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EYES TO THE FUTURE, YET REMEMBERING THE PAST: RECONCILING TRADITION WITH THE FUTURE OF LEGAL EDUCATION

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The great age of the American law school has long since passed and will never come again.¹

The sense of longing and nostalgia epitomized in this one brief statement captures the feelings of many in the profession. Ah, but to return to the days of ivy-covered walls, Socratic Professor Kingsfields, and the knowledge that yes, law truly is a noble profession. Such sentiments cause even present day law students to wonder what it would have been like back then. I often find myself sitting in class, staring at those portraits of distinguished-looking gentlemen whose names I do not know, but who symbolize for many the ghosts of law school past. I remember listening in childlike awe to my grandfather, mesmerized as he recounted stories of his days as a law student and then as a trial lawyer, reveling in what seemed to me at age eight to be nothing short of magic. At the time, I did not realize that my own legal education had already begun, and that my first lesson had all the trappings of a fairy tale.

Today, however, the legal landscape is much different. Besides the ivy-covered walls and a few remaining Kingsfields, though now much less ferocious than they used to be, the law school of my grandfather's day is no longer with us. Much of this, I might add, is for the better. As a woman, I can be grateful for the fact that some things do in fact change. With the exception of perhaps the first few terror-stricken weeks of law school, the classrooms of today are a much friendlier place to learn. But in spite of all this change, criticism of law schools has become widespread in recent years. Paramount is the concern, from both bench and bar, that today's students are woefully ill-prepared for the practice of law.

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1. GRANT GILMORE, *THE AGES OF AMERICAN LAW* 57 (1977).

Criticism of legal education is nothing new. Law schools themselves found their genesis in it, as dissatisfaction with the colonial system of student apprenticeship grew. In an odd twist of fate, today's cries for reform seem to point back in the direction of apprenticeship, and to stress the need for practical experience in lieu of abstract legal theory. So how have we found ourselves returning to the place from whence we came? The answer is largely a by-product of the changing role of the profession, and of the ensuing pressures placed on students to gain entry to its most formidable institution—the law firm. But should the ivory tower be replaced for what traditionalists view as the equivalent of a glorified trade school? Can an even balance be reached?

This Note explores the relationship between legal education and the legal profession, and what can be done to stop the two institutions from drifting farther and farther apart. Part I examines the history of the American law school, focusing on how the schools came into existence and what goals they intended to serve. Part II questions whether these goals have been reached, and dissects the present-day law school curriculum in search of both its triumphs and its failures. A necessary part of this curriculum analysis includes examining the evolution of the profession into a creature of both law and business, asking whether law schools have adapted accordingly, and presenting ideas for reform. The Note concludes by suggesting how the two communities, academia and the profession, can learn from each other to bring forth a class of better-trained, better-educated lawyers for the practice of today.

I. THE HISTORY OF THE LAW SCHOOL

A. *From Apprentice to Student*

During the colonial era, wealthy Americans who aspired to become distinguished members of the bar returned to the source of American jurisprudence and obtained a legal education at one of the British Inns of Court.² According to one legal

2. The Inns of Court were "private unincorporated associations, in the nature of collegiate houses, . . . invested with the exclusive privilege of . . . conferring the rank or degree of a barrister." BLACK'S LAW DICTIONARY 789 (6th ed. 1990). By the middle of the 18th century, however, the Inns had "degenerated into little more than

historian, between twenty-five and fifty American-born lawyers had been educated in England prior to 1760 and were admitted to the Inns between 1760 and the time of the American Revolution.³ The majority of Americans who chose the legal profession, however, could not afford the trip to England.⁴ Moreover, by the time of the American Revolution, the dominant influence on the organized bar was the English solicitor rather than the barrister,⁵ perhaps in response to growing anti-British sentiment and mounting concern for the "common man." Thus, when it came to legal education, the contemporary American lawyer firmly believed that law could best be learned in a law office.⁶ Soon, a term of apprenticeship under the tutelage of a practicing lawyer became the established route to the American bar.

The apprenticeship system was a contractual relationship between lawyer and student, with the student exchanging a fee and his services in return for instruction in the law.⁷ Over the course of two to five years, depending on the requirements of the jurisdiction, the student would learn the practical skills of a lawyer by copying writs, transcribing contracts, attending court, and seeking advice from his mentor.⁸ The student was expected to learn substantive law, as well as legal theory, in his spare time by reading such authors as Coke, Blackstone, Wood, Grotius, and Puffendorf.⁹

Not surprisingly, dissatisfaction with the drudgery of the apprenticeship system began to emerge. Many students found themselves alone with their incomprehensible law books and

dining clubs with no educational value . . . [A]spiring barristers were [thus] forced to study with practitioners in order to gain an adequate legal education. [In fact, a]fter 1729, attorneys were required to serve an apprenticeship." Charles R. McKirdy, *The Lawyer as Apprentice: Legal Education in Eighteenth Century Massachusetts*, 28 J. LEGAL EDUC. 124, 127 & n.13 (1976).

3. CHARLES WARREN, *HISTORY OF THE AMERICAN BAR* 188 (3d ed. 1966), noted in McKirdy, *supra* note 2, at 127 n.13.

4. McKirdy, *supra* note 2, at 126.

5. ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* 3 (1983).

6. Henry W. Rogers, *Law School of the University of Michigan*, 1 GREEN BAG 189, 192 (1889); see also Emory Washburn, *Legal Education—Why?*, 7 W. JURIST 213, 214 (1873) (explaining why, in the pre- and immediate post-Revolution era, formal legal education was viewed as "a secondary matter" for the majority of aspiring lawyers serving apprenticeships).

7. McKirdy, *supra* note 2, at 126.

8. *Id.* at 127.

9. *Id.* at 128–29. Assigned readings varied from lawyer to lawyer, depending not only on the practitioner's personal tastes, but also on the size of his library. *Id.*

the writ forms they had long ago mastered, while their "erst-while teacher[s] tended to business."¹⁰ This complaint was echoed by one of the leading legal periodicals of the day:

The principal gives no care or attention to the progress of his clerks and students, and the clerks and students consequently give no care or attention to it either. The time spent by a young man in a law office is, to a great extent, wasted. It is not unfrequently worse than wasted, habits being then formed which in after life weigh down and destroy him.¹¹

Dissatisfaction with the inefficiency of the apprenticeship system, together with the severing of ties with England and its Inns of Court, led to the establishment of a new form of legal education—the private law schools.

