Section Holds Program on
Globalization of the American Law School

Dean John Attanasio of Saint Louis University School of Law organized a Presidential Showcase Program for the Section on Legal Education at the ABA Annual Meeting entitled “The Globalization of the American Law School.” The program was co-sponsored with the Section on International Law and Practice, and featured Roberta Ramo, the ABA President-Elect; Peter Goldsmith, Queen’s Counsel and Chair, General Council of the Bar, London; Jay Vogelson, Chair, ABA Section of International Law and Practice; Dean John Sexton, the Warren Burger Professor of Law at New York University School of Law; Professor Michael Reisman, Wesley N. Hohfeld Professor of Jurisprudence at Yale Law School; and Professor Isaak Dare, Co-Director of the Center for International and Comparative Law at Saint Louis University School of Law.

The program was developed to focus on the need for the globalization of law practice to respond to rapid world changes. “Computers, fax machines, satellites, fiber optics, Internet, jets and bullet trains have bridged long distances and compacted the planet into a global village. These and other developments have fueled changes in business, which in turn, have shaped dramatically new legal structures such as GATT, NAFTA, and the European Union. To keep up with globalization, many national regulatory structures must become supranational, which will increase international interdependencies,” Dean John Attanasio commented.

“These seismic changes are dramatically and unalterably recasting the way in which law and business are practiced. Business schools have begun to internationalize in reaction to these developments. Law schools have lagged far behind these trends, still largely focusing their energies on domestic law. The amount of comparative law that is taught, for example, at the great European Universities, far exceeds what we do in American law schools,” Attanasio stated at the program. “Globalization is opening up vast new legal markets. Lawyers trained in multinational and international ways will come to dominate these markets. American firms remain in the vanguard, with English firms second. Servicing the global village will require new approaches for practicing law and for training lawyers,” Attanasio advised the group.

These new approaches were analyzed by the panel, which brought together practicing and academic lawyers. Practicing lawyers discussed what changes these developments were causing in law practice and what skills might be required to cope with these changes. Roberta Ramo reflected on this metamorphosis from her vantage point as President-Elect of the ABA. “One of the places where American lawyers are behind is that we do not have enough people with legal skills who are fluent in the languages they need.” President-Elect Ramo spoke about fluency in second languages as being necessary for becoming effective international lawyers. She suggested the possibility of giving bonus points for application credit to those people who were qualified and had some fluency in another language, thereby giving impetus to prospective law students to the study of language in high school and college. She also pointed out that “law students need to have a view of what international law is—an understanding of the anthropology of law and legal history internationally, rather than just an understanding of the basic legal framework in which we

Continued on page 18
Council Remains Accrediting Body Under Consent Decree

by James P. White

In the Summer 1995 issue of Syllabus, the editor's note preceding then-Section Chairperson Judge Joseph W. Bellacosa contained the following:

Editor's note: On June 27, 1995, ABA President George E. Bushnell issued the following news release:

The American Bar Association has today entered into a consent decree with the Department of Justice. We did so to avoid chaotically disrupting a legal education system that is the model for much of the world.

For 74 years, at the request and direction of the supreme courts of the fifty states and Puerto Rico, the American Bar Association has been accrediting law schools, thus assuring the public that every graduating law student has received the best training possible.

We are proud — justifiably proud — of what we have done for almost three quarters of a century.

Nothing that has occurred today detracts from that pride nor does it change the role this Association plays in legal education.

Details of the consent decree will appear in the next issue of Syllabus.

Copies of the consent decree have been distributed by the ABA General Counsel to a variety of individuals including presidents of universities with ABA-approved law schools, deans of ABA-approved law schools, and chief justices of the highest court of each admitting jurisdiction.

Copies of the consent decree will be given to each individual serving on an ABA site evaluation team.

The consent decree was the chief topic of discussion at the ABA Deans' meeting held during the August ABA Annual Meeting. Much publicity has been given to statements by some critics in news articles concerning the consent decree. Contrary to some articles, the American Bar Association through the Council of the Section of Legal Education and Admissions to the Bar continues to serve as the accrediting agency for law schools in the United States.

In essence, the decree enjoins the ABA from adopting or enforcing standards and interpretations regarding salary and other compensation paid to deans, faculty, and staff. This matter had previously been acted upon by the Council, the House of Delegates and the Board of Governors. The decree further enjoins the ABA from collecting and disseminating retrospective salary information.

The consent decree also prohibits the ABA from preventing an ABA-approved law school from enrolling a person admitted to practice as a member of the bar or a graduate of a state-accredited law school in an advanced degree program. It also permits an ABA law school to accept transfer of up to one-third of the credits required for graduation from an applicant from a state-accredited law school and permits a law school organized as a for-profit entity to seek ABA approval, a practice that the ABA has permitted since 1978.

The decree requires the Commission to Review the Substance and Process of the American Bar Association's Accreditation of American Law Schools to review the Standards, Rules and Interpretations regarding faculty teaching hours; leaves of absence, compensated or otherwise, for faculty and other staff; the calculation of the faculty component of student/faculty ratios; physical...
Library Highlights

House Adopts New Library Standards

by Jane L. Hammond

New Standards for law school libraries were adopted by the ABA House of Delegates at its August 1995 meeting. These new Standards recognize the great changes in legal materials and law libraries that have occurred in the past two decades, particularly the extensive legal databases now available in electronic formats. Access to information rather than ownership is now the governing principle. Thus, the old provision that the library contain a core collection has been replaced by the provision in new Standard 606(b) that the law library shall provide, through ownership or reliable access, the core collection.

