emens, a noteworthy young contracts and family law scholar, has joined us from the University of Chicago. In January 2006, we plan to welcome another I.P. expert, Timothy Wu, from the University of Virginia; and a constitutional law scholar, Philip Hamburger, from the University of Chicago.

Let me also introduce three new deans, all of whom have strong ties to the Law School: Nkonye Iwerebon '93 has been promoted to Dean of Admissions, Michelle Greenberg-Kobrin '99 has come to us from Arnold & Porter as our new Dean of Students,

and Bruno Santonocito joins us from Fordham University as our new Dean of Development and Alumni Relations (Bruno is married to Patricia Perez Santonocito '79).

Please join me in welcoming our new students, faculty, and administrators. I look forward to an exciting year.

Warm regards,

David Schizer

Dean and the Lucy G. Moses

David M. Schize

Professor of Law

Welcoming Remarks to the J.D. Class of 2008

By Dean David Schizer

I want to start with a joke. A man, who has had too much to drink, is sitting in a bar. He has an olive in his glass. He is doing his best to catch the olive with a toothpick. But each time he tries, the toothpick slides off the surface of the olive. As he tries this, again and again, a woman at the other end of the bar is watching with increasing frustration. Finally, she walks over to him, grabs his toothpick, impales the olive on the first try, and says, "there, that's how you do it." Without missing a beat, the drunk says to her, "Sure, after I *exhausted* the olive."

I mention this joke because I am struck by the image of a person trying, unsuccessfully, to catch an olive on a toothpick. The frustration resonates with me. We often work very hard at a task, and feel as if we aren't seeing any progress. Our day-to-day reality is as frustrating as an effort to catch an olive on a toothpick. In your first year of law school, you will feel this way sometimes.

When you feel like you are exhausting the olive – that is, when you experience the familiar challenges and frustrations of the first year – I want you to remember what I am about to tell you. Remember that, by coming to Columbia Law School, you have become part of something greater than yourselves, something greater, indeed, than any one of us. You are part of a movement that is changing the world. I know that this is a strong statement, but it is true.

We live in a unique moment in world history. If you look across time and space, poverty and violence have been the norm for most people. Freedom has been a luxury enjoyed by very few. But today, for the first time, it is becoming realistic to think that everyone, all over the world, can enjoy personal liberty and prosperity under the rule of law. Countries that once were the enemies of democracy and free markets are now embracing these institutions.

I do not mean to overstate the progress so far. It is very difficult to create democratic institutions and to nurture competitive markets. Many societies have failed. There is a great deal of work to be done. But the crucial point, for our purposes today, is that much of this important work is being done by lawyers. Lawyers design and operate the institutions of government. They run the criminal justice system, serve in courts, and help create a tax system and environmental laws.

The same goes for economic institutions. Lawyers ensure that contracts are enforced, competition is fair, and the financial system is functioning. You are a part of this now. In your own way, you will help to change the world.

In case you think I am exaggerating, I want to mention a few graduates whom I met recently in Asia. Let's start by considering the changes in Japan in the last 60 years. The political system has become a vibrant democracy, and economic development has been equally remarkable. Our graduates have played a central role in this transformation.

They include senior government officials, such as Istuo Sonobe, a visiting scholar at Columbia from 1957-59, who served for nearly a decade as a justice on the Supreme Court of Japan. Justice Sonobe participated in some of the most remarkable decisions of the post-war court, including a decision invalidating public donations to a controversial shrine honoring Japan's war dead.

Likewise, our graduates are leaders of Japan's economy and private bar. When Ken Tsunematsu, MCL Class of 1963, Toshiro Nishimura, MCL Class of 1964, and Shuji Yanase, LL.M. Class of 1972, began practicing law in the early 1960s, Japanese companies were accustomed to relying on bank financing, and did not yet know how to raise money in capital markets. There was no securities bar in Japan, and effectively no securities law. So a handful of pioneers, many of them graduates of this Law School, figured out how to do securities offerings. They contributed to the remarkable growth of the Japanese economy in the 1970s and 1980s, and also founded some of the leading law firms in Japan.

I am proud to report that these graduates credit Columbia Law School with changing they way they think about the law and, indeed, with changing their lives. There are similar stories in Taiwan and Korea, where our graduates have helped to shape increasingly sophisticated economic and political institutions.

In mainland China, I was struck by the words of one graduate, Jun Gong, LL.M. Class of 1988, a partner at Junhe, a leading mainland law firm. "It is hard to think of *any* academic program," he said, "that has had the impact of Columbia Law School's Center on Chinese Legal Studies." Professor Randy Edwards began training lawyers from the mainland in 1979, just three years after the Cultural Revolution ended. At that point, mainland China was a command-and-control economy, and the legal system was in disarray.

Today, the economy and legal system are growing, and changing, at a rapid pace. Although the future of the mainland is hard to predict, there is room to hope for greater economic and political freedom in the future. Again, Columbia graduates are at the vanguard of these changes. Many are law professors, training new generations of lawyers. Our graduates also serve as public interest lawyers and judges (including on the highest court), as well as corporate counselors and financiers.