B. The Birth of Law Schools

The private law schools were generally outgrowths of offices of practitioners who were particularly skilled or popular as teachers.¹² The method of instruction resembled that of the apprenticeship system, but instruction was on a group basis. The students received formal lectures, yet still retained intimate daily contact with the courts.¹³ The first and most famous of these schools, Litchfield, opened in 1784 under the sponsorship of Tapping Reeve. By the time the school closed in 1833, it had enrolled a total of 1,024 students, even though the school had never been incorporated and thus could confer no degrees.¹⁴

At the same time, some of the colleges and universities began teaching undergraduate courses in law, the first being William and Mary College in 1779.¹⁵ Although other colleges soon

10. *Id.* at 133.

11. *Law Apprenticeships*, 5 ALB. L.J. 97, 98 (1872).

12. STEVENS, *supra* note 5, at 3.

13. Jerome Frank, *Why Not a Clinical Lawyer-School?*, 81 U. PA. L. REV. 907, 909 (1933).

14. Henry W. Rogers, *Legal Education in the United States*, 1 AM. L. REV. 13, 13 (1902).

15. *Id.* at 14.

followed suit,¹⁶ the efforts to develop law as a scholarly study were not successful at first. Professorships frequently lapsed, and "serious" professional training occurred in private schools such as Litchfield.¹⁷ As legal historian Robert Stevens notes, "the dichotomy between the teaching of law as a liberal and liberating study and the teaching of law as a technical and professional study was already established."¹⁸

In 1817, however, the fate of legal education was to change forever; in that year the Harvard Law School was founded, the first law school to be established as a department of a university.¹⁹ Beginning in the 1820s, other law schools began to appear, some attracting faculty by ingeniously offering the prestige and degree-conferring power of a university to private law schools.²⁰ However, the number of law schools remained relatively small during the next fifty years, with the number totalling only twenty-eight in 1870.²¹ This slow growth has been attributed, in part, to what has been called "the demise of the educated American bar at the hands of the barbarian hordes of Jacksonian Democracy."²²

Indeed, the Jacksonian era brought harsh attacks on the perceived elitism of the profession most apparently through the abolishment or reduction of the requirements for legal apprenticeship.²³ For example, "[i]n 1800, fourteen out of nineteen jurisdictions had required a definitive period of apprenticeship. . . . By 1860, it was required in only nine of thirty-nine jurisdictions."²⁴ With such lax requirements for admittance, attendance at law schools seemed unnecessary.

The atmosphere of Jacksonian populism was short-lived, however. The latter half of the nineteenth century saw the

16. The University of Pennsylvania established a professorship in law in 1790, Columbia in 1793, Yale in 1801, Dartmouth in 1808, and Harvard in 1815. *Id.*

17. STEVENS, *supra* note 5, at 5.

18. *Id.* This dichotomy still plagues legal education today, albeit with one major change from the eighteenth century—the majority of law study today often is characterized as "liberal and liberating" rather than "technical and professional." The disagreement over whether or not this should be this case is described in greater detail *infra* Part II.

19. Rogers, *supra* note 14, at 13.

20. Among the colleges that absorbed private law school students, faculty, or both were Yale, Harvard, Tulane, and the University of North Carolina. STEVENS, *supra* note 5, at 5.

21. Rogers, *supra* note 14, at 14.

22. STEVENS, *supra* note 5, at 6 (citing CHARLES WARREN, A HISTORY OF THE AMERICAN BAR (1911)).

23. *Id.* at 7.

24. *Id.* at 7–8.

resurgence of interest in "upgrading" the bar.²⁵ One of the primary cornerstones of the new upgrade was the requirement of some form of legal education for admittance to the bar, either by attendance at law school or by a set term of apprenticeship. As a result of such measures, the number of law schools totalled 100 by 1901, and the number of students reached 13,037—up from a mere 1653 thirty years before.²⁶ The great age of the American law school had begun.

C. The Birth of the Case Method and Changing Requirements for Faculty

The original form of instruction in American law schools followed the German and English model—professors were required to give lectures. One author has claimed that this method was adopted as a matter of necessity due "to the fact that in the early days there were no suitable books which could be placed in the hands of students."²⁷ At the University of Michigan Law School, for example, the lecture method required students to take notes of what was said, complete with citations of cases. Then, on each day of class, the students were quizzed by the professor as to the contents of the previous lecture.²⁸ As one might guess, the lecture method was not free from criticism. One legal historian described it as "[a] method of legal instruction, which frequently amounted to little more than a professor standing before a class reading one or two chapters from a legal treatise and which, even in the hands of a brilliant scholar, often left the majority of students in dazed incomprehension."²⁹

In response to the demands of the day, lectures were soon supplemented with textbooks, so that the students finally could read for themselves the treatises on which the professors were lecturing. Common textbooks were copies of Blackstone's *Commentaries*, as well as treatises on contracts and pleadings

25. *Id.* at 20.

26. Rogers, *supra* note 14, at 14.

27. *Id.* at 15.

28. Rogers, *supra* note 6, at 193.

29. Anthony Chase, *The Birth of the Modern Law School*, 23 AM. J. LEGAL HIST. 329, 336-37 (1979).

which recently had become available.³⁰ Objections to the widespread use of textbooks remained, however, due to the fact that most of the treatises had been written for practitioners, and were still considered inappropriate for the use of students merely beginning the study of law.³¹

Then, in 1870, a man came to Harvard Law School who would revolutionize the study of law—Christopher Langdell. Grant Gilmore describes him best:

Christopher Columbus Langdell, who in 1870 became the first dean of the Harvard Law School, has long been taken as a symbol of the new age. A better symbol could hardly be found; if Langdell had not existed, we would have had to invent him. Langdell seems to have been an essentially stupid man who, early in his life, hit on one great idea to which, thereafter, he clung with all the tenacity of genius.³²

Langdell's one great idea was that law is a science.³³ He extrapolated that idea to its logical conclusion—that the law must therefore be taught as a science, complete with a laboratory. But what was to serve as the laboratory of the law? The answer was simple: the law library.³⁴

Of course it was unrealistic, not to mention inefficient, to set law students loose in the stacks of a library without any guidance. Langdell, however, had a solution. The logical corollary to his premise that law is a science was that since the number of general legal principles is relatively small, they may best be taught through the major cases which have developed and established them.³⁵ Thus, the professor's job was to cull

30. Rogers, *supra* note 6, at 193–94.

31. *Id.*; see also John F. Dillon, *Methods and Purposes of Legal Education*, 2 COUNSELLOR 10, 11 (1892) (complaining that the great drawback of legal education was the absence of elementary treatises for student use).