Legislative Background
Revision of the library Standards began in January of 1994 with the appointment of a Library Subcommittee of the Standards Review Committee. The subcommittee submitted its draft revision in time for the full committee to consider, revise and submit to the Council in June of 1994. At the Council's direction, the June 1994 draft was circulated for comment. The comments received at hearings held during the AALL and ABA meetings that summer and the written submissions were extremely helpful to the Standards Review Committee in refining the original draft to accommodate current library operations and publishing practices, such as leasing rather than selling electronic publications. The committee's revised draft was submitted to the Council at its meeting in December 1994, at which time the Council mandated the distribution of the draft for further comment and discussion, with notice of its intention to recommend approval of the revision by the House of Delegates. Public hearings were held in conjunction with the AALS meeting in July 1995. With only minor amendments by the Council in light of these hearings and comments, the Council submitted the proposed Standards and the Interpretations to the House of Delegates for adoption. The House of Delegates adopted the Council's proposal as submitted.

Neither the old nor the new Standards make any recommendation on the size of the collection, and no format is specified for any of the library's materials, as long as the school provides suitable space and adequate equipment to access and print all of the information in the collection. The Interpretations of Standard 606 provide for the sharing of information resources and for off-site storage as long as the materials are easily accessible. For the first time, the Standards address the range of services that a law school library is expected to provide, including reference, cataloging and publications.

Physical Facilities
The Standards relating to the library's physical facilities were also revised. Recognizing that computer stations are now used extensively for study and research and that the computer laboratories in many schools are not within the library's walls, new Standard 706 requires that the school provide adequate study space, but does not require that all of the study space be within the law library as old Standard 704(b) did. That Standard also required study spaces to seat 50 percent of the students in the largest division of the school. New Standard 706 requires that the school provide sufficient study space; its Interpretation suggests the same 50 percent as a guideline, but notes that user demand is an important factor in determining what is sufficient.

Some commentators were concerned that the proposed Standards are not specific enough to ensure uniform application. It was deemed more important, however, to give each school the flexibility to maintain a library that meets its individual programs, curriculum and public service commitments than to establish more specific requirements.

Library Director

The provisions of Standard 603 on the qualifications and status of the director of the law library received more comments than any other Standard. Standard 603(c) now states that a director should have both a law degree and a library or information science degree, in contrast to the old Standard which stated that the director should have one or the other. New Standard 603(d) states that the law library director shall hold a law faculty appointment. Whether or not this should be a tenure-track appointment was the source of considerable disagreement. The final compromise is new Interpretation 1 of Standard 603(d) which states that this appointment "normally is a tenure or tenure-track appointment."

The law library director shall hold a law faculty appointment.

Jane L. Hammond is Edward Cornell Law Librarian (retired) and professor of law emerita of Cornell University. She chaired the Library Subcommittee of the Standards Review Committee.
Program Explores Implementing the MacCrate Report—Getting Started

by Roy T. Stuckey

A new addition to the Section’s program at the Annual Meeting was designed to highlight some of the positive steps being taken by law schools and bar associations to improve new lawyers’ preparation for law practice. “Implementing the MacCrate Report—Getting Started” was planned by Professor Martin Burke, University of Montana, and Professor Frank Bloch, Vanderbilt University, two members of the Section’s Skills Training Committee which had proposed the new program. Professor Bloch and Roy Stuckey, University of South Carolina, served as moderators for the panel.

Professor Patrick Kelly of Southern Illinois University led off by describing Southern Illinois’ curriculum review process that was governed to a large extent by the iron law of curriculum inertia: no change will occur to a law school’s course of study until members of its faculty want to teach new courses or to teach old courses in new ways. Also influencing curriculum reform are the ages of faculty members, resources, and leadership within the faculty and administration.

Professor Kelly also discussed Southern Illinois’ decision to develop a large enrollment skills course focusing on transactional skills, which was prompted by the results of a faculty survey of skills needed in law practice and those already covered in the curriculum. The course was offered during 1994-95 and included instruction in interviewing, counseling, negotiating, and drafting. Southern Illinois expects to continue offering the course and to expand its availability.

Roy Stuckey interjected that he has also been designing a large enrollment interviewing, counseling, and negotiating course which will be offered at South Carolina this fall on an experimental basis.

Dean Joseph Tomain, University of Cincinnati, and James Jeffrey, Esq., President of the Ohio Bar Association, reported on the Ohio conclave of lawyers, judges, and academicians, which resulted in an extensive report and the formation of an Ohio Bar Joint Commission on Education for improving new lawyers’ preparation for law practice. Dean Tomain was not sure whether taking a vote on the recommendations would have been a better plan.

Dean Richard Wirtz and Professor Jerry Black described the University of Tennessee’s curricular initiatives. Although Tennessee has had clinical and other professional skills courses for as long as any school in the country, the curriculum was not coordinated and it was difficult for students to select courses which would provide a structured, focused introduction to the professional skills they need to practice law competently. Dean Wirtz estimates that 71 percent of Tennessee graduates will have some primary responsibility for client representation as soon as they are admitted to practice. In order to serve their needs better, the school hired a tenure track director of writing, and developed two concentrations: entrepreneurial law (business transactions), and advocacy and dispute resolution.

Beginning this year, Tennessee’s students will be allowed to opt into one of the concentrations after their first year in school. If students complete the two-year sequence of courses in a concentration, they will receive an appropriate certification on their diplomas at graduation. Student interest in the concentrations is very strong.

Professor Greg Munro was the final speaker. His school, the University of Montana School of Law, had modified its curriculum to make it more related to the needs of its students some years before the MacCrate Report was produced. Professor Munro discussed the growing attention being given to outcomes and assessments in undergraduate colleges. This has been spurred by expressions of legislative concerns about accountability. He predicts...
that similar pressures will be faced soon by law schools and he described how schools could become better prepared to respond to them.

The first step is for each school to develop an appropriate mission statement. “To teach students to think like lawyers” is not sufficient. By involving all constituencies in defining its mission, a law school can arrive at a peer-reviewed mission which may be different for each school.

