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# Reassessing Law Schooling: The Sterling Forest Group

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# REASSESSING LAW SCHOOLING: THE STERLING FOREST GROUP

## INTRODUCTION

This Article is the result of a weekend in December 1976 at the Sterling Forest Conference Center.[1] Several legal educators came together there to explore the possible relevance of humanistic educational psychology to legal education, and the pieces that follow flow from the experiences in learning we shared there. The concerns that brought the ten of us together were not new; rather, they emanated from a longstanding challenge within the profession.

Although we taught at different institutions and in different fields, our experiences had led us to a common dissatisfaction with legal education and a hope that more was possible. We had all experienced the aspirations, as well as the alienation, of students and teachers. We had all seen classroom learning fall short of the excitement and promises we shared with students but often could not realize. We all believed it was important to open education to allow for fuller expression of the human aspects of learning and lawyering, and we wanted our coming together to be something more than another critique of legal education. We knew our frustrations and hopes were hard to articulate to ourselves and even harder to share with others. We had all settled for educational experiences more limited than need be, perhaps because we had long been taught that we ought not bare our deepest aspirations or seek to achieve them by questioning the nature of legal education.

Although we were not uniformly familiar with or committed to humanistic educational psychology, we were all willing to explore educational approaches that went beyond the cognitive framework of the traditional law school class. We agreed to depart from the typical discussion format of education meetings and be open to learning about and sharing who we are as legal educators; how who we are personally relates to who we are as law teachers; and how a better understanding of the relationship between the personal and the pro-

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[1] The meeting was held under the auspices of the Columbia University School of Law, and was supported by a grant from the National Science Foundation. The background of this pilot project is described in Himmelstein, *Reassessing Law Schooling: An Inquiry Into The Application of Humanistic Educational Psychology to the Teaching of Law*, 53 N.Y.U.L. Rev. 514, 558-59 (1978). I am indebted to Janis Sposato, who participated in the meeting and assisted in putting this Article together.

fessional could lead to a deeper appreciation of the human dimensions of legal education and practice.

At Sterling Forest, we learned *through* as well as *about* humanistic educational psychology by learning in both experiential and cognitive modes. We explored the problems we encountered within ourselves as teachers, not just in our students and institutions. We shared our fears, anxieties, hopes, and values. We assumed the roles of teachers and students with each other, played out particular situations, counseled each other. We watched how the issues that had frustrated us in our teaching recurred in our interactions, and examined how authority, control, distancing, and risk-taking were played out, so as to better understand the way we learn as individuals and as a group. We explored the changes we wanted in our own teaching and how we might bring them about.

The meeting was envisaged as a modest beginning, and it was; it was difficult, exciting, and not enough. We each carried broader perspectives back to our work; and we subsequently agreed to communicate to each other what we each found to have been most significant for ourselves and our teaching in our weekend experience. Several of these written communications became the basis of the following pieces, and we publish them in the hope that others who share similar concerns will find them valuable.

JACK HIMMELSTEIN*

## I

THOMAS L. SHAFFER*

These are reflections (after about six months) on a weekend meeting of law teachers who were willing to be personal in talking about their students and colleagues, about themselves, and about legal education.

My initial impression was that this sort of get-together was remarkable because of the profession of the participants. Dean Howard Sacks[1] used and wrote about "group" methods in law school two decades ago; some psychological colleagues and I tried to write about

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[1] Sacks, *Human Relations Training for Law Students and Lawyers*, 11 J. LEGAL EDUC. 316 (1959).

the same sort of thing some time later;[2] a halting, short-lived, and unofficial attempt was once made, in the Association of American Law Schools, to organize law teachers who were interested in human dynamics.[3] Despite these attempts, my impression has been that "human-relations" techniques are too soft for law teaching. They never caught on, and I could talk for hours about experiments that failed. I thought at first that our weekend was to talk about those experiments.

But here were law teachers who had not given up hope. (I had not given up hope either, but I had long ago reached the point where my encouragement came almost exclusively from people who were not teaching law.) That was remarkable enough, but there were two additional features of that weekend, and of its people, that went beyond humanistic law teaching. First, these teachers were willing to talk about *themselves*. That is much harder than talking about students or about calloused colleagues. Talking about students when no students are present is at best a waste of time and at worst self-deception. Getting to one's own hurt places and small joys and guarded hopes—that is tougher, more adult, more real. Second, they were willing to get into the here and now. We were willing to try assertions instead of questions, feelings instead of thoughts, and even honesty as a supplement to cordiality. That meant the weekend could be, and was, more than an exchange of experiences, plans, and hopes. It could—and did—generate new information. An example was the concern expressed first by one of us, then by most of us, over the difficulty of being convincing when telling your students that you want them to be responsible for their own learning. That issue—a fundamental issue of *trust*—got played out in our group work, re-enacted, worked on, and built upon, not merely talked about. I learned some new ways to approach it and some important things about myself and about my efforts to be honest with students.

There were a number of occasions like that. Our work there developed so that each of us singled out a few deeply personal and important dilemmas that were his own. One of us said he learned some new things about himself as an administrator; another got insight into the way he works in faculty meetings; another expressed

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[2] Grismer & Shaffer, *Experience-Based Teaching Methods in Legal Counseling*, 19 CLEVELAND ST. L. REV. 448 (1970).

[3] *See* T. SHAFFER & R. REDMOUNT, LAWYERS, LAW STUDENTS AND PEOPLE 35-58 (1977). The A.A.L.S. experiment resulted in several issues of a "Human Relations in Law Newsletter." A more lasting influence is perceptible in the Law Teaching Clinic, operated by the A.A.L.S. on a biennial basis.

relatively deep discovery about alliances and how they work out in law school academic politics. One of my high points that weekend was some new insight into what I now think of as the burden of responding to other people. It is an important ideal for me to be available to individual students, and it is a bind as well, because I am a busy person who finds it hard to make time for people and even harder to relax and enjoy them. A fantasy exercise helped me see where my ideal comes from, and a good honest talk about it, with two other participants, helped me set up plans for keeping the ideal and relaxing the bind. I have been able to improve a little since then, and the ideal is stronger for being less painful.

There also were ideas and projects conceived during the weekend that continued to develop during the ride home, or on reflection days or weeks later. I have been thinking for a couple of years about ways to revive moral discourse as a way to talk about law. One of the things I noticed, after the fact of the weekend, is that honest interpersonal talk can be, or can become, talk about moral insight—that someone who accepts you as a person does not accept you less because part of your person is in search of values for living and teaching. That idea could mean a revolution in law teaching, which has always told the law student that a concern for justice is an obstacle to the analytical mastery of law. "The hardest job . . . ," Karl Llewellyn said, "is to top your common sense, to knock your ethics into temporary anesthesia. Your view of social policy, your sense of justice—to knock these out of you along with woozy thinking."

Bob Redmount and I noticed the following interchange occurring in the first session of a law school evidence course:[4]

Professor: What's a trial?

Student: An adversary proceeding.

Professor: For what purpose?

Student: To discover the truth. (Silence, then laughter.)

Professor: Who cares what truth is?

Student: I care. (Loud laughter.)

Professor: Well, in your conversations with God, you can take those questions further. (To a second student:) What's the purpose of a trial?

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[4] T. SHAFFER & R. REDMOUNT, *supra* note 3, at 181–82.

