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THE FAILURE OF AMERICAN LEGAL EDUCATION: A RECOMMENDATION FOR AN INTEGRATED LEGAL EDUCATION PROGRAM

Robert A. Fairbanks*

INTRODUCTION

A central function of the contemporary American law school is to educate and train lawyers for the practice of law. In fulfilling this awesome objective, law schools have the responsibility to “create” individuals who are learned in substantive and procedural law and, concomitantly, skilled in advocacy and client representation. In short, law schools are to provide society with lawyers who are legal scientists and legal practitioners. However, while law schools have performed reasonably well in educating graduates in the *corpus juris*, they have been ineffective in producing professionally skilled practitioners.¹

The legal profession well knows, and unfortunately accepts, that just-admitted lawyers are unskilled and require continued supervision and assistance for a substantial period before attaining professionally acceptable competence.² This state of initial professional incompe-

* Assistant Professor of Law, University of Arkansas. B.S., J.D., University of Oklahoma; M.B.A., M.C.J.A., Oklahoma City University; LL.M., Columbia University.

1. There has been a rapid growth of literature taking this view in recent years. See, e.g., 3 LEARNING AND THE LAW (1976).

2. A survey of practicing lawyers in a large southwest metropolitan area suggests that minimum experience required to obtain professionally acceptable competence is two years or more. This is contrasted with the fact that just-admitted lawyers are licensed to handle any legal matter. However, it is significant to note that the practicing lawyer's standard of professional competence apparently varies substantially depending upon whether the client is a member of the general public or a “learned” member of the legal profession. Survey results reveal that 53.3% of the responding practicing lawyers indicated that a new lawyer would have to practice more than four years in order to attain a degree of competence required to handle their personal legal matters; however, only 12.5% indicated four years or more of practice is required to attain the competence to practice without supervision or assistance from an experienced lawyer or, in other words, to handle the legal affairs of the general public. Moreover, 50% of the responding lawyers indicated a new lawyer would become fully competent to practice with only one or two years of experience. (See Tables II and III).

tence may well be overcome with a few years of experience, but all lawyers, especially those in private practice, should be capable of practicing without supervision. Just-admitted lawyers, however, are not now held to that standard; jurisdictional licensing authorities endorse their competency to the public by granting an unrestricted license and allowing them to “hang out their shingles” as sole practitioners.³ This situation is a significant aetiological factor in the myriad ills which confront the legal profession. For example, a deficient practical skills education may have a substantial negative impact upon the ability of an individual lawyer to provide legal services throughout his professional career because the spectre of an imperfect legal education is never eradicated. Arguably, this deficiency is manifested in client misunderstanding and dissatisfaction and provides a basis for disparaging diatribes directed toward the legal profession; *viz.*, “ambulance chasers,” “They’re all a bunch of crooks,” and the like. Furthermore, imperfect legal education may be an important factor in widespread disregard for professional ethics by lawyers and has the potential for significant long-term negative implications for the legal profession.

The trial and appellate judiciary is becoming increasingly vociferous about the low standard of competency of lawyers appearing in the courts.⁴ Chief Justice Warren Burger has long been appalled at the in-

3. Chief Justice Warren Burger has been quoted as saying, “We are more casual about qualifying the people we allow to act as advocates in the courtroom than we are about licensing electricians.” J. Maslow, *The Clinical Movement: Out of the Casebooks, Into the Courts*, 6 JURIS DOCTOR 25, 26 (1967). Unfortunately, the Chief Justice’s remark is correct. In most states, and even some cities and towns, electricians and plumbers, for example, are required to complete satisfactorily a written examination and demonstrate on-the-job skill before being granted a license.

4. An example of exceptionally poor trial and appellate practice is *Tarrant v. Petty*, 46 OKLA. B.A.J. 1787 (1975). The case was described by the reviewing court as a “rather simple case” that concerned the foreclosure of a mechanic’s lien filed for an amount due from an apartment house contractor and a cross-petition for “shoddy” workmanship. The jury trial resulted in a verdict for the mechanic and the contractor appealed. However, on review the appellate court remarked: “What we have as foundations for the propositions of error advanced are nonappealable orders or actions which will not become reviewable until a final judgment is entered disposing of appellant’s cross-petition on its merits adversely to him.” *Id.* The appellate court found the situation “incredible” because at the pretrial conference the parties had agreed that the only issues to be tried concerned whether the mechanic had performed “shoddy” work and, if so, the cost of correcting the work. However, at the trial the appellant never submitted those issues to the jury. Therefore, those issues could not be before the appellate court. Moreover, the court found that the “incoherency of the record makes a coherent review nearly impossible”

Of course, it could be suggested that this case is not representative of the general level of legal practice. Is this case just an aberration? Apparently not, because a few hours around the courthouse during jury term will reveal a plethora of similar instances. One such visit with a group of law students yielded the opportunity to observe the trial

adequacy of trial court advocacy and representation⁵ and Chief Judge Irving Kaufman has voiced equal concern about substandard appellate practice.⁶ The judiciary has become so concerned that a specific curriculum may be required in law school before a lawyer is admitted to practice;⁷ at least one federal district court and one state jurisdiction have adopted such requirements.⁸ Furthermore, as the important and fundamental role of the legal profession in societal intercourse increases,⁹ the profession must gain a high measure of public confidence. Substantial gains can be reaped by merely requiring professional competence upon admission to the practice of law.

This article recommends a solution, an Integrated Legal Education Program (ILEP), which can be reasonably implemented by the legal education community and endorsed by licensing authorities. The essence of the proposal is the addition of an academic year devoted to

of a personal injury matter. During the proceedings it became increasingly clear that plaintiff's counsel was totally unprepared and did not know how his witnesses were going to testify. Not unexpectedly, the case was decided for the defendant. The opposing counsel agreed to meet with the observing law students afterwards to discuss their trial tactics and strategy. In the ensuing discussion, plaintiff's lawyer admitted that he had not even reviewed the file before arriving at the courthouse. Making the matter even more incredible was the fact that the defendant had offered a reasonable settlement immediately before trial.

Obviously, the foregoing are reprehensible examples of incompetent law practice. But is it reasonable to assume that lawyers practice as poorly in other areas? Since they do not receive a greater quantity or better quality of training in other areas of practice, the standard of competence can be interpolated as being no better.

5. Burger, *Chief Justice Burger Proposes First Steps Toward Certification of Trial Advocacy Specialist*, 60 A.B.A.J. 171 (1974).

6. Kaufman, *The Court Needs a Friend in Court*, 60 A.B.A.J. 175 (1974).

7. See *Final Report of the Advisory Committee on Proposed Rules for Admission to Practice*, 67 F.R.D. 159 (1975).

8. See Cutright, Cutright & Boshkoff, *Course Selection, Student Characteristics Bar Examination Performance: The Indiana University Law School Experience*, 27 J. LEGAL EDUC. 127 (1975).

