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THE JOHN M. OLIN FELLOWSHIP PROGRAM IN LAW AND ECONOMICS

Louis De Alessi[†]

The John M. Olin Fellowship Program in Law and Economics was designed to train economists as lawyers. The expectation was that at least some graduates would gravitate toward teaching and research in the field. The addition of more fully trained academics would thereby improve the quality of legal debate and court decisions as well as our understanding of the economic consequences of alternative laws. The observation that Henry Butler and Fred McChesney, two of the three organizers of this splendid Symposium, were Olin Fellows suggests that the program was successful. To capture the full flavor of the program, I will ease into my comments by tracing some of the events leading to its birth and evolution.

I. PRECURSORS OF THE OLIN FELLOWSHIP PROGRAM

By the summer of 1966, Manne, then at George Washington University (hereinafter GW), was ready to salt the curriculum of his Law School with a modest program in law and economics. To this end, he searched for a lawyer-economist or just plain economist to join him on the faculty. Gordon Tullock tossed my name into the pot, Manne and I met, and we hit it off. At that time I was a visiting scholar at the Institute for Defense Analyses in Washington, D.C., while on leave from the Economics Department at Duke University. Thus, Manne and I had ample opportunity to meet and discuss topics in law and economics in addition to prospects at GW.

Manne's plan was straightforward. I would offer an introductory course in economics tailored for law students and he would upgrade the economics content of his courses. In addition, we would find something interesting to teach jointly.

In the fall of 1967 I was back at Duke and Manne was nailing down the administrative details of my offer from GW, which entailed an appointment in the Department of Economics with release time to the Law School. Concurrently, Manne was exploring his own move to the University of Rochester, where Allen Wallis wanted him to establish and become the dean of a new type of law school with a

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strong component in law and economics. Manne kept me informed of progress on both fronts. By the time I had to decide whether to go to GW, I knew that Manne was migrating to Rochester and that, without him, GW's program in law and economics was doomed. Although GW became a lot less attractive, Duke was enmeshed in internal squabbling and I missed sailing on the Chesapeake. I went to GW.

During the summer of 1968, Manne and I overlapped in Washington D.C., providing more opportunities to talk about law, economics, and especially about Manne's plans for the law school at Rochester. Manne argued that students acquired most of their legal education during their first year, the second and third years being largely a device to limit entry into the profession. To train better lawyers within the constraints imposed by accreditation agencies, Manne's law school would require students to take the standard program during the first year and then allocate the bulk of the next two years to specializing in one of a half-dozen fields, including patents as well as law and economics. The faculty teaching these specialized courses would have Ph.D.s in their respective fields, such as economics, and would be housed in their own departments within the law school.

Over the following years, I commiserated with Manne as the plans for the law school slowly faded and cheered as his project for a law and economics center took shape. After considering various locations, in August 1974 Manne opened the Law & Economics Center (hereinafter LEC) at the University of Miami (hereinafter UM), where Jim Mofsky had been busy paving the way. Jim, then a young UM law professor, completed his J.D. at GW under Manne's supervision, and had tried ever since to bring him—and law and economics—to Miami.

Manne hit the ground running. During the first year, LEC offered two Liberty Fund conferences and three Economics Institutes, including the fifth Economics Institute for Law Professors carried over from Rochester. Moreover, Manne's fund raising efforts with Roger Leroy Miller, a University of Chicago Ph.D. in economics who had earlier joined him at LEC, were successful beyond their most optimistic projections. Within a few months, Manne was ready to implement more activities, including the John M. Olin Fellowship Program in Law and Economics.

II. THE JOHN M. OLIN FELLOWSHIP PROGRAM IN LAW AND ECONOMICS

Manne immediately revealed his good taste by staffing the program with three UCLA Ph.D.s in economics: Ken Clarkson and Don Martin, both lured from the University of Virginia, and myself. The three of us were to offer specialized courses in law and economics

while Jim Mofsky and I coordinated the program. Manne also succeeded in attracting Fred McChesney and Roger Meiners, two of the program's most successful graduates, as the first Olin Fellows.

Manne's staffing efforts were less successful with law professors. Part of the problem was that they, unlike the economists who were full-time within the Center, were recruited jointly with the law school whose faculty and Dean could be difficult. Although in time Tim Muris, Keith Rosenn, and David Ladd joined the staff, during the early years George Priest and Warren Schwartz, among others, resisted UM's blandishments.

During the fall of 1975, the LEC picked up steam. On the Olin front, Clarkson, Martin, and I gained a better understanding of the program by attending two first-year law classes, Torts and Civil Procedure. With Manne peering over our shoulders, we also started the Law and Economics Workshop, worked out the details of the curriculum, designed the specialized courses and seminars in law and economics, had them approved by the law school, and began recruiting the next class of Fellows.

According to the original brochure, the Olin Program "prepares Fellows for scholarly research, teaching, legal practice, or government work in the various fields of Law and Economics . . . and is designed for highly motivated individuals with a strong graduate foundation in micro-economics."¹ We sought four or five people annually who had, or were finishing, their Ph.D.s in economics and we actively encouraged the latter to complete the degree requirements, typically the dissertation, during the fellowship period. We certainly hoped that graduates would gravitate toward legal teaching and research.