The second step is to be very clear about what the school wants its outcomes to be, that is, what it wants its students to know and to be able to do when they graduate. Without this, law schools will have incoherent curricula which will be difficult to defend.

The third step is to adopt teaching methodologies which will accomplish these educational goals. Professor Munro believes that most law schools’ ability to use more effective methods of teaching is hindered by the preposterously large classes which are found in every law school.

The fourth step is to relate assessments of student learning to outcome goals. Professor Munro reported that undergraduate schools are developing comprehensive programs to assess student learning and achievement of goals. He also told the audience that essay exams are repeatedly criticized as an inadequate assessment system for professional training. Professional education should be interactive and collaborative. The primary goals of professional education should include helping students become active learners and skilled at self-assessment, for these traits will be essential to success in law practice.

The Section expects to present a similar program during the 1996 ABA Annual Meeting in Orlando. If you are aware of new initiatives by law schools or bar associations that could be highlighted in that program, please write or call Roy Stuckey, University of South Carolina School of Law, Columbia, South Carolina 29208, 803/777-2278.

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Roy T. Stuckey is Alumni Professional Skills Professor at the University of South Carolina School of Law, and chairs the Section’s Skills Training Committee.

WASHINGTON REPORT

by E. Bruce Nicholson

Talk of the potential "train wreck scenario" for the end of the current budget year has dominated late summer prognosticating for the near future of the 104th Congress, as budget decisions have shifted to the Senate and confrontation looms ahead. To avoid a fiscal year crash, final action on thirteen separate appropriation bills must be completed by October 1st. Failing that, a "continuing resolution" must be used as a stopgap measure to fund governmental activities in the new fiscal year until a budget is signed.

It looks increasingly likely that this target will not be met and that Congress and the President will negotiate throughout the fall on the current year appropriations bills and also on a "reconciliation package," to address proposed tax cuts, cuts in the rate of growth of Medicare, and cuts in student loan programs, among other issues.

The proposed Fiscal Year 1996 budget for Departments of Labor, Health and Human Services, and Education is far from resolved at this juncture, containing cuts in key education programs and other matters the President has promised to veto. The House of Representatives passed its bill just prior to the August recess including cuts in discretionary spending in the three departments by $9.3 billion compared to FY95 levels.

Over fifty programs would be eliminated in the Department of Education, and among those were key ABA-supported programs, including the Law School Clinical Experience program, the Legal Training for Disadvantaged program administered by the Council on Legal Education Opportunity (CLEO), and the Patricia Roberts Harris fellowships. The State Post-secondary Review program, new accreditation regulatory entities created under the 1992 Higher Education Act Amendments, would also be eliminated under the House plan.

The House-passed bill also contains a plan that would increase the maximum size of Pell Grants by $100, to $2,400, but will pay for the increase by reducing the number of grants by an estimated 250,000 students. The bill contains abortion-related amendments and controversial proposed limits on lobbying by federal grantees that may not be included by the Senate and which are sure to slow final action.

At the same time Congress tries to conclude its appropriations matters, it will be taking up a broad miscellaneous bill that includes taxes and student financial aid matters. The budget reconciliation bill, sure to include tax cuts already passed by the House, a soon-to-be-revealed plan to reduce growth in Medicare, cuts in the subsidy on student loan interest, and perhaps welfare reform too, will be on the train with many of the thirteen appropriations bills headed for a confrontation with the Administration later this fall.

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

Seven Supreme Court Justices and seven legal scholars from around the world convened in September at the Benjamin Cardozo School of Law of Yeshiva University for “Justices at Work,” an unusual exchange on human and constitutional rights. The Justices—Ruth Bader Ginsburg, U.S.; Antonio Baldassare, Italy; Dieter Grimm, Germany; Noelle Lenoir, France; Laszlo Solyom, Hungary; Lord Slyn of Hadley, United Kingdom; and Yitzhak Zamir, Israel—discussed a hypothetical case jointly prepared and argued by the participating scholars.

The case involves an imaginary island state of Harmonia, which has suffered a civil war and is operating under a constitution that provides for liberty, equality, solidarity and tolerance. An international, peacekeeping mission is overseeing Harmonia’s transition to peace and a supreme court, comprised of justices from each of the seven countries has exclusive jurisdiction over all constitutional claims. Fueled by economic setbacks, religious and secular divisions have increased among the island’s peoples, thereby precipitating the enactment of a national unity law. Religious groups and individuals have brought suit alleging that their constitutional rights have been compromised by the law.

The participating scholars are Professors Shlomo Avineri, The Hebrew University; A.W. Bradley, University of Edinburgh; Riccardo Guastini, University of Genoa; Michel Troper, University of Paris X; Michel Rosenfeld, Cardozo; Andrea Sajo, Central European University, Budapest; and Bernhard Schlink, Humboldt University, Berlin.

A newly established center for legal studies related to the nations of the Pacific Rim will draw upon resources the Southern Methodist University School of Law has developed during nearly forty years of educating lawyers from that region. The new center, to be called the Southern Methodist University School of Law Center for Pacific Rim Legal Studies, will position graduates of the school’s juris doctor and international law degree programs to take an active role in the increasingly international nature of the business and legal world, Dean C. Paul Rogers III said. Christopher H. Hanna, an associate professor who teaches in the areas of corporate and international tax law, is director of the new center.

Programs in alternative dispute resolution were recently offered in Holland and Argentina by the Pepperdine University School of Law Institute for Dispute Resolution. The Institute presented a program in Buenos Aires to approximately seventy in-house attorneys who were interested in utilizing alternative dispute resolution. In Holland, the Institute’s program was spearheaded by a group of Christian attorneys who hoped to introduce alternative dispute resolution to both Christian and non-Christian attorneys. The three-day program was attended by approximately forty lawyers of both backgrounds.