9. Unless the profession takes aggressive corrective action, drastic changes consistent with social need will be forced upon it. Some have suggested that the legal profession may be lost in another decade. See Thornton, *Backbone of the Profession*, 61 A.B.A.J. 1014 (1975); Tunney, *The Future of the Legal Profession*, 23 JURIS DOCTOR (1975). Others have suggested experiments which radically alter the advocacy system in settling disputes; viz., establishing a panel of medico-legal experts which will review all personal injury and medical malpractice matters. See Schwabe, *Legal Diagnostics*, 61 A.B.A.J. 1006 (1975). If the profession fails to act, other more dominant social forces will demand and get change. See Brink, *Who Will Regulate the Bar?*, 61 A.B.A.J. 937 (1975). The business community, for example, failed to respond to the needs of the working class, and was forced to relinquish its power and authority to determine the remuneration for a "full day's work." Other examples can be cited *ad infinitum*, but the mandate is clear that the legal profession must act with rapidity and responsibility, or face the possibility of losing the present privileges of a profession. The clarion has sounded! See also Gaare, *Business May Have Answer to Lawyer 'Image Problem'*, 63 A.B.A.J. 1690 (1977).

closely supervised clinical participation, but with the entire legal education course to be completed within three calendar years. The program discussed herein is directed toward those individuals desiring to enter the private practice of law. Similar programs can be developed, for essentially the same reasons, for those individuals aspiring to government service, legal education or other fields where lawyers have historically made substantial contributions.¹⁰ While it is incumbent upon the organized bar to effect a remedy, the law schools, having assumed primary responsibility for legal education and sharing responsibility for the profession's shortcomings, must lead the way.¹¹

I. THE EFFECTS OF INITIAL PROFESSIONAL INCOMPETENCE

Just-admitted lawyers are inadequately prepared to practice law for two basic reasons: The traditional law school curriculum fails to prepare law graduates for practice and licensing authorities admit individuals to the practice of law without a demonstration of ability to practice.

A survey¹² of practicing lawyers in a large southwest metropolitan area indicated overwhelmingly that law school studies failed to prepare lawyers for the practice of law and new lawyers require between one and two years of supervised experience before they approach

10. This is the established practice in most civil law jurisdictions.

11. Members of the bar will dismiss the foregoing criticism as overly harsh and fettered by idealism. But one only has to listen to the public for a short time to gain an appreciation of the negative impact of the legal profession upon the "unlearned" members of society. Except for the monied class, members of society have a tendency to avoid lawyers until it is an absolute necessity. This is largely a product of the distrust the general public has for lawyers which is founded in sub-par, over-priced professional services. The result is that the vast majority of citizens are without, or forego, vital legal assistance. This is contrary to the *raison d'être* of the legal profession.

The low esteem of the legal profession held by the public and the unpleasant diatribes may be dismissed as merely observations of an ignorant-of-the-law laity. But what is the profession to make of the after-hours appraisal by lawyers which lay bare the inadequacies of fellow lawyers. What is to be made of the continual observation of trial judges of the lack of preparedness—or just plain professional incompetence—of the lawyers practicing before them? What is to be made of the similar observations of appellate judges?

12. Questionnaires were sent to 100 practicing lawyers listed in the Oklahoma City, Oklahoma metropolitan area telephone "yellow pages" with self-addressed envelopes enclosed. Addressees were asked to reproduce locally the questionnaire and distribute copies to partners and associates, if any. One hundred and forty-four completed questionnaires were returned within a three-week period. The tables presented herein reflect the responses to some questions included in the questionnaire. Notably, not all respondents elected to answer every question. A similar questionnaire was completed by the University of Oklahoma faculty of law. Twenty-six questionnaires were returned.

TABLE I: Response to the statement: Do you feel that new lawyers today are competent by professional standards to practice law without supervision or assistance from experienced lawyers immediately after admission to the Bar?

Opinion	Response		Percentage	
	Lawyers	Prof's	Lawyers	Prof's
Yes	36	6	25	23
No	108	20	75	77

TABLE II: Response to statement: After admission to the Bar, generally how long does it take a new lawyer to become competent to practice law without supervision or assistance from an experienced lawyer?

Opinion	Response		Percentage	
	Lawyers	Prof's	Lawyers	Prof's
0-1 years	27	13	18.8	48.2
1-2 years	72	7	50.0	25.9
2-4 years	27	7	18.8	25.9
more than four years	18	0	12.5	0

TABLE III: Response to statement: generally, how many years experience do you expect it would take to attain the degree of competence you would require of a lawyer to handle your personal legal matters?

Opinion	Response		Percentage	
	Lawyers	Prof's	Lawyers	Prof's
0-1 years	18	4	13.3	16.0
1-2 years	0	4	0	16.0
2-4 years	45	8	33.3	32.0
more than four years	72	9	53.3	36.0

professional competence. A nearby, respected law faculty agreed (see Tables I and II).

Moreover, and perhaps enlightening in determining a standard of professional confidence, over 80% of the responding practicing lawyers indicated the degree of competence required to handle their personal legal matters would require a lawyer with more than two years of experience; over half would require a lawyer with more than four years experience. The legal educator survey yielded similar results (see Table III).

A primary reason why law schools studies fail to prepare graduates for law practice is that law faculties have an imperfect impression of the practice of law. In the main, the study and analysis of appellate opinions and the development of the ability to "think like a lawyer" is the focus of the law school curriculum and, generally, consists of a first year course of torts, property, contracts and legal bibliography, and advanced courses in criminal procedure, constitutional law, civil

TABLE IV: Response to statement: How long did you practice before you became a law teacher?

Opinion	Response	Percentage
0-1 years	5	18.5
1-2 years	5	18.5
2-4 years	9	33.3
more than your years	8	29.6

procedure and evidence. There may be, however, a requirement to take a trial practice course which consists of role playing and “going through the motions.” Another type of “practical skills” course generally available is an appellate argument or moot court program where a case, perhaps utilizing the record of an actual case, is argued before faculty members or a panel of visiting judges during law day. Courses in client interviewing and consultation, courses providing actual courtroom experience or an opportunity to exercise legal judgment, for example, are rare. The point is the traditional curriculum attempts to develop only one dimension of the professional tools required of a lawyer; *viz.*, legal analysis, and fails to address required practical skills. Both categories of skills must be developed before one can truly be considered a lawyer.

An imperfect impression of law practice by law faculties, in resulting curricular emphasis, is not surprising, however, in light of the background and abilities of the professoriate.¹³ Law teachers are experts in legal analysis. Specifically, they are experts in the Langdellian method of legal analysis; *viz.*, case analysis or the scientific study of law through cases. But generally, law teachers are less qualified or experienced as practitioners (see Table IV).

The practice experience of most law teachers is limited to a few years immediately preceding law teaching and often includes a year as a law clerk for an appellate judge. Later, they may have the opportunity to “draft” opinions for appellate courts and assist in preparation of appellate briefs. In sum, the experience of the professoriate is generally limited to academic analysis of legal questions and drafting. Therefore, it is not unexpected the law school curriculum reflects faculty impressions of the practice of law.

Although many bar officials agree informally that legal education is inadequate, Richard C. Moser, former chairman of the New York State Bar Association Special Committee on Judicial Ethics, publi-

13. See J. HURST, GROWTH OF AMERICAN LAW 263 (1950).

cally recognized that fact in October 1975. In discussing "Professional Standards and Human Values in the Practice of Law," Mr. Moser, in a Seminar on Education in the Humanities at Columbia University, announced new lawyers were incapable of performing the functions expected of lawyers. He said:

The first two or three years after graduation from law school are a period of learning rather than practice. A law graduate would do well to get a job as apprentice to an experienced lawyer or in a law firm where he will be taught how to apply his law school training to the solution of practical legal problems of clients A graduating law student who goes out on his own is sometimes looked upon as noble and courageous, but he is actually attempting to learn at the expense and risk of his clients.¹⁴

Clearly, law school fails to prepare law graduates for practice.