32. GILMORE, *supra* note 1, at 42 (footnote omitted).

33. *Id.*

34. Langdell explained:

[A]ll the available materials of that science [that is, law] are contained in printed books. . . . [T]he library is . . . to us all that the laboratories of the university are to the chemists and physicists, all that the museum of natural history is to the zoologists, all that the botanical garden is to the botanists.

Id. (alteration in original); see also Chase, *supra* note 29, at 331 (explaining that the case method of legal instruction had been modeled on the paradigm of clinical education in medicine).

35. GILMORE, *supra* note 1, at 42–43.

those cases which posterity had declared as the most important, and supply them to his students. Suddenly, the "case method" was born.

Since the emphasis was now on the law library and no longer on the law office, the standards for teaching had changed as well. Whereas the private law schools and the law departments had attracted students by employing some of the great practitioners of the day as professors, such credentials were no longer necessary. Langdell explained the new requirements as follows:

What qualifies a person, therefore, to teach law, is not experience in the work of a lawyer's office, not experience in dealing with men, not experience in the trial or argument of cases, not experience, in short, in using law, but experience in *learning* law.³⁶

Thus, Langdell began to recruit his faculty from recent graduates of the law school who had never practiced law and had no intention of ever doing so.³⁷ As Robert Stevens explains, "the case system was seen as so self-contained that the hand of a practitioner was not to sully its purity."³⁸ The President of Harvard, Charles Eliot, predicted in 1870 that one day there would be a body of men who have never been on the bench or bar, but who nevertheless held positions of great weight and influence as teachers of the law.³⁹ Now that Eliot's prophecy has come true, the present generation has been left to wonder how noble such an ideal is in reality.

36. STEVENS, *supra* note 5, at 38 (citing JOEL SELIGMAN, *THE HIGH CITADEL: THE INFLUENCE OF HARVARD LAW SCHOOL* 37 (1978)) (emphasis added).

37. Given tenure in their twenties, these young professors often lived into their nineties. As Grant Gilmore explains with the grace of understatement: "That the courses in contracts, torts, or what not were still being taught in the 1920s by professors who had joined the faculty in the 1880s gave a remarkable continuity to the educational process." GILMORE, *supra* note 1, at 57.

38. STEVENS, *supra* note 5, at 38. This development, over the course of a century, has led to one of the most widely criticized aspects of legal education today: the fact that increasing numbers of incoming law professors have never practiced law. This problem is exacerbated by the fact that the faculty's job is to train students for the practice of law, yet many professors hold the practice in contempt. This issue will be discussed more fully *infra* Part II.

39. STEVENS, *supra* note 5, at 38. For a recent empirical study of the nation's law faculty, see Robert J. Borthwick & Jordan R. Schau, Note, *Gatekeepers of the Profession: An Empirical Profile of the Nation's Law Professors*, 25 U. MICH. J.L. REF. 191 (1991).

D. Supporters and Critics of the Case Method

As with all revolutionary ideas, the case method met with resistance at first. One Harvard professor of the pre-Langdellian era resigned and yet another retired, fearing that he would be unable to "remodel all his old views and to cooperate in the novel projects of reformation which the new President [Eliot] was already proposing."⁴⁰ A New York judge praised the case method, but warned against using it to the exclusion of all others: "The importance and value of the reports . . . cannot be overrated; but it is easy to underrate, also, the necessity and importance of elementary treatises. In the voluminous and comparatively chaotic state of our law they are indispensable."⁴¹ A professor who proudly described himself as a "Law Lecturer" at the University of California complained that the case method, "while giving an excellent foundation for a future career on the bench or in theoretical teaching, fall[s] far short in fitting lawyers for the actual work of their profession."⁴² Henry Wade Rogers of the University of Michigan Law School declared that "life was too short and the time that a student could spend in a law school was altogether too limited [to study the law] simply through a study of cases."⁴³ Rogers' complaint was based on the fact that while the case method might be beneficial to students "whose intellectual powers had been thoroughly developed and whose mental grip was strong, it was quite unsuited to the average student."⁴⁴

In light of all this criticism, it should not be forgotten that there were also avid supporters of the case method, including probably the most respected legal mind of the day—Oliver

40. Chase, *supra* note 29, at 338.

41. Dillon, *supra* note 31, at 11-12.

42. Henry W. Ballantine, *Adapting the Case-Book to the Needs of Professional Training*, 2 AM. L. SCH. REV. 135, 135 (1908). This criticism of the case method appeared as early as 1908. Perhaps this is due to the fact that many aspiring lawyers were still receiving their legal education in law offices, so the discrepancy between the two types of students was manifest. Nevertheless, this refrain remains probably the greatest criticism of legal education today.

43. Rogers, *supra* note 6, at 194.

44. *Id.* This complaint is highly ironic, since one of the major criticisms of the lecture method was that students often felt lost while trying to follow the logic of their professors. In the age of the "gentleman's C," see STEVENS, *supra* note 5, at 46 n.22, the law faculty did not seem to have much confidence in the intellectual ability of the student body, even though this era was supposed to be known as the "great age of the American law school." GILMORE, *supra* note 1, at 57.

Wendell Holmes, Jr. Stressing that “[t]he main part of intellectual education is not the acquisition of facts but learning how to make facts live,”⁴⁵ Holmes had nothing but praise for Langdell’s method:

But I am certain from my own experience that Mr. Langdell is right. I am certain that when your object is not to make a bouquet of the law for the public, nor to prune and graft it by legislation, but to plant its roots where they will grow . . . there is no way to be compared to Mr. Langdell’s way. Why, look at it simply in the light of human nature. Does not a man remember a concrete instance more vividly than a general principle? . . . [Is a principle] not better known when you have studied its embryology and the lines of its growth, than when you merely see it lying dead before you on the printed page?⁴⁶

By 1920, Langdellian supporters like Holmes had prevailed; virtually all the national law schools had accepted the Harvard model.⁴⁷ Supporters of the case method stressed the technique’s “unique ability to instill a sense of legal process in the student’s mind . . . to teach the skill of thinking like a lawyer.”⁴⁸ But perhaps most importantly, the appearance of the case method was said to have been “almost invariably linked” with both rising admission standards and an increased term of law school study.⁴⁹ However, it is important to remember in light of these increased standards that even as late as 1917, no state

45. Oliver W. Holmes, Jr., *The Use and Meaning of Law Schools, and Their Methods of Instruction*, 20 AM. L. REV. 919, 919 (1886).

46. *Id.* at 922.