Indeed, just before I left for China, the *New York Times* ran a story on the front page of its business section entitled "The New Power Brokers," which described four leading investment bankers on the mainland. Two of the four are Columbia Law School graduates – Wei Sun Christianson, J.D. Class of 1989, of Citigroup and Charles Li, J.D. Class of 1991, of J.P. Morgan.

Although I have focused on Asia, Columbia Law School graduates have had a profound influence all over the world, including, of course, here in the United States. To prove this point, I will mention three Columbians, selected based on a very sophisticated criterion: each of them is named Teddy.

One hundred years ago, the President of the United States was Teddy Roosevelt. Enrolled in the Class of 1883, he later won the Nobel Peace Prize and was a pioneering environmentalist and trust-buster. This Teddy is a bit different from the other two because, like his cousin Franklin Delano Roosevelt, who enrolled in the Class of 1908, he studied here but never graduated. (So if you decide not to finish your studies here, you are in good company.) The second Teddy, Ted Forstmann, Class of 1965, founded one of the first and most successful leveraged buy-out companies. The third, Ted Shaw, Class of 1979, is a leading civil rights lawyer who runs the NAACP Legal Defense Fund.

You follow in very impressive footsteps, and we expect great things from you too. Our goal here is to prepare you for important work. To do this, we are going to change the way you think. You will see many changes but, in the time I have left, I want to highlight three of them.

First, if you think it will be easier to make decisions once you have legal training, think again. On the contrary, if you are like me, you will start to see complexities that you had not appreciated before. As an example, consider the American Civil War. Although one can admire the military abilities of the Confederacy, I suspect that few of us would question the appeal of the Union cause. The virtues of eliminating slavery in the Confederacy are obvious and fundamental. The desirability of keeping the United States together as one nation – and sparing North America the costs of having rival powers in perpetual conflict – has also been very valuable.

Since the Union cause was compelling, do you agree, then, with Abraham Lincoln's decision to suspend the right of Habeas Corpus? This means that he claimed the power to imprison his political opponents indefinitely, without trial. Indeed, when the leader of the Democratic Party in Ohio, Clement Vallandigham, began criticizing Lincoln in 1863, he was locked up and eventually exiled to the Confederacy.

Before you judge Lincoln too harshly, remember his reasons. At the time, the Union war effort was a string of disasters – each worse than the last – and Lincoln's popularity was plummeting. If he was defeated for reelection in 1864, he expected his opponent to abandon the war effort.

Well, it may be that Lincoln misjudged the importance of these dissenters. If the war effort was safe without suspending the Writ, then Lincoln was clearly wrong. He should not have departed so starkly from this nation's tradition of civil liberties.

But let's assume that Lincoln was actually correct in identifying this tradeoff; after all, he didn't have benefit of hindsight in making this decision. Let's say that suspending the Writ actually was extremely important to the war effort. On this assumption, we can't avoid the hard question. Was slavery worth ending, and was the Union worth preserving, at this cost to civil liberties?

I will not try to answer this question today, but if you see echoes of contemporary issues in Lincoln's dilemma, the echoes are intentional. Sometimes, there are tradeoffs

between civil liberties and other compelling values, such as national security. Our job, as lawyers, is to help manage these tradeoffs. Sometimes this job is very difficult.

This brings me to my second point, which is really a refinement of the first. This Law School will train you in the importance of institutional considerations, such as process. It is not enough to know what the right outcome is. You also need to think through how to get there. If you can't get there the right way, what are the costs of taking a short cut? In addition, it is important not only *what* the decision will be, but *who* will make it. For example, should Lincoln have made this decision by himself, or did he need Congressional approval? In any event, even if a decision seems right in isolation, lawyers have to ask about implications for other situations. Was Lincoln setting a precedent that others would follow in less compelling circumstances? How could this risk be minimized?

None of these questions is easy, so, to borrow a cliché, reasonable minds can disagree. In my experience, this is often true of the hardest and most interesting issues – that is, the very issues that are likely to preoccupy lawyers, like you, who will spend your careers at the profession's cutting edge. To my mind, there is a profound implication here, and it is the third benefit of a Columbia education that is worth emphasizing today: You should be respectful of those who disagree with you.

Do not make disagreements personal. Don't raise your voice or question the other side's integrity, except in extreme circumstances. Otherwise, you will raise your blood pressure unnecessarily and, more importantly, you will cut yourself off from people who might otherwise be your allies on other issues.

Also, by listening very carefully to the other side's argument – by really understanding it – you give yourself the best chance of offering a persuasive counterargument. And, of course, there is always the chance that *your* mind may change. In short, a collegial mindset will make you a better advocate and a more thoughtful decision-maker.

In the next three years, we will teach you all of this, and more. You will receive the finest legal education in the world. You will take classes that are interdisciplinary, theoretically rigorous, and practical. You will study with a faculty that is committed to our teaching mission. I am very proud of what you will learn here, and I am very proud of all of you. Welcome to this great Law School, and good luck. You have an exciting adventure ahead of you.

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