Bar associations are equally responsible for admission of incompletely qualified individuals to practice. Bar examinations reflect material taught in law school, or in some cases, the curriculum reflects material on the bar exam;¹⁵ but nonetheless there is no requirement for the bar applicant to demonstrate competency for the actual practice of law. At best, an applicant is tested for his ability to analyze factual situations, to relate legal principles to those facts and to demonstrate a general familiarity with several areas of law.

This situation evolved slowly without much attention. In years past, bar applicants could be expected to have considerable experience in a law office; some may not have attended a single day of law school, but became qualified by "reading the law" and serving apprenticeships under practicing lawyers. In these cases there was little need to examine for practical skills because the applicants were certified by the supervising lawyers. As the law schools began to assert themselves, however, and become the primary path to law practice,¹⁶ fewer individuals chose to "read law" and, concomitantly, the number of individuals possessing the requisite practical skills decreased. But bar admission examinations have not reflected the shift in the source of applicants to the bar.

14. Moser, *Professional Standards and Humane Values in the Practice of Law II*, 3 *PROG. GEN. & CONTIN. EDUC. HUMANITIES SEMINAR REP.* 20 (1975). This state of initial incompetence comes as no surprise to those just-admitted lawyers handling their first cases or junior partners or associates responsible for supervising new lawyers.

15. See Blackmar, *Is the Bar Examination an Anachronism?*, 60 *A.B.A.J.* 1240 (1974). But see Griswold, *In Praise of Bar Examinations*, 60 *A.B.A.J.* 81 (1974).

16. See Grossman, *Clinical Legal Education: History and Diagnosis*, 26 *J. LEGAL EDUC.* 162, 163-73 (1974).

Implications of the Present System

Accepting the state of initial incompetence as unavoidable under the present regime of legal education, one might take a practical posture and hypothesize: "So what, with a few years of experience, the incompleteness of their legal educations will be remedied." This appears to be the position of the legal profession and, particularly, of legal educators. Professor Emeritus Walter Gellhorn of Columbia, taking up the theme, has maintained that legal education is a life-long endeavor and professional competence is a matter of degree that varies from lawyer to lawyer. He suggests the present posture of legal education is the most efficient utilization of law school resources.¹⁷ It is undisputed that legal education is never-ending and some lawyers are more competent than others; certainly, a lawyer of ten years experience would be preferred to one with two years experience with all other factors, *e.g.*, intelligence, being approximately equal. However, in assuming that time will cure a defective legal education, members of the bar and legal educators have lost sight of the *raison d'être* of the legal profession—to practice law. They go about the business of certifying professionally unprepared individuals to practice law and inadequately educating law students without the slightest guilt. Mr. Moser warns: "Legal education, contrary to the belief of most students, is not intended to create lawyers. Its function is to create potential lawyers, that is, to give students a knowledge of fundamental legal principles that will permit them to go into the world and learn how to be lawyers."¹⁸ All is not well, even after the passage of a year or so.

The implications of the above described situation are far reaching indeed and have a profession-wide impact. Besides endorsing professionally incompetent individuals because they have graduated from law school and passed a bar examination, the quality of legal services throughout the individual lawyer's professional career is potentially diminished. This potential diminution is the result of leaving the final touches of professional training to either the individual lawyer or others similarly unqualified.

At present, the new lawyer is relegated to an "office apprenticeship" if he joins a law firm of any size or must pursue a "trial and error"

17. These views were expressed in the Seminar on Legal Education at Columbia University in the fall of 1975. Apparently, Professor Gellhorn has held these views for some time. See Thompson, *Canadian Experience in Practice Training*, 16 J. LEGAL EDUC. 43, 45 & n.12 (1963).

18. Moser, *supra* note 12.

methodology if beginning practice as a sole practitioner or in a small partnership. In the large firm with an established training program, whether it is formal or informal, the new lawyer is assigned simple tasks such as filing documents with the court clerk and appearing at the "motion docket." In the professional vernacular, he learns "where the courthouse is." The impact of his mistakes is minimized by the importance, or lack of importance, of matters he is allowed to handle.

However, when a new lawyer opens a practice in a rural area or joins a small firm, he handles whatever legal matters "come through the door." This is a fact of life for the new lawyer opening his own practice because he can ill afford to share his meager legal fees with another lawyer. Thus, a lawyer's first clients are the potential victims of legal malpractice. Of course, the Code of Professional Responsibility, adopted by most jurisdictions as a standard for professional conduct, prohibits a lawyer from taking a case for which he is not competent or cannot become competent with reasonable time and effort.¹⁹ However, as a practical matter, the typical new lawyer is not prepared to handle any case, but must assume that he can become competent in short order. Without taking cases and learning by "practicing" on his clients' cases, he could never develop the proficiency required to earn a reasonable level of compensation.

New lawyers can often call upon mature lawyers for guidance when confronted with unfamiliar problems. But, especially in rural areas, mature lawyers are not always readily available and the neophyte lawyer becomes reluctant to call upon the experienced lawyer after repeated pleas for assistance. Moreover, the "cry for help" is of little utility in the midst of courtroom pressures. Thus, he is usually left to chart the course over unfamiliar legal terrain through trial and error methods.

A fundamental problem with this common, well-accepted procedure is the lack of quality control and an acceptable, measurable standard of professional competence uniformly applied to lawyers-in-training. The result is the level of competence attained, and considered acceptable, is the level of competence which allows the sole practitioner to "get by" or that attained by the "teaching lawyer" in the just-admitted lawyer's law firm. That some law firms will have high standards and some low can be reasonably assumed; firms with high standards will likely produce competent lawyers and those with low

19. See ABA CODE OF PROFESSIONAL RESP., Disc. Rule 6-101, Ethical Cons. 6-1 (1975).

standards will generally produce a lower quality product. But the tough question concerns the quality of the in-between law firms and that of the sole practitioners: Is that quality professionally acceptable?

Too many firms on the mid-ground, and certainly those on the low end, are professionally unacceptable and too many lawyers render low quality legal services, measured against a professional standard, throughout their professional careers. A primary causative factor is an incomplete legal education. It is nonsense for law schools, with the high quality of law students, evidenced by LSAT scores, GPA's and other criteria, to produce potential legal gems after an exacting educational period only to leave them professionally unpolished.

The result is the legal profession is left deficient in two important respects: the potential for a long-term diminution of professional services and a low standard of legal ethics. This results because the professional and ethical norms of legal practice are left to develop in an environment of a virtually unregulated legal brotherhood whose foremost consideration is the generation of legal fees. Evidence of this long-term diminished professional performance is that the legal profession is held in low esteem; recent involvement of prominent lawyers in unforgivable political scandal only confirmed the public's opinion of lawyers. In this light, to separate the public's low opinion of lawyers resulting from unethical practices and that arising from incompetent practices is difficult. However, the two are usually found hand-in-hand.

II. RESPONSIBILITY FOR EFFECTING A SOLUTION

The organized bar, through licensing authorities, has the responsibility to insure that lawyers are professionally qualified, and law schools have the responsibility to provide an adequate, qualifying legal education; clearly, they have not met their responsibilities and both must provide leadership in education reform.

