
The Making of a Public Profession

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BOOK REVIEW

THE MAKING OF A PUBLIC PROFESSION by Frances Kahn Zemans and Victor G. Rosenblum. Chicago, Illinois: American Bar Foundation, 1981. Pp. 247. \$12.00.

*Cynthia Kelly**

My proposition is that the aim of the law school, at any rate, of this law school, is not to train lawyers, but to educate men for becoming lawyers.

PHIL NEAL¹

Not rules, but doing, is what we seek to train men for. Rules our men need. . . . But the thing remains the doing.

KARL LLEWELLYN²

Most debates about the purpose of legal education have concerned whether legal training should emphasize a theoretical or a practical approach. In designing the case study method at Harvard in 1870, for instance, Christopher Columbus Langdell was responding to deficiencies in the apprentice system which stressed practical experience, but provided no systematic training.³ Conversely, the movement for Legal Realism in the 1920's was a reaction against the limitations of the case method, which realists believed did not provide students with an adequate understanding of the broader social forces that influenced judicial decision-making and legislative processes.⁴ In recent years, however, a disenchantment with both the aims and methods of the existing law school curriculum has produced an expansion of clinical legal education programs. Prompted by the establishment of the Council on Legal Education for Professional Responsibility (C.L.E.P.R.) in 1967, clinical education has attempted not only to provide students with a broad range of practical legal skills, but to imbue law students with a sense of professional responsibility while concurrently providing legal services to the poor.⁵

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1. Neal, *The Functions of a Law School*, 15 U. CHI. L. SCH. RECORD 6 (1967).

2. Llewellyn, *On What is Wrong With So-Called Legal Education*, 35 COLUM. L. REV. 651, 654 (1935).

3. For a historical perspective of the law school curriculum, see A. REED, TRAINING FOR THE PUBLIC PROFESSION OF LAW (1921); Frank, *Why Not a Clinical-Lawyer School?*, 81 U. PA. L. REV. 907 (1933).

4. Lasswell & McDougal, *Legal Education and Public Policy: Professional Training in the Public Interest*, 52 YALE L.J. 203 (1943).

5. See Grossman, *Clinical Legal Education: History and Diagnosis*, 26 J. LEGAL EDUC. 162, 172-78 (1974); *Guidelines for Clinical Legal Education*, Report of the Association of American Law Schools, American Bar Association Committee on Guidelines for Clinical Legal Education (1980).

The publication of *The Making of a Public Profession*⁶ will intensify the on-going debate between "academics" and "practitioners" regarding what law schools should teach and how they should teach it. This book presents the results of the authors' study of practicing lawyers' attitudes about legal education.⁷ The authors conducted their study by mailing a questionnaire to a random sample of practicing Chicago attorneys. Each questionnaire sought information about the following topics: the law school experience (what factors influenced the decision to attend, the goals of the law school attended, the relevance of the curriculum); career development (substantive areas of practice, professional goals); knowledge and skills important to the practice of law; legal ethics and professional responsibility; and attitudes toward socio-legal issues (for example, government funding of legal aid programs). The authors also collected personal background information on each attorney surveyed.⁸

Using these data, the authors have provided the most comprehensive description to date about what being a lawyer is, and how lawyers evaluate their law schools' efforts to prepare them for practice.⁹ Also included is extensive information about the reasons people are attracted to a legal career and the role of the law school in the socialization process.¹⁰ In addition, the authors present a descriptive portrait of an urban bar, including the areas of practice and the stability of legal careers in various areas of practice.¹¹ The factors that contribute to a lawyer's prestige within the profession also are evaluated.¹² A final concern examined by the authors involves the

6. F. ZEMANS & V. ROSENBLUM, *THE MAKING OF A PUBLIC PROFESSION* (1981) [hereinafter cited as ZEMANS & ROSENBLUM].

7. This study is part of an extensive research program on legal education begun by the American Bar Foundation in 1974. For a description of additional studies about the nature of legal education and the professionalization process, see O. MARU, *RESEARCH ON THE LEGAL PROFESSION: A REVIEW OF WORK DONE* (1972) and V. PEDERSON, *A SELECT BIBLIOGRAPHY OF AMERICAN BAR FOUNDATION RESEARCH* (1976).

8. This information included class standing in law school and the number of lawyers in the family. The data were collected from August 1, 1975 to February 1, 1976; 548 of the 825 practitioners randomly selected from 1974-75 SULLIVAN'S LAW DIRECTORY responded to the authors' survey.