The teacher—a good man, whom *I* know to have ideals, even if he is afraid to let them show—did two harmful things to his students in this interchange. He told them, first, that concern with value has nothing to do with a trial lawyer's life, and second, that what they cared about was not important to him or, probably, to anyone else. I hope I am usually less callous than this teacher was, but I, too, avoid my students as persons. I think, and our weekend helped me see, that interpersonal talk in law school is valuable in itself, as a way to teach and learn caring, and that it is an argot, a procedure; it helps one discover, and clarify, and celebrate virtue. Not a bad thing, virtue. Not a bad thing at all in a profession to which society has committed all of its public moral questions.[5]

## II

HOWARD LESNICK*

I want to write about my experience in a recent semester attempting to pay more explicit attention to the effects of my classroom actions and demeanor on student participation in my course. I have been struck by the extent to which I continue to say and do things, or fail to say and do things, that inhibit the collective grappling with complex and controversial social-legal issues that I wish to encourage. When I speak of "collective grappling," I have in mind a sharing of thoughts and reactions about the reality of social and human problems that is more than political polemic: a spirit of expression able and willing to articulate perceptions and priorities in non-defensive candor, to probe the bases and implications of views different from one's own, and to absorb and reflect on their merits.

The class I wish to discuss was a first-year required course dealing with the major cash income maintenance programs (public assistance, unemployment insurance, old age insurance) largely from a legislative perspective, emphasizing the social values reflected in the law, in particular answers to disputed questions arising under it, or in proposals for legislative change. To articulate my classroom goals is not easy, but I came away from the Sterling Forest conference with a desire to think more concretely about my teaching goals, and to look more closely at my teaching technique, to try to discern which factors have furthered my goals and which have sabotaged them.

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[5] *See* Watson, *The Watergate Lawyer Syndrome: An Educational Deficiency Disease*, 26 J. LEGAL EDUC. 441 (1974).

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My work with colleagues at Sterling Forest made me realize that I had taken an entirely passive attitude toward students' classroom responses. My teaching style had largely been formed in reaction to other styles—calling on students who had not indicated an interest in participating, asking questions that tested the students' preparation or wit, etc.—to which I objected because they treat students like children and use the class period largely for evaluative purposes. Instead, I would like the class to grapple with issues raised by the materials in a way that would make use of my own experience in thinking about the problems beforehand and in organizing the syllabus. I tend not to call on students who do not raise their hands and I am quite ready to present my own responses to the materials in the hope that students will react to them and that we can go from there. Of course, for the most part, they do not react. Some take notes on my reactions, thinking that I am telling them the law. Some of those who realize that I am not doing that sit back, resentful that I am inflicting my personal views on them, and dismiss what I am saying as political pap. Others, who tend to agree with my perceptions, think that it is all terrific. In any event, few perceive my comments as a point of departure for their own thinking, and my teaching style has generally been characterized as lecturing. When I think about it consciously, how could I have expected anything different? Most students are new to law and to the subject, and they think of a teacher as someone who knows what they are trying to learn.

In preparing for class last year, I thought much more than I had in the past about the fact that the way I teach tends to produce a monologue, and I tried to prepare in a way that would produce more participation. To a substantial degree this worked, although not uniformly or predictably. But what has struck me is the number of times, on the spur of the moment in classroom interchange, I have reacted to questions or comments in a way that discouraged rather than encouraged the kind of participation I want. I have tried to identify exactly what I do which has this sabotaging effect, and I have been able to recognize a few elements. First, I am physically active in class; I stand, I walk around, I talk animatedly and volubly. I do this even though I suspect that the effect is probably to inhibit student energy. I have often resolved to try to talk more quietly and slowly, with longer pauses after something I say or a student says; but that resolve fades unnoticed in the first five minutes of every class and only afterwards do I realize that I reacted so quickly and fully to a student comment, or jumped so quickly into a void in the discussion, that I (once again) choked off nascent student input. I believe that I do this in part out of fear that the class will appear boring, but

I realize how much tension there is between my desire to be interesting and my desire to have genuine student participation, for genuine student participation is often slow, halting, and tentative.

Second, I often respond to a comment or question in a way that blunts the political challenge or the emotional content that animates it, and thereby reduces the anxiety that would be produced by permitting the challenge to surface or by allowing the student's unwelcome feelings or unfocused gropings to come out unimpeded. Many times I realize (as soon as class is over) that someone asked a question or made a comment that obviously reflected an unexpressed challenge. A common example is a question that asks for information, but that covers skepticism or hostility toward my perceived views or those reflected in the course materials. In one instance, I had been considering eligibility requirements in unemployment insurance, and had been developing the point that the contours of those requirements were affected by the fact that the experience-rating system gives the employer a financial stake in its employees' eligibility for unemployment benefits. A student asked what the objection was to letting the employer's financial interest influence the eligibility rules. The student obviously thought that such an interpenetration between financing methods and eligibility rules was self-evidently sensible. He was really asking me why I appeared to criticize it, but I answered the question as he chose to put it: He asked for the objection, and I gave it to him, fully and in an expository manner. When I finished, he had no response, and I went on. The real issue he was raising—that he saw controlling significance in the employer's perspective, and was surprised and vexed to realize that others did not—was never explored, although it was exactly the issue I most want students to recognize and grapple with. By coming close to confronting the basic policy choice, he gave me a fine opportunity which I turned aside before it surfaced visibly.

Why did our interaction take this self-defeating form? For his part, the student was channeled to respond in the form of a question seeking information, rather than through a direct challenge to my priorities. To do so seems more "legal" and analytical; it minimizes the student's exposure of his own value system; it blunts the challenge to the teacher's authority. It is important to realize that much of this inhibition comes from fellow classmates. Students who openly disclose their values do engender hostility—sometimes strong hostility—from their classmates. I believe that the divisive quality of many of the issues surrounding welfare law contributes to a sense of wary unpleasantness in class, which in turn produces antipathy and passivity. I have totally failed to struggle with this problem openly in class,

except for a few interventions in response to student boos or laughter.

I in turn allowed the veiled quality of the challenge to keep it from surfacing, and collaborated in a dialogue that skirted the issues I wanted to expose. I could have commented directly to him on what appeared to underlie his question, but I did not. I could have asked the class for reactions to it, which might have flushed the issue out, but I did not. What has struck me is how the choices I have made in class have been made reflexively. It is not that I saw a choice, and deliberately chose the "safe" road despite my pre-class aspirations, from fear of boredom, embarrassment or politicization. I realize after class that at the moment of choice I was not aware of what was happening, and it has struck me—with dismaying force—how often I have done this even though I realize what has happened almost as soon as class is over. Like personal discomfort or hunger, which always vanishes in the opening minute of class only to reappear instantly at its end, my awareness of this problem similarly leaves me during class. I need to find ways of keeping this awareness in my consciousness during my teaching, yet I recognize that to do so would simply shift the surfacing of an extremely distasteful problem to a time when I most feel the need to be able to move quickly and surely over the changing ground of class discussion.

I do not know as a teacher how to react to interpersonal hostility among students in a constructive way so that the dialogue does not simply call forth discord, but acknowledges and confronts it, and goes on to grapple in class with its relevance to the setting of public policy and to the practice of law.

