THE PATH TO PUBLIC OFFICE: MEDICINE VERSUS LAW

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> *Medicine is a social science, and politics is nothing else but medicine on a larger scale.*—RUDOLF VIRCHOW. [1, p.46]

A recent article in the *Journal of the American Medical Association* [2] assessed the numbers of physicians in public office during the first and second centuries of American democracy. After careful analysis, it concluded that "Following the commencement of the U.S. Congress, physicians were active members of the legislative branch. However, physicians' membership in Congress has diminished significantly in modern times. The executive and judicial branches of the federal government have recorded only marginal representation by physicians and none during the 20th century" [2]. Specifically, 4.5 percent of those who served in Congress during the first century were physicians, while only 1.1 percent of Congressmen in the second century had medical degrees. A similar decrease was found in the proportion of physician-governors among all governors, and the trends could not be explained by a reduced physician-population ratio in the second century of U.S. democracy.

The decline of physician participation in government is in stark contrast to the extraordinarily high level of participation by members of another prominent American profession: law. From relative obscurity in the early colonial governing bodies (both Massachusetts and Rhode Island prohibited lawyers from serving in their colonial assemblies), lawyers quickly acquired political influence. Alexis de Tocqueville (1805–1859) declared that "the government of democracy is favorable to the

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political power of lawyers" [3, 1:285], and indeed he was correct. The farmers, physicians, soldiers, and businessmen of the infant nation's governing institutions gave way to a marked preponderance of lawyers. Their ascendency was ungraciously forecast by the Frenchman Crèvecoeur, who, not long after independence, described American lawyers as weeds "that will grow in any soil that is cultivated by the hands of others; and when once they have taken root, they will extinguish every other vegetable that grows around them" [4, p. 40].

Grow they did. The majority of congressmen are lawyers. Nearly two-thirds of presidents have been lawyers. Despite the fact that there are no statutory qualifications for serving on the Supreme Court—appointees need not even have a legal background—all the Supreme Court Justices are lawyers (although notably it was not until 1957 that the Court comprised only law school graduates) [5]. There is also a markedly disproportionate representation of lawyers in other high-level positions of the executive branch: a near majority of President Carter's cabinet were lawyers, and within the present administration's cabinet, there are five lawyers.[1]

A law degree is commonly considered a legitimate entrée to virtually any public policy position—it is the union card for those who wish to govern. On top of being an uncontestable qualification for political adventurism, it is becoming, more and more, a prerequisite—so much so that one exasperated author exclaims that the "absence of a law degree is almost as effective a disqualifier for high office as being nonwhite or female" [4, p. 43].

It is easy to speculate why lawyers have achieved their status as the "high priests of American politics" [7]. They are willing to devote time and energy to politics because such service readily enhances their private law careers.[2] They have immediate access to and a monopoly of an entire branch of government, the judicial system, which can be an important route of advancement into other government sectors. Since legislative bodies make laws, an undiscerning public presumes that lawyers are automatically best suited for being legislators.

It is easy, as well, to note probable reasons for the paucity of physicians in government. The demands of medical school, residency training, and practice often preclude outside commitments, and political prominence

[1]Lawyers' long-standing domination of public offices was concisely stated by David R. Derge: "We know . . . that lawyers have accounted for 70% of the Presidents, Vice-Presidents, and cabinet members of the United States between 1877 and 1934, a majority of the members of the United States Senate and the United States House of Representatives, nearly half of the state governors between 1870 and 1950, and about 25% of the American state legislators since 1900. Yet lawyers have never constituted more than .2% of the U. S. labor force" [6].

[2]For further discussion of how political visibility promotes the lawyer's private practice, see J. Alter, "With Friends like These," *Washington Monthly*, pp. 12–22, January 1983.

hardly attracts patients to physicians in the same way that it attracts clients to lawyers. Not uncommonly, doctors and doctors-to-be, absorbed in critical issues of biomedical sciences, patient care, and life and death on the wards, understandably are uninterested in the governing process and are ready with the retort: "If I had wanted to go into politics I would've gone to law school!"

