Study Finds MBE Valid, Reliable
by Stephen P. Klein

Editor's note: Mr. Klein presented his findings at a program sponsored by the Section and the National Conference of Bar Examiners at the Annual Meeting in New York. The following is from his book entitled Summary of Research on the Multistate Bar Examination. Dr. Klein is a nationally recognized expert on the psychometric characteristics of bar examinations. The book is available from Lori Dunn at the NCBE, 312/641-0963.

This report presents the results of analyses of the reliability, validity, and other important features of the Multistate Bar Examination (MBE). The report is based on data from past research and several new studies. The major findings of these investigations and the conclusions drawn from them are summarized below.

Reliability
Reliability refers to the consistency of measurement. In terms of how the MBE is used, reliability relates to the likelihood that a candidate's pass/fail status would be affected by the particular version (set of 200 items) taken. If pass/fail decisions are based on the MBE alone and 70 percent of the candidates pass, then about 86 percent of them will have the same pass/fail status regardless of which MBE is taken, but only about 78 percent would have the same status if decisions are based on different versions of the essay test. The agreement rate would again be about 86 percent if decisions are based on an equally weighted combination of MBE and essay scores.

Equating
MBE raw scores (number of items answered correctly) are adjusted to control for possible exam-to-exam fluctuations in the average difficulty of the questions asked. The equating ("scaling") process is very accurate—variations in mean MBE scale scores from one exam to another are virtually identical to variations in the same candidates' mean Law School Aptitude Test (LSAT) scores.

Continued on page 17

In Memoriam
JOSEPH R. JULIN

Syllabus regrets to report the passing of Joseph R. "Dick" Julin, former chair of the Section of Legal Education and Admissions to the Bar and Chesterfield Smith Professor of Law at the University of Florida. At its August meeting, the Council of the Section adopted the following resolution.

WHEREAS, Joseph R. Julin served with great distinction as Chairperson of the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association from 1977-78; and

WHEREAS, Dick Julin was a nationally recognized leader in legal education whose drive and optimism greatly influenced the course of American legal education; and

WHEREAS, under his leadership the Council engaged in the development of Joint ABA/AALS Guidelines for Clinical Legal Education, established a Task Force to review the structure and organization of law schools not affiliated with a college or university, submitted an amicus brief in the Bakke case, formulated new guidelines for post-J.D. and off-campus programs, adopted a statement of good practice of impartiality and propriety in the process of law school accreditation, and served as the convening body for the Cooperating Council on Legal Education (Mayflower Group); and

WHEREAS, his sudden and untimely passing is a loss to the profession, to legal education and to his many friends:

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Section of Legal Education and Admissions to the Bar, in regular meeting assembled, that the Council members extend their sincere sympathy to Dorothy Julin and to members of the Julin Family.

August 6, 1993
Over the past twenty years a significant aspect of American law school curricular and programmatic development has been increased interest in international and comparative law resulting in increased program and course offerings. Twenty years ago a handful of ABA-approved law schools began offering summer programs abroad for their students. Some twenty years ago one law school became the first American law school to offer a semester abroad program. Several law schools conducted modest student exchange programs.

As we all recognize, the world in 1993 is a far different world, one in which American lawyers must be prepared to represent their clients. The breakup of the Soviet Union, the development of the CEELI Sister law school program, the interest of the practicing bar are but some of the factors contributing to the increased interest in international and comparative law in American law schools.

In recent years, deans, bar admitting authorities, and members of the Council and Accreditation Committee have expressed concern about the academic rigor and quality of the increasing number of foreign academic programs of the ABA-approved law schools. In an effort to address these concerns and to permit and encourage these developments the Section began a systematic review of these programs and the criteria under which they operate.

In 1988, the Council adopted the "Criteria for Approval of Semester Abroad Programs" conducted by ABA-approved law schools. In an effort to address these concerns and to permit and encourage these developments the Section began a systematic review of these programs and the criteria under which they operate.

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In 1990 the Council appointed a special committee to study the transfer of credits earned in foreign law school study. The special committee drafted two sets of criteria, one for "Law School Approval of Student-Initiated Study Abroad for Academic Credit" and one for "Cooperative Programs for Foreign Study."

During the past year a sub-committee of the Accreditation Committee chaired by Professor Laura Gasaway has reviewed the implementation and operation of these criteria. An outcome of this intensive review has been the adoption of revised "Criteria for Approval of Individual Student Study Abroad for Academic Credit" and "Criteria for Approval of Cooperative Programs for Foreign Study" by the Council at its August, 1993 meeting.

As stated in the Individual Student Criteria:

"These Criteria are to be used by ABA-approved law schools for the occasional student who seeks approval to enroll in a foreign institution and to receive academic credit for such study. If the school wishes to grant credit to more than two students studying at a single foreign institution at the same time, then the school must apply for approval of a program, either under the "Criteria for Cooperative Programs for Foreign Study" or the "Criteria for Semester Abroad Program."

Continued on page 7
Whitmore Retires as Delegate, Schaber Becomes Secretary Emeritus

Sharp Whitmore of Fallbrook, California, has announced his retirement as a Section Delegate to the House of Delegates. Mr. Whitmore served the Section in that capacity for over twenty years. Dean Gordon D. Schaber of the McGeorge School of Law has announced that he would not seek re-election to the office of Council Secretary. Dean Schaber becomes Secretary Emeritus.

The Council of the Section of Legal Education and Admissions to the Bar at its meeting on August 5-6, 1993, overwhelmingly and with enthusiasm, adopted the following resolutions in appreciation of the service and dedication of Gordon Schaber and Sharp Whitmore:

Resolution
Gordon D. Schaber

WHEREAS, Gordon D. Schaber has served the Section of Legal Education and Admissions to the Bar for two decades as a member of the Council, as Chairperson and as Secretary; and

WHEREAS, the Section, legal education and the profession have benefitted in many ways as a result of his extraordinary dedication and service; and

WHEREAS, his talents have been demonstrated in such matters as adoption of Standards 212 and 213, the study of the validity and reliability of the Standards, the development of criteria for programs conducted abroad by American law schools, and in many other facets of the activities of the Section; and

WHEREAS, his generosity of support, his willingness to undertake onerous tasks, his cheerful demeanor, and his wonderful spirit have endeared him to members of the Council, the legal education community, and the legal profession; and

WHEREAS, Gordon D. Schaber has declined renomination as Secretary of the Section;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Section of Legal Education and Admissions to the Bar, in grateful appreciation, confers upon Gordon D. Schaber the Office of Secretary Emeritus with all the rights, obligations and benefits pertaining to this Office.

Resolution
Sharp Whitmore

WHEREAS, Sharp Whitmore has served the Section of Legal Education and Admissions to the Bar as its Section Delegate for twenty years; and

WHEREAS, he has served with great distinction, effectiveness, and integrity on behalf of the Section; and

WHEREAS, he has declined renomination as Section Delegate for personal reasons;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Section of Legal Education and Admissions to the Bar in expressing their deep appreciation to Sharp Whitmore for giving us the privilege of having served with him in the House. He will remain as Secretary to our Council, so that we will continue to have the benefit of his accumulated wisdom. He treasured his House membership. The many friends of Sharp Whitmore in this House, and in our Section, wish him well.
Legal Writing Program Discusses “Lost Words”

by William B. Powers

The Section’s Legal Writing Committee and the ABA Standing Committee on Lawyer Competence co-sponsored a Presidential Showcase program at the annual meeting entitled “Lost Words: Economic, Ethical and Professional Effects of Bad Legal Writing.” Duncan MacDonald, senior vice president of Citicorp Credit Services, organized and moderated the program. “Poor legal writing can set off a chain reaction that impacts the legal system,” said MacDonald to program participants. “Ambiguities in laws can weaken the bonds between the legal profession and the public it serves.”