9. Numerous studies have concluded that more practical courses, dealing with lawyering skills such as interviewing and counseling, should be added to the law school curriculum. See Baird, *A Survey of the Relevance of Legal Training to Law School Graduates*, 29 J. LEGAL EDUC. 264 (1978) [hereinafter cited as Baird]; Benthall-Nietzel, *An Empirical Investigation of the Relationship Between Lawyering Skills and Legal Education*, 63 KY. L.J. 373 (1975) [hereinafter cited as Benthall-Nietzel]; Dunn, *Legal Education and the Attitudes of Practicing Attorneys*, 22 J. LEGAL EDUC. 220 (1969) [hereinafter cited as Dunn]; Schwartz, *The Relative Importance of Skills Used By Attorneys*, 3 GOLDEN GATE 321 (1973) [hereinafter cited as Schwartz]; Stern, *Retrospection: What Recent Law School Graduates Think of Their Education*, 17 STUDENT L.J. 27 (June, 1972) [hereinafter cited as Stern]; Stevens, *Law Schools and Law Students*, 59 VA. L. REV. 551 (1973) [hereinafter cited as Stevens]. A summary of the knowledge and skills identified as important by the law students or lawyers questioned in each of these studies appears in the APPENDIX following this Book Review.

10. ZEMANS & ROSENBLUM, *supra* note 6, at 27-63.

11. *Id.* at 65-90.

12. *Id.* at 91-122.

role of the law school in the development of professional responsibility.¹³

A major area examined by the authors concerns the effectiveness of a formal law school education in developing legal skills. First, respondents were asked to rank selected skills and areas of knowledge by their relative importance to the practice of law. Among the skills considered to be most important by practicing lawyers are the ability to gather facts and apply them to relevant concepts, to instill in others a belief in the lawyer's competency, and to use oral communication skills effectively. Accounting skills, knowledge of the social sciences, or the ability to write briefs or opinions were viewed as being the least important skills.¹⁴ The authors performed a correlation analysis on these results to determine whether the rankings of these skill and knowledge items were randomly distributed among lawyers; interestingly, the authors found that they were not. Rather, various competencies clustered with respect to their importance to the practice of law; the analytical skills and the interpersonal skills tended to be grouped separately. These findings are reproduced on page 668.¹⁵

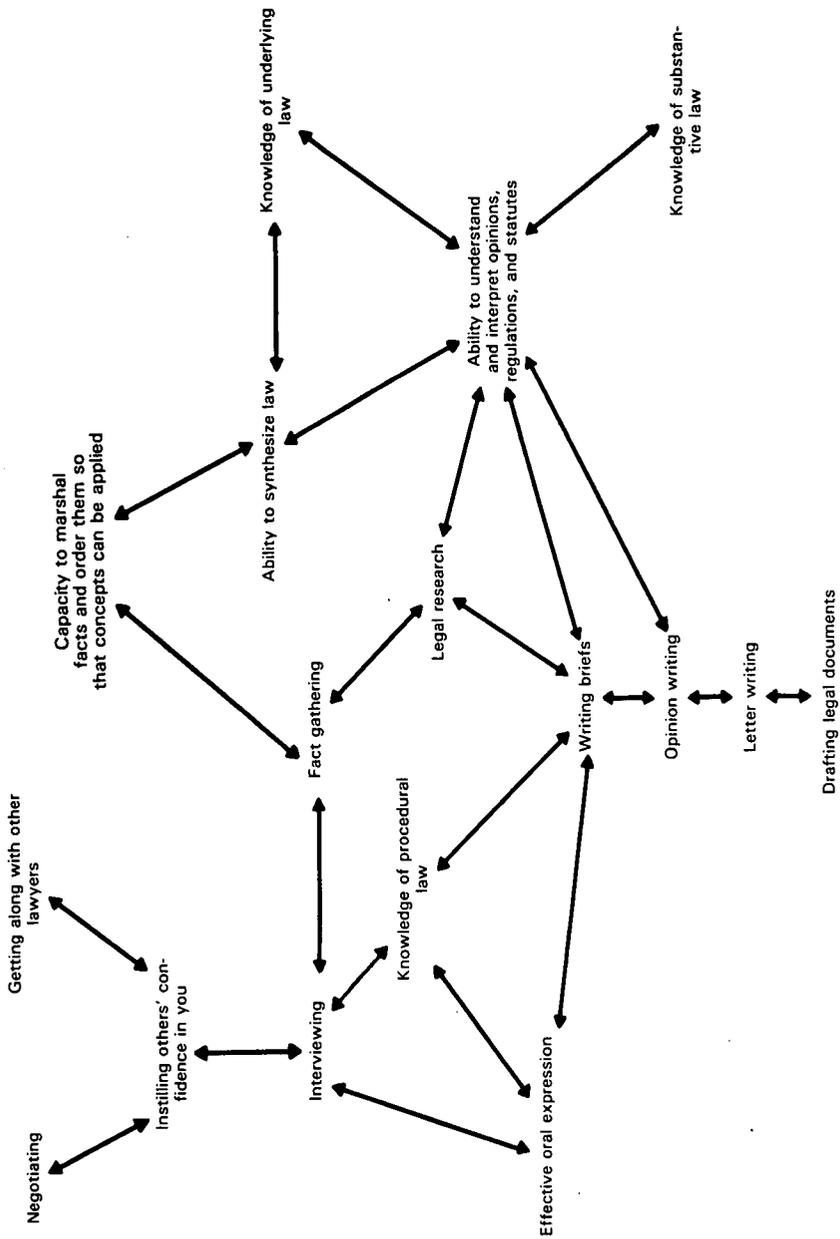
The authors then examined the relationship of legal practice to these rankings of skills and knowledge. An analysis of variance revealed that specialists in certain areas of the law evaluated the importance of certain skills differently. For example, tax lawyers were more likely to consider analytic and business skills as particularly important to their practice, while criminal lawyers were more likely to emphasize interpersonal and procedural skills. The authors also found a relationship between skill ratings and the prestige associated with various specialties.¹⁶ In general, the greater the prestige attributed to a specialty, the more important was the ability to understand and interpret opinions, regulations, and statutes, draft legal documents, opinions, and letters, and possess accounting skills and financial sense. The lower the specialty prestige, the more important was effec-