47. STEVENS, *supra* note 5, at 41. The “Harvard model” not only instituted the case method, but also stabilized the subjects to be taught: Property, Equity, Contracts, Bailments and Corporations, Partnership and Agency, Shipping and Constitutional Law, Pleading and Evidence, Insurance and Sales, Conflicts, Bills and Notes, Criminal Law, Wills and Trusts, Arbitration, Domestic Relations, Bankruptcy, Torts, Damages, Municipal Corporations, and Restraint of Trade. *Id.* at 48 nn.38–39; *see also* Rogers, *supra* note 6, at 194–95 (providing a list of the courses taught at the University of Michigan Law School in 1889).

48. STEVENS, *supra* note 5, at 55–56.

49. Many of the “local” schools began to require a high school diploma, while a few of the national law schools increased the requirement to a university degree. Additionally, schools began moving from a two-year program to a three-year program. *Id.* at 61.

required attendance at law school for admission to the bar.⁵⁰ Several states did not even require a high school diploma.⁵¹

E. The Legal Realists

In the 1930s, a group of law professors began to question the now-entrenched case method of Langdell. They proclaimed that the law was not an exact science, "[to be] based on the objectivity of black-letter rules."⁵² Instead they wanted to write about the law as it actually operated, not as it appeared to operate when viewed on the pages of a casebook.⁵³ Two of the most well-known Legal Realists, as they came to be called, were Jerome Frank and Karl Llewellyn. Frank wrote extensively about his concern that law schools had become both too academic and too far removed from practice. As a final blow to Langdell, he often used the now-familiar analogy to medical schools:

What would we think of a medical school in which students studied no more than what was to be found in such written or printed case-histories and were deprived of all clinical experience until after they received their M.D. degrees? Our law schools must learn from our medical schools.⁵⁴

Frank advocated that the law student should learn the art of legal practice by working in a lawyer's office, attending court

50. This fact attests to the slow demise of the apprenticeship system. Among all this talk of law schools, it is easy to forget that clerking in a law office was still a popular means of training for the profession. *Id.* at 99. *But see* Harry Richards, *Shall Law Schools Give Credit for Office Study?*, 24 REP. A.B.A. 514, 520 (1901) ("The practical knowledge gained in copying and serving papers and watching the proceedings of the courts is of little value at this preliminary stage of his education; it is out of the proper pedagogical order, and is quite as apt to confuse as to instruct, for . . . 'there can be no intelligent practice of that which is not theoretically understood.'").

51. STEVENS, *supra* note 5, at 95-96.

52. *Id.* at 156.

53. Ironically, this argument was made in Holmes' support of the case method. *See supra* note 46 and accompanying text.

54. Frank, *supra* note 13, at 916. Frank also believed that law students trained under the Langdell system "resemble prospective dog breeders who never see anything but stuffed dogs. . . . [I]t is beginning to be suspected that there is some correlation between that kind of stuffed-dog study and the overproduction of stuffed shirts in the legal profession." *Id.* at 912.

proceedings, and, most importantly, by “repudiat[ing] the absurd notion that the heart of a law school is its library.”⁵⁵

It is often said that the slogan “law is a science” became “law is a social science” in the hands of the Realists.⁵⁶ Where Langdell had talked of chemistry, physics, zoology, and botany as disciplines linked to the law, the Realists spoke of economics and sociology. Economists, sociologists, and even psychiatrists joined the faculties of law schools in considerable numbers.⁵⁷ Non-legal materials started to appear in casebooks, which themselves were increasingly renamed “Cases and Materials” to indicate that studying law no longer meant studying only cases.⁵⁸ Although the Realist School did not survive past World War II,⁵⁹ some of its ideas resurfaced later with a new-found respect. Clinical programs, interdisciplinary courses, and even Critical Legal Studies can be seen as having the Realist imprimatur upon them.

F. The Transition is Complete

The transition during the twentieth century from an apprenticeship system of educating lawyers to reliance on university professional schools has thus been attributed to three major developments: the acceptance of the Langdellian case method, the dissatisfaction of the profession with the poor quality of law office training, and the movement toward an upgrade of the profession.⁶⁰ Ironically, today’s criticisms seem to focus upon the same three issues: law schools have drifted too far from the case method into the realm of theory, the profession is still dissatisfied with the poor quality of law training, and

55. STEVENS, *supra* note 5, at 157 (quoting Jerome Frank, Address to the ABA Section of Legal Education, “What Constitutes a Good Legal Education?” (1933)).

56. GILMORE, *supra* note 1, at 87.

57. *Id.*

58. *Id.* at 88.

59. In the post-Realist era of the 1950s and 1960s, legal education was described as “largely hierarchical, formalistic, doctrinal, paternalistic, and white American male. The curriculum was standard. Everyone knew what it was that a law student should know.” Eleanor M. Fox, *The Good Law School, The Good Curriculum, and the Mind and the Heart*, 39 J. LEGAL EDUC. 473, 477 (1989).

60. REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, A.B.A. SEC. LEGAL EDUC. & ADMISSION TO BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM (1992) [hereinafter REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP].

there is once again a movement to upgrade the profession, or, at least its reputation. As we move into an evaluation of the present, it is imperative to remember the criticisms of the past, since we have not drifted as far from those days as many people may think.

II. THE LAW SCHOOL OF TODAY: THE CURRENT DEBATE

Perhaps the most telling complaint about law schools of today is that they do not adequately prepare students for the practice of law.⁶¹ The law schools themselves unabashedly admit to this, however, and have done so for years. For example, as early as 1929, Karl Llewellyn spoke bluntly yet truthfully to a newly arrived class of first-year Columbia students: "[W]hat is the orientation of the school with regard to the profession? What does it offer that you need? . . . What do you need for your practice which it does not offer? To which the answer is: almost everything you will need for your practice."⁶² Sixty years later, the University of Michigan Law School explicitly states in its *Law School Bulletin*: "[I]t would be a mistake to suppose that Michigan or any law school will make you an effective practicing lawyer in three years of course work."⁶³ While most law students do not assume that they will immediately be effective practicing lawyers, what about competent⁶⁴ or, at least, prepared? The use of the word "effective" avoids the issue. What the law schools have done by matter-of-factly stating that law schools *are not meant* to prepare

61. See, e.g., Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34 (1992); Alex M. Johnson, Jr., *Think Like A Lawyer, Work Like A Machine: The Dissonance Between Law School and Law Practice*, 64 S. CAL. L. REV. 1231 (1991).

62. KARL N. LLEWELLYN, *THE BRAMBLE BUSH: ON OUR LAW AND ITS STUDY* 92 (Oceana Publications 9th prtg. 1991)(1930).

63. 23 U. MICH. L. SCH. BULL. 7 (1993-1995) [hereinafter BULLETIN]. The *Bulletin* is sent out to prospective law students in order to help them choose the right law school.