I feel a need too to learn more about how to deal in class with problems of values. Those of us who preach a value-oriented legal system want our students to recognize that legal answers come from value choices. It is important, however, not to stop there, but to go on to encourage students to say what their value choices are, and why, and to confront their colleagues' differing values. I find this an extremely difficult task. For example, a student last year observed that one reason for the tenacity of a particular rule is that abandoning it would mean contradicting the belief that our economy and our society are basically sound, and that problems of economic insecurity are either minor, residual or transitional in nature, or the result of personal failings in those who are not "making it." At one point, a student remarked that differences within the class on a particular legal issue reflected different assumptions about why some people become rich and others do not. In one sense it was satisfying to hear students frame issues in such terms; in prior years I had thought that

my objective was to connect just such issues to those perceived as specifically "legal." Now it seems clear to me that we should go further, to grapple with the *content* of such questions. But I do not know how to pursue that goal. Should I ask the class whether there *is* a Santa Claus, whether it is *indeed* the fittest who prosper? The student who made the former observation of course regards the belief as a myth. The student whose political orientation is different objects to hearing the issue put in those terms, and dismisses the student who made the point and the teacher who one way or another elicited it. Not knowing where to go from there, I respond by saying, "That is a crucial point, and we should all think about it." So the left-oriented student, hearing the myth exposed, thinks, "What a terrific class," while the conservative student thinks, "What a typical shallow liberal political hardsell."

Issues of distributive justice are depressing and divisive. They are not resolved by good lawyering. If the issues we talk about in class have implications that are just plain upsetting, there may be an unspoken agreement to try to steer clear of them. The classic view of law as oriented exclusively toward process and advocacy draws the line short of the danger point by characterizing the result as irrelevant. The social realities are simply inputs to the lawyer's skills as an advocate. Sadness lies only in losing—and someone does that in every case. To end by saying that it is all a political choice may be another avoidance technique.

I write about persistent failures because I believe that it is not simply my personal failing that produces them, but a real and powerful aspect of the classroom environment. As teachers, we all too often tend to assume that, if we are "good" teachers, our classes will be good classes and that, therefore, persistent failings must reflect badly on us. In this regard, we are, I believe, suffering from a misapprehension similar to that which students often have about the law itself: Many will come to a teacher confessing inability to understand the materials, only to disclose through conversation that they understand very well the contradictions, inconsistencies, and imperfections in the law, but attribute the unsatisfactory result to their own failings because of their unspoken assumption that the law must make sense if only they have the wit to penetrate it. The assumption is that it is all rational, clear, and precise, and if on reflection it appears otherwise, the fault must lie with the student. This message probably is a major cause of the widespread reluctance of students to speak in class, for to speak in class means to offer imperfect, tentative hypotheses, rather than completed restatement sections.

As teachers we know that all this is not always so, but we often

have similarly naive assumptions about the teaching process that inhibit us from sharing openly the difficulties of grappling (collectively and individually) with the dynamics of that process. We do not urge students to recognize the true complexity of legal problems so that they will give up the task of bringing their critical faculties to bear on the solution and simply choose a side that reflects their personal proclivities; so, too, I believe that the purpose of openly expressing the enduring difficulties of the classroom dynamics is not to induce group confessions of failure or collective acquiescence in it, but to encourage us to undertake the difficult, challenging job of bringing our critical faculties to bear on the nonrational dynamics of the teacher-student relation in a reasoned, purposeful way. I want to help to legitimate the admission of confusion, uncertainty, and failure, not so that I may rest content with mine, but that I and others may move from confusion to a deeper understanding and achievement.

## III

### MICHAEL MELTSNER*

Shortly after the Sterling Forest Conference I lunched with a faculty friend. A vigorous and productive young man recently come to law teaching, he is respected by colleagues and students for both his open, friendly manner and the surgical precision of his analytic mind. He turned to academia from the practice of law because of the prospect of a more reflective environment, one not totally dominated by commercial values. He enjoys working with students, and believes that a life of teaching, scholarship, and consultation is a successful synthesis of his professional goals. He likes his work—the pleasure shows on his face—but he recently has had moments of real dissatisfaction. He is nagged by the loneliness of the academic role.

As we spoke I was able to empathize with his feelings because I have had, and still have, similar ones. The conference left me with a sense that our predicament was typical and so I felt free to explore with him our feelings of isolation in our work and to talk about what might be done to change things.

Law teaching, we agreed, is a highly individualized trade. As a general matter faculty members decide without interference how to

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teach and just what mix of professional tasks gives them greatest satisfaction. While there are a number of jointly taught seminars and courses in every curriculum, intense collaboration is the exception rather than the rule. A similar pattern characterizes scholarly work. In comparison with medical research where team work is the norm, legal research is generally an individual product. On the institutional level, collegial responsibility is a widely shared value. But few law teachers regard committee work as highly rewarding; the increasing complexity of institutional management has shifted the real power from faculties as collective entities to deans and administrators. (I have participated in all too many faculty meetings that continued long after any serious business purpose had been exhausted. The meetings drifted on, I surmised, because the faculty simply did not want to disband and lose the collective identity that meeting together implied. As a perceptive colleague put it, "This time of year we meet for two hours regardless of the agenda.") Working closely with students, while certainly one of the great pleasures of academic life, is limited by status and by role distinctions and their implications. Some students refuse to question their teacher's authority; others do nothing but question it. Neither perspective fosters colleagueship.

The experience of my friend and myself in practice was very different. Decisions were arrived at as a result of continued discussion between members of small task-oriented groups. While an individual often bore final responsibility for a particular case or project, much of this work, especially on the more challenging cases, was a synthesis of the work of many hands and minds. Even when we worked on a case alone we were often in the offices of our colleagues, probing their experience, asking for their feedback on suggested courses of action, weaving their information and perspectives into our work product. Of course, creative work cannot be accomplished without the capacity for aloneness,[1] but as we thought about the contrast between our years in practice and our experience of law teaching, we were able to identify several needs that remained unsatisfied due to the isolation of the law teacher's role.

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[1] As the psychotherapist Rita Frankiel puts it: "Looked at from the point of view of life tasks and accomplishments, anyone who cannot be alone comfortably, in spite of the discomfort, is not able to study, write or, in fact, do any creative work at all, since all these tasks require the use of solitude." R. Frankiel, Autonomy, Creativity, and the Fear of Being Alone 5 (Sept. 4, 1974) (paper presented at International Forum of Psychoanalysis, Zurich, Switzerland).

1. We didn't like teaching or writing in a vacuum and we cared about the social implications of our work. Therefore we wanted to receive feedback from others and to give it ourselves. We wanted to build the reactions of others into our own work processes and we thought that the exchange of views ought to be a regular occurrence in daily work lives.

2. We wanted to share in our students' growing pains and pleasures. Without that sharing, we didn't feel we could be of much use to them as teachers, and we thought we might learn more about ourselves from their reactions to us and our experience. To do this we would certainly have to cope with what Alan Stone calls the student's tendency to see the law teacher as an "omnipotent and destructive critic."[2]

3. We wanted colleagueship—relationships with peers that would enable us to savor the full flavor of the many ironies, outrages, laughter, and passions that had always been part of our professional lives. To do this, we would have to have people around us who knew and cared enough about our work to understand our perspective.