This essay does not attempt to explain why so many lawyers and so few physicians are in government. Rather, this essay examines the relative merits of law school and of medical school as preparations for public office. It seeks to set aside, for the moment, all the varied postgraduate career paths in order to focus on the schooling itself, to see whether indeed there are features of law school that make it intrinsically the best preparation for a role in public policy, or whether, in fact, medical school provides an equally apt foundation.

Each school inculcates a different method of thinking. Studies show that "the ability to think like a lawyer" is overwhelmingly regarded by law students as the most important skill taught in law school [8]. What does it mean to think like a lawyer? One of the purported strengths of the legal mind is the "ability to come to an unfamiliar area, quickly grasp the essentials, then to organize a solution and finally to translate all this to others" [9, p. 107]. Presumably this ability is engendered by the keystone of law school—the case study method: the facts of a specific legal case are presented in sequence, the pertinent segment of the law and appropriate precedents are identified, and the arguments of the two sides in the litigation are examined in light of those precedents and laws. This is a linear process and focuses on single cases, each with unique circumstances.

That linearity, so deductive in nature, can hardly be considered preparatory to the more inductive, integrative reasoning required of, say, a governor deciding on a proposed restructuring of his state's agricultural loan program; the governor must assess the *interrelated* effects of such a decision upon farmers' lives and livelihoods, rural communities, agriculture-related businesses, state revenues, future productivity, and a multitude of other consequences. The lawyer is trained instead to argue for a *single* party, for instance, a grain elevator owner whose business would be affected by the new loan program.

The same linearity of reasoning, accompanied by a heavy reliance upon precedent—that which has already been decided—would also not engender the innovative, forward-looking mind required of the public official planning for the future.

In medical school the integrative process, so vital to the public official, is emphasized instead of the linear, deductive method characteristic of law. When presented with a patient, the student must obtain and analyze

several types of information: the patient's history and symptoms, the physical exam, and a host of laboratory data—chemistries, radiologic studies, microscopy, etc. Within the diagnostic process the student does perform linear, deductive steps similar to those of the lawyer (e.g., the patient has impaired hearing on the left, on Weber test there is lateralization to the left, therefore, the left ear has a conduction defect), but these short linear steps merely contribute to a larger aggregate of findings, some of which may be conflicting, that must be evaluated to arrive at a likely diagnosis.

That evaluation relies on an understanding of the sensitivity and specificity of various tests, which are derived from studies of populations. Thus, although the patient is an individual case with unique circumstances, he must be considered within the context of a population. Likewise for therapeutics: the physician is guided in his choice of treatment by epidemiologic studies of the propensities of populations to respond to that treatment.

In determining the proper therapy for a patient, the physician must carefully weigh many considerations. What is the likelihood of actually curing or helping the patient? What discomfort, risks, or inconvenience accompanies the therapy, and how do they compare to the treatment benefits? What net change in "quality of life" will result? What is the cost of therapy to the patient and to social support systems? What are the psychologic and social consequences of treating or not treating?

After all these questions are taken into account, the physician chooses the mode of therapy he thinks best. This is the converse of the method of the attorney, who assumes a stance and then argues that it is best, constructing his argument ex post facto.

Throughout the patient's course, the physician revises his diagnostic and therapeutic judgments in light of new information, attempting at all times to *integrate* medical knowledge and the changing circumstances of the patient: "The astute clinician never loses sight of the totality of this tapestry of illness, even while seeking to repair the threads that disease mars or destroys" [10, p. 43].

The physician must be attuned not only to the changing conditions of his patients but also to the rapid changes in his profession. In the basic sciences, professors repeatedly emphasize to the students that most of the facts they are learning today were unknown a few years ago and will be refined and supplanted in the near future. Fundamental understanding of such fields as immunology, neurophysiology, and microbiology is growing so fast that the student must necessarily look to the future. This dynamism of medical training is reinforced as the student enters the wards and rapidly sees new procedures, new imaging techniques, and new pharmacologic agents. Far from being saddled with the past—with

precedent—the physician is always looking for new diagnostic or therapeutic approaches, either from his own research, from other physicians, or from the ever-sprouting medical literature.

