

'What Do You Say When You're Number One?'

A Short Essay on the Real Thing

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A selective survey of law deans in May of 1990 placed the University of Wisconsin second on a list of top U.S. law schools. More on this in a minute. Although Harvard surprisingly did not make the list, it did earn an "up and coming" notation for the recent campaign by some faculty and students to get more diversity in its hirings. "Harvard became great in the 19th century, stumbled through most of the 20th, and may rise again after A.D. 2000." Hawaii Law School also got an "up and coming" approval for overcoming its shaky start, and for "developing excellent programs on the Pacific outer rim." This was a remarkably astute assessment of the law school world.

Would I be mentioning all of this if Wisconsin had done badly in the poll? Of course not. The grimace of glory, however, should be suitably restrained. When U.S. News & World Report prominently included us three years ago in the top 20, newspapers around the region quoted me as agreeing with the ABA and AALS officials who denounce these polls because they are of little value and are likely to mislead the public. One of my Regents wrote me a one-liner: "What would you have said if the poll had ranked Wisconsin number one?" I replied, "They finally got it right!" Whatever the rank, one prefers inclusion to exclusion on a list, however idiosyncratic or idiotic it otherwise appears.

Why did we do so well? How did we get second place? The methodology of the poll helped a lot. More on this in a moment. First, I'll quote from the poll's report: "The University of Wisconsin Law School is a consumer's 'best buy' where traditional analytical and clinical training merge with interdisciplinary and law-in-action programs which are internationally renowned. It has fended off raids on its faculty by other leading law schools, while simultaneously receiving an award in 1989 from the Society of American Law Teachers for increasing the diversity of its faculty. Traditionally beset by relatively modest budgets, it has recently had substantial state increases for faculty salaries and its library, and private annual giving has increased fivefold."

Revelation time. Perhaps you've guessed by now that the "selective survey of law deans" consisted solely of me. Why not? The methodology and reasons are more clearly revealed in my summary than in other lists. Oh yes, I should add that we were second rather than first

because I adjusted us downward on the scientific possibility that I might be biased. Usually, the lists do not give any reasons or reveal methods, or if they do, it is quickly seen that unreliable data is used for judging peculiar criteria; the process is hauntingly similar to how some military planners calculated on the basis of dead body counts that we were winning the war in Vietnam.

My reflections on these matters arose because in March of 1990, U.S. News & World Report issued a press release which included the University of Wisconsin Law School on a list of 25 top schools, in which we ranked 20th for academic reputation. When the magazine appeared a week later, we had been dropped from the list! What happened? They had not changed our academic ranking, but our overall rank, which depended 75% on material and non-reputational factors, had been recalculated downward because the starting salaries of new graduates were lower than originally thought. This is really interesting. Set aside the fact that salary data is what schools choose to report, or that starting salaries all over the country were compared without adjustment for cost of living differences. The most startling fact is that a school which has more students going into the relatively lower paying public service jobs had a proportionally lower chance to be considered "top!" One aspect of the long tradition of the "Wisconsin Idea" is that many of our graduates pursue careers in the public service, and we remain quite certain that this is one of our continuing strengths and glories.

There are 175 law schools accredited by the ABA, which applies tough minimal standards for its approval. I'm sure these schools are like the people in the land of Lake Woebegeon: they're all above average! And at least 50 of them are sure they are in the top 10. No one can stop publications from ranking law schools. In the same period (this calendar year) when USNWR thought starting salaries were so important, the Chicago Sun Times (Jan. 28) included us in an unranked list of 18 "often named as top law schools" and the National Law Journal (May 14) included us in an article about "the nation's (20) leading law journals." But if you are worried about incomplete information, or the unreliability of matching it to a definition of "top school" or the impossibility of agreement on that definition, look no further. For a model of unbiased scientific analysis, please begin again the first sentence of this article.