Bar Associations and Legal Education

The local licensing authority, generally a Board of Bar Examiners acting for the state supreme court, has the responsibility to insure that individuals licensed to practice are qualified.²⁰ Other than law school graduation, the bar examination is, at present, the singular tool for

20. *See, e.g.,* OKLA. STAT. tit. 5, § 14 (1971).

TABLE V: Response to statement: Do you feel that the law schools or bar associations have the responsibility of fully preparing a law graduate for the general practice of law? Which one?

Opinion	Response	Percentage
Yes	126	87.5
No	18	12.5
Law Schools	108*	52.2
Bar Associations	99*	47.8

* A great number of respondents indicated that the bar associations and the law schools should share the responsibility by responding to both alternatives.

measuring qualification for law practice. Moreover, in some jurisdictions, the only requirement is a diploma from an approved law school.²¹ In almost all states, it is possible to be admitted to practice without an examination when the individual has practiced in another jurisdiction for several years. Thus, individuals unqualified for practice are granted authority to accept full responsibility for a client's legal affairs. Allowing this situation to exist is a default of public responsibility by licensing authorities; moreover, the situation contributes to a substantial loss of public confidence in the legal profession.

Licensing authorities must insure that individuals granted a license to practice law are qualified; there must be some demonstration of professionally acceptable skills before admission to practice. This long avoided measure should be forthcoming since many jurisdictions are seriously considering "recertification" of experienced lawyers: If it is important to insure experienced lawyers remain qualified to represent a client's legal interests, is it unreasonable that a newly admitted lawyer meet professional standards?

Although licensing authorities have primary responsibility for insuring the qualifications of lawyers, the legal education community must lead the way in providing a solution because it has assumed responsibility for legal education.²² The law schools have become virtually the only path into the legal profession.²³ Moreover, surveyed lawyers overwhelmingly indicate a new lawyer should not be left to his own devices in preparing for the practice of law, and most believed that the law schools should fully prepare an individual for the practice of law (see Table V).

21. Montana, for example, has the "diploma privilege" for state school graduates.

22. See Grossman, *Clinical Legal Education: History and Diagnosis*, 26 J. LEGAL EDUC. 162 (1974); Kaufman, *Advocacy as Craft—Law School is More Than a 'Paper Chase'*, 60 A.B.A.J. 802, 803 (1974).

23. It is still possible to qualify for admission to the Bar through apprenticeship in some jurisdictions.

Actually, it is a simple proposition: If the business of law schools is to educate and train law students as lawyers, there is no reason why law schools should go only part way.

When the law schools assumed responsibility to train lawyers, they also assumed the obligation of performing the task in a professionally satisfactory manner. They have failed miserably.²⁴ The present practicing bar is a product of contemporary legal education and, therefore, the law schools are in large measure responsible for the present ills of the legal profession.

The legal education community, considering it is unlikely legal apprenticeships will return as hoped by former ABA President Lawrence Walsh, is in the best position to insure high quality practical skills training: first, law students are readily available for training; second, law students complain the third year of law school is non-productive; third, and very important, law teachers are in a most advantageous position to influence future professional behavioral patterns of law students; finally, a law student presumably expects law school to prepare him for his professional career. Therefore, the law schools must recognize their obligation and initiate programs that will prepare law graduates for the practice of law.

Recognition of Problems and Attempts at Resolution

Problems associated with licensing a law graduate without experience have not gone unnoticed and half-hearted attempts in resolving the situation have been made by law schools and bar associations. Recognition of the problem has resulted in the creation and institution of "legal intern" programs which take a number of forms, but principally are of two types: one, where the student practices in a limited school operated "legal aid" law firm, or, two, where the student is assigned to work with a lawyer for a limited number of hours per week. These programs give the law student the opportunity to "be a lawyer" under close supervision of faculty or law firm members. Student participants are generally granted a limited license to practice by the local

24. *Final Report of the Advisory Committee on Proposed Rules for Admission to Practice*, 67 F.R.D. 159 (1975). The advisory committee reported "there is a lack of competency in trial advocacy in the Federal Courts (the lack of competency also exists in the State Courts, which is outside our purview) directly attributable to the lack of legal training." *Id.* at 164. Moreover, "what the law schools have done is to refuse to teach those techniques which are directly related to the life of the lawyer in practice." CLEPR NEWSLETTER, Sept., 1969, at 2.

authority, but are required to practice under supervision. The results of these programs in developing lawyer-like practical skills are excellent²⁵ because they allow the legal intern to deal with clients on a face-to-face basis, represent the client in the courtroom, and accept a large portion of responsibility for legal decisions concerning the conduct of the case.

Generally, legal interns are required to appear regularly in court. Although not appearing as attorney of record, they do have the opportunity for full participation in assigned cases. Legal intern programs are acknowledged to be highly successful in developing practical skills, but are available only to a limited number of students. Generally, these are the better students in the advanced classes and often are the same students who obtain law review experience. The remainder obtain little practical or writing experience. Moreover, class standing and grade point requisites, at least arguably, inhibit enrollment of students who would benefit most from the experience. The familiar cliché "the rich get richer" appears to apply.²⁶ Thus, present programs are insufficient because the opportunity to acquire requisite practical skills may not be available to all students desiring to enter the active practice of law.²⁷

III. PREVIOUSLY SUGGESTED ALTERNATIVES

In addition to the above limited programs within the present legal education framework, several broader-based, more radical suggestions have been offered to provide a complete legal education to law students. Principal suggestions include formalization of the present sys-

25. See generally *Student Practice as a Method of Legal Education and a Means of Providing Legal Assistance to Indigents: An Empirical Study, A Study For The American Bar Foundation*, 15 WM. & MARY L. REV. 353 (1973).

26. See K. LLEWELLYN, *THE BRAMBLE BUSH* (1930). Law schools and bar associations have made other, but less significant, contributions. Some law schools offer a series of practical skills courses, e.g., "How to Examine an Abstract of Title," while limiting the number of credits that may be earned in this manner. A number of schools offer a practice trial course, but it amounts to little more than a burdensome, time consuming game. The bar associations attempt to remedy the problems of the inexperienced lawyer by issuing a "Practice Book" which contains forms and "how-to-do-it" details on most of the common legal chores; for example, how to prepare a title opinion or how to handle a divorce matter. However, these types of programs are only marginally beneficial.

27. The Council on Legal Education for Professional Responsibility (CLEPR) has reported that nearly 30 percent of third year students now participate in some form of practical, clinical training, which is compared to only 10 percent three years ago. *The Clinical Movement: Out of the Casebooks, Into the Courts*, 6 JURIS DOCTOR 25, 26 (1976).

tem, elimination of the final year of law school and institution of a "2-1-1" curriculum.