Treating the body, therefore, is much like treating the body politic. The congressman or governor must also diagnose the problems of the people he serves and carefully weigh many variables and conflicting interests in deciding upon a course of action appropriate to, and efficacious for, that population, continually reassessing his decisions as their consequences become apparent, and always looking to make improvements in the future. This is a far cry from the legal system, described by one New York City lawyer as "a very mischievous system designed not to achieve but to frustrate the truth. Each side pulls out the facts that help and ignores those that don't. Out of that come confusion and distortion, and the cleverer guy wins" [11, pp. 58–59].

On the road to "thinking like a lawyer," the student must adopt the adversarial mode of the U.S. legal system and learn *advocacy:* to pick or be assigned a stance and argue for it as zealously as possible, expounding those points that support that stance and discarding points or evidence that assails it. The most favorable result of this instruction is that it "renders men acute, inquisitive, dexterous, prompt in attack, ready in defense, full of resources . . ." [9, p. 107]. More explicitly, however, this advocacy posture requires the suspension of any concerns other than the client's best interests. Truth, distinctions between right and wrong, and the larger values of society must be subordinated to the client's interests; in arguing a court case, the lawyer must remove himself from the ethical norms of the society and follow any and all legally prescribed avenues toward winning the case.

In *The Bramble Bush,* a collection of lectures to law students, Karl Llewellyn depicts the first-year student's harsh introduction to this lawyer's posture:

> The hardest job of the first year is to lop off your common sense, to knock your ethics into temporary anesthesia. Your view of social policy, your sense of justice—to knock these out of you along with woozy thinking, along with ideas all fuzzed along their edges. You are to acquire ability to think precisely, to analyze coldly, to work within a body of materials that is given, to see, and see only, and manipulate, the machinery of the law. [12, p. 101]

This unsavory suspension of societal values for the sake of undeterred advocacy is not an attitude inadvertently acquired by lawyers; it is a prerequisite of the adversarial legal system. Necessary it may be, but it has led to many a lawyer's disillusionment. Says one criminal defense lawyer: "I believe people who commit crimes ought to go to prison and here I was, trying to keep them out" [13, p. 31].

How contrary this adversarial disposition seems to the function of the public officeholder! Granted, mentalities such as "The best way to solve

problems is to collide with your opponent. . . . You demolish your opponent in order to win" [13] may expedite *getting into* public office, but must not the policymaker—president, legislator, or cabinet member—consider reasoned arguments from constituents on many sides of an issue, directing and arbitrating at the same time, all within the moral and ethical framework of the society?[3]

During medical training one is elbow-to-elbow with ethical issues, and physicians' decisions are often colored by moral and ethical concerns. Medical ethics is a common feature of the medical school curriculum, either as a distinct course or incorporated into other courses. Students are asked to contemplate and discuss critical ethical problems: What should be the limits to extraordinary means of life support? How should scarce or expensive resources like transplant kidneys and renal dialysis be allocated? To what extremes should we go in sustaining the grossly premature infant? Who should or should not receive pneumococcal vaccine? What new reproductive techniques are permissible? The student then faces these issues on the wards; it is not uncommon for a student in the intensive care unit to participate in an attending's delicate discussion of Do Not Resuscitate orders with a patient's family.

Not only does medicine deal daily with ethical questions—it is medicine itself which has stimulated renewed philosophical investigation of ethics. The author of a recent article in this journal concludes that the real-life dilemmas posed by medicine prompted *practical reasoning* in ethics. "During the last 20 years medicine has 'saved the life of ethics,' " the article states, and "it has given back to ethics a seriousness and human relevance which it had seemed . . . to have lost for good" [14, p. 750].