Joining MacDonald on the panel were Dean John D. Feerick of the Fordham University School of Law; Bryant Garth, executive director of the American Bar Foundation; Honorable Jan Graham, attorney general of Utah; Richard Lombard of the Dallas firm of Baker & Botts; Honorable Abner Mikva, chief judge of the U.S. Court of Appeals for the D.C. Circuit; and Robert Sack of the New York City firm of Gibson, Dunn & Crutcher.

Bryant Garth began the program with a discussion of three surveys completed by the American Bar Foundation (see Syllabus, Spring 1992, for detailed information on the surveys). The surveys, completed by Chicago lawyers admitted in the last five years, Chicago hiring partners in firms with five or more attorneys, and Missouri lawyers in rural and medium-sized law firms, found that oral and written communication skills are the most skills to the recent law school graduate, and most attorneys expect new law graduates to have these skills upon hiring. “The system of incentives in hiring does not emphasize legal writing,” said Garth. “Grades and the law school attended are major factors in the hiring process, but hiring partners say they want good oral and written communicators,” he added.

Judge Mikva provided a judicial perspective of poor legal writing. The fundamental problem with judicial writings, said Mikva, is that there is no agreement among judges about whom their target audience is. “The more we are confused about whom we are writing for,” said Mikva, “the more that confusion is reflected in our writing.” Judge Mikva has long been a crusader for the abolition of lengthy footnotes in legal writing. “I learned in law school that writing is only profound if it has a lot of footnotes and is long,” noted Mikva. “If God had intended for us to use footnotes, He would have made our eyes vertical instead of horizontal,” added Mikva dryly. He concluded that lawyers must begin to treat legal writing as an important tool of the profession.

Jan Graham agreed, and added that this tool must not be misused. She stated that excessive and ambiguous legal writing can cost millions of dollars in legal fees, and can cause lost confidence in the jus-

The Panel

Pictured left: Duncan MacDonald, senior vice president of Citicorp Credit Services. Second row, left to right: Dean John D. Feerick, Fordham University School of Law; Bryant Garth, executive director, American Bar Foundation; Honorable Jan Graham, attorney general of Utah. Bottom row, left to right: Richard Lombard, Baker & Botts; Honorable Abner Mikva, chief judge of the U.S. Court of Appeals for the D.C. Circuit; Robert Sack, Gibson, Dunn & Crutcher.
part of the problem. He felt that associateships should be training periods. "Lawyers should be taught to listen to themselves," he concluded, "and should be made to read aloud what is written."

William B. Powers is the ABA research lawyer and editor of Syllabus.

Mark Your Calendar

**OCTOBER, 1993**

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<td>8</td>
<td>ABA Site Evaluation Orientation Workshop</td>
<td>Indianapolis, IN</td>
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<td>8-9</td>
<td>LSAC Atlanta Recruitment Forum</td>
<td>Atlanta, GA</td>
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<td>10-13</td>
<td>Council on Postsecondary Accreditation</td>
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<td>13-16</td>
<td>AALS Accreditation Committee</td>
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<td>AALS Workshop on Professional Responsibility</td>
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<td>15-16</td>
<td>LSAC Chicago Recruitment Forum</td>
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<td>22-24</td>
<td>LSAC Test Audit Subcommittee, Test Development &amp; Research Committee and Finance &amp; Legal Affairs Committee Meetings</td>
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<td>28-30</td>
<td>AALS Workshop on Criminal Law</td>
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<td>LSAC Boston Recruitment Forum</td>
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<td>18-20</td>
<td>ABA Conference on Internationalization of Legal Education</td>
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<td>18-21</td>
<td>LSAC Sixth Annual Financial Aid Conference</td>
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<td>LSAC Trustees Meeting</td>
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<td>ABA Council Meeting</td>
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<td>6</td>
<td>AALS Mini-Workshop on Beyond Tokenism: Wrestling With Powers, Creating Opportunity</td>
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<td>9</td>
<td>AALS Executive Committee Meeting</td>
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LIBRARY HIGHLIGHTS

AALL Undertakes Legal Research Standards Project

by Ellen M. Callinan

Well before the Report of the Task Force on Law Schools and the Profession: Narrowing the Gap (MacCrate Report) called for increased emphasis on professional skills training, legal research illiteracy had become a topic of intense concern in the professional journals and at the conferences of the law library community. Fueled in large measure by the dissatisfaction of law firm librarians, the discussion has focused on designing and implementing effective research training in both law firms and law schools. This cooperation between academic and private sector law librarians engendered an increase in professional training to teach librarians how to teach as well as support for new educational methodologies.

The most important result of this cooperative effort is yet to come. The Research Instruction Caucus (RIC), a 400-member coalition of academic, corporate, government, and private firm law librarians, is preparing a detailed list of legal research standards based on Sections 3.1 and 3.2 of the "Statement of Fundamental Lawyering Skills and Professional Values" (SSV) in the MacCrate Report.

The three-page MacCrate outline of the skills related to Knowledge of the Nature of Legal Rules and Institutions and Knowledge of and Ability to Use the Most Fundamental Tools of Legal Research was expanded into a thirty-page document of Research Standards at the annual meeting of the American Association of Law Libraries in July 1993 by a committee of the Caucus. Five regional working groups, each of which is being coordinated by one academic and one private sector law librarian, will amplify the legal research competencies outlined in the document.

For example, MacCrate SSV Section 3.1(b) describes the need for lawyers to understand which sources of legal rules tend to provide controlling principles for the resolution of various kinds of issues. The Research Standards document contains a corresponding section under "Caselaw" that identifies the specific elements of binding precedent, persuasive authority and dicta. A parallel section under "Statutes" distinguishes the relative value of Acts, codified language, and titles enacted into positive law. Similar sections cover administrative regulations and decisions, rules of court, and restatements and similar pseudo-codifications.

The Research Standards committee is planning to meet in the spring of 1994 to finalize the document. The resulting report will be presented to the Executive Board at the AALL annual meeting in Seattle in July 1994. After the document is revised and approved, the committee will encourage various applications of the Standards, including the following proposals:

1. Keying existing legal research training publications to the Research Standards documents. Law students and lawyers would be able to identify relevant training materials more quickly through this classification.

2. Offering a method of self-evaluation for law students preparing for summer clerkships or permanent positions. Those who participate would receive recommendations for improvement by using the training materials keyed to the standards. They would be encouraged to work with their law school librarians to master the techniques noted in their evaluations and would be given the opportunity to repeat the exercise to measure their progress.

3. Administering a diagnostic test to second year law students at the start of their second semesters. Participation would be voluntary or mandatory, depending on the decision of the individual law schools. Those who participate would also receive recommendations for strengthening their skills. Throughout that semester, the academic law library staffs would offer legal research modules keyed to the research standards. Law students would be encouraged to attend the pertinent modules and to repeat the diagnostic exercise to measure their progress.