Formalization of Present Practice

At first impression, perhaps the most sensible and economical program for insuring bar applicants are professionally competent upon admission to practice is to formalize present practice. Arguably, it makes sense to grant a limited license to the law graduate for a period of internship or apprenticeship and to grant an unrestricted license afterward. Specifically, each applicant would be required to serve a term, perhaps a year, as an apprentice lawyer, a legal intern, under supervision of a practicing lawyer prior to full admission to the bar. This would insure each lawyer admitted would have some measure of supervised practical experience. Professor A. R. Thompson of the University of Alberta, Canada, while recognizing formalization of the present practice would not be without defects, has recommended such a program to the American legal profession. He says:

No proliferation of devices will eliminate the uneven quality of instruction provided under the clerkship system . . . or ensure that the examples of competency and integrity offered by every preceptor will be worthy of the profession. Nevertheless, . . . clerkship can be an effective training device, and the shortcomings of uneven instruction can be remedied by practice courses, such as the Ontario bar admission course.²⁸

Thus, Professor Thompson posits that an effective remedy to the problem of initial professional incompetence of new lawyers can be found in formalizing the present system supplemented with a practical skills course. To insure that the internship period is educational, he recommends certain devices be employed to "remind the preceptor of his responsibilities to his clerk and to embolden the clerk to insist that these responsibilities be fulfilled."²⁹ For example, preceptors should be limited to lawyers with considerable experience. In substance, Professor Thompson has recommended that American jurisdictions adopt the Ontario legal education system to obtain a balance of academic and practical training.

In making this recommendation, Professor Thompson failed to

28. Thompson, *Canadian Experience in Practice Training*, 16 J. LEGAL EDUC. 43, 53 (1963).

29. *Id.* at 52.

point out the Ontario system had come under severe criticism in a report prepared for the Commission on Post-Secondary Education,³⁰ for approximately the same defects found in American legal education. The report recommended the period of clerkship and the bar admission course be abolished and substantial reform of law school curriculum be undertaken. Therefore, adoption of the Ontario model, *viz.*, formalization of the present informal practice of apprenticeship supplemented with a bar admission practice course, should await a review of the Ontario legal education system.

*Ontario Legal Education System*³¹

Development of legal education in Ontario is similar in many respects to that in the United States. Notable exceptions, however, are that the Law Society of Upper Canada has remained the dominant force in Canadian legal education and the chronological reference points in Canada follow those in American legal education by approximately an entire century. Legal education in Ontario had a "trade school" orientation, patterned after the English Inns of Court, and was a part-time endeavor until 1949; it was not until 1952 that a law school applicant was required to possess a baccalaureate degree. The emphasis has always been on the practical and until the 1920's there was only one full-time law instructor in Osgoode Hall; at the time the only law school approved by the Law Society. Historically the Law Society has favored "the part-time lecture and full-time articles (of clerkship) system of legal education."³²

Significantly, the Law Society, in contradistinction to American legal education, has been the most potent force in determining curriculum and admission to practice requirements. The Law Society has exercised such tight control over legal education that university law school graduates were required to repeat the third year at Osgoode Hall until 1957. The Law Society, under considerable pressure, relaxed the prerequisite to articles of clerkship by recognizing all Canadian Bachelor of Laws (LL.B.) degrees as equivalent to graduation from Osgoode Hall. However, relinquishment of absolute control of legal education resulted in the institution of the Law Society's Bar Admis-

30. A. ROMAN, *LEGAL EDUCATION IN ONTARIO, 1970, A STUDY PREPARED FOR THE COMMISSION ON POST-SECONDARY EDUCATION IN ONTARIO* (Toronto 1972).

31. See Parker, *The Politics of Legal Education*, 4 *TAS. L. REV.* 276 (1974); Thompson, *Canadian Experience in Practice Training*, 16 *J. LEGAL EDUC.* 43 (1963).

32. Parker, *supra* note 31, at 277.

sion Course, which is a course of instruction in practical aspects of law. Presently, all applicants to the practice of law must possess an LL.B. degree from an approved law school, serve as an articled clerk for twelve months and successfully complete a six-month Bar Admission Course. Thus, the Law Society retains tight, but tempered, control over legal education.

The only significant distinguishing feature of the Ontario legal education system is the Bar Admission Course. Objectives of the course are to prepare bar applicants for the practicalities of law practice and to insure a minimum level of professional competence. The course, covering thirteen different subject areas, is taught by approximately 250 experienced lawyers, and the period of clerkship are inseparable. Professor Thompson describes their complementary nature:

The course and the period of clerkship are conceived as complementary devices, both essential to an adequate practice training. The course organizes the experiences of clerkship and gives them significance and coherence. It also fills the gaps and rounds out a complete practice training. On the other hand, the clerkship, by familiarizing the clerk with the lawyer's daily tasks, equips the clerk to absorb the course instruction in a way no law school could do.³³

However, despite the platitudes of Professor Thompson, there is considerable agitation for change in Ontario. Professor Graham Parker of York University, Ontario, reports:

[T]here is growing dissatisfaction with legal education in Ontario. Some students and many practitioners have been very critical of law schools because they teach too many "frill" courses which impart the "basic skills." A few practitioners and many students complain that articling is a waste of time and should be abolished. Many students and law teachers have branded the Bar Admission Course a dull cram course which is badly taught. Almost everyone agrees that the training of a lawyer takes too long.³⁴

Thus, the Ontario model which Professor Thompson recommends is afflicted with similar, if not the same, problems associated with American legal education; therefore, it is not satisfactory for resolving the problems of American legal education.

In addition to defects reported by Professor Parker, there are several significant problems the Ontario clerkship program has in common with the present American model of practical legal education.

33. Thompson, *supra* note 31, at 56.

34. Parker, *supra* note 31, at 279.

They are:

1. The high potential for an uneven quality of training;
2. The lack of a uniform curriculum;
3. Limitations due to the specialized nature of the practice of supervising lawyers;
4. The foremost concern of supervising lawyers is their practice and the generation of legal fees, not teaching practical aspects of law; and
5. Little assurance that the supervising lawyer will be a satisfactory model of professional competency and integrity worthy of emulation.

Moreover, there is high potential for economic hardship being placed upon clerks and, concomitantly, potential for creation of a bondage-like atmosphere. Significantly, clerkship has been tried and abandoned in several jurisdictions.³⁵

Other Solutions

Since formalization of the present system has proven unsatisfactory where implemented, a search for a solution must begin anew. Dean Michael Sovern of Columbia has recommended experimentation with a "2-1-1" legal education format: two years academic, one year practical, and another year of academic study.³⁶ Others have merely suggested elimination of the third year of law school.³⁷ The latter suggestion, now generally laid to rest, recognized that "law schools . . . [have] problems developing a meaningful third year program that engage[s] the interest of students. . ."³⁸ Such a program would leave untouched the present informal system of practical legal training. The two-year concept, perhaps for the wrong reasons, is no longer given serious consideration.³⁹ Likewise, Dean Sovern's "2-1-1" concept, although an improvement over the two-year concept, has not received serious consideration. He recommended a student engage in formal academic study for two years, serve a paid clerkship with a law firm for

35. New Jersey and Pennsylvania still maintain the vestiges of law office clerkship after law school graduation.

36. Address by Dean Michael I. Sovern, Charles Evans Hughes Memorial Lectures, County Lawyer's Association (March 21, 1974).

37. E.g., Stolz, *The Two-Year Law School: The Day the Music Died*, 25 J. LEGAL EDUC. 37 (1973).

38. *Id.* at 41.