13. *Id.* at 165-96.

14. A majority of respondents listed fact gathering, applying facts to legal concepts, and acquiring the confidence of others as important. Synthesizing the law, getting along with other lawyers, and understanding legal theory were listed as less important skills. *Id.* at 125.

15. *Id.* at 127.

16. The measure of specialty prestige is based on lawyers' opinions calculated on an intra-occupational scale. It is derived from prestige scores developed by Laumann & Heinz, *Specialization and Prestige in the Legal Profession: The Structure of Deference*, 1977 A.B.F. RESEARCH J. 155, 167 table 1, n.1. In that study, a random subsample (224) of the total sample of 777 Chicago lawyers were asked to rate each of the 30 legal specialty areas on a five-point scale, from "outstanding" to "poor." The authors then computed the mean rating for each specialty. To facilitate comparisons between specialties, the authors calculated a standard score for each specialty by determining the grand mean of the 30 specialty means and its standard deviation, then subtracting the grand mean from each specialty mean and dividing by the standard deviation. To eliminate decimal points and negative numbers, the authors multiplied the standard score by 100 and added 50. Thus, "50" represented the average mean prestige rating. The top five prestige scores by specialty were the following: securities (68), tax (67), antitrust (defendants) (65), patents (61), and antitrust (plaintiffs) (60). The bottom five prestige scores were: consumer (debtor) (38), condemnations (37), landlord-tenant (37), divorce (35), and general family (poverty) (34). *Id.*



INTERRELATIONSHIPS AMONG SKILLS AND KNOWLEDGE IMPORTANT TO THE PRACTICE OF LAW

tive oral expression, knowledge of procedural law, and interviewing skills.¹⁷

The authors also attempted to determine the law schools' contribution to the development of legal skills and knowledge by asking lawyers to rate the importance of their practical experience in developing such skill or knowledge. Lawyers generally credit their own experience with providing the competencies important to practice. More than two-thirds of the respondents ranked experience gained in practice as the first or second most important influence with respect to eleven of the twenty-one competencies evaluated.¹⁸ The survey also revealed the four skills most important to the bar as a whole—marshalling facts to apply concepts, fact gathering, instilling others' confidence, and effective oral expression. According to the lawyers interviewed, law schools only received substantial credit for teaching students how to marshal and order facts to apply concepts. Lawyers reported that the other three skills generally were not learned in law school but rather were acquired through experience.¹⁹ Most felt, however, that these skills could be effectively taught in law school.²⁰

The majority of those sampled believed that no interpersonal skills had been developed in law school. On the other hand, it appears that legal theory, substantive law, ability to understand and interpret opinions, regulations, and statutes, and legal research were seen as most likely to be learned in law school.²¹ Predictably, most lawyers who had evaluated new lawyers as prospective associates expected these people to possess the same competencies that the largest proportion of lawyers felt were acquired in law school.²²