4. Finally, we wanted to be part of a coherent institutional whole—to feel in an immediate way that our own work related to the policies and mission of an institution, and that what the institution was saying and doing was connected to what we were saying and doing.

These goals are, almost by definition, only partially realizable, but formulating them *as goals* helped me realize that to implement them I would have to take responsibility for doing more than I was doing to redress the imbalance that distressed me between isolation and collectivity. Previously, I had taken a few modest steps in this direction that I reluctantly shared with my friend—reluctantly, because I was afraid he would think I had answers when, in fact, my search had just begun. Additionally, I realized that on a certain level I wanted him to feel that I did have answers; that my competence extended even to having coped successfully with the difficult and distressing issue of professional alienation. I was able to share with him what I had done only by telling him first of these feelings.

I had developed a close collaborative relationship with a colleague who had similar interests. Our joint teaching led to writing and ultimately to the creation of a new institution—an on-campus, student-staffed, faculty-supervised, legal services office. Our com-

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[2] Stone, *Legal Education on the Couch*, 85 HARV. L. REV. 392, 411 (1971).

mitment to working in this setting encouraged us to examine each other's assumptions, values, and styles and to develop the sort of working relationship that would permit us to learn from each other. The new institution itself provided a context where we could ask students to join in an investigation of those aspects of the faculty-student relationship that interfered with learning and with satisfaction. We found that by placing on our joint agenda questions of authority, leadership, responsibility, and communication we became better colleagues. We found that when students shared in this work we became better teachers. We found that when we helped students focus on the interpersonal and intergroup demands of professional relationships, they seemed to learn skills that improved their competence as practicing lawyers.

I knew something of social systems theory, but I did not have a direct and personal experience with the complex dynamics of institutions and groups. I decided to study the relationships that develop in social systems by attending workshops that provided opportunities for learning about group processes. Because these workshops were experiential, I learned first hand something about the needs, wishes, and passions that are played out in organizational teams, whether or not they related to the stated work of an institution. A colleague in this endeavor observed, in terms pertinent to legal education, "The amount of technical competence a group has is not always a good predictor of what it will accomplish—or of how much satisfaction its members will get from their work." Suddenly, I was armed with a way to learn more about what really made the law school tick. My inquiry shifted from personalities and their impact to the collective aspects of organizational life—to the ways, for example, in which authority and leadership were vested and exercised. Faculty meetings, institutional policy making, and other institutional processes took on an entirely new meaning for me. I was, of course, unable to transform those aspects of organizational life that disturbed me, but I did feel that I better understood my own role in the institution and the extent to which I was free to change it.

In my non-clinical teaching, a focus on relationships helped me cope with the tyranny of the large class. Here I had only begun to look for a cure, but my experience suggested that there were ways to get away from the torpor and sterile intellectualization of the large group. As a starter, it helps to tell students how difficult and unrewarding I found many of the things that went on in some classes and to ask them to join me in a search for better ways to work together. With their help, I broke up the large group into smaller groups, gave them different tasks and mini-role plays, let them counsel and con-

sole, and paired them for negotiation. My premises here were first, that students have something to teach each other, and second, that they will take responsibility for their learning when the norm that they do so is clearly established. When I last taught criminal procedure, I divided 166 students into pairs and gave them a plea bargaining exercise that took place outside class and was then processed in the large group. Not only did it teach what I wanted to teach about plea bargaining, not only did it permit students to use their own capacities and resources actively and energetically, but it made me feel part of a group of learners committed to achieving a common goal.

These adjustments in my work style have increased the satisfaction I derive from teaching, but I still feel that legal education imposes, and law teachers accept, an unnecessary and unrewarding degree of isolation. There is still too little communication between me and my colleagues and students, and I don't think this is going to change simply because I take individual steps to humanize my own little corner of the world. I suppose that the problem has to be brought out in the open—if it really is a problem—and dealt with by faculties and students working together to alter the character of their institutions. I have little confidence that anything like this is going to happen in the near future, but the Sterling Forest Conference did leave me with the conviction that law teachers can become more aware of how their professional workways fail to satisfy their personal needs, that those workways can be altered, and that law schools, though hardly malleable, are far from impervious to change.

## IV

### JACK HIMMELSTEIN

In writing on the meaning of the Sterling Forest weekend I confront the same problems I have always felt in sharing about the relevance of humanistic educational psychology to legal education. The inquiry is still new for me. The questions and ideas I have been struggling with are not only hard to cabin in writing separated from experience, but they are also in many ways intensely personal, making it seem difficult or inappropriate to write about them. These difficulties also embody the reasons for my writing: the search for the elusive seems to me a fundamental aspect of education and of my life as an educator, an aspect in which the personal is tied to the professional inextricably and fundamentally.

My work with humanistic educational psychology predated the Sterling Forest weekend. I sought my first exposure to the field over four years ago for what were then "personal" reasons—the desire to learn more about myself and my being in the world, the opportunity to share with others in a group setting that promised to be dynamically alive. That early experience introduced a wholeness to learning that I had not previously encountered in education. The belief that this experience could inform the teaching career I was entering grew over the ensuing years as I struggled with teaching. The integration of my continued learning about humanistic educational psychology with my teaching at law school was slow and often difficult, but despite my doubts, misgivings, and stumblings, the links were always dynamic and important. The work seemed significant enough for me to organize the Sterling Forest weekend, which became the forerunner of a much more extensive inquiry into the application of humanistic educational psychology to legal education, supported by the National Institute of Mental Health.

When I started teaching, the work I was about to begin was deeply important to me. Law was deeply important to me, as was education, and the sense of commitment and responsibility that went with the undertaking ran deep. I had been bitterly disappointed by my own legal education. While there had been moments when the learning process explored the human issues at stake, they were few. More often the experience was alienating for me, characterized by what I later learned were the classic conditions of the law school learning environment. I variously saw the fault with my fellow students, the professors, or the administration, and I did my best to succeed, be bright, and endure. I hoped it could be different when I taught.

As the time came closer to teaching, and my anxiety increased, I did what I imagine many legal educators do. I read all the law review articles on the subject I would teach, watched others teach, and made copious lesson plans. But I found that I did not know how to think about or understand the *experience* of teaching or learning. I was not trained as a teacher, and I did not know where to turn for educational theories.

Classes began. They were all right—sometimes exciting, sometimes difficult. As I got caught up in the process, I had neither the time nor the framework to understand and evaluate honestly what was going on in the classroom. When doubts and confusions arose, I was tempted to bury them and become more attached to the role of teacher I had, however haphazardly, made for myself. My sense of the deep personal significance of teaching remained, however, and

drew me repeatedly and ever more frequently to a self-questioning process.

It was with considerable trepidation that I confronted my doubts and confusions. Having been trained in the law, having chosen law as my profession, having practiced, and having become a legal educator, I was accustomed and expected to have the right—or at least a convincing—answer in most situations. So it was only with great uneasiness that I accepted that the confusion might be there for a reason, that there was something to be confused about, that I was as much a learner as the students were.

My grounding in humanistic educational psychology contributed, in part, to these shifts in my understanding of education. To see my own confusion or despair not as a problem to be avoided but as an invitation to greater understanding was, and remains, a hard lesson for me. What it has meant for me is that the learning process is dynamic—that learning is not the mastering of right answers, but the individual's ever-evolving search for answers.