39. *Id.* at 40.

a year and return to the classroom for the final year of academic study. Two principal benefits support the concept: one, the student would be able to gain valuable practical experience, and two, earn a substantial amount of funds to offset the rising cost of legal education. The clerkship period would make the final year of law school significantly more meaningful because the student could relate practical considerations to his academic endeavors and, if desired, concentrate in a particular area of study. Although Dean Sovern's suggestion has considerable merit, especially in reference to the cost of legal education, it is seriously, perhaps fatally, flawed with the defect of allocating practical legal education to the practicing bar. This defect, however, is mitigated somewhat because the student is required to return to the academic environment and, ostensibly, any erroneous competency and ethical conceptions could be positively influenced. However, neither of the foregoing ideas is satisfactory because they fail to integrate practical and theoretical legal education in a controlled educational environment with appropriate safeguards for quality. The legal education program that follows attempts that integration.

IV. RECOMMENDED INTEGRATED LEGAL EDUCATION PROGRAM

Since law schools are the singular source of legal education, it is natural and reasonable to expect they will provide a sound, complete professional education that will develop and integrate substantive and procedural knowledge and practical skills required for delivery of legal services. An Integrated Legal Education Program is required to meet this expectation.

Guidelines For Solution

The basic, and foremost, factor in developing an Integrated Legal Education Program is that the practice of law is a profession.⁴⁰ In granting this status, society expects the legal community to satisfy individual and collective legal requirements of societal members; in return, society provides important reciprocal privileges.⁴¹ In meeting the legal needs of the community, the legal profession is expected to respond with a high level of professional competence; it is this standard law schools must engender in law graduates.

40. See Toster, *Professional Standards and Humane Values in the Practice of Law I*, 3 PROG. GEN. & CONTIN. EDUC. HUMANITIES SEMINAR REP. 16 (1975).

41. Chief among the privileges is a monopoly in the practice of law.

The standard of professional competence is the minimum level acceptable to the community-at-large. Performance below that level may subject the individual lawyer to suspension from practice or a malpractice suit, but on the profession-wide level, long-term sub-professional performance will result in erosion of professional privileges and, perhaps, elimination of the legal profession.

To preserve the legal profession, and the ability to contribute to the continued growth and development of society, inquiry into the function of the legal profession is necessary. Professor Saul Toster of City University of New York describes the role of the profession:

the mission of the legal profession is, I believe, to preserve [a] kind of public health, one . . . essential to human life. As physicians are concerned with preventing, ameliorating, or curing illnesses, so lawyers are concerned with preventing, ameliorating, or resolving disputes, conflicts and 'troubles.' Whether he functions in mediating disputes, or as advocate in the more formal settings in courts and other tribunals . . . the attorney serves to minimize or mitigate the social dysfunctions caused by conflicts that are endemic in any organized society . . .⁴²

To fulfill this weighty societal responsibility, a lawyer must possess myriad qualities. To identify these qualities, several questions must be investigated. What does society expect a lawyer to be able to accomplish in carrying out the mission of the legal profession? What skills and professional attributes should a lawyer possess? Should lawyers be specialists or generalists? Without attempting to answer these questions specifically, a lawyer, in addition to being familiar with a great body of substantive law, must possess legal research and analytical skills, competency in legal drafting and oral advocacy, a minimum level of trial competency, certain sociological and psychological abilities and be able to exercise legal judgment in advising clients concerning alternative courses of action. Clearly, there must be an integration of theoretical and practical professional skills.

Integrated Legal Education Program Description

The Integrated Legal Education Program (ILEP) is designed to provide a complete, integrated legal education to insure law graduates and bar admittees are professionally competent to enter into law practice and to fulfill societal expectations of the legal profes-

42. Toster, *supra* note 40, at 17.

TABLE VI
INTEGRATED LEGAL EDUCATION PROGRAM
Suggested Curriculum

<i>First Year</i>					
<i>First Term</i>		<i>Second Term</i>		<i>Third Term</i>	
Torts I	3	Torts II	3	Business Assoc.	3
Contracts I	3	Contracts II	3	Administrative	
Property I	3	Property II	3	Law	3
Criminal Law	3	Constitutional Law	4	Commercial Law	4
Jurisprudence	3	Legal History	2	Electives	5/6
	15		15		15/16
<i>Second Year</i>					
<i>First Term</i>		<i>Second Term</i>		<i>Third Term</i>	
Civil Procedure I	3	Civil Procedure II	3	Conflict of Law	3
Legal Res.		Legal Res.		Legal Res.	
& Writing	2	& Writing	2	& Writing	2
Criminal		Evidence	3	Federal Courts	3
Procedure	3	Practice Clinic	3	Practice Clinic	3
Appellate		Electives	4/5	Electives	4/5
Advocacy	2				
Electives	2/3				
Practice Clinic	3				
	15/16		15/16		15/16
<i>Third Year</i>					
<i>First Term</i>		<i>Second Term</i>		<i>Third Term</i>	
Practice Clinic	10	Practice Clinic	10	Practice Clinic	10
Electives/ Seminars	5/6	Electives/ Seminars	5/6	Electives/ Seminars	5/6
	15/16		15/16		15/16

sion. The program, considerably lengthening the time invested in law study, can be completed within three calendar years; there is a balanced emphasis on theoretical and practical aspects of the practice of law. There is, in addition, a substantial requirement for legal research and writing.

The program consists of three academic years with three 14-week terms each.⁴³ The initial two years substantially resemble the contemporary law school program. However, the third year features active student participation in a practice clinic, which in all practical respects is a school-managed law firm. Students are required to enroll in 15 or 16 credits per term, except for the initial two terms which consist of a prescribed curriculum of 15 credits each. The program is designed for the full-time study of law; except in special cases, no student is permitted to enroll in more or less than the prescribed course load. Table VI contains the suggested required curriculum for the entire course.

43. The traditional program consists of 96 weeks of instruction divided into six terms of 16 weeks each. The Integrated Legal Education Program (ILEP), however, consists of 126 weeks of instruction divided into nine terms of 14 weeks each. There

First Year. The first year, consisting of 45/46 credits distributed over three terms, is devoted entirely to traditional substantive law school coursework. The objective, similar to the first year in a contemporary law school program, is to provide the student with a sound theoretical base for future participation in the legal profession. A curriculum of basic, introductory courses is prescribed and includes offerings in torts, contracts, property, criminal law, jurisprudence, constitutional law, legal history, business associations, administrative law and commercial law. To provide for individual interests, there is an allowance for five or six credits of electives in the third term.

Second Year. In the second year, the educational emphasis begins to shift from theoretical to practical. During this transition year, the focus is upon procedural course work, legal research and writing and limited participation in a practice clinic. All procedural coursework *e.g.*, civil and criminal procedure and evidence, is completed in preparation for substantial third year practice clinic activities. To enhance and supplement the study of procedural law, a limited portion of the year, nine of 45/48 second year credits, is devoted to practice clinic participation. While the student is studying pleadings, for instance, he will participate in drafting and filing of petitions and motions, integrating theoretical and practical aspects of pleadings. Similar limited participation is envisioned for other procedural courses such as trial practice and evidence.

Since every lawyer should have a minimum expertise in legal writing, each student enrolls in six credits, two per term, of legal research and writing and presents papers in the nature of a law review comment or casenote. The goal of the legal writing requirement is to develop the ability to research and synthesize legal materials bearing upon narrow, particularized research topics. The writing product should be of such quality that it may be considered for publication as student material in the law review.

Also, oral skill required of a lawyer is developed through appellate advocacy arguments and there is an opportunity to broaden the substantive law base through a generous allocation of electives. In

is an increase of approximately seven months of school attendance. However, this increase is mitigated by year-round attendance which permits completion of the law course in three calendar years.