The Campaign for Harvard Law School, the school’s five-year fundraising effort, has raised $175,043,675, more than $25 million over its goal of $150 million. The close of the campaign marks the end of one of the earliest phases of the $2.1 billion universitywide fundraising effort to address Harvard’s many needs and objectives. Campaign successes are allowing the school to expand and diversify the faculty, increase research capabilities, modernize the library facilities, internationalize the curriculum, improve the student/teacher ratio and provide smaller classes, boost the clinical programs, improve student financial aid and loan forgiveness programs, and maintain and renovate the physical campus.

The Student Bar Association of the Dickinson School of Law has been awarded the 1995 Student Bar Association of the Year Award by the Law Student Division of the American Bar Association. The Dickinson School of Law Student Bar Association was chosen from fourteen contestants for the award, which is decided on the basis of student involvement in community service, projects, national competitions, and academic, social and intramural programs.

Faculty Honors

University of Houston law professor Dennis Duffy was selected to head a new Washington office to ensure that members of Congress follow the same labor and employment laws as other Americans. Professor Duffy was appointed as the first General Counsel of the Office of Compliance in July. Created by the Accountability Act of 1995, the Office of Compliance is governed by a five-member bipartisan board of directors, who selected Duffy because of his national reputation in labor and employment issues.

Glenn Smith, a professor at California Western School of Law in San Diego, is assuming the presidency of Prison Possibilities, Inc., a national organization committed to demonstrating that the future for correctional institutions and the communities they serve can be transformed. Professor Smith’s selection to be national president comes after four years of
South Africa, Australia, and New Zealand, NITA (UK) will offer attorneys “learning by doing” skills training in trial advocacy, other oral presentations, negotiation, depositions, and legal writing, starting this fall.

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Happy Birthday!

The following law schools celebrated important milestones during 1994-95, or will celebrate them during 1995-96:

150 YEARS
University of Louisville
University of North Carolina

125 YEARS
Howard University
University of Notre Dame

100 YEARS
American University
Indiana University-Indianapolis
Syracuse University
Temple University
University of California-Berkeley
University of Missouri-Kansas City
University of Pittsburgh
University of Southern California
Wake Forest University

75 YEARS
College of William & Mary
Loyola University-Los Angeles
University of Akron
University of Wyoming

50 YEARS
Cleveland-Marshall
(merger of Cleveland Law School and Marshall Law School)

25 YEARS
Cleveland Marshall
(affiliation with Cleveland State University)
Hofstra University
Pepperdine University

Public Service Summer Internship Program

The Public Services Division and Law Student Division are once again offering a summer-long paid internship opportunity for a law student to undertake a public interest law research and writing project. In concert with the Public Services Division staff, the student will develop a writing topic intended to result in a work to be published by the Association.

The areas of involvement are: bioethics and the law; disability law; election law; energy law; environmental law; homelessness and poverty; immigration law; international peace, the rule of law and human rights; national security law; and substance abuse.

Applicants must be first or second year law students at an ABA-approved law school and members of, or have applied for membership in, the ABA Law Student Division by January 31, 1996; demonstrate exceptional writing skills; and submit an application package to include a cover letter, resume, references and a three- to five-page essay outlining the research and writing project the student proposes to undertake.

To request an application package, please contact Carrie Coleman, American Bar Association, Public Services Division, 740 15th Street, NW, 9th Floor, Washington, DC 20005-1009.
NALP Report
Law School Faculties: Gatekeepers to the Profession
by Kathleen Brady

Law students are so preoccupied these days with finding a job—any job—that their job searches seriously impede their educational experiences. They are worried about the reality of a debt load of $30,000 to $80,000 amid the rumors of limited job prospects. And, while there may be cause for concern, NALP statistics suggest that there is no cause for panic.

For the first time since 1987, the overall employment rate—encompassing both legal and nonlegal positions—rose. Of the 1994 graduates for whom employment status is known (31,754 graduates, or about 81% of all graduates) 84.7% reported being employed, a notable increase from the 83.4% for the Class of 1993. Despite this increase, the 1994 employment rate contrasts sharply with employment rates ranging from 89% to 92% for the Classes of 1983 to 1990, thus creating this sense of panic among today’s law students.

A law school faculty can play a critical role in ameliorating student anxiety and thus limit its impact on the pedagogical experience. Faculty members often underestimate the significance of their roles as the gatekeepers to the legal profession. Students view professors as role models; they seek out professors for advice on practice areas, job settings, geographic locations, etc. By advising students in these areas and by sharing professional contacts and being willing to allow students to practice networking skills, faculty members help students to develop the confidence needed to approach people outside the law school community.

By working in tandem with its Career Services office, the faculty can have a profound impact on the career development of its student body. Yet, many faculty members may have limited information about the scope of the work of the Career Services office at their schools or the role these professionals can play in helping to bridge the gap between legal education and the practicing bar.

Every faculty decision made—from which professors to hire, to which courses to add or delete from the curriculum, to whether or not to get grades in on time—has serious ramifications on how students and alumni are prepared for the world of work. Faculty members don’t always realize that Career Services Professionals can offer valuable reflections regarding what the practicing bar needs in terms of trained young lawyers and how their institutions can meet those needs. Recognizing that institutional credibility is enhanced when Career Services Professionals understand the rationale for faculty decisions, many law schools encourage regular participation in faculty meetings by Career Services Professionals, thus enabling them to market the institution more effectively.

Career Services Directors have a wealth of statistical information regarding national and regional employment trends and they will appreciate all faculty members passing this information on to students to help dispel rumors about their inability to secure employment. Ask for information about programs, panels and workshops sponsored by the office and suggest speakers, or better yet, volunteer to participate in order to augment the views of legal practitioners. Not only is this a great way to connect the academic world to the practicing bar—illuminating the challenges faced by both—it also is an opportunity to interact with students in an interesting and rewarding way and model appropriate, professional behavior outside the classroom.