64. Karl Llewellyn, besides acknowledging that law school teaches students nothing they need to know for practice, had severe doubts as to the competence of new graduates. He explained in the Association of American Law Schools (AALS) Curriculum Committee annual report: "[C]urrent case-instruction is somehow failing to do the job of producing *reliable professional competence . . . in half or more of our end-product, our graduates.*" 1944 A.A.L.S. PROC. 168, quoted in STEVENS, *supra* note 5, at 214.

students for the practice of law is to try and remove that question from the playing field. Critics, however, are not quite ready to hang up their gloves.

To be fair to the law schools, choosing a curriculum is not easy; no matter what classes are taught, someone will find fault. But amid all the cries of "too much of this, too little of that" lies a vivid repetitiveness of certain criticisms. The most common are: the need for clinical programs, the battle of theory versus practice, the legal writing debate, the necessity of the third year of law school, and the respective educational responsibilities of the schools versus those of the profession.

A. Clinical Legal Education

Ever since law schools began to shun the apprenticeship system in the 1800s, academics looked with disdain upon any kind of course on "skills training." As early as 1872, however, critics in favor of skills training began to speak out:

This want of systematic practical instruction is the great defect in our method of legal education, and it is beyond the power of the law schools to remedy it unless they can incorporate actual legal business into their course[s].

. . . Mock courts exist, indeed, but they are no more like real courts than a manikin is like a living man.⁶⁵

By 1933, however, the nature of the law school had changed dramatically. Now that the law schools were the principal if not the required method of legal education, academics could no longer argue that students who wanted practical experience could simply choose an apprenticeship instead of law school—the time had come for change *within* the academy. Professor Jerome Frank assumed the battle position valiantly

65. Isaac G. Thompson, *Law Apprenticeships*, 5 ALB. L.J. 97, 97 (1872). It is important to recall that, at the time Thompson's Article was written, legal apprenticeship still remained the most popular method of legal education. Therefore, the criticism that law schools did not incorporate "actual legal business" into their curricula probably was not viewed as great cause for alarm, since those who desired practical experience could easily get it by choosing to clerk in a law office rather than attending law school.

with his controversial Article, *Why Not a Clinical Lawyer-School?*⁶⁶ In this ground-breaking piece, Frank noted that the confinement of law school teaching to a study of appellate court opinions led to a vision of the law which was "hopelessly oversimplified. Something important and of immense worth was given up when the legal apprenticeship system was abandoned as the basis of teaching in the leading American law schools."⁶⁷ Frank envisioned a return to the private law school days, when daily contact with the courts was combined with formal doctrinal instruction.⁶⁸

One of Frank's strongest criticisms was the fact that most American law schools were staffed with faculty "best equipped not to train lawyers but to graduate men able to become book-law teachers who can educate still other students to become book-law teachers—and so on *ad infinitum*."⁶⁹ These schools, he claimed, "are not lawyer-schools (as they should be primarily) but law-teacher schools."⁷⁰ A necessary part of Frank's solution, therefore, was the requirement that a considerable portion of law teachers should have no less than five to ten years of experience in the actual practice of law.⁷¹ Only such a faculty, Frank reasoned, could make the students understand how the principles elucidated in their books are affected by what courts and lawyers do in fact.⁷²

The proposal which won Frank the greatest attention, however, was a plan based on the method of clinical education taught in medical schools. Frank envisioned a "legal clinic" in every law school, which would provide "virtually every kind of service offered by law offices," to be taught by professors with considerable practical experience.⁷³ Through such a program, students finally could learn the true relation between the contents of the court opinions in their case book and the work of the practicing bench and bar.

Unfortunately, Frank's idea had come long before its time. Although clinics slowly began finding their way into law school curricula by the 1950s, they were often greeted with a skeptical

66. Frank, *supra* note 13.

67. *Id.* at 913.

68. *Id.*

69. *Id.* at 915.

70. *Id.*

71. *Id.* at 914.

72. *Id.*

73. *Id.* at 918.

eye.⁷⁴ It was not until the late 1960s that a new and much stronger clinical law movement began.⁷⁵ Within a few years, almost half the law schools in the country had some kind of clinical studies program.⁷⁶ Nevertheless, clinics still seemed to exist “in the shadow of academic courses.”⁷⁷ Just as law school professors at the turn of the century resisted the implementation of practice-oriented courses by pointing to the existence of apprenticeship opportunities, law professors of today seem to be using the same excuse with regard to clinical programs. The pressure to integrate the case method and practice has eased because now anyone who wants to learn the practice of law can just “sign up for the clinic.”⁷⁸

The relegation of clinical studies to the second tier of legal education stems not only from the opinions of the faculty, but also from the pursestrings of the administration. Since clinics are highly individualized and therefore require very low student-teacher ratios, they are extremely expensive when compared to traditional law school classes.⁷⁹ Therefore, the number of clinical professors that the schools can afford to hire often determines how many students are allowed to just “sign up for the clinic.” The logical question then seems to be that if more students want to participate in clinical programs, then why not allocate more resources to them? Unfortunately, there is no easy answer. Skeptics might say that the law schools probably would prefer to hire a “real” professor who would teach substantive courses, publish journal articles, give the school prestige, and therefore, be a profitable return on the school’s investment. Law schools frequently forget that the quality of law students entering the workforce is often a more important indicator of prestige than articles that their faculty publishes.

So what is to be done? Suggestions range from reducing the number of traditional law professors hired each year, to

74. STEVENS, *supra* note 5, at 215–16 (noting that in these early years, clinics were only rarely given for credit).

75. Growing student demands for “relevant” courses, and the increasing sense of boredom felt by the students in their second and third years fueled the demands for clinical studies. *Id.* at 216.

76. *Id.*

77. Fox, *supra* note 59, at 478.

78. Paul D. Reingold, *Harry Edwards’ Nostalgia*, 91 MICH. L. REV. 1998, 2004 (1993).

79. Anthony G. Amsterdam, *Clinical Legal Education—A 21st Century Perspective*, 34 J. LEGAL EDUC. 612, 617 (1984).

implementing clinical programs during the first year of law school so that second- and third-year students may help teach.⁸⁰ Schools could also diversify what they deem to be clinical experience by expanding the range of clinical opportunities available to students. The University of Michigan Law School, for example, has begun to offer a one credit "Legal Practice" course in addition to the seven credit clinic. The Legal Practice course offers students an opportunity to work at a variety of legal aid agencies and courts in Washtenaw County.⁸¹ Although the opportunities to appear in court may be more limited than those available in the clinical program, the students still receive practical experience under the supervision of a practicing lawyer. Furthermore, the school does not have to hire new faculty. Perhaps the most insightful suggestion for bringing more practical experience to law schools comes from Paul Reingold, Director of the Clinical Program at Michigan: "If law schools required every student to take a clinic (or God forbid, required every teacher to teach in one), then institutional values would change."⁸² While it is unlikely that such dramatic changes will ever take place,⁸³ the imposition of a clinical program as a mandatory core course would be a worthwhile addition to the law school experience.