4. Encouraging law firm librarians to either administer skills evaluations to those who did not participate in school or to obtain the final results from those who did. Librarians would be able to use this information to design and offer advanced training which would meet both the skill levels of the new attorneys and the practice concentrations of the specific firms.

Since its founding in 1990, the RIC has created a clearinghouse of training materials, sponsored programs on research instruction at the AALL annual meeting, and organized the first National Legal Research Teach-In, funded by Mead Data Central and West Publishing. The research standards document represents the culmination of the RIC's most ambitious, and possibly most influential, effort.

Ellen M. Callinan is manager of research services for the Washington, D.C. firm of Crowell & Moring.
WASHINGTON REPORT

by E. Bruce Nicholson

In summer action, Congress moved forward to enact major legislation to create a national service plan and to overhaul the guaranteed student loan program. Four days after Congress finished its tumultuous consideration of the budget reconciliation bill (after which it immediately left town for its month-long August recess), President Clinton signed into law the Act that includes compromise provisions to phase in the direct student loan program proposed by the Administration, so that the government will be making at least half of all such loans by 1996. President Clinton's plans propose to save billions of dollars in administrative costs and fees paid to lenders through such a phased-in system of college-provided loans to students without banks as lenders.

The House-passed budget reconciliation bill under consideration in the conference included a provision to shift the entire student-loan program to direct lending by 1997. The conferees agreed, however, to accept the Senate-passed version, hedged its bets, phasing in a system of direct lending to make up half of new student loans by 1997. Under the compromise reached by the conferees, the government would make 5 percent of all student loans in the 1994-95 school year, 40 percent in 1995-96, 50 percent in 1996-97 and 60 percent of all loans in 1997-98. By 1996, any higher education institution may participate in the program.

Students will have several options in repaying loans under the newly enacted plan, including in-come-contingent repayment, extended repayment, graduated repayment and the standard ten year repayment plan. Interest rate caps on student loans will drop from 9 percent to 8.25 percent under both direct and guaranteed student loans. Loan origination and insurance fees will drop from 8 percent to a maximum of 4 percent.

Congress also neared conclusion of its consideration of national and community service legislation before the August recess, with House approval of the conference report bill on August 6 after the House and Senate passed separate versions of the service plan. The final plan would provide participants as much as $9,450 for two years of service to put toward higher education. Participants would also receive a stipend and medical and child care benefits while in service. Local programs would offer stipends to participants of up to $7,400 per year, with 65 percent of the stipend provided by the federal government. Nonprofit organizations, including higher education institutions, local governments, and state and federal agencies would administer the individual programs.

A three-year authorization bill will provide $200 million in fiscal 1994, $500 million in 1995 and $700 million in 1996 for national and community service. The maximum number of participants will be 100,000 in 1996, down from 150,000 in the House-passed bill. The Senate is expected to act quickly to pass the conference report when it returns, as it is essentially the version the Senate passed by a 58-41 vote on August 3.

E. Bruce Nicholson is legislative coordinator for the Government Affairs and Public Services Group of the ABA.

CONSULTANT Continued from page 2

The criteria provide that—

The parent school shall develop and publish a statement that defines the educational objectives it seeks to achieve in allowing students to study abroad for academic credit.

A student's study must be undertaken pursuant to a written agreement between the parent school and the foreign institution.

The parent school shall assume responsibility for approved coursework and monitoring the study undertaken by the student.

Prior to the commencement of study abroad under these criteria, the parent school must receive written assurance from the foreign institution that the student's proposed educational objectives can be achieved at that institution.

The Cooperative criteria provide that an ABA-approved school may enter into an agreement with a foreign law faculty for a cooperative program for the award of academic credit to its students for study at the foreign institution.

The cooperative program must be based on a format written agreement between the two institutions.

The academic program must be related to the socio-legal environment of the country in which the foreign institution is located or have an international or comparative focus.

To qualify for study abroad under these criteria, a student must be fluent in the language of instruction.

A student who participates in a cooperative program may not receive more than 12 semester hours of credit toward a J.D. degree for such study. Although a student in an ABA-approved law school may be permitted to take courses in foreign segment programs during the course of study toward the J.D. degree in both one semester and one summer, the total credits in such summer and semester foreign segments shall not exceed twenty-five (25) percent of the credits required for a J.D. degree at the student's parent school. (See Standard 306.) The granting of residency credit shall comply with the requirements of Standard 305.

The parent school shall determine whether specific prerequisites are required for enrollment in certain courses.

Study abroad in accordance with these criteria ensures that the American law school applies a standard of academic quality control to foreign study which is worthy of the American J.D. degree for which credits are earned.

James P. White is the consultant on legal education to the ABA.
NALP Report
Interest in Nontraditional Jobs Grows
by Gail Peshel

Anecdotal evidence shows that as some young adults near their departure from undergraduate institutions, they perceive that furthering their educations (particularly in law school) is an option with greater appeal than confronting a hostile employment environment. A growing number of law students candidly reveal that they have no desire to practice law, yet are willing to withstand the rigors of law school to “keep their options open.”

Law schools and their career services offices are in prime positions to capitalize on the growing phenomenon of students who are interested in nontraditional application of their degrees. To do so requires an analysis of what it is that fuels the perception about the value of a Juris Doctor degree, particularly to those who don’t want to practice law.

One catalyst encouraging law school applicants is their awareness of attorneys who are employed in jobs outside the traditional practice of law. A recent American Bar Association report from the Young Lawyers’ Division cites statistics showing that approximately 10 percent of those lawyers who plan to change jobs in the next two years will elect to leave private practice to begin work in nonlaw-related fields. This offers evidence to students that supports the idea that an education in law, when combined with other skills and experience, readily transfers to other professions.

The versatility of the law degree is emphasized further by lists naming over 300 professional careers for which, although not required, a law degree can be an asset.

Meanwhile, the constrained market has challenged law schools to examine sources of new job opportunities. The importance of expanding the number of employment opportunities through marketing and outreach to employers, providing increased career counseling, and identifying new resources, strategies and approaches for job searches have increased. The reasons are easily understood.

Attorney-pioneers who with the assistance of their law schools and career services offices have successfully forged their way into alternative career paths have inadvertently offered encouragement for companies to employ JDs. For example, the healthcare industry has begun to look to JDs with health, science, business and other related backgrounds for positions related to “risk management.” Businesses with interests in real estate, contract negotiation, mediation, and financial trust work are turning to JDs more frequently. NALP’s Class of 1992 Employment Report and Salary Survey identified nearly 4,000 graduates who acquired nontraditional employment.

A philosophical change in business from reactive to proactive and the new view that JDs have a place in such nontraditional fields as marketing, human resource management and compliance, industry, and administration is gaining momentum. In the near future, this may mean that more and more JD’s will seek and acquire job opportunities in less traditional professional fields.

Since 1988, the percentage of graduates acquiring nontraditional employment six months after graduation has increased from 5.2 percent to 8.9 percent in 1992. This growth and the awareness it brings will undoubtedly spawn an increase in the number of applications for nontraditional positions. The increased number of applications from JDs could serve to expand employer awareness of the potential of law graduates and then, create a certain “readiness” to hire them.

Almost serendipitously, as JDs who do not want to practice law find their career niche more quickly, they will likely view their legal education more positively. This could lead them to view their law school with greater interest and thus, assist with development more enthusiastically. Clearly, students who acquire satisfying nontraditional jobs create a valuable alumni cadre for law schools.