The program is designed for individuals entering the private practice of law. As suggested herein, other programs should be available for students with different career goals. Someone entering government service, for example, might attend only the first two years of the ILEP course. This practice is common in civil law countries.

general, course work in the first and second years is preparatory to participation in the third year of the law course.

Third Year. The third year emphasizes practical aspects of the practice of law and draws upon substantive and procedural knowledge acquired during the first two years of study. The student, although closely supervised by experienced and highly competent clinical professors, assumes primary responsibility for assigned cases. Students may be rotated between various functions, *e.g.*, trial courts vs. appellate court participation, to provide a broad base of supervised practical experience and fully develop practical skills, *e.g.*, oral advocacy, necessary to attain a professionally acceptable level of competence. At the completion of the third year, the law student will have engaged in the entire spectrum of professional activities including: filing pleadings, arguing motions, voir dire, examining witnesses, interviewing clients, etc.

The third year is unlike the first two years in that participation in practice clinic activities is continuous throughout the year. This is consistent with the fact that legal matters normally will not wait until the start of the next school term. In addition to participation in practice clinic, third year students will have the opportunity to continue limited substantive course work. This will provide the opportunity to focus upon a particular area of study, with a maximum of five or six credits allowed, or to further broaden the individual substantive base.

Numerous third year seminar courses are available as an adjunct to practice clinic; allowing students to discuss various subject matters while relying upon personal clinical experiences and research. A paper is not required in these seminars because the potential burden might detract from full clinical participation. The seminars are primarily a forum for discussion and, secondarily, a tool to encourage and develop an atmosphere of cooperation and communication between members of the legal profession. Moreover, there is sufficient legal research and drafting in practice clinic to sharpen the advanced students' skills.

Practice Clinic. The Practice Clinic, generally under the supervision of the faculty of law, will provide a complete range of practical experiences under close supervision of highly competent clinical professors. To insure a wide range of activities, the Practice Clinic will be associated with local, state and federal agencies. For instance, arrangements will be made to allow the students to participate actively

in the functions of the local district attorney's office, public defender programs, juvenile court programs, or serve as legislative interns. There is a plethora of possible activities throughout the criminal justice administration system; similar possibilities exist in the civil practice.⁴⁴ However, the bulk of Practice Clinic activities should be conducted in an in-house legal aid law firm. Clinical professors, serving as competency and ethical models, can cultivate a high standard of professional performance and ethical norms through constant guidance and close supervision of student clinical activities.⁴⁵ Psychological concepts such as "learning theory" and "shaping" can be utilized to establish a high standard of professional competence and "modeling theory" can be the basis for developing a high level of ethical norms and values.⁴⁶ In short, student participation in the Practice Clinic is the foundation for future professional activities.

Benefits and Costs

The Integrated Legal Education Program (ILEP) is designed to bring together basic requisites of lawyership: a sound theoretical structure of substantive and procedural law and practical skills. The role of intellectualism in legal education is not diminished, but shares a comparable status with practical legal education. Professor Curtis Berger of Columbia would describe this union as bringing the "affairs of the head" together with the "matters of the heart."⁴⁷ After suggesting legal education send students into the community in much the same manner envisioned by ILEP, he says:

At the risk of sounding simplistic, we should train our students to deal with other human beings, so they will begin to understand that when a client comes into a lawyer's office he is usually a disturbed person, so they will begin to appreciate that very often what surfaces as a legal problem has its roots in deep-seated social problems.⁴⁸

44. See Allison, *The Evaluation of a Clinical Legal Education Program: A Proposal*, 27 VAND. L. REV. 271, 278-80 (1974).

45. "Law schools must provide students with 'heroes for emulation' The ultimate purpose . . . is to supply students with a variety of desirable models after which they can pattern their professional career." Watson, *The Quest for Professional Competence: Psychological Aspects of Legal Education*, 37 CIN. L. REV. 93, 158 (1968).

46. See Redmount, *Humanistic Law Through Legal Education*, 1 CONN. L. REV. 201 (1968).

47. Berger, *The Legal Profession's Need for a Human Commitment*, 3 PROG. GEN. & CONTIN. EDUC. HUMANITIES SEMINAR REP. 13 (1975).

48. *Id.* at 15.

Certainly, besides having a much desired humanizing effect,⁴⁹ the chief advantage of supervised clinical participation is the opportunity to participate in the resolution of actual legal problems. The payoff to the student, and the profession, is that he will enter practice with the expectation of increased intrinsic reward and financial remuneration: as a sole practitioner, he will not waste time and effort solving simple, generic legal problems; as a law firm associate, the firm will not have the first year training burden and he will be able to contribute immediately. Moreover, on a profession-wide basis, ILEP will improve public esteem of the legal profession over the long-term because of increased standards of competency and ethical norms. In summary, ILEP provides quality practical training; eliminating defects of the present system.

Institution of ILEP is not without substantial costs. There are increased faculty and staff expenses, and where teaching facilities are inadequate, increased physical plant expenditures. Significantly, increased costs associated with student participation in federal and state agencies is *de minimus*. However, funding and assistance is available from multiple sources. For instance, Judge Kaufman suggests the organized bar assist in clinical education of law students. He says:

Clinical education is extremely expensive because it requires trained supervisors to oversee all aspects of the student's work. Experienced members of the bar are well suited to assist in teaching the art of advocacy. The organized bar should explore ways in which its efforts and 'expertise' can be used to assist clinical legal education programs in our law schools and other programs looking to the training of advocates.⁵⁰

Thus, a substantial source of part-time clinical instructors is the organized bar. In addition to direct legislative appropriations, federal and state agencies can continue to fund legal aid/public defender activities for the indigent. Moreover, with the impending implementation of prepaid legal services,⁵¹ the Practice Clinic could be the beneficiary of such a program. Not only would this provide a significant source of clients from the neglected middle class, but it would also provide a substantial source of funding.

49. See Reich, *Toward The Humanistic Study of Law*, 74 YALE L. REV. 1402 (1965).

50. Kaufman, *supra* note 21.

51. Fellers, *State of the Legal Profession: Annual Report of the President of the American Bar Association*, 61 A.B.A.J. 1053 (1975).

Finally, ILEP is directed toward the law student desiring to enter the private practice of law. Since law schools are the singular source of introductory legal education, a thorough professional education should be provided to integrate theoretical and practical aspects of practice. The program is not ideally suited, although beneficial, for individuals aspiring to government service or legal education; other similarly designed programs can be developed for their benefit.⁵² The solution recommended here, ILEP, can be reasonably implemented by the legal education community and should be welcomed by an enlightened legal profession.

V. CONCLUSION

Contemporary law schools have failed in their responsibility to law graduates and the legal profession by not providing the requisite tools for lawyering. Following the lead of Dean Langdell, law schools have performed reasonably well in producing legal scholars, but have substantially neglected to provide law students with skills necessary to perform as lawyers. The organized bar has acquiesced in the domination of legal education by the law schools and has allowed admission of professionally unqualified individuals to the practice of law. The advice of Jerome Frank has long gone unheeded⁵³ and the results have been tumultuous: the public holds the profession in low esteem and the judiciary is vociferous about the incompetency of trial and appellate counsel. It is time for "lawyer schools."⁵⁴

Law schools must provide "leadership in satisfying the hunger for better-trained . . . lawyers"⁵⁵ because they have become the singular path to the legal profession. Judge Kaufman recommends clinical legal education as the solution:

Clinical education programs can provide the experience of law practice around which law schools can weave the important doctrinal and theoretical course material. . . . The great opportunity presented by clinical education is that through close supervision by trained professionals students can learn to perfect their craft and develop critical standards by which to evaluate their own performance.⁵⁶

52. See The Carrington Report, *Training for the Public Professions of the Law*, Part 1, § 2, Proceedings, Associations of American Law Schools (1971 Annual Meetings).