Carrying this awareness into the classroom had exciting implications. The students and I were joined in a common search, the process was no longer one of my providing answers for them to receive passively. We were learning to be learners, stretching our understanding, appreciating our insights, developing our judgment, integrating our desire to know into learning. Some of the most enlightening and rewarding moments for me as an educator have come when a student, perplexed by a day's learning, suddenly discovered that his or her "problem" lay not in lack of abilities but in knowing more than the limited frameworks we had been applying had allowed.

And making *the experience of learning* part of the learning process provided a new richness for me. Students and I could bring to education not just thoughts and concepts (which continued to assume a central place), but also the fullness of our experience.

Not that it was always easy. As I looked at the educational experience, I began better to understand my confusion and dismay. I found that despite our sincere desire to make the educational experience meaningful, we often seemed to drift into roles and postures that kept the level of inquiry superficial. Moments of real sharing were few, and after some of them, the students or I appeared to retreat. The learning process became easily externalized, once removed from the depth of our own experience. The search for mastery of ideas led, ever so subtly, to a distancing from our own connection with what we were learning. Becoming a professional meant assuming a role, the role of lawyer, student or teacher. What we held to as individuals was kept personal, hard to share with others, sometimes

even hard to acknowledge to ourselves. I questioned whether we were not graduating students who were learning to distance themselves, often unknowingly, from their own deeply held values.

This distancing took place in my teaching as well. My mastery of ideas, my detailed lesson plans, often kept me from my own full experience. One of the most important aspects of the Sterling Forest weekend for me was coming to a clearer perception that the way my colleagues and I used our minds contributed to the difficulties we experienced in the classroom. Although seriously commited to constructive change in legal education, we were, at times, paralyzed by our mental prowess. Our clearly impressive mental abilities and leadership qualities became traps in which we struggled. Theories bounced off one another, idea echoed past idea, while we became increasingly frustrated with ourselves and each other, because the answers we were searching for seemed to move ever so slightly beyond our grasp. The distancing I experienced at those times mirrored, for me, those very law school classes that seem so incomplete and exasperating. And it wasn't quite sufficient this time to conclude "I'm right; and you're wrong." We wanted to go beyond that.

Clearly, these dynamics are understandably present in any group of bright, assertive individuals. We were using our abilities but frustrating our purposes. Our minds were not only focusing our sight but limiting our vision, and we were distancing ourselves from ourselves and from each other. But in this learning context, with the commitment that we expressly shared, we had the ability to see the dynamic and to move beyond it. The struggle to have the right idea, the clear statement, yielded for me to the desire to be honest with myself and to communicate with others.

When that happened, a fullness and direction returned to the collaboration. The room came alive, and the learning became dynamic. We became open to draw on ourselves, each other and our immediate collective experience to reach a deeper understanding of the problems we all confront as educators and how we might begin to find creative solutions.

To say that we integrated our feelings with our ideas in a way that fostered rather than impeded communication would be, for me, a correct but partial and simplistic explanation. Rather, we allowed ourselves to express ourselves with one another deeply, fully and personally. No longer caught in professional and personal "roles," no longer at a remove, we were sharing what each most valued. What I and many others are searching for in teaching has something to do with the human connection we have with each other, and our difficulties have in part to do with not fully honoring that ideal.

The issue of that distancing has become critical for me in trying to understand who I am as an educator and how to fulfill the promise of legal education. It seems fundamental as well to my understanding of law, for law includes the search for the realization of individual and social values. In a society as complex and confusing as ours, that search has often become distorted. The lawyer has often become limited and restricted, with little awareness of those restrictions, and at an immense cost to self and others. For me the search for ways of creating educational environments that allow both student and teacher to appreciate and express deeply held values, as difficult as it sometimes may be, is essential to my task as a legal educator.

## V

### PETER SWORDS*

Law schools today are caught in the grip of shrinking financial resources after a period of great expansion during which expectations of plentiful funding were developed. Unfortunately, current circumstances require that requests for resources that would have met with no difficulty only a few years ago must often be rejected today. And I, as a law school administrator, am usually in the position of making and communicating decisions on resource allocation within the institution.

It is very difficult for me to deal with the unpleasant task of turning down a request for funds and telling people that they cannot have what they want. In addition, my job requires me to receive and deal with a variety of student and faculty complaints that stem from insufficient resources: inadequate secretarial help, janitorial services, space, air conditioning, etc. As resources become tighter, and the plant and services break down, the severity of these complaints intensifies, and it seems that a major part of my job is simply to take the heat.

Other difficulties of my job are part and parcel of law school administrative work. Many of my human contacts are serial in nature. People come into my office with relatively insignificant problems that are easily handled, and I never see them again. There are times of near chaos when many people make numerous demands on my atten-

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tion at once. I have to counsel students or employees in distress, and to pay polite attention to the inevitable longwinded and boring talkers who intrude on my busy schedule, but must be seen. And through all of this, the imperative remains to get things done, to make and implement decisions, to overcome inertia.

These daily work problems often cause me great pain. I frequently feel that I am cast by others—disappointed funding applicants, complaining students and faculty—as an ogre, the insensitive bureaucrat. Rejected claimants often respond to me with anger that, in turn, touches off anger within me, manifested as feeling that my claimants are greedy, self-indulgent, and irresponsible. The relationship between us becomes strained, and I respond by distancing myself and merely enduring the relationship, or with feelings of suspicion, contempt, and anger, even rage. Finally, an administrator in a law school is, for many, a second-class citizen. In the status-conscious world of the law school, I would be less than candid were I to deny that such perceptions cause me pain.

I believe that these situations could be handled so that they do not break down; so that I control my feelings and can be with the other person despite my anger; so that I can help the other through a stressful situation; so that neither of us becomes defensive and we can relax and flourish in the relationship. Although it is difficult for me to keep feeling good about my job in the face of the constant pressures, I must feel good about it to do it well. At times of stress, I have been helped by focusing on the values that brought me to this work, and I would be better able to cope if I could learn to reach these values consistently, keep them clear, and let them nourish me in times of stress.

There are two important points about the difficulties and problems I have described. First, they are normal problems of real life, encountered by stable, well-adjusted people; they are not neurotic problems. Second, they are, nonetheless, problems that can be helped by the approaches and experiential techniques of the humanistic psychologists. The first proposition would seem to be self-evident, but the second may raise questions, for it is not commonly accepted that psychological techniques can aid normal, well-adjusted people with their daily problems.

The problems I have described, however, involve encounters compacted with much feeling. Learning to deal with these feelings involves developing comprehensive self-knowledge and constant awareness of one's feelings and of the choices one is making. Developing these capacities has been difficult for me, but not impossible. Although my exposure to the techniques of humanistic educa-

tional psychology has been limited, I have found that they have helped me to become more aware of and to hold onto my purposes and values. This, in turn, enables me to act in harmony with my deepest values and to experience the liberating sense of rightness that comes from maintaining a clear relationship between what I do and what I fundamentally want.