At the same time, society is provided new reasons to value the JD degree more highly. While it may seem a bit simplistic to suggest, it is this interwoven cycle of events that may effectively work toward elimination of the perception that there are too many lawyers.

Law schools and career services offices can propel the momentum for acceptance of JDs in alternative employment to new heights, thereby generating new job opportunities for law graduates. Embracing the idea that the JD is indeed a flexible credential that serves the profession, in both legal and nonlegal careers, is the first step. The expansion of opportunities can then be hastened by ensuring that there are adequate counseling, outreach and informational resources for students interested in nontraditional jobs.

If the available seats in law schools are to be filled in the future with the most talented and enthusiastic candidates, there must be exploration and enhancement of a variety of opportunities for these students to use their degrees in positions where, although not required, a law degree is considered to be an asset.

Gail Peshel, 1993-94 NALP president, is director of career services and alumni relations for Valparaiso University School of Law.
Action from the House of Delegates

The House of Delegates considered a number of issues of interest to the legal education and bar admissions communities at its August 1993 meeting in New York.

Pro Bono Curricular Requirement

The Council of the Section of Legal Education and Admissions to the Bar, at its June 4-6, 1993 meeting, adopted the following resolution concerning the proposed resolution of the Philadelphia Bar Association to the ABA House of Delegates recommending that a pro bono/public service requirement be included in the law school curriculum:

The Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association has considered the Philadelphia Bar Association's original recommendation with respect to a pro bono/public service requirement and, at its June, 1993 meeting, the Council had before it the following revised recommendation of the Philadelphia Bar Association:

BE IT RESOLVED, that the American Bar Association in cooperation with Law School Deans, State and Local Bar Associations and Federal and State Judiciary develop and test a pilot law school curriculum program which includes a uniform pro bono/public service requirement involving clinical experience, with standards for such a program; a method by which to link law students and practitioners ("mentoring"); and the creation of "internships" and "residencies" for law students and experienced lawyers to provide delivery of such service.

The Council of the Section of Legal Education and Admissions to the Bar is opposed to the recommendation of the Philadelphia Bar Association which proposes to require law schools to include a pro bono/public service program in their curriculum. However, the Council does support continued efforts to encourage the facilitation of pro bono services by law schools.

After extensive negotiation with representatives of the Philadelphia Bar Association, a revised resolution was offered as a substitute resolution and was overwhelmingly approved by the House of Delegates at its August 1993 meeting. The adopted resolution is as follows:

RESOLVED, that law schools are strongly encouraged to develop pro bono/public service programs as components of their skills training curricula or programs and to exchange information about such pro bono/public service programs through the Section of Legal Education and Admissions to the Bar. The Section shall work with other interested entities, including the Standing Committee on Lawyers' Public Service Responsibility, the Philadelphia Bar Association and other interested bar associations, and the Judicial Administration Division to receive suggestions with regard to such programs and to inform these entities and associations about such programs in law schools and those being developed.

International Law Bar Examination Questions

The ABA House of Delegates had before it at its August 10-11, 1993 meeting the following recommendation of the Section of International Law and Practice:

BE IT RESOLVED, that the American Bar Association supports and urges the addition of questions testing knowledge of international law on bar examinations, by the highest court of each state or by the Policy Committee of the Multistate Bar Examination.

The Council of the Section of Legal Education and Admissions to the Bar unanimously opposed the proposal as it has consistently opposed the mandating of specific bar examination subjects. In the House of Delegates meeting, Section Delegate Norman Redlich spoke against the proposal. The proposal was rejected by the House of Delegates by an almost unanimous vote.

Licensing of Legal Consultants

The ABA House of Delegates had before it at its August 10-11, 1993 meeting the report of the Section of International Law and Practice recommending that the Association approve a proposed "Model Rule for the Licensing of Legal Consultants" and recommending that states conform their rules to the proposed Model Rule.

The Council of the Section of Legal Education and Admissions to the Bar instructed its delegates to move to defer this item on grounds that there had been inadequate opportunity for consultation among our constituent groups, such as bar examiners, state supreme courts, etc.

Legal Education Section Delegate Jose Garcia-Pedrosa attempted to have the International Law Delegates agree to a substitute resolution setting forth the general principles of a Model Rule, leaving the Rule itself to be considered at the February meeting of the House. This effort was unsuccessful and, accordingly, Mr. Garcia-Pedrosa moved to defer Resolution 105E and argued persuasively in support of the deferral motion. The motion to defer was defeated in a narrow vote. The resolution was then adopted.
Legal Hotchpot

Philip Baim, a 1929 graduate of The John Marshall Law School and a member of its Board of Trustees for the past twenty years, has given the Law School a one-million-dollar gift to endow the Edith and Philip Baim Scholarship Fund, which will provide scholarships to John Marshall students who have high academic credentials and a financial need. In recognition of his generosity, The John Marshall Law School will name its ceremonial courtroom in honor of Edith and Philip Baim. Baim’s donation caps 64 years of outstanding service to the law, the administration of justice, his law school and his country and was reflective of lessons learned from his mother, who instilled in her children a belief in the value of education. “In that spirit,” Baim said, “this gift will help provide the scholarship recipients with the opportunity to realize their dreams.”

Baim’s career has been as a general practitioner specializing in chancery, probate, and real estate law, as well as general litigation. He was a member of the Board of Directors of The John Marshall Alumni Association from 1956-64 and was president of the association from 1965-66. In 1967 he received a Citation of Merit from The John Marshall Law School. He is the past president of the Edward T. Lee Foundation (named in honor of one of the founders of the Law School and the man who served as its dean from 1909-1944), serving from 1969-73, and is a lifetime member of its board. He was also designated as a senior counselor by the Illinois State Bar Association in 1980. His gift represents the largest single donation by an individual in the Law School’s history.

Harry H. Wellington, Dean of The New York Law School, announced today that the law school, which met obligations established by the Kresge Foundation five weeks ahead of the June 1, 1993 deadline, has received a $200,000 grant from the Michigan-based Foundation.

The prestigious Kresge grants are made on a challenge basis. In order to receive the $200,000 Kresge grant, announced in October 1992, The New York Law School was given seven months to raise an additional $356,060 toward the new Shepard and Ruth K. Broad Student Center, named after the prominent 1927 NYLS graduate and his late wife. The $1.6-million, 10,000-square-foot Student Center features a two-story skylit area containing student offices, lounges and dining facilities, and is the last major renovation project in the law school’s “Second Century Campaign.” The $16-million “Second Century Campaign” has also resulted in the construction of the new five-story Mendik Library, containing more than 340,000 volumes, and the renovation of existing space to create the Lawyering Skills Center, the Samuel and Ethel LeFrak Moot Court, renovation of all classrooms and offices, and the creation of the Ernst Stiefel Reading Room.