The data presented indicated the practitioners' views about the limitations of law school training. As the authors note, "many of the items cited by only a few attorneys as learned in law school are the very ones that large proportions of the bar do not think can be taught effectively."²³ More than half of the bar surveyed, however, felt that law schools should devote more attention to certain skills necessary for the practice of law.²⁴

Recognizing that lawyers might feel that certain competencies are not taught most effectively in law school, the authors asked the respondents whether their law school training had emphasized the importance of

17. ZEMANS & ROSENBLUM, *supra* note 6, at 132.

18. *Id.* at 134.

19. *Id.* at 137.

20. *Id.* at 140, table 6.6. A majority of respondents also believed that skills such as negotiating, interviewing, and drafting legal documents received insufficient attention in law school. *Id.* Respondents' opinions also were unaffected by the importance they placed on the individual skill or by their individual class standing. *Id.* at 140, n.31.

21. *Id.* at 136, table 6.5.

22. *Id.* at 137-38.

23. *Id.* at 139.

24. *Id.* at 140, table 6.6.

developing these competencies. The data show that law schools are likely to emphasize the potential value of the more analytic skills such as knowledge of substantive law, ability to interpret opinions, regulations, and statutes, knowledge of theory underlying law, and legal research. Those skills least likely to be emphasized are the interpersonal competencies such as instilling confidence, interviewing, and negotiating, which the authors characterize as "not at the core of their [the law schools'] self-perceived mission."²⁵

Continuing their examination of the law school curriculum, the authors asked the respondents to list substantive courses that were particularly helpful to their career. Three courses appeared on a majority of the respondents' replies: contracts, property, and torts.²⁶ Fifty and three-tenths percent of the respondents surveyed mentioned that their contracts course proved especially beneficial. No other course, however, was cited by more than a quarter of the respondents.²⁷ The data also show that a lawyer's perception of curriculum usefulness varies according to his or her practice.²⁸

The authors also analyzed the relationship between types of law practice and a lawyer's evaluation of his or her law school training. The data show a linear relationship: "The smaller the context within which one practices, the more likely the lawyer is to believe that the competency was learned in law school."²⁹ The authors concluded that the "perceived value of formal legal training to the development of skills and knowledge is therefore substantially dependent upon the opportunities for education after graduation from law school. Further, those opportunities are directly related to the size of the firm within which one practices law."³⁰ As might be expected, large firms were most likely to be credited with developing a lawyer's skills.

Based on these data, the authors propose a number of measures for curricular reform. They suggest that a "pervasive method of skill instruction would be not only possible but perhaps most practical."³¹ Employing such an approach, each instructor would concentrate on the practical skills necessary to translate the relevant substantive legal principles into practice. For example, drafting a will would be required as part of a course on trusts and estates. The authors also discuss the possibility of adding courses such as trial practice courses to the law school curriculum and correspondingly lengthening the curriculum to four years to accommodate such courses. Finally, given the skyrocketing costs of law school education, the authors

25. *Id.* at 143.

26. *Id.* at 146.

27. *Id.* at 146, table 6.8.

28. For example, an evidence course was most likely to be mentioned as particularly helpful by lawyers practicing criminal or personal injury law. *Id.* at 147, table 6.8. Additionally, courses in corporations, taxation, trusts, and estates were most likely to be cited as helpful because of their usefulness to attorneys practicing in those specialized areas. *Id.* at 150, table 6.10.

29. *Id.* at 152.

30. *Id.*

31. *Id.* at 155.

also present some more pragmatic alternatives involving extra-curricular training.³² They suggest, for example, that educational alternatives could precede, follow, or parallel a student's law school experience and could include continuing formal legal education programs or internship programs similar to those used in the field of medicine.³³

The authors clearly did not intend to make any specific suggestions concerning curricular reform. Their limited discussion merely reflects a summary of what academicians and practitioners have proposed over the past decade.³⁴ In general, however, their data lend further support to these past proposals for curricular reform.

Minimally, the data suggest that each law school should examine its curriculum to clarify its objectives in teaching substantive legal concepts and clinical skills. This conclusion is certainly not novel. The need for curricular reform was a major emphasis of the 1971 Carrington report issued by a blue-ribbon committee of the Association of American Law Schools (AALS).³⁵ Unfortunately, the Carrington report has had little impact on

32. *Id.*

33. *Id.* at 157-60.