One measure of a society's progress is the condition of its poorest members, and government policy is often directed toward ameliorating the plight of socioeconomically depressed segments of the population. Thus the policymaker should be well acquainted with the impoverished among his constituency.

Is contact with the economically disadvantaged a feature of law school? To a limited extent, yes. Many law schools have small, free clinics for the poor, in which students can participate voluntarily. A handful of schools have very active legal assistance programs, and in some of these schools the clinics are a required part of the curriculum. Overall, however, only a small minority of law students have significant contact with the poor in the course of their schooling. Summers are typically not spent volunteering at Legal Aid but working for a generous salary

[3]One must wonder, in fact, how lawyers make the sharp turn from advocates to judgeship. The lack of emphasis on arbitration in law school has been noted, and there is sentiment that this should be changed [8].

(sometimes imperative to the indebted student) at a large firm, serving corporate clients. Rather than instilling concern for those at the lower end of society, some studies of legal education indicate that law school moves students *away* from the conception of the lawyer as a facilitator of societal interests, remedying societal ills [15].

In most medical schools, however, there is mandatory contact with the destitute. A large part of the patient population at most teaching hospitals is indigent, and in fact many of the older teaching hospitals were first established to treat the sick poor. More than a quarter of the university medical centers in the United States "sit squarely in the midst of the largest, most troubled decaying inner cities" [16, p. 940].

The great majority of medical students have extensive contact with poor patients on the "public floors" during medicine, surgery, or ob/gyn rotations, in walk-in clinics, or in the emergency room. Some of the students may in the end be repelled by the clinical manifestations of poverty, but at least they *see* and *deal with* the chronic alcoholic from the surrounding slum; they take care of the demented grandmother abandoned on the street; they help treat, in the emergency room, the attempted suicides, the heroin addict's gunshot wounds, and the laid-off warehouseman scalded by a hysterical spouse. Poverty is in many ways directly reflected by the types of diseases the student encounters in this economically depressed patient population. In the recent recession, for example, greater numbers of tuberculosis cases, more poisonings with lead-based paints, and an increase in infant mortality have been noted in urban areas [17]. Thus the medical student is in a unique position to observe social ills and the consequences of poverty. It is a position that responsible presidents, senators, and congressmen should envy.

Even if it is acknowledged that a medical education exposes one to the economic shortcomings of society, many people would argue that the long hours spent in the hospital sequester the student from the rest of the "real world"; they would argue that the medical student is ill prepared for a role in public policy because his immersion in medical studies blinds him to the activities of business and government and prevents him from acquiring a practical knowledge of the world at large. These people would presume that the law student, studying cases of "real world" disputes, learning the laws that govern business, and working for a corporation in the summer, is better versed in the operations of some of the nation's businesses and industries, and therefore is a more capable policymaker in America, since "America's business is business."

For better or for worse, medicine is big business. The industry of medicine and health care now accounts for 10 percent of the nation's gross national product. Medical school teaches the student, in detail, the fundamentals on which that entire "medical-industrial complex" is built, and around which it continues to grow. Can other paths of preparation

for public office—law school included—claim an intimate acquaintance with such a large chunk of the nation's economy?

Also, much of the material the medical student spends so many months studying in basic sciences will soon impinge on the "real world" with stunning magnitude: recombinant DNA techniques and new cell-culturing methods will open the door not only to new sources of pharmacologic agents and vaccines but also to the genetic manipulation of plants for increased crop yields, to the mass production of valuable nutrients and industrial enzymes, and even to bacterial production of fuels. These new biotechnologies have their roots in the same biochemistry, microbiology, immunology, virology, and cellular biology the medical student has been so thoroughly immersed in, and indeed much of the research on which these biotechnologies are founded was, and is, being done at academic medical centers. Thus the medical student has a firm grasp of innovations that are emerging as potent economic factors—factors which are beginning to interest the businessman, and which soon will be of great significance to those who govern.