Chief Justice William Rehnquist of the United States Supreme Court will teach a course next spring at the University of Arizona College of Law in Tucson. Rehnquist’s class, titled “The Supreme Court in the History of the United States,” will be offered for two weeks during the spring semester while the high court is in recess. E. Thomas Sullivan, dean of the UA College of Law, invited Rehnquist to be in residence and teach this course. Sullivan said he is “delighted that Chief Justice Rehnquist accepted the college’s invitation.” He added, “I know a large number of students will take the opportunity to be taught by Chief Justice Rehnquist in this important course. As the author of several books on the history of the Supreme Court, the Chief Justice will be able to bring a unique practical and scho-

The Dickinson School of Law joined a prestigious array of international institutions to present the 11th International Symposium on Economic Crime at the University of Cambridge, England, in September 1993. The 159-year-old law school is the only U.S. institution among the sponsors that include the University of Cambridge; The University of Siena, Italy; The Free University of Amsterdam, The Netherlands; The Stockholm School of Economics; The University of Konstanz, Germany and Keio University, Japan, as well as various British legal and crime prevention organizations. This year, the event focused on The Impact of The New Europe on International Business. The symposium is conducted annually to examine issues involving organized crime, bank and securities fraud, money laundering and trade and product-related crime worldwide. This year’s emphasis was on risk and prevention of economic crime in Europe in light of rapid political changes there and the collapse of the former Soviet Union.

Last year, the symposium attracted almost 500 participants from 65 different countries.

A $300,000 grant from the W.M. Keck Foundation of Los Angeles will support an innovative new Program in Ethics and the Legal Profession at the Duke University School of Law. Duke is one of ten U.S. law schools to receive Keck awards since 1991 intended to improve the teaching of ethics to students planning to enter the legal profession. Law school Dean Pamela Gann said the faculty’s approach to the new program will be to develop courses and seminars that deal exclusively with ethical issues in the context of particular legal settings, such as civil litigation, criminal litigation, or representing regulated clients.

During the period of the three-year grant, Gann said, the law school faculty will evaluate the effectiveness of its teaching approach. The faculty
also will act as host for a conference for all the law schools that have received Keck Foundation grants for ethics programs. The conference will focus on the teaching methodologies developed and their effectiveness.

Duke law professor Thomas Metzloff, who was instrumental in drafting the school’s grant proposal, said the Keck Foundation gift will enable the law school to “fulfill its vision of what teaching legal ethics should be.”

Under the leadership of President Howard Keck, the foundation has grown to become one of the nation’s largest charitable organizations. The foundation’s primary interests are education, science, engineering and medical research.

Loyola University New Orleans School of Law has been awarded $58,150 to create a legal clinic designed to serve the homeless of greater New Orleans. Legal Services Corporation (LSC) awarded the one-time, nonrecurring, one-year grant for Loyola’s Law School Civil Clinical Program. Funds from LSC will enable Loyola to hire a full-time clinical professor to supervise ten law students in providing legal assistance in the areas of eviction defense, securing government benefits, stopping domestic abuse and unwarranted termination of water, gas and electrical utilities.

“The problem of homelessness is one which troubles all compassionate people. This grant will allow Loyola Law School to do three things: provide more legal help to those presently homeless; provide critically needed legal help to prevent those on the edge from becoming homeless; and to train additional law students in meeting the legal needs of the poor,” explained Louis Westerfield, dean of Loyola’s School of Law.

Based in Washington, D.C., LSC was created by the federal government to provide financial support for civil legal assistance to the poor. Loyola’s program was one of only seventeen in the nation to receive these funds.

As prison populations expand and resources decline, prison libraries are deteriorating across the country. Books for Crooks, a pro bono project developed at The George Washington University National Law Center, helps prison systems and inmates cope with the growing crisis by donating law books to prison libraries. Most recently, students at The George Washington University National Law Center donated eleven boxes of law books to be sent to Lorton Prison. Little, Brown & Company, a Boston and Toronto-based publisher, also provided books.

Established by GW National Law Center Professor Jonathan Turley in 1990, Books for Crooks provides a wide variety of legal references, including constitutional law, family law and contract law, that afford inmates greater control and understanding of the legal issues they face.

“Legal books enable prisoners to work on cases themselves which saves time and resources for the system,” said Turley.

In addition to their criminal appeals, many prisoners require access to libraries for personal and familial needs. “Most people don’t get divorced when they go into prison,” said Turley. “We give them books that will allow them to continue to manage family matters.” The more that can be done to help inmates keep their families together the less likely they are to end up in prison again once they are released, Turley stresses.

Turley got the idea for Books for Crooks while clerking at the fifth Circuit Court of Appeals which has jurisdiction over Louisiana, Texas and Mississippi. Inundated by the number of badly prepared briefs, many based on cases that had been overruled years before, Turley realized he could help the inmates prepare more effective briefs, and cut down on frivolous lawsuits, by providing them with up-to-date legal reference materials. “Many of the prisons didn’t even have libraries,” said Turley. “And those that did had reference books that were grossly out of date—especially constitutional law which becomes outdated very quickly.”

Visiting Scholar John Peter Andersen of Aalborg, Denmark, has arrived at California Western School of Law. An expert on European Community Law, he will be at the law school to do research for a book on professional liability. California Western’s international law faculty will also arrange for him to speak on “European Community Product Liability Law” during his stay. A graduate of the University of Aarhus, Andersen also studied constitutional law and criminal law at the University of Pennsylvania as a visiting fellow in 1985 and 1986 and product liability at the Institute of Advanced Legal Studies in London, England, in 1985 and 1991. In his law practice in Aalborg, Anderson specializes in business counselling, arbitration, company law, and general international relations. He is also a lecturer at the University of Aalborg, teaching company law and taxation.

Dean Changes

Kenneth A. Randall, formerly associate dean, is the acting dean of the University of Alabama School of Law. Claudio Grossman has become the interim dean of American University College of Law for one year while Elliot Milstein is the acting president of the university. Capital University has a new interim dean in Brian A. Freeman.

Geoffrey R. Stone has resigned as dean of the University of Chicago School of Law to become the university’s provost. John A. Maher of Dickinsins School of Law has
announced his resignation, effective July 1, 1994, as has Robert L. Knauss of the University of Houston Law Center.

Thomas Mengler is the new dean of the University of Illinois College of Law. Lewis and Clark College has a new acting dean in James L. Huffman, and Jeffrey B. Berman is the interim dean of the University of Missouri-Kansas City School of Law.

Timothy J. Heinzs has announced his resignation as dean of the University of Missouri-Columbia School of Law effective July 1, 1994, as has Lee C. Bollinger of the University of Michigan School of Law. Dean Bollinger will become the provost of Dartmouth College. Mary Wright of North Carolina Central University School of Law is also resigning in July.

David Hall, formerly associate dean at Northeastern University School of Law, is now the school’s dean. Gail Levin Richmond is the new interim dean of Nova University Center for the Study of Law, and Barbara Black is the acting dean of Pace University School of Law. Regent University’s College of Law and Government has a new interim dean in Paul J. Morken, and St. Thomas University’s new interim dean is Alfred R. Light. Barry Vickrey is the new dean of the University of South Dakota School of Law.

Gerald F. Uelmen of Santa Clara University School of Law has announced his resignation, effective July 1, 1994. Also departing in July are Michael H. Hoeflich of Syracuse University College of Law, Randall P. Bezanson of Washington & Lee University School of Law, and Robert L. Misner of Willamette University College of Law.