34. For a comprehensive description of the various curriculum models that have been proposed, see Gee & Jackson, *Bridging the Gap: Legal Education & Lawyer Competency*, B.Y.U. L. REV. 695, 843-92 (1977) [hereinafter cited as Gee & Jackson].

35. Curriculum Study Project Comm., *Training for the Public Professions of the Law*, ASS'N OF AMERICAN LAW SCHOOLS pt. 1, 2 (P. Carrington ed. 1971) (Annual Meeting Proceedings). The report advocates improving the efficiency and quality of the law school curriculum by viewing its educational goals in a practical, realistic way. A curriculum that is both relevant to the actual practice of law and responsive to the community's needs is recommended. Moreover, the report advocates a critical look at all established methods of legal education to determine if these methods effectively prepare a student for a legal career. *Id.* at 1-2.

The Carrington report recommendations are consistent with more recent proposals concerning lawyer competency made by a blue ribbon task force committee of the American Bar Association. See *Report and Recommendations of the Task Force on Lawyer Competency: The Role of the Law Schools*, A.B.A. SEC. LEGAL EDUC. AND ADMISSIONS TO THE BAR (1979). Under the direction of Roger Cramton, the task force made 12 recommendations to law schools. These recommendations propose that a legal curriculum emphasize the fundamental skills needed to become a competent lawyer. Such a curriculum would include rigorous instruction in such practical skills as writing, research, negotiation, and other communication skills. The task force also recommended that law schools experiment with different methods of instruction to determine the most effective way to teach these skills. *Id.* at 3-5.

Many of the task force recommendations are consistent with the authors' findings that skill development, fact gathering, and oral expression are the most important requisites for practice. Specifically, one recommendation encourages more cooperative law student work and would provide training in the skill that respondents identified as "getting along with other lawyers." While the report does not outline any particular curricular model, it does emphasize that law schools should reevaluate and restructure their curricula. The report concludes that there are substantial opportunities for improving the quality of legal education. Furthermore, the task force urges law schools to take advantage of the "programs, experiments, and trends currently visible in law schools as well as reports on the performance and views of recent graduates in order to build upon areas of traditional strength." *Id.* at 1. Finally, the report cautions that an increased emphasis on lawyer skills does not imply a de-emphasis of analytical skills, but rather requires law schools to use existing resources more effectively. *Id.* at 2.

The most recent curriculum reform study to date comes from the Committee on Educational

law school curricula.³⁶ Nevertheless, because the Zemans/Rosenblum data are consistent with both academic and bar recognition of the need to evaluate the effectiveness of contemporary law school curricula, legal educators should continue to develop and apply new concepts in structuring their educational programs. In particular, curriculum committees can use these findings as a catalyst to prompt their respective schools to reevaluate their educational objectives.

Most importantly, the Zemans/Rosenblum study makes clear that it is no longer sufficient to define legal education in terms of a tension between analytical and clinical methods of instruction. Recognizing that law professors "verge on purple apoplexy in debate over the curriculum,"³⁷ the Zemans/Rosenblum study should be used as a starting point to strike the "appropriate balance and integration of [these] two powerful instructional methods."³⁸ The crucial question for legal educators, then, is how to develop an educational model which recognizes this tension as a false dichotomy. Instead of merely debating about the benefits of an analytical versus a skills curriculum, legal educators must begin to build an educational model that systematically answers the questions: what should be taught; how should it be taught; and why should it be taught.

There are many resources available to aid legal educators in the development of a theoretical model that answers these questions. There is already a significant amount of data to answer the first question—what should be taught? Zemans and Rosenblum, for example, suggest that law schools are limited in what they can teach effectively. Legal education, therefore, should be more limited in scope; additional training should occur at work and in continuing legal education programs. Ultimately, each law school must define and emphasize the specific knowledge, skills, and attitudes that should be assimilated by the student.³⁹

Planning and Development of the Harvard Law School. The committee, which was chaired by Professor Frank Michelman, was charged with "reporting to the faculty its judgments and recommendations as to future directions for the school's educational activities." *Committee on Educational Planning and Development of the Harvard Law School*, Tentative Final Draft at 1 (April 21, 1982) [hereinafter cited as Michelman Report]. The committee emphasizes that its recommendations are intended as a "contribution to institutional self-examination," presented with the belief that "the School can benefit from a fresh definition of educational objectives." *Id.* at 2-3.