The argument that medical education sequesters the student away from the "real world" is further mitigated when one considers that more and more of the problems of the "real world" are being placed by society under the purview of medicine. Many issues formerly regarded as purely social problems are being "medicalized": drug addiction, alcoholism, certain criminal and violent behaviors, marital difficulties, child abuse, sexual identity problems, mental and physical disabilities, and gambling [18]. Even lawyers are marching to the medical center (and not just with medical malpractice suits), as occupational health litigation on, for example, asbestosis or black lung continues to burgeon, and the fates of sued corporations hang on the radiologist's viewing panel.

Thus far in this essay, several aspects of medical education have been pointed out that would be valuable to a governing official: the integrative thought process, the study of populations through epidemiology, the constant regard for ethical contexts, the active pursuit of future improvements, the personal acquaintance with the ills of poverty, the knowledge of the foundations of large sectors of the economy, and the extensive contact with the many societal issues that have now been "medicalized." Two other advantages should be noted, particularly since they do not have direct counterparts in law school.

One is that medical school provides an unparalleled view of human behavior, its frailties and its astounding potentials. The physician and medical student are brought into the confidence of their patients and are granted insights into the emotional travails of the unfortunate banker stricken by a neurodegenerative disease or into the steadfastness of the mother confronting chemotherapy for cancer. Not only does the student formally study psychiatry and behavior, he also has, in each patient he

cares for, a personality case study, and each one of them enriches his understanding of human thoughts and actions. Sir Arthur Conan Doyle, the physician who created Sherlock Holmes, had this in mind when he stated that "a medical training was a most valuable possession for a man, even if he did not afterwards engage in practice. After a medical education all work in life, if done in the right spirit, became far more easy" [19, p. 1066]. The human insights abounding in medical education also prompted the author William Somerset Maugham, who studied medicine, to assert, "I do not know a better training for a writer than to spend some years in the medical profession" [20, p. 45].

Some authors have decried the deficiencies of many public leaders in understanding the "human factors" inherent to governing. Those authors emphasize how unfortunate it is that "Statesmen are rarely trained in psychiatry, psychology or anthropology and have no special claims to any acquired skill in evaluating individual behavior and personality" [21, p. 185]. Such training is an *integral* part of medical education.

The second of these two advantages of medical school is that, throughout many of the clinical clerkships, the medical student must work in the hospital for long hours, often under stress and without sleep. While on call the student must maintain composure in the face of demanding patients, bloods to be drawn, IVs to be started, and an impending case presentation to the chief of medicine the next morning. He must also be level-headed in an emergency (even though it may have abruptly roused him from sleep) and carefully, deliberately assist the resident in, say, performing cardiac compressions and defibrillation during a cardiac arrest.

There is an obvious analogy between this experience and the performance demanded of a government leader in a time of crisis, in which instead of one life, many lives may be at stake: he must think clearly and act decisively, under stress, perhaps without sleep. Indeed, the public leader in a crisis can take direction from Osler's admonition to medical students: they must maintain *imperturbability*, a "coolness and presence of mind under all circumstances, calmness amid storm, clearness of judgment in moments of grave peril . . ." [22]. There are, on the other hand, no night calls or cardiac arrests in law school.

In conclusion, there are many reasons to regard medical school as equal to if not better than law school as a preparation for public office and the responsibilities of governing. Based on schooling alone, it is difficult to justify the popular consensus that "the attorney is the accepted agent of all politically effective groups of the American people" [23, p. 557].

It is also difficult to accept the fact that there are so few medically trained people leading our political and governmental institutions, when their schooling is so appropriate for these roles. In history we find sev-

eral examples of medical men who served eminently as leaders and statesmen: Jean-Paul Marat, one of the four leaders of the French Revolution; Sun Yat-sen, the father of modern China; Prime Minister Georges Clemenceau, the "Tiger of France," who led his country to victory in World War I and was the chief architect of the Treaty of Versailles. Today in America, to the society's detriment, there are but few who apply their enormously valuable medical education to the intensely challenging and important tasks of political and governmental leadership.

There should be more physicians who aspire to elected or appointed roles in public office.

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