Gambrell Professionalism Awards

Recipients of the 1993 E. Smythe Gambrell Professionalism Awards offer programs to spur the growth of lawyers from their student years through their careers in practice. The recipients are Queen’s Bench Bar Association in San Francisco, Temple University School of Law in Philadelphia and the Chief Justices Commission on Professionalism in Georgia. “These three programs blend instructional materials to challenge the professional growth of any lawyer. They respond to a building sense among lawyers that sensitivity to what constitutes professional conduct must expand and grow over the course of a career,” said Seth Rosner of New York, chair of the American Bar Association Standing Committee on Professionalism. The awards are given annually by the committee and the ABA Center for Professional Responsibility.

The awards were presented during a joint luncheon of the National Association of Bar Executives and the National Conference of Bar Presidents at the New York Hilton Hotel, during the 1993 ABA Annual Meeting. The E. Smythe Gambrell Fund for Professionalism was created by the ABA in 1984 in appreciation for Gambrell’s “deep concern for the responsibility lawyers have to adhere to the highest standards of conduct and competence.” Gambrell was president of both the ABA and the American Bar Foundation in 1955-56, and was until his death in 1986 a leader in national, state and local organizations in law, business, civics and culture. Among his prime concerns was the ethical and professional development of law students and young lawyers.

The Temple University School of Law program integrates trial advocacy, professional responsibility and the study of evidentiary rules in a curriculum totalling ten credit hours and employing numerous and varied trial experiences, including claims of lawyer malpractice and lawyer disciplinary hearings. The program, the first of its kind in the nation, was launched in 1990-91 for 96 students under a $300,000 grant from the U.S. Department of Education. Last year, it had grown to 144 students. The school expects that the Integrated Program will be part of the core curriculum within a few years.

Testing has indicated students achieved higher comprehension and were better able to apply concepts under the program than with more traditional curricula, and the course materials have been used in continuing legal education course work for practicing lawyers.

The Queen’s Bench Bar produced “All in a Day’s Work,” an instructional videotape addressing gender bias in the legal profession. The association had determined there were no adequate training materials available to deal with the problem, although California state continuing legal education requirements included training to eliminate gender bias.

The film was financed through donations from San Francisco Bay area law firms and foundations. It is now in use in law firms, in law schools and by bar associations. It is distributed nationally through the ABA Commission on Women in the Profession.

The Georgia Chief Justice’s Commission on Professionalism conducted a series of ten Town Hall Meetings, at which it solicited responses from 673 lawyers and judges to a uniform questionnaire. The questions covered seven subjects, from symptoms of a decline in professionalism to how expectations about practicing law compare with reality. Data gathered formed the basis for breakout group discussions at the state’s Fifth Annual Convocation on Professionalism this April. The annual convocations are a joint project of the Georgia Supreme Court and the State Bar of Georgia to focus discussion of lawyers and judges on what is broadly expected of them by the public.
LSAC News

Applicants and Applications Decrease

by Jana Cardoza

The Law School Admissions Council reports decreases in the number of law school applicants and applications for 1992-93, marking the second year in what can now be called a downward trend. The recent trend toward increases in applicant volume ended last year when that number fell by 2.2 percent. Now, year-end data just in for 1992-93 show a decrease of nearly 6 percent in the number of applicants as well as applications. Even so, this is the fourth highest applicant year in recorded history.

A reported 86,500 prospective law students filed 425,600 applications in 1992-93 compared with the 92,000 who filed 450,900 applications in 1991-92. The average number of applications filed by each applicant, however, holds at 4.9, perhaps signalling that despite the decline in applicants, the quest for seats in the entering class is still quite competitive.

There was an increase of 4.9 percent in the number of applicants from the northwest region of the country. There were decreases noted in all other regions, the south central region being the most dramatic with a decrease of 14 percent.

Law schools in the northwest region were the only ones to experience an increase (2 percent) in the number of applications filed. All other regions reported declines. Law schools in the far west region had the most significant decrease of 10.1 percent, followed closely by the Midwest, which reported a decrease of 9.3 percent, and the Great Lakes, which reported a decrease of 8 percent.

Among age groups, the 22-year-old-and-under group dropped most significantly in 1992-93, decreasing by 9.7 percent from the previous year. The 26-30-year-old group decreased by 6.9 percent. Although the number of applicants in all age groups has declined, the 23-25-year-old group is down by only 2.6 percent and continues to represent the largest proportion of law school applicants.

Although the percentage of women applicants to law school fell by 3 percent over last year, the proportion of female to male applicants increased. Male applicants to law school for 1992-93 were down by 7.4 percent from 52,400 the previous year to 48,500. The number of female applicants fell from 19,000 in 1991-92 to 37,800.

The applicant pool appears positive from a minority perspective with increases reported for every ethnic minority group except American Indians, which dropped by 6.6 percent. The other ethnic groups reported increases, although not nearly as significant as in previous years. The most dramatic change reported was a 7.6 percent increase in Mexican American applicants.

For more information on the 1992-93 applicant pool, contact Law Services Public Affairs staff at (215) 968-1152.

Jana Cardoza is LSAS coordinator-Public Affairs

Kutak Committee Seeks Nominations

The Section's Kutak Award Committee invites suggestions of individuals whom it should consider for the Kutak Award in 1994. The annual Robert J. Kutak Award is given to an individual who has "met the highest standards of professional responsibility and has demonstrated substantial achievement toward increased understanding between legal education and the active practice of law." Associate Dean Frank E.A. Sander of Harvard Law School was the recipient of the 1993 award.

It would be useful to the Kutak Award Committee if the suggestion would describe the activities that especially qualify the individual for the award. Even though the committee expects to receive suggestions about a number of highly qualified individuals, it can recommend only one name for recognition by the Council. Recommendations received for the 1994 award will be carried forward for consideration in future years.

Suggestions may be sent to James P. White, American Bar Association, 550 West North Street, Indianapolis, Indiana 46202; or to Kutak Award Committee chair Millard Ruud, University of Texas School of Law, 727 East 26th Street, Austin, Texas 78705.

Kutak Foundation Chair Harold Rock, 1993 Kutak Award recipient Associate Dean Frank E.A. Sander, and Kutak Award Committee Chair Millard Ruud at the Kutak Award ceremony in New York.
This column initiates a new feature in each issue of Syllabus during the coming year. As chairperson of the Section of Legal Education and Admissions to the Bar during 1993-94, I would like to report to you in this column about issues coming before the Council of the Section. I also plan to discuss other developments that may be of interest to legal educators and other members of the Section.

Accreditation Concerns

An issue of considerable concern to me is the growing frustration felt by many deans and law faculty within the accreditation process of the ABA. I am very sympathetic to law school faculties who study an issue, develop a thoughtful program, and then are told by the ABA accreditation authorities that the program is not permissible under the accreditation Standards. This has occurred recently for law schools in the rapidly expanding area of international programs. I will do all that I can to encourage the Accreditation Committee and Council of the Section to support individual law school programs that have been carefully developed by the faculty of the school.

On the other hand, I urge deans and faculty to develop a greater understanding of the difficult position of the Council in the accreditation process. Each year the Council receives numerous suggestions the implementation of which would regulate legal education in this country much more intrusively. These suggestions and recommendations are referred to the Standards Review Committee, which screens out a large majority of the recommended regulations in order to permit law faculties to develop individually their educational programs.