Faculty understanding of employment trends is of paramount importance. So much misinformation spreads through the student grapevine like wild fire. By being informed, faculty members can help to deter the spread of rumors.

According to the National Association for Law Placement’s Class of 1994 Employment Report and Salary Survey, for those graduates whose employment status is known, 74.8% accepted legal positions and 9.9% accepted nonlegal positions. Underlying the relative stability of the overall legal employment rate was an increase in the relative frequency of part-time legal positions, from 4.6% to 5.2% and a decrease in the relative frequency of full-time legal positions, from 70.3% to 69.6%.

Other findings include:
- As in all prior years that NALP has collected job data, most employed graduates (55%) chose private practice. Nearly half (47.8%) of these graduates entered firms of 2-25 attorneys as compared to the 11% who obtained employment at firms of 251 or more. Considerably fewer than half of employed African-American graduates took jobs in private practice while somewhat more than half of employed white, Asian/Pacific Islander and Hispanic graduates took such jobs.
- Small Firms of 2-25 attorneys continue to be the single most important source of employment for new graduates. Over one-quarter (26.2%) of all employed graduates enter firms of this size.
- Employment in business, at 12%, continues to show a notable increase from the prior year, when it was 10.6%.
- Public service jobs, including military and other government jobs, judicial clerkships and public interest positions, accounted for 27.9% of jobs taken by employed graduates. About 38% of employed minority graduates accepted public
service positions compared with 28% of employed non-minority graduates.
• Publicity accorded to high starting salaries in law firms notwithstanding, most law firms offered much more modest compensation. Nearly 40% of reported salaries in law firms were $40,000 or less; just one in seven (13.7%) were more than $70,000. Median starting salaries in private practice and business were $50,000 and $42,000, respectively; for government the figure was $32,500 and for judicial clerkships it was $33,000. Public interest positions continue to be among the lowest paid, with a median starting salary of $28,200.

Ask your Career Services Director for some information about employment trends specific to your school. Share your insights and wisdom with your students about the world of work. The future of the legal profession is in the hands of the gatekeepers!

Kathleen Brady is president of the National Association for Law Placement and assistant dean at Fordham University School of Law.

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Australian Law Students Have Varied Career Intentions

A recent study has revealed that Australian law students have a much wider range of reasons for studying law and career intentions than has been generally thought. The study, the first of its kind, provides the first hard evidence of why students choose law and what their career intentions might be.

All first and final year students in all Australian law schools were surveyed in late 1994. The study was conducted by the Sydney-based Centre for Legal Education with funding provided by the Department of Employment Education & Training from its Evaluations and Investigations Program.

The study’s results confirm some commonly held beliefs about law students and their attitudes, and contradict many others. The most surprising result for some is that only 75 percent of final year respondents intended seeking admission in the first five years after completing their degree. This indicates what impact these students will have on the practical training courses and on the legal profession.

An even more surprising result is that only 48 percent of final year respondents intended to work in the private legal profession as a barrister or solicitor in the first year or two after graduating.

The study suggests that the common view that all law students’ immediate plan, after graduating is to work in the private legal profession as either a barrister or solicitor is a misconception.

Another 24 percent plan, within two years, to do legal work in either community legal services, or in the public or private sectors. The most popular destination for legal work, after the private legal profession, was the public sector (10 percent). Another 8 percent wanted to do legal work in private industry. Community legal service was only attractive to 5 percent of these students.

In fact, 11 percent of final year law students indicated that they had no plans to do any legal work at all immediately after completing their degree. Of these students, twice as many wanted to do their nonlegal work in private industry, commerce or finance rather than in the public sector.

There were very few gender differences in the study. The differences mainly related to students’ first work preferences. Substantially more women than men were attracted to the prospect of working in community legal services. Conversely, substantially more men than women were attracted to legal work in private industry.

The study dashes many commonly held beliefs about why people choose to study law. Prospective large incomes, prestige or high HSC results are often thought to be the dominant motivation. However, these reasons were not found among the three most favored reasons for choosing law. In fact, they were very lowly ranked reasons.

The most popular reason for studying law was, in fact, interest in the subject matter of law. Following closely behind this reason were reasons related to career choices, such as a double degree increasing career options. This suggests there were pragmatic as well as academic reasons for choosing law.

The fourth most important reason was that law was a way of making a contribution to the community. It consistently was more popular than reasons related to income or prestige.

These results give a very different impression of law students than what is often the commonly held belief. The Centre expects that the study’s results will assist practical training institutions to estimate their future numbers. The study also adds to the portrait of likely new members of the profession. Law schools may find this profile of their students valuable in reviewing their curricula. The government may also use the results in developing policy in regard to legal education and training.

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The study dashes many beliefs about why people study law.
Curricular Innovations

Capital University Law School in Columbus, Ohio, is developing a program to integrate dispute resolution, skills, writing, and ethics into a substantive first year course. Contracts is the substantive area in which this project is currently being implemented.

This program is designed in response to deficiencies perceived in the current approach to law school education. Practicing attorneys, students, educators and others, have for years been pointing out what law schools fail to do. The Capital program hopes to remedy the source of those identified failures with strategic additions in the areas in which law schools excel. That is, by merging elements of lawyering process into a substantive area, both aspects are enhanced and made more meaningful and useful to the students.

Team teaching is used to achieve the goals of the program. A contracts hypothetical was developed by Professor Michael Distelhorst. Professor Kathy Hessler then developed exercises, based on the hypothetical, which provide students opportunities to work with contractual issues in context. These exercises, while focusing on contracts, also create opportunities to identify and develop lawyering skills, learn and practice elements of dispute resolution, as well as focus on ethics and drafting. In this way, the expertise of both professors is maximized to the advantage of the students.