I do believe, of course, that the work of law school administrators is vitally important. In divers ways, through dealing with nitty-gritty, mundane reality, we set the tone of the institution. When we succeed, the enterprise moves easily and optimistically at its natural pace. This works best when administrators promote a spirit of trust, a spirit of cooperation, a sense that they are there to help and not to obstruct. As I have suggested, there is a natural tendency for administrators to become rigid and defensive. During the many years before I became an administrator, I railed against their bureaucratic intransigeance and, when I became one, I promised myself that I would not adopt these characteristics. I have struggled. I do not know if I have succeeded, but I do know that I am now much more sympathetic to the "bureaucratic response." In academia we deal with varied constituencies who believe in the rightness of their approach and purpose with an intense fervor that is matched only by their intense disdain for the differing approaches and purposes of others. Working out compromises between competing interests in this atmosphere can be terribly difficult, and we become more inclined to waffle, to manipulate, to adopt the adversary's approach of limited disclosure, the bargainer's approach of making outsized claims to negotiate down from. In this process, personal integrity is strained to its limit. The worst aspect of all this is that students learn from us these relatively dehumanized ways of dealing with life's difficulties. And this can be a powerful learning context since we deal with real and primordial matters (for example, the awarding of financial aid) as compared with the somewhat abstract stuff of much of their academic learning.

My focus thus far has been somewhat negative and critical: Remove the bad and the good will flourish. This is, indeed, a large part of the challenge presented to the law school administrator and to me directly in my attempts to live out the humanistic goals I have adopted. But a creative administrator can do more than avoid destructiveness and function with integrity. He or she can actively seek to create a more humanistic environment in the law school. To give just one example, but one of overwhelming importance: Alienation between students appears to be endemic at law schools. I believe that far fewer friendships are made at law school than at college or high

school. Law students are distrustful and reluctant to share with each other. This experience is very real, primordial in the sense used above and, consequently, is a powerful learning experience. It quite probably is influential in forming student attitudes toward lawyers and lawyering. An administrator who could address this problem and work to overcome it would make an enormously constructive impact on his or her school; and at least some aspects of the problem are ones that administrators can help solve.

Other areas where positive work is needed include relations among administrative personnel, between faculty and administrative personnel, and among faculty members. Finally, a great part of what administrators do is to make decisions, countless decisions, every one of them important to someone. We tend to forget about the larger perspective. The values we hold for legal education, the general principles that lie behind all our efforts, are apt to be overlooked in the crush of getting things done. And yet, it is crucial that these decisions be informed by such values and principles, for when they are, the results will be at once more human and more rational.

## VI

GARY FRIEDMAN*

When I came to Sterling Forest, I was preparing to teach in law school for the first time. Having been an active litigator with a private law firm, I had practiced in a traditional manner—aggressive, tough, and skillful at turning each situation to what I considered to be the best advantage for my client. I had often zealously used my skills and position in ways that I could then—and sometimes even now—rationalize to myself as good advocacy. I felt little personal obligation, to limit myself, beyond technical compliance with ethical rules, in doing battle for my clients. Coaching witnesses to testify in ways that were technically justifiable, but which hardly met the spirit of furnishing fact finders with a full basis upon which to make an informed judgment, was typical of my practice and that of many lawyers I respected. Vigorously cross-examining witnesses I knew to be telling the truth but who seemed vulnerable or nervous from unfamiliarity with courtroom procedures was simply part of doing a good job for my client. And doing anything less than taking advantage of mistakes,

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inexperience or poor preparation on the part of adversaries, frustrating an opponent's presentation through timely use of a technical error, or utilizing opportunities to manipulate the court calendar, was considered poor advocacy, perhaps bordering on the "unethical."

Techniques and habits of lawyering such as aggressiveness, one-pointedness, and rationalization carried over to my life outside the law as well, though often with far less success and personal satisfaction. My rational powers were not as effective in solving personal problems as they were in my work, for I often experienced strong feelings that reason could not explain. The skills that served me as an advocate appeared to limit me as a person, and I gradually became aware of a missing dimension, a larger perspective on my life that I felt it important to explore. These considerations prompted me to pursue humanistic psychology as a way of expanding my understanding of myself and how I fit into the world.

Through my experience in humanistic psychology, I became increasingly aware of the larger contexts of my life, the dimensions of my own search for personal meaning, and the limitations of the skills I had learned to use so well. As I expanded my perspective on my life, I began to wonder what these deeply personal questions meant for me as a lawyer: What did I stand for as a lawyer beside the right of every one of my clients to be represented in the most vigorous way I knew how? What was the personal cost to me in lawyering in the way I had? What was the cost to my clients and others? How did my life as a lawyer relate to the rest of my life?

I began to have other questions as well about the profession as a whole. To what extent did the legal profession encourage its members to separate what was personally most meaningful to them in their lives from their lawyering? What was the personal cost of acting in ways that conflicted with some deeper sense of who we were? What was the social cost of their influential profession's doing its work in ways separate from or in conflict with values of importance to us as individuals and as a society?

As I came to see more clearly how much lawyering dominated and influenced my identity as a person, I began to wonder how my identity as a person could begin to influence me as a lawyer. What would it mean for me to bring my growing private concerns—receptiveness to others, openness to my own feelings and the feelings of others—to my work as a lawyer?

It seemed that such ideals and motivations could be central to my identity as a lawyer—indeed more significant than the professional norms or societal codes. It is not that what the codes stand for is irrelevant or should be replaced by personal predilection. Rather,

the code may not be enough to assure a full commitment to professional ethical obligations. Indeed, the exclusive focus on those norms and codes could cut me off from personal ideals. This apparent dichotomy seemed central to a full understanding of issues involving ethics and values in lawyering.

The Sterling Forest Conference offered an opportunity to explore the application of humanistic educational principles and methodologies to law teaching. Since I was planning to teach a course in professional responsibility on an adjunct basis the following semester, I welcomed the opportunity to talk with others similarly interested in exploring issues of the lawyering identity and the relation of the personal to the professional. I hoped that an honest exploration of questions that had arisen for me in my practice would enrich the course and help me engage the students actively in confronting these concerns before they actually began to practice.

In California all students are required to take a course in professional responsibility in law school, and to pass a separate bar examination in professional responsibility in addition to the general bar exam. These requirements, the profession's response to Watergate, are based on the premise that if lawyers were more familiar with the operation of the Code of Professional Responsibility and the Canons of Ethics, they would behave more ethically. The usual approach of professional responsibility courses is to define the areas of ethical practice through cases interpreting the Code while delineating the responsibility of the professional to society in general. Students gain a working knowledge of the Code and become schooled in understanding the fine lines separating sharp lawyering from unethical practice.

I intended to teach the course by using the issues raised by the Code in the context of the relation of personal and professional value issues in lawyering. I believed that by including the personal as a valid context for understanding professional ethical issues, we could create a bridge that would enliven the ethical issues, make them more relevant and personally meaningful to the students, and imbue them with the sense of deep importance they could and should have. If personal ethical issues in lawyering were related to the professional, the students would not so easily lose sight of what was personally important to them in their roles as lawyers. To ignore the dimensions of lawyering that touch us deeply as people is to avoid dealing with the most difficult and important issues that define us as lawyers, creating artificial barriers and excluding as irrelevant critical aspects of professional ethics.