COPA Developments

Currently, there are some significant developments concerning accreditation that should be of interest to all members of the Section. The Council on Post-Secondary Accreditation (COPA), to which the Section belongs, will go out of existence on December 31, 1993. Representatives of the Section are currently meeting with certain other professional accrediting organizations to determine whether to establish a successor organization to COPA. I believe that such an organization is desirable to encourage the Department of Education to recognize professional accrediting agencies as well as the geographic accrediting authorities. If a professional accrediting agency were not recognized for law schools, I believe the accrediting process would be much more intrusive into the educational programs of each law school. In addition, the Department of Education has announced an intention to promulgate a series of accrediting regulations in the area of consumer protection that must be reflected in the accreditation process. I believe that a law school accrediting body is more likely than other accrediting agencies to develop accreditation standards consistent with these new regulations that will be sensitive to the needs of the law schools in this country.

MacCrate Conference

Another item on the work agenda of the Council of the Section this year is the report of the MacCrate Task Force entitled Legal Education and Professional Development—An Educational Continuum. On the first weekend in October approximately 150 invited participants will meet at a conference underwritten by the West Publishing Company to discuss the Task Force report and how to proceed to build the educational continuum which is called for in the report. This report is of great significance to all concerned with legal education, and I will report to you on the developments at this conference in a future column.

ADA Task Force

Another significant development for legal education is the impact upon law schools of the Americans with Disabilities Act. This landmark legislation will affect law schools in numerous ways, many of which are not yet understood or even identified. The Section will establish a task force to examine the effect of the ADA on legal education in order to assist law schools in complying with the legislation and making their programs more accessible to students with disabilities.

I extend my best wishes to all Section members for a productive and successful new academic year, and I look forward to communicating with you further regarding Section activities in the next issue of Syllabus.
House Amends Standard 301(a)

The Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association, at its June 4-6, 1993 meeting, received a report and recommendation of the Standards Review Committee concerning the Illinois State Bar Association's proposal to amend Standard 301(a) of the ABA Standards for Approval of Law Schools, which was submitted to the ABA House of Delegates at its February 1993 meeting. The recommendation of the Illinois State Bar Association stated:

Resolved, to amend Standard 301(a) of the ABA Accreditation Standards, regarding law school's educational programs, pursuant to Task Force Recommendation C.2. of the "Report of the Task Force on Law Schools and the Profession: Narrow-ing the Gap," to read as follows:

A law school shall maintain an educational program that is designed to qualify graduates for admission to the bar and to prepare them to participate effectively in the legal profession.

Upon request by the Delegates of the Section of Legal Education and Admissions to the Bar, the proposed amendment was deferred by the House of Delegates pending circulation by the Consultant to the deans of ABA-approved law schools. The proposal was transmitted to deans, and comments were solicited. A public hearing was also conducted on May 12, 1993, in Washington, D.C.

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New Deans Seminar at Wake Forest

The first ABA Seminar for New Law School Deans was held June 9-12 at the Graylyn Conference Center of Wake Forest University. The seminar had among its topics A Day in the Life of a Dean, Leadership, Strategic and Long Range Planning, the Personal Side of a Deanship, Relations with Faculty, Current Issues in Law School Accreditation, Finances, the Transition to the Deanship, Fund Raising and Dealing with Outside Constituencies, Building an Administrative Team, and Relations of the Dean with Central Administration. Because of the rapid turnover in deans, this seminar will likely become an annual event.

Seated: Alfred Aman, Indiana University-Bloomington; Richard Matasar, Chicago-Kent; Neil Cogan, Quinnipiac College; Roger Dennis, Rutgers-Camden; Terree Foster, West Virginia University; Nina S. Appel, Section chairperson; Peter A. Winograd, University of New Mexico; Carolyn Ellis Staton, University of Mississippi; Brenda Davis, ABA Consultant’s Office. Standing (bottom row): Donald Polden, Memphis State; Jose Izarry-Yordan, Catholic University of Puerto Rico; J. Richard Hurt, Mississippi College; Richard Creswell, Mercer; Frank T. Beard, California-Hastings; Robert Sheran, Hamline University; Jeffrey Lewis, University of Florida; Steven R. Smith, Cleveland-Marshall; Gregory Williams, Ohio State; Robert K. Walsh, Wake Forest; Henry Ramsey, Jr., Howard; Carroll Stevens, Yale University; James P. White, ABA Consultant; Peter Goplerud, University of Oklahoma; Steven P. Frankino, Villanova. Standing (center row): James Klein, University of Toledo; John Sebert, University of Baltimore; Marilyn V. Yarbrough, University of North Carolina; Richard Seeburger, University of Pittsburgh; David Short, Northern Kentucky University. Standing (top row): Bruce Wolk, California-Davis; Donald Carmichael, Puget Sound; Richard Wirtz, University of Tennessee.
### Section of Legal Education and Admissions to the Bar 1993-94 Committee Chairpersons

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STUDY

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Because of this equating process, a given MBE scale score indicates the same level of proficiency regardless of the particular version of the MBE on which it was obtained.

Structural Characteristics and Time Limits

The length of an MBE item, its location in the test booklet, and other structural features are not systematically related to scores. The time limits are adequate. Statistical analyses suggest that virtually all candidates respond thoughtfully to all items within the allotted time (i.e., there is no sign of candidates guessing blindly at the end of a 3-hour test session). Experimental studies show that if all candidates are allowed almost unlimited time to respond, it would increase their raw scores slightly, but it would not change their relative standings or their scale scores. This is true for all candidates regardless of age, gender, racial/ethnic group, or repeater status. There does not appear to be any reason to increase the current limits, but for the scores to be interpretable, all candidates must take the test under the same time constraints.

Role of Subject Matter

The MBE has six subtests (Constitutional Law, Contracts, Criminal Law, Evidence, Real Property, and Torts). Each subtest has 30 items except Contracts and Torts which have 40 items apiece. Several studies show that specific subject matter expertise has very little influence on scores. For example, the likelihood a candidate will answer a pair of items correctly is only very slightly higher if those items come from the same subtest than if they come from different subtests (the same pattern was found in studies of the essay portion of state bar exams).

These and related findings suggest that the key to success on the MBE is the ability to apply knowledge of the law to a new situation and then reason to an appropriate conclusion regarding not only how a case should be resolved, but also why it should be resolved that way. In short, the MBE appears to measure both legal reasoning skills and knowledge.

Correlations with Other Measures

Candidates who achieve relatively high MBE scores also tend to have relatively high law school grades (LGPAs) and state essay scores. In fact, the more reliable the state essay test, the higher its correlation with the MBE. There is near-perfect correlation between a law school’s mean MBE score and its mean state bar essay score. This very strong association (coupled with the reliable equating of MBE scores) supports the practice of scaling state bar essay scores to the MBE’s scale score distribution. MBE scores also are related to more practice-oriented measures of legal competency. A series of studies found that MBE scores correlate
highly with a variety of both oral and written tasks, including client counseling, preparing briefs, interviewing witnesses, and conducting legal research. Scores on these measures were as highly related to MBE scores as they were to scores on the essay portion of the exam.

MBE scores do not appear to be particularly affected by extraneous factors, such as special skill in taking multiple choice tests. This has been demonstrated in several ways. One study found that the highest MBE score earned by any student who was just beginning law school was substantially lower than the lowest score earned by recent graduates of that school. Moreover, MBE scores correlate higher with bar exam essay scores than with LSAT scores.