B. Theory versus Practice

A related issue to clinical programs is the perceived movement of legal education deeper into the realm of legal theory

80. *Id.* at 618. Using second- and third-year students to assist in instruction is a practice often used in legal writing programs. Their success in teaching legal writing will be debated *infra* Part II.C.

81. BULLETIN, *supra* note 63, at 69-72.

82. Reingold, *supra* note 78, at 2006.

83. For a discussion on the shrinking realm of practical legal instruction, see Barbara B. Woodhouse, *Mad Midwifery: Bringing Theory, Doctrine, and Practice to Life*, 91 MICH. L. REV. 1977 (1993).

Like the law firm obsessed with billing hours rather than instilling a commitment to service, the modern elite law school risks falling into its own version of creeping materialism when time and energy spent on innovative teaching or on mentoring students is considered, by definition, time lost to the real work of academicians—production of printed pages of scholarship.

and further away from the students' post-graduation world of law firm practice. Much of this has been attributed to a trend discussed earlier—the increasing number of law school faculty who have never practiced law, and the disdain they often feel for those who do.⁸⁴ As one law school professor notes:

[T]he basic decision not to enter the field for which I was trained is one made by everyone who chooses teaching over a professional career. We reject the lives we are preparing our students to live. Embedded in this simple fact is an awful irony. We seek meaning by preparing students for a life we do not find meaningful.⁸⁵

Another recent trend is the number of law professors holding Ph.D.'s in fields other than law.⁸⁶ While some academicians say that interdisciplinary studies enrich the professional missions of law schools,⁸⁷ others lament the excess of "law and" courses and its accompanying theoretical scholarship.⁸⁸ Indeed, some have gone so far as to quip "a law degree is not supposed to be a substitute for a good advanced liberal arts degree."⁸⁹ If you want theory, they argue, go to graduate school.⁹⁰

The question of whether or not there are too many theoretical classes ignores the glaring and almost absolute absence of a completely different type of law school course—a course about the business of the practice of law. While ethics classes

84. See *supra* notes 36–39.

85. JULIUS GETMAN, *IN THE COMPANY OF SCHOLARS: THE STRUGGLE FOR THE SOUL OF HIGHER EDUCATION* 14 (1992).

86. Edwards, *supra* note 61, at 36–38.

87. See Lee Bollinger, *The Mind in the Major American Law School*, 91 MICH. L. REV. 2167 (1993).

[The interdisciplinary movement] is an intellectual shift so right, so compelling, as to be properly irreversible. Its origins lie in a simple realization, namely that a number of fields possess knowledge of direct relevance to assumptions underlying law. . . . To remain ignorant of relevant information about legal principles is to risk not only making the law dumb but also making it an instrument of social harm and injustice. If it works well, and I believe in general it has, the interdisciplinary movement improves the *professional* mission of law schools. It makes scholarship more relevant, not less.

Id. at 2170.

88. See Edwards, *supra* note 61, at 35 ("The 'impractical' scholar . . . produces abstract scholarship that has little relevance to concrete issues, or addresses concrete issues in a wholly theoretical manner.").

89. *E.g.*, Johnson, *supra* note 61, at 1251.

90. *Id.*

frequently touch on some of the aspects of firm practice, they often do not examine the institution of the law firm itself. Such an absence is shocking, due to the fact that the vast majority of students will begin firm practice when they graduate, and know nothing about the world which they are about to enter. "[T]he legal academy from its inception has on the whole made a determined decision to remain aloof from the institutions where most of its students will spend their careers."⁹¹ In 1987, the American Bar Association sponsored a comprehensive curriculum report of the 175 accredited law schools, of which there were listed only fourteen courses that could be characterized as studies of the legal profession.⁹² Of the fourteen courses, some with names like "Legal Profession," "Law Firm,"⁹³ or "Lawyering Process,"⁹⁴ were closer to professional responsibility or simulation courses than a study of the business of law.

Why have the law schools failed to respond in greater numbers to calls for curricular reform? Two possible explanations come to mind: (1) difficulties in finding instructors qualified enough to teach such a course and (2) many schools' view that a student's experience as a summer associate at a law firm is enough to acquaint the students with the practice of law. The three years in law school, many argue, are designed to allow students to enjoy the academic experience. Students have the rest of their lives to learn about the practice of the law.⁹⁵

91. Robert Gordon, *Introduction to Symposium on the Corporate Law Firm*, 37 STAN. L. REV. 271, 272 (1985); see also Ralph Nader, *Law Schools and Law Firms*, 54 MINN. L. REV. 493, 496 (1970) (describing how law firms were not considered appropriate subjects for discussion in the law schools, although the law school was the one institution most suited for a critical evaluation of the profession).

92. WILLIAM B. POWERS, A STUDY OF CONTEMPORARY LAW SCHOOL CURRICULA 137 (1987). The 14 courses were: Advanced Law Office Management and Administration Seminar, Corporate Practice and The Legal Profession, Introduction to the Legal Profession, Law Firm, Law Office Economics, Law Office Management (three courses with this title), Law Office Practice, Lawyering Process, Legal Profession Office Practice, Organized Legal Profession, and Practical Aspects of Law. *Id.*

93. See Daan Braverman, *Law Firm: A First-Year Course on Lawyering*, 39 J. LEGAL EDUC. 501 (1989) (describing a class offered at Syracuse which assumes the responsibilities of the first-year legal writing and research course and integrates them with other skills of lawyering, such as interviewing, counseling, negotiating, and drafting).

94. See Paul Brest, *First Year Course in the Lawyering Process*, 32 J. LEGAL EDUC. 344 (1982) (describing a course offered at Stanford which is taught through simulated clinical exercises and by examining the concepts of professionalism and professional responsibility).

95. See generally REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, *supra* note 60 (noting that the employment experience, both during and after law school, complements the instructional focus of the law school curriculum).

The qualification problem is a valid one. While it is preferable to hire someone who actually has had some experience in law firm management, the lawyers in such a position may not have the time to come and teach a law school class every week. One possible solution to this problem would be to arrange a course whereby a professor or interested practitioner could coordinate and mediate a semester of weekly guest lecturers. For example, one week a managing partner of a large law firm might speak, the next week a sole practitioner, the week after a minority lawyer, a female lawyer, or even a law firm associate. That way, there would be no burden on the school to hire another professor, and yet the students would be able to learn from the varied experience of others whom they might not otherwise have had the opportunity to meet.