The Olin Program was as close as Manne could get to the law and economics component of his ideal law school. Indeed, in at least one respect it was better: Fellows came with a far stronger background in economics than a law school could provide. Following Manne's blueprint, Fellows spent the first year taking the standard set of required law school courses. In addition, they attended a weekly Law and Economics Workshop.

During the second and third year, Fellows allocated about half of their curriculum to courses, seminars, workshops, and tutorials in law and economics offered by LEC's teaching staff. The faculty included a stream of outstanding visitors, typically law professors, who came for periods varying from a few weeks to a year and offered short as well as regular courses. Warren Schwartz was one of the early visitors who helped get the program underway.

¹ LAW AND ECONOMICS CENTER OF THE UNIVERSITY OF MIAMI, THE JOHN M. OLIN FELLOWSHIP PROGRAM IN LAW AND ECONOMICS 1.

The program was very successful in recruiting candidates with the desired qualifications. Over the six-year period from 1975 through 1980, when the program moved to Emory University, we recruited twenty-six Fellows (twenty-seven, including a Fellow from Montana who melted away in Miami's heat shortly after he arrived). Of these twenty-six, eight had Ph.D.s in economics, fifteen had passed the preliminary examinations for the Ph.D.—several completed the requirements for the Ph.D. during the Fellowship period—two had masters, and one a bachelor's degree. Possibly reflecting Jim Buchanan's influence, five Fellows came from the University of Virginia and four from Virginia Polytechnic Institute and State University. Two each came from the University of Chicago and the University of Michigan, and one each from various academic institutions including Claremont, Columbia, Rice, Rochester, UCLA, and Yale. All twenty-one Fellows who began their legal education at UM—the five recruited in the last cycle transferred to Emory—completed the program; a substantial number made law review and graduated in the top ten-percent of their law school classes. At least six eventually gravitated into academic positions; the bulk of the remainder joined law firms.

The program was also quite successful in furthering the development of law and economics. Perhaps the most obvious contributions are those to teaching and research. Looking at its graduates, the Miami years helped produce David Baumer, Henry Butler, Fred McChesney, Roger Meiners, and Bob Staaf. The span of their professional work—teaching, participation at professional meetings, publications, etc.—includes corporation law, environmental law, common law, antitrust, and government regulation of business. The Olin Program, however, also re-oriented the teaching and research interests of the faculty to topics more closely identified with law and economics. For example, Clarkson, Martin, Miller, and I all published papers stimulated by Olin courses and workshops; about twenty of my publications, several co-authored with Bob Staaf, can be traced directly to the program's influence. On the basis of publications alone, the program established an enviable record.

Less visible and quantifiable are the contributions of the Fellows who went into law practice. Although several former Fellows specialized in fields where they could apply their training in law and economics, I have no evidence regarding their impact on the welfare of their clients, the level of legal debate, or the quality of court decisions.

The Olin Program, however, also made a substantial contribution through the Law and Economics Workshop, which encouraged research and helped develop an intellectual community in law and economics.

III. THE OLIN PROGRAM'S LAW AND ECONOMICS WORKSHOP

The workshop was the core of the Olin Program. It exposed Fellows to interesting research topics, kept first-year students in touch with economics during their initial immersion in law school, gave those working on dissertations or research papers an opportunity to obtain criticism, and nurtured a strong feeling of camaraderie. Moreover, it forced Fellows to sharpen their thinking and articulate their ideas in a scholarly atmosphere of give and take involving not only colleagues and staff but also visiting scholars, who brought different perspectives and techniques to the debate.

The workshop performed a comparable function for LEC's faculty. Indeed, workshop papers and discussions stimulated several faculty publications.

The special contribution of the workshop, however, was to provide a thread connecting all those doing or considering research in law and economics. Whether Clarkson, Martin, or I were running the seminar, the criteria were the same: We sought scholars who were advancing the economic analysis of legal issues at either the theoretical or empirical level, with emphasis on the latter; we were particularly interested in practical applications of microeconomic theory. Although some of the speakers were well-established academicians, many were at the beginning of their careers, often at academic institutions with little tradition or interest in law and economics. They were delighted and encouraged to find an audience eager to listen to their ideas and offer useful criticisms. Over the six-year period, more than 100 scholars in law and economics passed through the workshop; some of their papers were better for it.

The high quality of speakers and discussion attracted a lively audience, making additional converts to law and economics. By 1976, when the workshop reached its peak, participants typically included a dozen Fellows; about eight LEC academics, including Peter Aranson and John Moore; a couple of visiting scholars; half a dozen colleagues, mostly young faculty members, from UM's School of Law; and several others, including some outside the academic community, interested in the particular topic.

I did not monitor the Olin Program after it moved to Emory University. My understanding, however, is that it enjoyed comparable success under Henry Manne's guidance.

IV. CONCLUSION

The John M. Olin Fellowship Program filled an important niche at a time when scholarship in law and economics was in its infancy. How important it is difficult to tell—Manne's concurrent economic institutes for lawyers, law institutes for economists, Liberty Fund con-

ferences, research projects, and other activities all furthered the development of the field as an academic discipline. The synergy between the Olin Program and other LEC activities, however, contributed to the success of the individual programs and of Henry Manne's efforts to foster law and economics.