Expert Panel Reviews

In 1980 and again in 1992, independent panels of attorneys evaluated MBE items. There were seven panels in both studies—one for each MBE subtest and one generalist panel that looked at the MBE as a whole. These panels were appointed by professional associations and included practitioners, judges, and law professors. In general, the panels found that the MBE’s items deal with matters that are material to the practice of law, they measure both legal reasoning and knowledge, and they are neither too difficult nor too easy. The following excerpt from the 1992 Evidence panel’s report is typical of the evaluations: “Our overall evaluation is positive. The questions were thoughtful and reasonably challenging, and for the most part the wrong selections were plausible enough to test people on their understanding of basic ideas; however, we have several criticisms about some of the items we looked at.”

The consistently positive overall evaluations across all the panels suggest that the MBE is doing what it is intended to do, i.e., measure legal reasoning and knowledge. Most criticisms of specific items concern the realism of their case situations and the underemphasis or overemphasis of the issues addressed.

The question of realism may stem from the need to keep case situations short enough to allow candidates sufficient time to read them. The emphasis issue may reflect the fact that each panel evaluated items from only two versions of the exam and any single version is limited in the topics it can assess within a subject matter area. In addition, other panelists might reach somewhat different conclusions about what to emphasize. However, there does appear to be a need for more frequent and formal external reviews of the content outlines for each subtest to ensure that the topics covered are material to current practice.

Conclusions

The overall assessment of the MBE is quite positive. There is strong evidence from both statistical and subjective analyses that the MBE is measuring what it is designed to measure—legal reasoning and knowledge that is material to the practice of law. Moreover, it is doing this reliably both within and across administrations of the test. Scores are highly correlated with other indices of legal reasoning skills and knowledge. MBE scores are not driven by structural features of the test or by external factors such as “test wise­ness” or reading speed. In addition, the test appears to be fair to all takers regardless of gender, race, or ethnicity. While there is always room for improvement, it is evident the MBE continues to provide a valuable adjunct to the written portions of state bar examinations.

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The comments and views received from constituencies were reviewed by the Standards Review Committee at its May 1993 meeting and the Committee submitted a report and recommendation to the Council at its June 1993 meeting. The report included a recommendation that if the matter is not deferred by the House, as is the prime recommenda­tion, the Council support the proposed amendment to Standard 301(a).

The Council, at its June 1993 meeting, accepted the report of the Standards Review Committee concerning the proposed amendment of Standard 301(a). The Council further noted that an informational status report would be submitted by the Section to the House of Delegates at its August 1993 meeting concerning the Report of the Task Force on Law Schools and the Profession.

The ABA House of Delegates, at its August 10-11, 1993 meeting, adopted the amendment of Standard 301(a). In moving adoption of the Report, Robert MacCrane noted that the action was “codifying” existing policies of the Council and that the Resolution reflected what was actively happen­ing in most law schools.
Panel Discusses Internationalization of Law Practice

by William B. Powers

Dean Rudolph C. Hasl organized and moderated a presidential showcase program at the ABA Annual meeting entitled “The Internationalization of Law Practice: Issues of Access and Education.” The program featured a keynote address by the Honorable Joseph W. Bellacosa of the New York Court of Appeals. Judge Bellacosa was introduced by Chief Judge Judith S. Kaye.

On the matter of globalization, Judge Bellacosa stated: “Advances in telecommunications and transportation like the FAX machines and cellular phones and Concorde, compressed this little planet into a singular mass of cybernetic dots reflecting one interrelated community. A global community of sorts has replaced our island and the many islands of insularity of a hundred years ago with international and transnational trade and commerce as some evidence of this modern phenomenon. New opportunities and mind-boggling challenges thus sprout up for legal professionals across this little blue dot.”

The outstanding panel discussing this topic consisted of Professor Jerome A. Barron of George Washington University, Sydney M. Cone III of the Paris firm of Cleary, Gottlieb, Steen & Hamilton, Professor Roger Goebel, director of the Fordham University Center on European Community Law, Erica Moeser, director of the Wisconsin Board of Law Examiners, Ramon Mullerat of Barcelona and Madrid, Steven C. Nelson of the Minneapolis firm of Dorsey & Whitney, and John Toulmin, QC, a London barrister.

Professor Goebel began the program with a discussion of the rights of practice in the European Community. He noted that the EC rules do not provide for any rights of nonnationals to practice in the EC. “That should not be surprising to us,” Goebel added, “because we do not have in the United States any federal rules that would grant rights to practice to foreign lawyers.” He explained further that EC rules attempt to facilitate the practice of law across borders within the EC Community. American rights to practice in Europe, however, can still be obtained only by virtue of national recognition of such rights. Professor Goebel noted that there has been considerable liberalization of the recognition of American rights to practice in Belgium, Germany and the United Kingdom.

Mr. Cone turned the discussion to
a consideration of the relationship between foreign legal consultants and members of the bar. He noted that there are now fifteen states with foreign legal consultant rules, but states do not agree on whether and to what extent such consultants are members of the bar. Mr. Nelson continued this discussion, stating that there have been bilateral discussions with a number of nations concerning access for lawyers to practice in both directions. “Why is all of this happening?” queried Nelson. “It’s happening because legal services, it has suddenly dawned on governments, are an important aspect of trade.” Nelson discussed a proposed model rule for the licensing of foreign legal consultants. He described three elements of the model rule: the concept of recognition of credentials, the broad scope of practice permitted the licensed foreign legal consultant, and the treatment of such consultants as lawyers for all purposes subject to the limit on scope of practice.

Erica Moeser shifted the focus of the discussion to a regulatory perspective. She enumerated several problems faced by jurisdictions considering the admission of foreign lawyers. First, there is the notion that a foreign lawyer with no ABA-approved law degree may be admitted, while American students with a degree from an unapproved law school cannot be. Also, there is the task of doing a meaningful evaluation of legal systems and legal educational systems in other countries. Ms. Moeser noted that her fear is not so much of the blue chip firms with blue chip lawyers doing business across the ocean, but of a less sophisticated public’s inability to distinguish between credentials of foreign and domestic lawyers. She concluded that there may be a national method to evaluate and verify foreign credentials.

Mr. Toulmin discussed some of the tensions that exist in the context of admission of foreign lawyers to American jurisdictions and to admissions among EC states. First is the impact of such admission on domestic rules. Second is the large firm versus the small firm, and the feeling that large firms will grow ever more powerful and small firms will have difficulties. Third, there are cultural differences that must be accounted for when crossing borders. Toulmin suggests that there must be a greater understanding among nations of each other’s position, culture and language. He added that a common code of conduct would be valuable. He concluded that the way to forge ahead is to think about what real lawyers want in real situations, rather than thinking theoretically about these issues.

Sr. Mullerat discussed access in the Spanish-Portuguese context, noting that these two countries are no exception to the difficulty that foreign lawyers encounter in trying to practice in countries other than their own countries. Lawyers from other EC countries have much greater access, but non-EC lawyers have benefitted from an increasingly tolerant attitude toward their working in both countries.

Professor Barron closed the program with a discussion of educating foreign lawyers in American law schools. Professor Barron, chair of the Section’s Graduate Legal Education Committee, warned that graduate legal education in America is unlike J.D. education in that it is basically unregulated. There are a number of degree programs most of which have differing requirements. Therefore, he asserted, clarity and consensus about what is an appropriate education for the foreign lawyer is unlikely to emerge unless there is greater clarity about what a graduate degree from an American law school is supposed to signify. He added that this matter is under study by the Committee.

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