36. While the Carrington report has generated comment, its recommendations have been received "with little more than an academic yawn." Gee & Jackson, *supra* note 34, at 850.

37. Taylor, *Wealth, Poverty, & Social Change: A Suggestion For A Balanced Curriculum*, 25 J. LEGAL EDUC. 227, 228 (1969).

38. Boyer & Cramton, *American Legal Education: An Agenda for Research & Reform*, 59 CORNELL L. REV. 221, 272 (1974).

39. For example, the Michelman Report states that a well-educated lawyer would have at least a basic understanding of the following fields: procedure (civil and criminal), criminal law, private law (including both the corpus of common-law and equity-based rules and principles governing private relations and at least one body of a more specialized and complex doctrine adapted for modern commercial activity respecting land, goods, or finance); legal aspects of social and economic organizations (family law, labor law, and voluntary associations as well as

Even more resources are available to answer the second question—how should students be taught? In addition to law school curricular models developed over the past decade, there are a number of general educational models that could be used. One developmental model suggests that it may be appropriate to structure the law school curriculum formally so that specific substantive concepts and skills are systematically ordered and introduced accordingly.⁴⁰ Such a model would require law schools to identify a conceptual hierarchy for analytical concepts and skills, and then develop detailed methods of teaching and evaluation to assess students' understanding at each level of instruction.⁴¹

Research on teaching and learning styles suggests another model that could provide a basis for evaluating and restructuring the manner in which legal concepts and skills are taught. Recent studies in the areas of psychology, organizational behavior, and education have concluded that there are a number of identifiable learning styles.⁴² The research also indicates that an individual frequently will have one primary style of learning. The researchers propose that different teaching methods be developed which correspond to these specific learning styles. Moreover, they suggest that all educational institutions, including law schools, should develop a variety of teaching methods that are compatible with the entire range of student learning styles.⁴³

The third component of any educational model—the question of why a certain curriculum should be taught—has prompted, and will continue to

business organizations); legal aspects of political organization (constitutional law, administrative law, and inter-jurisdictional legal relations—including conflicts of laws—as they arise in the international sphere of the American federal system); legal aspects of regulation and the welfare state (taxation, regulation of markets and trade, welfare and benefits administration, discrimination and its control). Michelman Report, *supra* note 35, at 9.

40. See generally J. PIAGET, *PIAGET SAMPLER: AN INTRODUCTION TO PIAGET THROUGH HIS OWN WORDS* (Campbell ed. 1976); J. PIAGET, *THE GRASP OF CONSCIOUSNESS: ACTION AND CONCEPT IN THE YOUNG CHILD* (1976); J. PIAGET, *THE CONSTRUCTION OF REALITY IN THE CHILD* (1954); J. PIAGET, *JUDGEMENT AND REASONING IN THE CHILD* (1928).

41. Benjamin Bloom has developed such a general educational model. See B. BLOOM, *TAXONOMY OF EDUCATIONAL OBJECTIVES, HANDBOOK I: COGNITIVE DOMAIN* (1956).

42. See generally DUNN & DUNN, *TEACHING STUDENTS THROUGH THEIR INDIVIDUAL LEARNING STYLES: A PRACTICAL APPROACH* (1978); KOLB, *LEARNING STYLE INVENTORY TECHNICAL MANUAL* (1976); MCCARTHY, *THE 4MAT SYSTEM: TEACHING TO LEARNING STYLES WITH RIGHT/LEFT MODE TECHNIQUES* (1981) [hereinafter cited as MCCARTHY]; RENZULLI & SMITH, *LEARNING STYLES INVENTORY: A MEASURE OF STUDENT PREFERENCE FOR INSTRUCTIONAL TECHNIQUES* (1978); Gregorc, *Student Learning Styles: Diagnosing and Prescribing Programs*, NAT'L ASS'N OF SECONDARY SCHOOL PRINCIPALS (1979).

43. For an example of one such model, see MCCARTHY, *supra* note 42, at 90-128. Using this model, law school educators would first determine whether existing teaching methods correspond to all identifiable learning styles, and would then integrate any instructional methods which were being ignored.

The Michelman Report endorses such a scheme, noting that "[v]ersatility in institutional modes and materials can undoubtedly contribute to the efficacy and excitement of instruction and thereby to enrichment of student understanding." Michelman Report, *supra* note 35, at 30.

prompt, the most heated debate among legal educators. The answer ultimately depends upon one's conception of the lawyer's role in society. A number of commentators have suggested that the lawyer's role should be defined more broadly.⁴⁴ The clearest statement of this suggestion appears in the final draft of the American Bar Association's Commission on Evaluation of Professional Standards proposed Model Rules of Professional Conduct.⁴⁵ The proposed rules depart from the existing A.B.A. Code of Professional Responsibility in that they not only identify a number of diverse roles that a lawyer might be expected to fulfill, but establish different standards of conduct for each of these roles as well.