The emergence in the past twenty years of an active, inquisitive legal press, coupled with the explosion of summer associate programs at various law firms, has been viewed as alleviating the need for law schools to educate their students about law firm practice.⁹⁶ This opinion, however, is an extremely short-sighted view. While it is true that publications such as *American Lawyer* and the *National Law Journal* have become major sources of information about the large law firms, most of this information consists of bare statistics, such as partner-associate ratios, partner incomes, client lists, and billing rates.⁹⁷ Without inside information on how to evaluate these statistics, their significance is lost on the average law student. Much more useful than a cursory reading of the "Am Law 100" would be lectures deciphering its statistics, supplemented by discussions on management systems, leverage structures, and alternative methods of compensation and billing. Instruction on such topics would help the law student tremendously when interview season rolls around, facilitating more thoughtful, pointed questions about each law firm. And perhaps most importantly, the student will be able to cut through all the recruitment jargon and actually understand the answers. Whether taught by one professor or by a series of speakers, the cost of implementing one upper-level elective

96. Bryant C. Danner, *Looking at Large Law Firms—Any Role Left for the Law Schools?*, 64 *IND. L.J.* 447, 448 (1989).

97. For example, the *American Lawyer* publishes an annual supplement entitled "The Am Law 100," a compilation of financial data on the 100 largest law firms. *Id.* at 450.

seems minute when compared to the benefits to be gained by students.

Nor is the existence of summer clerkships a valid excuse for avoiding the benefits of a course on law practice. Contrary to one author's belief that summer clerking has contributed to the "flood of public information" about large law firms,⁹⁸ the recruitment atmosphere in fact provides little, if any, insight into the true workings of a law firm. Few permanent associates know what is going on in the upper echelons of management, so how can the summer associates possibly be expected to know? Furthermore, Danner's claim that the *American Lawyer* publishes an annual summer associate survey of major law firms is hardly probative. While some of the information provided may be useful to students trying to choose a firm, it is important to remember that summer associate programs are still basically recruiting devices, and that one summer may not accurately portray real life at the firm. Moreover, the number of law students seeking jobs greatly outnumbers the number of available positions at the firms listed in the survey. For those students who want to work at smaller firms or in smaller cities, there is no comparable survey available. Finally, the information contained in the *American Lawyer* survey are responses to questions asking students to rank how interesting the work assignments were and to grade the quality of feedback they received.⁹⁹ These questions hardly fill the void created by the absence of courses on law firm practice.

C. Legal Writing Programs

First-year legal writing programs vary widely from school to school. Some are graded, others are not. Some are taught by faculty, others by third-year students or adjunct instructors.¹⁰⁰ Some are effective, others make hiring partners cringe. The evaluation of writing programs is made even more difficult due

98. *Id.* at 453.

99. Peter Webster, *Back to the Beach: Do Summer Associates Want to Return to the 1980s?* AM. LAW., Oct. 1993, at 12.

100. See generally Willard Pedrick et al., *Should Permanent Faculty Teach First-Year Legal Writing? A Debate*, 32 J. LEGAL EDUC. 413 (1982) (discussing several reasons why full-time faculty should not be burdened with the task of teaching a first-year writing course).

to the fact that by the time most law students get to law school, their writing skills already have solidified, for better or for worse. Given such challenges, the primary debate surrounding the teaching of legal writing is whether permanent law faculty should do it or not.

Willard Pedrick, Dean of Arizona State, answers the above question with a resounding "no."¹⁰¹ His major premise is that the dimensions of the problem have been overblown.

The complaint of the practicing bar that law graduates cannot write acceptably is a perennial one. It will continue to be heard as long as practitioners are somewhat more skilled in practicing than are recent law graduates. In part, the dissatisfaction with writing skills reflects the fact that a good lawyer is trained and becomes expert in finding fault with anything committed to the written word by someone else.¹⁰²

Therefore, he argues, it is a waste to use the instructional resources of a high-salaried faculty to teach a class such as legal writing when there are others who may be better qualified.¹⁰³ He lists teachers of English composition and "those lawyer practitioners who are keen on having law schools teach basic writing" as some of the possibilities.¹⁰⁴

William Hines and William Reppy disagree with Pedrick. Hines believes that the realm of legal writing, with its development of skills unique to legal analysis, is particularly appropriate for supervision by full-time law faculty and inappropriate for less qualified instructors.¹⁰⁵ Furthermore, the tone of professionalism that is established by having regular professors teach legal writing courses cannot be underestimated.¹⁰⁶

For example, Reppy extols the virtues of the writing program at Duke, where the writing class is coupled with a small-section substantive class taught by the same professor. The impact of Duke's approach is apparent from a letter one student wrote:

101. *Id.*

102. *Id.*

103. *Id.* at 914.

104. *Id.*

105. *Id.* at 416.

106. *Id.* at 420.

I am sure we take the legal writing class much more seriously because the teacher is a professor [rather than a third-year student or young practicing lawyer]. I wouldn't have spent nearly so much time on my papers if I weren't going to get the criticism of them from you.¹⁰⁷

Unfortunately, this last point is shamelessly true. Many first-year students will not take a class taught by a third-year student and graded on a pass-fail basis very seriously, if for no other reason than an already overwhelming list of priorities.

In light of inadequate budgets and lack of faculty enthusiasm, however, what else can be done? Is Pedrick right about the overexaggeration of the problem? If so, should extra money be spent to remedy a problem which is really no problem at all? The first step to answering these questions should be the establishment of new lines of communication between law school officials and the major law firms to discover if post-graduation experience is really all that is needed, or whether the problem lies much deeper. Without such communication, speculation by professors in law review articles about what the law firms think is a disheartening example of just how far the schools and the profession have drifted.

D. The Third Year: A Symbol of a Much Deeper Problem

The 1970s saw a surprising development in the field of legal education; the birth of the movement to reinstate a two-year law school. As early as 1971, the AALS Curriculum Committee, chaired by Paul Carrington of the University of Michigan Law School, argued in its annual report for a standard two-year J.D. degree, followed by a series of post-graduation alternatives designed to respond to the different types of legal practice.¹⁰⁸ Then, in 1972, the ABA Section of Legal Education recommended that, "Rule 307 of the law school standards be modified to allow the two-year law school. Many assumed that the change would go through."¹⁰⁹ However, the deans of the leading law schools balked, claiming that the "time was not yet ripe,"¹¹⁰

107. *Id.* at 423 (alteration in original).