For example, students begin early in the first semester with an exercise involving both the formation of a contract and of an attorney/client relationship. Both the substantive contractual issues, as well as the skills of interviewing and counseling are the focus. The benefit of this combination is that students take both aspects more seriously and learn in a more textured way about both areas.

Other exercises include a mock trial; drafting in the area of good faith and implied promises; negotiation of contract formation issues; mediation of a performance breach; drafting a resolution to the breach as well as a dispute resolution clause for the contract; and negotiating another breach based on impracticability or frustration, as required by the previous addition to the contract, with a focus on ethics.

The program makes use of different teaching methodologies, including the traditional Socratic method, as well as experiential learning exercises conducted both inside and outside of class; problem-solving exercises; and drafting. Thus, the program attempts to present material which is accessible to students of all different learning styles. At the same time, it is hoped that the learning that does occur will be richer for its varied, contextual and practical approaches.

The benefit of working with contracts classes is the opportunity to develop a single detailed contractual hypothetical from which all the exercises throughout the year will be derived. Administratively and pedagogically the program will track the elements of contracts in a logical progression from the initial interviewing of a client, through negotiation, breach, and damages. It is hoped that after experimentation with contracts, that the program could be expanded to focus on other substantive areas.

The goal of this program is to more readily allow for true integration between the theoretical and skills components of contracts, dispute resolution, legal writing, and ethics.

CONSULTANT
Continued from page 2

The consent decree mandates membership composition of the Council, Accreditation Committee, Standards Review Committee and Nominating Committee. It also requires that each law school site evaluation team include "to the extent reasonably feasible" a university administrator, a law school dean or faculty member, and one practicing lawyer, judge or public member. Many of these requirements reflect current ABA accreditation practices. Others are under review by the Wahl Commission. Let me assure the readers that the ABA continues as the nationally recognized accrediting agency and it will continue to strive for continuing improvement of legal education as it has for the past 102 years.

James P. White is consultant on legal education to the American Bar Association.
Panel Discusses the Benefits of Clear Writing

by William B. Powers

The Section’s Committee on Communication Skills presented a program at the ABA Annual Meeting entitled “Clear Writing Pays: The Benefits for Lawyers and Clients.” The program was organized by Professor Joseph Kimble of Thomas Cooley Law School. “Plain language does not just mean getting rid of archaic words. It’s about all the techniques and guidelines for clear communication. It’s about clarity,” said Professor Kimble.

Chief Judge Judith Kaye of the New York Court of Appeals led the panel discussion by noting that she is an enormous consumer of legal writing. “I also contribute a lot to the mountain of legal prose. Judges set the standard of legal writing, and some have come to accept as an object of pride writing that is scholarly, but is hard to understand,” Chief Judge Kaye said. She added that she puts tremendous value on clarity, brevity, simplicity and readability, noting that judges have a lot to read and are grateful when they receive something that is clear and easy to understand. Judge Kaye emphasized that this view of the value of clear legal writing is very widely shared. “The very first step in clear writing is clear thinking. Strong self-editing is something every writer benefits from.” Judge Kaye stated.

Kenneth Gluckman, assistant general counsel for the Chrysler Corporation, provided an overview of the types of documents in corporate practice. External documents include business contracts, retail contracts, instruction manuals, warning labels, and advertising. Internal documents include memos, policy documents, position papers, and investigations. “Good writing sells cars and avoids problems,” said Gluckman, noting that in advertising, clear writing enables potential customers to understand what you have to offer and what they can expect from it. In clearly written contracts, customers know what they are buying. Clearly written owners’ manuals help customers understand how their vehicle operates, how to care for it, and what they need to do to avoid injury and damage to the vehicle. Clearly written warranties enable customers and dealers to know what the warranty covers and does not cover. “In preparing a document, consider who is going to read the document, how it can be made easier to understand, and how the document can help your client,” Gluckman stated.

Christopher Balmford, a solicitor from Melbourne, Australia, heads the plain language department at Phillips Fox, a federation of law firms in Australia, New Zealand, and Vietnam. Mr. Balmford explained how Phillips Fox uses plain language communication as a marketing tool. “Plain language empowers consumers. Law firms should respond to the demand of their clients for plain language,” he said. Balmford reviewed the benefits the firm got from the change to plain language documents, including favorable publicity and media coverage; having a distinguishing feature that attracts clients; developing a plain language department that provides a new source of income to the firm; being engaged in major plain language projects; and providing the firm with a cultural focus. Balmford identified two key challenges for firms interested in converting to plain language documents: first, convincing lawyers that clients want plain language; and second, convincing lawyers that nothing is lost in the translation from “legalese” to plain language. “Competition is the long-term solution to the problems of poor legal communication.” Balmford concluded.

Bryan Garner, president of Law-Prose, Inc., concluded the panel presentations. “In any piece of communication, someone is going to have to work hard. It can either be the writer or the reader. It should not be the reader.” Garner stated. He emphasized that writers must overcome “attitudinal baggage” to improve legal writing. This baggage includes: style does not matter; legalese is precise; to be accepted as a good lawyer, one has to use legalese; criticisms of how one writes are criticisms of one’s intellect; writing is a wretched subject to learn; there simply is not time to revise.

Mr. Garner proceeded to identify eight major points in considering an approach to legal style: 1. One can learn to be a good writer, but it takes hard work and dedication. 2. We have to recognize that both style and content are poor in legal writing, and have been for centuries. 3. Good legal writing makes readers feel smart; bad legal writing makes readers feel stupid. 4. Readers are impatient to “get the goods.” 5. Borrowing from George Bernard Shaw, the chief aim of the novice legal writer is to acquire the legal language, and the chief aim of the adept is to shed it. 6. Borrowing from Flaubert, anything translatable into simpler words in the same language is bad style. 7. If you would not say it, you should not write it. 8. Borrowing from Aristotle, ultimately, if one wants to be a good writer, one must either have or seem to have a good character.