One way to address the underlying problem of defining the lawyer's role is to view an attorney as an educator. Defining a lawyer's role in this manner not only would direct law schools to the importance of teaching students to master basic legal concepts, but it also would direct schools to focus on the development of skills that would allow the lawyer to continue his or her growth in any area of practice. This concept of legal education is consistent with Zemans' and Rosenblum's basic findings that law schools cannot provide comprehensive education, and that teaching students how to acquire knowledge may be more important than what is taught.

In general, *The Making of a Public Profession* provides a good foundation from which legal educators can begin a systematic reappraisal of their school's educational philosophy. Legal educators could actually use the Zemans/Rosenblum questionnaire, for example, to determine how their graduates view the effectiveness of their legal education. These data would enable a school's curriculum committee to develop an educational model and apply that model to evaluate the adequacy of the existing curriculum.⁴⁶

The purpose of this review is not to outline any specific curricular changes that may flow from the Zemans/Rosenblum study or the proposals presented, but rather to demonstrate that the data presented in the study support the idea that legal educators should develop an educational model from which they can design the law school curriculum. The adoption of this approach would encourage diversity in curricular programming, thereby challenging each law school to clearly define its unique institutional philosophy of legal education.

The challenge to develop a model for legal education requires a risk-

44. See, e.g., M. FRANKEL, *PARTISAN JUSTICE* (1980); J. LIEBERMAN, *CRISIS AT THE BAR* (1978); Auerbach, *What Has the Teaching of Law To Do With Justice?*, 53 N.Y.U. L. REV. 457 (1978). The Michelman Report also emphasizes that "[e]ducated graduates are those who are open to considering and capable of assuming, a broad variety of possible roles, some of them possibly now unknown." Michelman Report, *supra* note 35, at 7.

45. MODEL RULES OF PROFESSIONAL CONDUCT (Proposed Official Draft 1982).

46. The value of the Zemans/Rosenblum study is limited, however, because the questionnaire was sent only to practicing attorneys. As a result, there is no input from individuals who failed to graduate or practice law. Such data are important in understanding the socialization process and in determining how the curriculum could be restructured to meet the needs of a more diverse group of students.

taking ability uncommon among law school educators, who are taught to respect the existing social order and think in terms of legal precedent.⁴⁷ Moreover, it requires a special energy and vision by those highly creative educators who "deliberately challenge, shake, unstabilize, frustrate and disintegrate themselves in order to reassemble the parts better."⁴⁸ Those legal educators willing to participate in this creative but frustrating process should reflect on the following comment by Lord Chesterton: "[T]he Christian ideal has not been tried and found wanting. It has been found difficult—and left untried."⁴⁹ The task of law school curricular reform is too important to be abandoned merely because it is difficult.

47. See Outline of Address by Roger Cramton to the Plenary Session of the Association of American Law Schools 1982 Annual Meeting, Philadelphia, Pa. (Jan. 8, 1982) (Professor Cramton notes that faculty resistance to change is one of the major obstacles to curricular reform).

