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FOREWORD

THE TIMES—THEY ARE CHANGING

DEAN DAVID T. LINK*

Legal education in the United States has served society well. It has produced generations of competent law practitioners. It is also one of the best systems ever developed for teaching techniques of problem analysis and problem solving. As a result, many graduates of law schools have successfully pursued careers as leaders and problem solvers in fields outside of law practice.

However, as we enter into the third millennium, it is time for a change. Perhaps because of the past success of legal education, society now demands much more from law schools. For many years, law schools could concentrate on what the title “legal education” implies—educating people about the theory, philosophy, substance, procedure, and technique of law and legal systems. The assumption was that a student would learn the “nuts and bolts” of practicing law after graduation, when a senior attorney—a mentor—would take the young lawyer under his or her wing and show that young lawyer how to serve a client. As a result of this assumption, law students would be taught much about the law, but they often would not see a real contract or complaint or even a courthouse until after they graduated.

The assumption upon which legal education has been based—that students will pick up practical training from mentors after graduating from law school—is increasingly questionable. “Mentoring in the profession is dying.”¹ Both senior partners and junior partners no longer feel that they can devote time to mentoring. Even associates no longer have time to show each other the ropes. Particularly in large law firms, the spiral of higher salaries followed by higher billable hour expectations has

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1. Patrick J. Schiltz, *Legal Ethics in Decline: The Elite Law Firm, the Elite Law School, and the Moral Formation of the Novice Attorney*, 82 MINN. L. REV. 705, 739 (1998). Dean Schiltz’s article is a thorough and perceptive description of the decline in mentoring and its impact on the ethics of the practicing bar.

now left many senior lawyers saying, "I don't have time to mentor," and many junior lawyers responding, "That's okay, I don't have time to be mentored." The situation is not much better in small firms or one-lawyer shops.

This is not to say that mentoring has completely disappeared. Many lawyers continue to do a fine job of individual mentoring, and "bridge-the-gap" courses teach at least some of what used to be learned from mentors. But virtually everyone recognizes that it is becoming less and less likely that a new lawyer will be taught how to practice law after that lawyer has begun to practice law.² As a result, law schools are under increasing pressure to go beyond education about the law and to do practical training. Clinical programs and skills training courses have been among the first law school responses.

Another societal demand on law schools is implied by books, such as Professor Mary Ann Glendon's *A Nation Under Lawyers*,³ Dean Anthony Kronman's *The Lost Lawyer*,⁴ and Sol Linowitz's *The Betrayed Profession*.⁵ Each of these books focuses on the deterioration of professionalism among lawyers. Many lawyers cite their law school training (or lack thereof) as contributing to this problem, and thus law schools are under pressure to respond to the "crisis" in professionalism.

There are other societal demands on legal education. Dean Kronman's book laments the loss of the "lawyer-statesman." Many agree with him that fewer lawyers are assuming leadership roles at any level of their communities. Television shows portraying real or fictional lawyers and media coverage of sensational legal dilemmas have made lawyers appear to be anything but "statesmen." As a result, the public is looking to law schools to produce "better" lawyers—lawyers who are more ethical, lawyers who are more professional, lawyers who will serve as leaders in their communities.

Needless to say, this issue of the *Journal of Law, Ethics & Public Policy* is most important and timely. The practice of law is both a science and an art. Dean Roscoe Pound refers to it as "a

2. See *id.* at 744 n.138 (collecting several recent comments about the decline in mentoring).

3. MARY ANN GLENDON, *A NATION UNDER LAWYERS: HOW THE CRISIS IN THE LEGAL PROFESSION IS TRANSFORMING AMERICAN SOCIETY* (1994).

4. ANTHONY T. KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* (1993).

5. SOL M. LINOWITZ, *THE BETRAYED PROFESSION: LAWYERING AT THE END OF THE TWENTIETH CENTURY* (1994).

learned art.”⁶ To be competent in the “science” of law, a student must be able to analyze logically the substance and procedure of legal systems. To be competent in the “art” of law, a student must also be able to solve “people problems.” Law schools used to teach the “science” of law, and mentors used to teach the “art.” Increasingly, law schools are being called upon to do both.

Can law schools teach the “art” of law? Can law schools shape students not only into good analysts of statutes and judicial decisions, but into lawyers who—socially, culturally, spiritually—will be able to understand and serve the human beings who seek their help? I believe so. The “art” of law is caught more than it is taught; the same is true of ethics, professionalism, and leadership. Law schools shape students into skilled and decent professionals not so much by what is said in the classroom, but by the example set by the faculty. Through exposure to these role models, students absorb the skills and values needed to practice law successfully and ethically. Law schools can also provide a community that will help to shape students into holistic professionals motivated to be effective officers of our system of justice.

The pages that follow explore different suggestions for the reform of legal education. There is little doubt that, with modern technology, the teaching of the “science” of law can be compacted without sacrificing quality or quantity of understanding. That compacting will give law schools the time and resources needed to teach the “art” of law—especially practical skills and techniques of client care. The opportunities are as great as the challenges.

Make no mistake about it: the challenges for legal education in the years to come are indeed great. But, for the good of society, these challenges must be met. If we are to restore confidence in the rule of law, we must restore trust in the legal profession, and if we are to restore trust in the legal profession, legal education must change.

6. ROSCOE POUND, *THE LAWYER FROM ANTIQUITY TO MODERN TIMES* 5 (1953).