108. STEVENS, *supra* note 5, at 242.

109. *Id.*

110. *Id.*

fearing that if one school moved to a two-year program all would follow.¹¹¹

But even in the face of defeat, the debate was not yet over. The President of the ABA continued to argue for a two-year school, and in 1978 even Chief Justice Burger called for a two-year program followed by a year of clinical work.¹¹² This movement of the organized bar coincided with the actions of many state legislatures, whereby second- and third-year students were allowed to make limited appearances in court. One result of such legislation was Harvard's 1979 acceptance of a grant from the Legal Services Corporation, which allowed some students to finish the conventional program in two years and to spend the third year exclusively in a clinical program.¹¹³

The movement for a two-year program emanated from academia's perceptions of both student apathy and professional impatience. Beginning in the early 1970s, there was extensive evidence that there was a dramatic falloff in both study hours and student enthusiasm after the first year.¹¹⁴ Common was the phrase: "the first year they scare you to death, the second they work you to death, and the third they bore you to death." Likewise, "many larger law firms consider legal education beyond the first year superfluous to the firm's mission of recruiting, training, and retaining lawyers."¹¹⁵ Due to the firms' dissatisfaction with the competence of recent graduates, extensive firm-sponsored training programs were implemented in order to teach new associates what the firms argue should have been learned in law school.¹¹⁶

The firms' argument, however, rests on the assumption that the responsibility for legal education is entirely within the domain of the law schools. Should this necessarily be the case? An ABA Task Force says no, and places the law school along a continuum of legal education, which begins when the desire

111. *Id.*

112. *Id.* at 243.

113. *Id.*

114. Robert Stevens, *Law Schools and Law Students*, 59 VA. L. REV. 551, 651-53 (1973).

115. Johnson, *supra* note 61, at 1246.

116. In discussing this issue, Alex Johnson mused: "[T]here is something perverse about a legal education that forces students to spend additional money and time learning black letter law for the bar examination after three years of education and instruction." *Id.* at 1245 n.59. Similarly, there is something ironic about a student spending three years in law school learning to think like a lawyer, only to be told to wipe the slate clean so that a law firm can tell him what he really needs to know.

to study law emerges and does not end until the lawyer's practice does.¹¹⁷ The teaching of professional skills, therefore, is the joint responsibility of law schools and the practicing bar. While a well-structured clinical program can help students understand the importance of organizing and managing legal work, "it remains for the first employer, or mentor, to translate this awareness into a functioning reality."¹¹⁸ The ABA sees the law schools and law firms as "partners in the business of legal education and training for the bar whether they like it or not."¹¹⁹ Therefore, the Task Force decided to change the original name of its mission, "Narrowing the Gap," because it projected a distorted image that did not accurately reflect the status of the two institutions.¹²⁰ Instead, the mission was renamed "An Educational Continuum" to reinforce the idea that both communities are part of one profession. The Report concludes by encouraging legal educators and practicing lawyers to stop viewing themselves as separated by a "gap" and recognize that they are engaged in a common enterprise—"the education and professional development of the members of a great profession."¹²¹

Some of the primary recommendations proposed to enhance this continuum are as follows:

1. ABA Standard 301(a) governing a law school's educational program should be amended to clarify its reference to "qualifying graduates for admission to the bar" by adding: ". . . and to prepare them to *participate effectively* in the legal profession."¹²²

117. See generally REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, *supra* note 60 (noting, among other things, that employment complements and continues the instructional nature of the law school).

118. *Id.* at 235 ("Even the strongest proponents of courses in 'law office management' would probably concede the importance of the early years of practice in developing [such] skill[s].").

119. *Id.* at 268 (quoting Donald N. Zillman & Vickie R. Gregory, *The New Apprentices: An Empirical Study of Student Employment and Legal Education*, 12 J. CONTEMP. L. 203, 241 (1987)).

120. *Id.* at 3.

121. *Id.*

122. The ABA has chosen the words "participate effectively" in its proposed description of students' qualifications upon graduation, words similar to those that the University of Michigan shunned when it proclaimed in its *Bulletin* to incoming students: "[I]t would be a mistake to suppose that Michigan or any law school will make you an *effective practicing lawyer* in three years of course work." *Bulletin*, *supra* note 63, at 7 (emphasis added); see also *supra* text accompanying note 63 and accompanying text.

2. Interaction between core subjects and professional skills should be revisited and clarified.
3. The teaching of lawyering skills and professional values should ordinarily have the following characteristics:
 - a. development of concepts and theories underlying the skills and values being taught;
 - b. opportunity for students to perform lawyering tasks with appropriate feedback and self evaluation;
 - c. reflective evaluation of the students' performance by a qualified assessor.
4. Law schools should be encouraged to develop or expand instruction in such areas as "problem solving," "factual investigation," "communication," "counseling," "negotiation," and "litigation," recognizing that methods have been developed for teaching law students skills previously considered learnable only through post-graduation experience in practice.¹²³

Although these are only a few of the recommendations proposed by the Task Force, they seem to address the concerns stressed in this Note.

CONCLUSION

While some might call the ABA Report overly optimistic or a bit naive, its message is clear. The schools and the firms should stop blaming each other and begin working toward the same goal. Right now, the only gap that exists is the one between expectations and reality. The firms should accept the fact that law schools reasonably cannot be expected to unilaterally shoulder the task of converting students into lawyers, and the schools should acknowledge the need to take on more of this responsibility than in the past. If this is accomplished, the ultimate beneficiaries will be the students, who will feel more

123. REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, *supra* note 60, at 330-34.

satisfied with their legal education, and more comfortable entering the life of the profession.

The ABA's effort has resulted in the recognition that the task of educating students to assume the full responsibilities of a lawyer is a continuing process that neither begins nor ends with three years of law school study.¹²⁴ Indeed, my own legal education began while sitting on my grandfather's lap as a little girl. That childhood vision of the study and practice of law, though intangible and doubtlessly filled with stereotypes and dreams, has shaped and will continue to shape my pursuit of a legal career. And just as I look to the past to better chart my future, so must the profession.

Criticism of legal education is nothing new—it began before the age of law schools. Thus, today's legal education can be viewed as a conglomerate of the lessons of lawyers who came before us, an aggregate built on the traditions of the past. Scholars have just begun to appreciate the wealth of such traditions, and are advocating for their reincarnation in twenty-first century garb. The "great age" of the American law school may have long since passed, but that does not mean that it will never come again. In looking forward, we must not forget to also look back. The vaults of history hold some precious jewels.

124. *Id.* at 8.