Professor Kimble prepared a twelve-page handout for the program that contains the following summaries, with references: Myths and Realities About Plain Language; What the ABA Has Said About Legal Writing; An Outline of a Serious Law School Writing Program; What Can Be Done After Law School; and The Benefits of Plain Language. Copies may be obtained from Professor Kimble at Thomas Cooley Law School, P.O. Box 13038, Lansing, Michigan 48901.

William B. Powers is assistant consultant on legal education to the American Bar Association and editor of Syllabus.
Another year in the life of the Section of Legal Education and Admissions to the Bar has begun to unfold. As those of you who stay on the radio dial to stations that play rock and roll oldies know, hearing Ricky Nelson sing is just about unavoidable. In “Garden Party” he reminds the listener that “you can’t please everyone, so you got to please yourself,” or something to that effect. I am keeping that in mind as I begin my year in the chair.

What will please me is the completion of a year that sees the Section stand fast on issues of educational quality while opening itself to fresh thinking about how to achieve and protect educational quality. To do this will require that we work at discerning the difference between promoters of schlock or self-interest on the one hand, and visionaries with sound, brave, intriguing and worthy initiatives on the other.

There are good people on hand to perform the work of the Section this season, and they continue the line of talented people who have conceived and supported the Section’s accreditation efforts over time. Unfortunately, two talented veterans have departed prematurely for reasons of conscience prompted by the decision of the American Bar Association to enter into a consent decree with the Department of Justice last June.

Judge Joseph W. Bellacosa of the New York Court of Appeals, my immediate predecessor in the chair, is as fine a person as I have ever known, and I can attest from observations at close range that he fought the good fight in every sense of those words. He chose to resign from the postchairing position he would otherwise have occupied, and I miss his fire and his humanity.

Pauline Schneider, a private practitioner from Washington, D.C., who spent the past two years as the chair of the Accreditation Committee, and who was the Council’s nominee to begin the move through its leadership track, paid dearly in professional time to run the system in her volunteer capacity and to sound the alarm when that system and its foot soldiers were not appropriately defended. Any time an organization loses someone of Pauline’s principle and energy, it is impoverished by the loss.

Just as Joe and Pauline could not go on, there are others who have wrestled with the same deeply personal issues and who have decided to continue, if only for a time, as they watch the direction in which accreditation and the ABA move over the next months and years. I am one of those. What tipped the scales for me was the realization that so many people believe so deeply that the wounds administered to the accreditation process (and therefore to legal education itself) cannot be permitted to be mortal ones. I decided that as long as there were people of integrity willing to tackle our monumental problems, I would try to provide what leadership and direction I could to get the Section through the next year’s trials.

My three mainstays this year are Dean Rudolph Hasl of St. John’s, who will succeed me next August; Professor Claude Sowle of the University of Miami, who will chair the Accreditation Committee; and Dean Robert Walsh of Wake Forest, who will chair the Standards Review Committee. I could not have found a finer complement, and I know that they will serve the Section with distinction.

Behind them stand others who are exceptionally good people. A number of these are newcomers to their committee assignments. For example, five of the eighteen-member Accreditation Committee members are new, and five of the ten-member Standards Review Committee have no prior experience with it. When I consider who signed on and who stayed on, I feel as though I struck gold. I must admit that I expected the pall of the proposed consent decree to induce a wariness that would discourage participation. As this has not happened, it signals to me the enormous strength of the process and the belief in the need for fair, reasonable and rigorous regulation of law schools.

I came to the Section’s work through its Bar Admissions Committee, a logical perch for someone whose career has been closely connected with licensing lawyers. In 1983 Bob McKay, a legend whom I never met, appointed me to this first committee assignment. The experience of serving on a committee comprised of judges, practitioners, and academics was a revelation for me; for the first time I saw bar admissions in new terms as the value of passing so many different planes through what was for me a familiar mass became clear.

In 1989 I joined the Accreditation Committee after several stints as a site evaluator that related to my bar admissions background. For me, the Accreditation Committee was and is the Holy Grail of volunteer service. The work was backbreaking and endless and I felt challenged by the demands of the unrelenting assignments. I had the privilege of working side by side with some remarkable people and debating some significant issues with them. They earned my admiration, and I learned a tremendous amount as I tried to keep up with them. For anyone who has ever served on a volunteer body that did nothing, leaving one with the feeling that a dashboard doll could participate just as effectively, the Accreditation Committee is the penultimate volunteer experience that yields the satisfaction that can only come from hard work and dedicated colleagues.
who radiate decency and intelligence. Somehow I was also elected to serve on the Council in 1989 through a separate process. While I enjoyed my early Council service, I found the assignment to be less focused and in some ways, less satisfying than the rigors of the Accreditation Committee. Over the past few years, however, the Council seems to me to have galvanized; now I find it to be a stronger body with a clearer sense of mission. In short, the Council is now quite comfortably poised to undertake the responsibility for its two major projects this year.

First, the Council is about to pounce on the report of the Wahl Commission, a body that was constituted in mid-1994 to review the substance and process of accrediting law schools. Justice Rosalie Wahl, a recent retiree from the Minnesota Supreme Court, met the August 1995 deadline set by the Council and has produced a valuable addition to the Section's accreditation literature. During the next year, decisions will be made by the Council as to every recommendation made by the Wahl Commission in its report.

In this regard, I have asked Dean John Roberts of DePaul to chair a committee that will shepherd our decision-making. His charge is not to redo the report, but to help structure the process whereby Council decisions are made, and to devise and monitor the implementation timetable the Council sets for itself once its decisions are final. The Council is on a one-year march toward making use of what the efforts of the Wahl Commission produced.