For example, students' personal attitudes toward honesty could

easily have a greater impact than the Code upon the importance they as lawyers would ascribe to honesty. By making the inquiry into personal values a legitimate professional concern, a student could begin to come to terms with his or her professional ethical standards. I saw my role as that of a fellow explorer with the students, exchanging views of how we saw ourselves and each other in relation to the professional choices we were making. I asked the students to keep personal journals to track particular personal ethical issues which were either implicit or explicit in the Code. I prepared classes that raised the interrelation of personal and professional issues and approached the course with a sense of excitement.

I found the students much less willing to explore those issues than I had anticipated. At the beginning of the course, I asked the students what they wanted from it. They articulated three main concerns. First, they wanted to know what they needed to do to pass the professional responsibility bar exam. Second, they wanted to know what they needed to know to stay clear of trouble practicing law. Third, they were concerned with their grades. Early in the course I assigned a law review article to read that examined the moral and ethical base of lawyering in an adversary system. The students' reaction was that the article was irrelevant to their concerns, ethereal, and devoid of practical meaning for them. I reacted defensively, justifying the assignment and lecturing on the importance to all practitioners of the issues raised. Later, I saw that the class discussion was an indication that something else was affecting the classroom.

There seemed to be a basic tension between the students' interest in pragmatic concerns and my interest in exploring the issues of the personal and ethical base of lawyering underlying those concerns. As I sought a way to integrate those apparently incompatible interests, I recognized that underneath the frustration and annoyance I directed at my students, I was afraid I would not satisfy them with my approach to the course. While they were concerned with how they would be judged by me, the bar examiners and, eventually, clients and judges, I was concerned about their reaction to my course materials and presentation. I was encountering the same tension within myself as the students were within themselves. If I focused exclusively outside myself on how others viewed me, I tended to lose focus on what was personally important. The pull to look outside ourselves for approval prevented all of us from seeing more deeply what was personally important to each of us in the classroom. And the pressures that distracted us from exploring the deeper issues in lawyering in the law school mirrored those pressures the students would meet later in lawyering.

The recognition that the source of the distraction was not just in education or lawyering but within ourselves allowed me to empathize with the students. Increasingly, I began to see that identifying what was going on within myself in class helped me uncover a similar dynamic in the students. By looking at my own experiences as an educator, I could feel a commonality with the students that reduced the distance between us and permitted us to deal jointly and directly with the underlying issues of the relationship of the personal and professional. Uncovering the relation between our personal experience in the classroom and issues of professional ethics opened the door to exciting, and difficult, learning.

I would like to mention one particularly troubling dynamic that recurred periodically during the course, each time generating anger and frustration. In one class, it arose during a discussion of confidentiality. A student suggested that a lawyer had no higher duty to clients than any other professional. Another extended the argument to say that professionalism was a sham created by a social elite to justify higher fees and autonomy, and that a lawyer's ethical obligations were no different from those of a plumber. I began to notice that this kind of discussion would arise most often when we were exploring conflict and could come to no comfortable resolution. We would rapidly move from a focus on what was personally meaningful to a seemingly objective focus on the legal profession and the American social and political system, with classroom discussion quickly becoming overly defensive and intellectualized. This dynamic was an extremely difficult and confusing one for me, for while the issues the students raised were not irrelevant, the heart of the ethical concerns seemed to become lost.

Toward the end of the course, I concluded that what prevented the class from looking at these issues on a personal level was the ambiguity and discomfort inherent in the conflicts we face as lawyers. If we stop to see, we inevitably find ourselves in anomalous and deeply uncomfortable positions of having conflicting responsibilities—to client, court, and bar, and to society at large. It seems we are often forced to choose between numerous competing values and obligations including our own comfort. In the class, as we drew close to recognizing or experiencing the inevitable dissonance of these conflicts, we would divert ourselves to avoid having to deal with the issue, or we would distance ourselves from its personal implications.

When I suggested to the class that this pattern might have to do with an unwillingness to look at anything that might be personally conflicting or painful, I was met with a silent acknowledgment and expressions that suggested, "Of course, why would we want to ex-

perience pain?" I didn't know at that time why it seemed so important, but I have since concluded that our rapid shift to a focus outside of ourselves, like that earlier externally-focused concern with how others saw us, was again a way of sidestepping critical issues of value and meaning. When we dismissed pain in this way, we inevitably avoided those very issues of meaning that underlay our identity as lawyers and the place of the profession in the society.

Lawyers often deal with people in pain, but we can easily use our professional role as a way of hiding ourselves from both our own pain and the pain of others. In attempting to avoid being ensnared by a client's pain, we can block our feelings and dismiss them as irrelevant to lawyering. And these conditions of pain underlying legal controversy have implications far beyond the relation of lawyer to client. Pain in lawyering and the legal process are symptoms of a struggle in society, and of a truth of the human condition. By understanding ourselves as professionals in relation to the larger society we can come to terms with the meaning of our lawyering and of our legal system to the development of society. When we permit ourselves to experience the dilemmas of our position, we come closer to realizing what is most important for us in our profession. When we hide from these issues, we create anomalies for our profession and for our own lives.

The students reacted strongly to the course, and the majority were positive. I am not certain what effect the course will have on the students' careers as lawyers. I hope and believe that they will be more sensitive to ethical issues and more concerned about the effect of their practicing law on themselves and others. I am convinced that I have taken a small step in what could be an important direction for legal education and practice in recognizing that in our own individual humanity lies a key to better serving our clients and students.

## VI

STEVEN D. PEPE*

Legal educators and law students alike have commented, in print and informally, on the ways in which legal education and lawyers' lives seem to be limited. Law students are particularly concerned that the image of the lawyer presented to them in law school is one of a

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talented technician, selling skills in the market place and doing surrogate combat for the goals and at the bidding of clients. Legal educators, for their part, are concerned with these student perceptions, and interested in offering students a fuller conception of the lawyer.

While every member of the legal profession is committed to human understanding as well as to conceptual dexterity, that human concern is often suppressed or, worse, rendered inoperative. Our capacity for empathy, acceptance, and conciliation often takes a back seat to our aggression, manipulation, and competition. Our aspirations for justice, fairness, and human welfare are obscured by legal forms, procedures, and rituals. Our respect for morality yields to respect for success.

While most legal educators are distressed at conveying less than their full selves through their teaching, they have been largely ineffective in changing their classroom style. They unconsciously find the disciplined and rigorous aspects of their selves—the aspects that have been highly rewarded in professional life—controlling their public personalities. Openness and inquiry in the classroom subtly give way to authority and control. The teacher's commitments to ideas, values and social institutions are often perceived by students as ivory tower criticism or, worse, as passive resignation to the law's rules and rituals and to the status quo. Students often see teachers and lawyers as unidimensional, embodying only accepted legal skills and performing professional roles, rather than as total persons whose professional behavior reflects feelings and values. This one-dimensional image threatens and alienates many students, who react either by angry criticism or by disengaging from their law school work.

Paul Carrington and James Conley have recently made some preliminary surveys of Michigan Law School's students.[1] They found that a significant portion of the students were alienated (one in seven strongly so) and had dropped out of the educational process emotionally and intellectually while continuing in school—uninterested, unhappy with classes and teachers, and indifferent to the idea of law reform. Another, larger group of students were not alienated, but were dissatisfied and angry with their legal education, teachers, and classmates: only thirty-one percent of the students in the sample enjoyed their classes "very much" or "more often than not." Barely a

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[1] *See* Carrington & Conley, *The Alienation of Law Students*, 75 MICH. L. REV. 887 (1977); Conley, Draft Report on Law School Survey (Aug. 26, 1976) (unpublished) (on file with author).

majority of students were neither alienated nor dissatisfied. Many other students found law school a lonely place, devoid of warm relationships.