48. C. HAMPDEN-TURNER, *MAPS OF THE MIND* 112 (1981).

49. G. CHESTERTON, *WHAT'S WRONG WITH THE WORLD*, ch. 5, pt. 1, at 48 (1942).

APPENDIX

LIST OF STUDIES

- Study: Dunn (1969), *supra* note 9.
- Research design: Questionnaire mailed to stratified random sample of 1,865 practicing attorneys selected from 1968-69 SULLIVAN'S LAW DIRECTORY, and the 1967-68 ILLINOIS LEGAL DIRECTORY.
- Data collected: One thousand seventy respondents identified law school curriculum as (1) traditional case method, (2) traditional case-method, problem solving, lecture, and seminar, or (3) case method, problem solving, lecture, and seminar approach combined with study of law related research from the disciplines of political science, sociology, and psychology. Respondents were also asked to rate curriculum in terms of preparation to serve clients or employer.
- General conclusions of study: Greater proportion of lawyers who studied under case-method plus problem approach as opposed to the purely case study curriculum felt that their preparation was adequate; no relationship was discovered between curriculum followed in law school and attitude toward curriculum improvement; general approval of need for more practical experience with actual legal problems.
- Study: Stern (1972), *supra* note 9.
- Research design: Questionnaire mailed to a random sample of 80 graduates of day division of University of Toledo College of Law.
- Data collected: Fifty graduates responded (42 were practicing attorneys); survey collected data on attitudes about purpose of law school and the curriculum, as well as courses and skills considered most important in practice.
- General conclusion of study: Ninety-eight percent of those surveyed agreed that the typical graduate has little or no familiarity with the practical working of the law. Procedure was named as the course most helpful to practice followed by property, torts, contracts, and criminal law. Skills ranked in order of helpfulness to practice; dealing with facts, negotiation, legal planning, advocacy, draftsmanship, and predicting how controversies will be decided.
- Study: Schwartz (1973), *supra* note 9.
- Research design: Questionnaire mailed to 1,200 attorneys listed in 1972 CALIFORNIA LEGAL DIRECTORY.
- Data collected: Six hundred thirty-four attorneys responded to the mailing and rated 15

- skills on a scale of 1-5, with 1 as "essential to practice of law" and 5 as "of no value to the practice of law."
- General conclusions of study:** Five skills were rated as essential by a majority of responding attorneys: analyzing cases (63.6%), legal research (56.9%), investigating facts (56.3%), knowledge of substantive of law (56.1%), counseling clients (53.5%).
- Study:** Stevens (1973), *supra* note 9.
- Research design:** Questionnaires sent to 600 members of the class of 1960 at six law schools and to 974 third-year students at eight law schools from the class of 1970; interviews with 50 first-year students of the class of 1972 at Yale (held after first 10 weeks in law school).
- Data collected:** Three hundred forty-six students from class of 1960 and 546 from class of 1970 responded to the questionnaires; extensive data on personal background collected, information about purposes of law school, recommendations for curricular improvements, and reasons for attending law school.
- General conclusion of study:** For both 1960 and 1970 classes "ability to think like a lawyer" was most important skill actually taught; a majority of students wanted more emphasis on substantive law and communication and negotiation skills. Study found no clear definition of purposes of legal education among first-semester Yale students; of third-year students, 75% placed curriculum on theoretical end of theoretical-practical continuum, and at each school students felt that the curriculum should be less theoretical and more practical than they perceived it to be. Third-year students identified the following elements of education as most important: ability to think like a lawyer, legal writing, and legal research.
- Study:** Benthall-Nietzel (1975), *supra* note 9.
- Research design:** Nine hundred fifty-nine questionnaires mailed to random sample of attorneys on membership mailing list of Kentucky State Bar Association.
- Data collected:** Four hundred nineteen attorneys responded to the survey; respondents rated 30 skills and characteristics on a scale of 1-5 according to their importance for practice (with 1 as "extremely important" and 5 as "not important"). Respondents also rated law schools on the same scale. Those surveyed were further asked to identify skills which can be taught in law school.
- General conclusions of study:** Rank order of top 10 skills and characteristics:
- | | |
|-------------------------------------|------|
| Knowledge of statutory law subjects | 1.67 |
| Understanding human behavior | 1.71 |
| Organizing facts | 1.71 |
| Self-confidence | 1.71 |
| Thinking quickly on one's feet | 1.82 |
| Persistence | 1.91 |
| Legal research | 1.98 |
| Sense of Humor | 2.00 |
| Pleasant, engaging personality | 2.03 |
| Quick legal analysis | 2.03 |
- Surveyors found a variation in ranking according to area of practice; found wide variation concerning respondents' beliefs that certain skills can be taught in law school (legal research and writing ranked high); core courses were ranked as most important with practice courses second.
- Study:** Baird (1978), *supra* note 9.
- Research design:** Four thousand questionnaires mailed to individuals trained at six law schools (included individuals who had been out of law school for 5, 10, and 20 years).
- Data collected:** One thousand six hundred usable responses; respondents asked to rank im-

portance of legal knowledge and skills to practice, indicate key elements, and rate role of law school in their legal training.

General conclusions of study:

Knowledge of following skills considered most important: ability to analyze and synthesize law/facts, effective oral communication, knowledge of statutory law, ability to write, research, counsel clients, negotiate, and draft legal documents. Key elements for all respondents: knowledge of statutory law, ability to analyze and synthesize law and facts, and effective oral communication. Study concludes that general habits of thinking and skills may be more important than substantive knowledge; law school credited with providing most useful training to those practicing in the follow areas: family law, personal injury law, and real estate law.



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