53. Frank, *Why Not a Clinical Law School?*, 81 U. PA. L. REV. 907 (1933).

54. Kaufman, *supra* note 21, at 803.

55. *Id.* at 802.

56. *Id.* at 803.

The ILEP concept combines theoretical and practical law and aims for the production and internalization of competency and ethical norms for life-long professional evaluation. Dean John Cribbet of the University of Illinois agrees a change in legal education is needed and “[g]iven the resources of medical education, for example, a revolution in legal education could occur almost overnight.”⁵⁷ The time for revolution is now and the legal profession must act swiftly or, as in all revolutions, face the possibility of being displaced.

57. Cribbet, *Legal Education and the Rule of Law*, 60 A.B.A.J. 1363, 1365 (1974).

APPENDIX

FIRST YEAR: First Term

Contracts I (3): Obligation, offer, acceptance, promise, consideration, substitutes for consideration, remedies in contract law, duties, reliance, promissory estoppel.

Torts I (3): Civil liability based upon fault. Intentional wrongs: assault, battery, false imprisonment, infliction of mental distress, conversion, trespass to chattels and land. Privileges. Strict liability. Defamation. Misrepresentation. Privacy.

Property I (3): Personal property law. Introduction to real property law: estates in land; landlord and tenant; adverse possession.

Criminal Law I (3): Basis of criminal laws, federal and state. Nature of crime. Elements of crimes. Common law, statutory law and specific offenses. Defenses: insanity; justification; privileged acts. Conspiracy. Principals; agents; aiders and abettors. Intent.

Jurisprudence (3): The nature, meaning, purpose and scope of law and justice as it relates to civilization and society. An analytical, philosophical, ethical and sociological inquiry.

FIRST YEAR: Second Term

Contracts II (3): Breach: anticipatory and actual. Conditions: precedent and subsequent. Statute of frauds. Discharge; release; accord and satisfaction. Frustration; impossibility; illegality. Assignment and delegation. Third party beneficiaries.

Torts II (3): Negligence: causation; standard of care; duty; limitations. Defenses: assumption of the risk; consent; contributory negligence; comparative negligence. Imputed negligence. Survival and wrongful death actions.

Property II (3): A continuation of real property law: natural rights; easements; covenants; licenses; equitable servitudes. Controls on the use of land, private and public.

Constitutional Law (4): Separation of powers. Checks and balances on the executive, judicial and legislative branches. Constitutional amendments. The Supreme Court. States rights. Individual rights.

Legal History (2): The characteristics, development, and history of United States law. The effect of American Law on our institutions, legal philosophy and society.

FIRST YEAR: Third Term

Administrative Law (3): The Constitutional implications of the administrative function. Administrative agencies, discretion, hearing,

jurisdiction, judicial control, notice, procedure and judicial relief. Contemporary problems in the administrative process.

Business Associations 1 (3): The legal aspects of the use of agency, partnership and incorporation in the American enterprise system. The control, financing, management and regulation of closely held corporations.

Commercial Law I (4): The Uniform Commercial Code. Commercial transactions: bank deposits; bulk sales; collections; consumer credit; credit cards; letters of credit; product liability; sales. Secured transactions. Trustee powers under the Federal Bankruptcy Act.

Electives (5/6): Courses selected by the student.

SECOND YEAR: First Term

Civil Procedure (3): Pleadings and motions under the Federal Rules of Civil Procedure and State statutes: amendment of pleadings; motion to strike; motion for more definite statement; depositions; interrogatories; inspection of documents; physical and mental examination; pretrial conferences. Modern practices: joinder of parties and causes of action; permissive and compulsory counterclaims; intervention; interpleader; cross-claims; third-party claims; class actions. Real party in interest.

Criminal Procedure (3): The administration of criminal justice: limitations on prosecution; initiation of proceedings; pre-trial; pleas; trial; rights of the accused: post-conviction procedures.

Legal Research and Writing (2): Introduction to the sources of law, study of legal research methods and their application to problem solving and writing problems by means of law finding and legal writing exercises. A casenote or comment of publishable quality is expected.

Appellate Advocacy (2): An appellate case: research; drafting of briefs; oral arguments.

Practice Clinic (3): Limited, practical application of the procedures taught in second year courses.

Electives (2/3): Courses selected by the student.

SECOND YEAR: Second Term

Civil Procedure II (3): Court jurisdiction over persons and things. Constitutional and statutory authority for jurisdiction. Service of process. Subject matter jurisdiction. Venue: state and federal. Judgments. Continuation of multi-party actions: class actions; interpleader; intervention.

Evidence (3): Judicial notice; presumptions; burden of proof; functions of the court and jury. Witnesses: competency; examination; opinion; direct examination; cross-examination; the hearsay rule and exceptions. The best evidence rule; circumstantial evidence; standards of relevancy; illegal evidence.

Legal Research and Writing (2): A continuation of the first term program

Practice Clinic (3): A continuation of the practical application of the procedures taught in second year courses.

Electives (4/5): Courses selected by the student.

SECOND YEAR: Third Term

Conflict of Laws (3): The interstate choice of law process: the "vested rights" theory; most significant relationships; interests method. The enforcement and recognition of foreign judgments. Law of the forum. Renvoi and depeage.

Federal Courts (3): Our constitutional system of federal courts. Federal jurisdiction: sources; limitations; abstention doctrines; three-judge courts; control over state jurisdiction and proceedings; multi-district litigation. Proposed reforms in the Federal Judicial Code.

Legal Research and Writing (2): A continuation of the previous terms.

Practice Clinic (3): A continuation of the previous terms.

Electives (4/5): Courses selected by the student.

THIRD YEAR: First Term

Practice Clinic (10): Full participation by the student in the legal process: client interviewing and consultation; motion docket; trial practice; post-trial procedures.

Electives/Seminars (5/6): Courses and third-year seminars selected by the student.

THIRD YEAR: Second Term

Practice Clinic (10): A continuation of the third year, first term course.

Electives/Seminars (5/6): Courses and third-year seminars selected by the student.

THIRD YEAR: Third Term

Practice Clinic (10): A continuation of the previous third year course in the first and second terms.

Electives/Seminars (5/6): Courses and third-year seminars selected by the student.

Practice Clinic Activities—Selected

Legal Aid Clinic: Legal assistance is rendered to indigents by students: interviews; factual investigations; legal research; appearance in municipal, state and federal courts. A third-year seminar should accompany the Legal Aid participation.

Defender Clinic: Students travel to penal institutions and counsel inmates concerning their rights and obligations, and participate in the defense of indigents in court.

Juvenile Problems: Students participate in the proceedings of the local juvenile court: case preparation; investigation; prepare legal documents; present the state's interest in the courtroom; aid in the majority determination.

Trial Court and Appellate Court Clerkships: Students are assigned to assist various trial and appellate courts.