Concerned legal educators who wish to improve the law school experience have few places to turn for guidance within the academic community. We lack models for change and training in alternate approaches, and we fear sacrificing the good aspects of rigorous law school training.

It seems that law teachers could fulfill their goals more effectively, and students could find more satisfaction in their legal education, if teachers and students alike could bring more dimensions of their selves—their fears, values, doubts, needs, and even frustrations—to the educational enterprise. The Sterling Forest weekend set out to explore this possibility. Each of the participants found that a broader concept of the lawyer's role was available that allowed us to experience greater openness, honesty, and self-awareness. As we explored our feelings and values, as well as our ideas, our sense of responsibility to ourselves and to each other was enhanced. Further, most of us felt more complete in ourselves and our work, excited by sharing with others, and motivated to continue our life projects more in touch with all the levels of ourselves. The weekend experience offered a way to enhance legal education by overcoming much of students' and teachers' alienation, dissatisfaction, loneliness, and defensiveness. Yet I left Sterling Forest wondering how appropriate connections could be made from the experience of the weekend to my classroom work. I decided to experiment the following semester with a new course for first year students, called "Lawyers and Clients." The course, taught in a large weekly lecture followed by small sections, would introduce students to some of the skills, ethical dilemmas, and career options of the profession, as well as to issues of economics and the delivery of legal services. Both the subject matter and small-group structure of the course provided an ideal opportunity for me to try some experiential exercises to supplement my traditional classroom approach.[2] I anticipated not a revolutionary change in approach but, rather, some changes at the margin in style and classroom experiences.

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[2] I also tried several of the exercises in a course on the welfare system—Titles II, IV and XVI of the Social Security Act. I had taught this course before in a more traditional manner and had been dissatisfied with the results. This time I experimented with small group discussions; having all of us go on an AFDC welfare budget for a month; keeping journals of our expenditures and experiences (including our cheating) and sharing these in class discussions; arguing

My overall goal was to create a less competitive and judgmental classroom environment that would be more open and trusting. I hoped to find ways to engage students at non-cognitive as well as cognitive levels, and to encourage them to take more responsibility for their learning experience. My hypothesis was that many students fear taking the risks necessary for speculation, testing, and learning, and waste energy and opportunities hiding, disguising or justifying their shortcomings and fears of unacceptability. I hoped that more openness and honesty from the teacher would encourage more student openness and honesty.

In evaluating the success of the course after it ended, I know that many of the exercises and areas of inquiry did not work as well as I had hoped, though in this respect the course was no different from many other teaching experiences. There were times when I lacked confidence in introducing different approaches, and withdrew to a "safer," more controlled approach. I wanted instant success, constant confirmation, and approval of my efforts in this new direction. When I did not get these, I often waivered and withdrew. Several times I failed to express my concerns, insecurities, and fears to the students, fearing that my honesty would evoke their anxiety. In retrospect, my choice did not necessarily spare them anxiety. Rather, it somehow distanced them and, possibly, denied them opportunities to help make the effort work. My need to hide these feelings of discomfort and uncertainty arose from fear that it would be inappropriate for me as a law teacher to disclose publicly any aspect of myself that was not rigorous, tested, and assured. This fear seems to be widely shared among legal educators. Even when we deal with competing policies, conflicting authorities, and other arguments, we generally present any unresolved element in our own position as structured intellectual uncertainty. However, my anxiety at trying new approaches was one that the students could identify with, understand, and care about. It was similar to that part in each of them that often retards, or avoids altogether, the risks necessary to learning and growth. Outside class, I often shared my feelings with certain students who were enthusiastic about and supportive of my struggles. At other times, feeling more confident in class, I would openly discuss the role and the purpose of an exercise or problem. This seemed to

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actual Supreme Court cases in the moot courtroom; through Frederick Wiseman's film *Welfare*, and through trips to the local welfare office, experiencing what due process and equal protection feel like to a recipient in a Social Services waiting room and interview; having students handle real welfare hearings; having students prepare position papers for a legislative committee on Welfare Reform.

encourage greater student understanding, acceptance, and sharing of responsibility for the learning situation. The experiment made time spent with students in class and outside more enjoyable for me and, I believe, more rewarding for them.

One of my greatest concerns had been that these new approaches, when coupled with an effort at being more open, honest and accepting, would be seen by the students (or by faculty colleagues) as an "anything goes" approach—inviting non-critical soft thinking and minimal student preparation. This is a very real danger for a novice teacher trying a new approach without instruments for evaluation. That students enjoy the class and like the teacher does not necessarily prove that good teaching or learning are taking place. However, I found that seeking more openness and acceptance did not mean abandoning the search for clarity in content. While it may be more difficult to give negative feedback to students without being destructive, and while I did not handle it well at all times, I found that I could still provide and encourage critical thinking. Overall,. the more open atmosphere of the classroom tempered much of the sting of the feedback and made my disagreement with students' views seem less a put-down. I hope that students wasted less energy defending and recovering self-esteem and consequently had more capacity for thinking and learning.

In evaluating the changes I made in this course, I rely on my observations, on random student feedback, and on the regular course evaluation form which, though extensive, was written for all sections of the course and did not specifically address the approaches I used in my two sections. Student reactions to the exercises were mixed, ranging from great enthusiasm to displeasure. The students generally appreciated the effort to find a somewhat different way, though they knew that more progress was needed.

My idealistic and overly perfectionist expectations of this new enterprise at times inhibited me and made it more uncomfortable than necessary. Yet, overall, the effort was worth the minor problems. That it was not handled as well, or used in as many ways as seem possible in retrospect, or that some students disapproved, is only to say that change and growth in any activity need time for reflection and improvement. While the effort was incomplete in both content and approach, it succeeded in bringing more to the classroom setting. The students' evaluations were generally favorable about how much they got out of the course, how much they worked on it, and about their discussion leader.

The discomforts I experienced in this classroom experiment are common to many of the struggles that lawyers, particularly new

lawyers, experience in practice when confronting the anxiety of a professional role with imperfect knowledge and skills. These real and legitimate concerns, inherent in trying to grow in any setting, are the stuff of professional life, though they are often not acknowledged or discussed. Professionals are more comfortable and less threatened distancing themselves than revealing uncertainties, limitations, and feelings. It is no wonder that many teachers and lawyers remain largely invisible, shielding themselves and controlling an anxiety-producing situation by a rigid and limited role definition which serves as a safe, if uncomfortable and inflexible, suit of armor.

It seems that law teachers could teach their students a great deal about these "non-legal" aspects of professional life if they could find an occasional but appropriate place for these concerns in the dialogue of legal education. Until such aspects of professionalism become visible and acceptable, lawyers cannot develop the language they need for analysis, understanding, and mastery. If we do not deal with feelings, values, and uncertainties, we teach, by default, a covert message that they have no place in "thinking like a lawyer."[3]

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[3] Watson, *Lawyers and Professionalism: A Further Psychiatric Perspective on Legal Education*, 8 U. MICH. J.L. REFORM 248 (1975).