The second matter before the Council is the recodification of the Section's accreditation standards. What began several years ago as a project to refine the language of the standards without tampering with their content has blossomed into a painstaking and thorough content review to assure that the standards represent the best collegial view of how to attain and maintain educational quality. Undoubtedly, reasonable minds are going to differ before and after we are done, and in order to harvest as much comment as possible before submitting the recodification to the ABA's House of Delegates for action, the Council will direct a process that allows for broad input on a fairly brisk schedule. The objective is a set of validated standards that are in place following the August 1996 meeting of the House.

In addition, the Council will explore what it means to live under and learn from a consent decree this year. That experience cannot overshadow other developments that confirm that the Section is about more than accreditation. Reece Smith's Professionalism Committee, Liz Moody's Pre-Law Committee, and Susan Brody's Committee on Communication Skills are encouraging examples of the range of activities that will not be eclipsed by the politics and problems of the moment.

As I mentioned to those Section members who attended our annual meeting in Chicago last August, I thought in terms of "why me" only briefly when I realized what this year's chair would face. In fact, there is nowhere I would rather be than in this chair at this time. I will do my best, and with the help of the Section's membership, my best will prove equal to the task.

In August of 1996 when I pass the gavel to Rudy Hasl, perhaps I will have aged a lifetime. Standing at my farewell dinner at Disney World (and can anyone read that without smiling?), I may show signs of strain, with blue hair and orthopedic oxfords. Nevertheless, I hope to be able to report to you that, in Ricky Nelson's words, I have pleased myself. And while I am fairly confident that I won't have pleased everyone, perhaps I will have pleased enough.

[Liman Moore]

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**LSAC Report**

*Year-End Volume Down Again for Law School Applications*

*by Jana Cardoza*

Law school admission personnel will travel to recruitment fairs in cities across the nation in an effort to spur interest in their law schools as the downturn in the number of applications continues. The number of applications for the 1995 entering class is down for the fourth year in a row. With virtually 100 percent of the anticipated application volume accounted for, about 78,230 applicants had generated 380,100 applications to law schools approved by the American Bar Association. These figures represent declines from last year's figures of 6.9 percent and 8.0 percent, respectively.

Regionally, schools in the Great Lakes, New England, Northwest and Midsouth regions seem to be hardest hit, with schools in the Northeast feeling the least impact. As always, the experience of individual schools varies significantly.

The number of LSAT test takers was down for the fourth consecutive year, although the decrease was not as significant as in years past. There were 128,550 test takers for the 1994-95 testing year—a figure down just 2.6 percent from the previous year's 132,030. This is the smallest decrease in test takers for a testing year since the downturn began in 1991-92. In 1993-94, we recorded a near 6 percent drop in the number of test takers. For more information on law school applicant volumes, send e-mail via the Internet to jcardoza@lsac.org. For more information on the 1995 Law School Forums, call (215) 968-1120 or visit the LSAC World Wide Web Home Page at http://www.lsac.org.

Jana Cardoza is senior media specialist for the Law School Admission Council.
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MARK YOUR CALENDAR

OCTOBER 1995
5-7 AALS Workshop for Law Teachers of Color
6-7 LSAC Chicago Recruitment Forum
12-14 AALS Workshop on Jurisprudence
13 LSAC Audit Committee Meeting
13-14 LSAC Atlanta Recruitment Forum
13 ABA Workshop for Chairpersons of Site Evaluation Teams
13-15 Central States Law School Association Meeting
14 ABA Site Evaluation Workshop
18-21 AALS Accreditation Committee Meeting
20-21 LSAC Boston Recruitment Forum
20-22 ABA Section Council Retreat
27-28 LSAC Board of Trustees Meeting

WASHINGTON, DC
Chicago, IL
Los Angeles, CA
Philadelphia, PA
Atlanta, GA
Indianapolis, IN
St. Louis, MO
Indianapolis, IN
Washington, DC
Boston, MA
Indianapolis, IN
Indianapolis, IN

NOVEMBER 1995
2-4 AALS Faculty Recruitment Conference
3-4 LSAC Los Angeles Recruitment Forum
9-12 ABA Accreditation Committee Meeting
9 LSAC Finance & Legal Affairs Committee
10-11 LSAC Minority Affairs Committee Meeting
16-18 AALS Executive Committee Meeting
16-19 Law Access Financial Aid Conference

WASHINGTON, DC
Los Angeles, CA
San Francisco, CA
TBA
TBA
Washington, DC
San Francisco, CA

DECEMBER 1995
1-3 ABA Section Council Meeting
11-12 LSAC Board of Trustees Meeting

PHOENIX, AZ
Dorado, PR

JANUARY 1996
3 AALS Executive Committee Meeting
4-7 AALS Annual Meeting
19-21 ABA Accreditation Committee Meeting

SAN ANTONIO, TX
San Antonio, TX
San Diego, CA
NYU and SLU Organize Summit on Constitutional Adjudication

Saint Louis University School of Law and New York University School of Law recently joined to organize a historic meeting of Justices from four of the world’s most prominent constitutional courts to discuss constitutional issues. The Summit on Constitutional Adjudication, held in July at NYU’s Villa La Pietra in Florence, Italy, was coordinated by NYU Law Dean, John Sexton and SLU Law Dean, John Attanasio. The conference was sponsored by New York University as part of its Global Law School Program.

Justices attended from the Constitutional Courts of the United States, Germany, Italy and Russia. Participants included Justices Sandra Day O’Connor, Ruth Bader Ginsburg and Stephen Breyer of the Supreme Court of the United States; Justices Dieter Grimm and Helga Siebert of the German Federal Constitutional Court; President Antonio Baldassare and former President Antonio La Pergola of the Italian Constitutional Court; and Justices Oleg Tiunov and Nikolai Vedernikov of the Russian Constitutional Court.

Faculty members from the New York University and the Saint Louis University Schools of Law participated in and facilitated discussions. Topics included, “Court Jurisdiction and Organization,” “The Role of the Judge and Judicial Ethics,” “Separation of Powers,” “Federalism,” “Judicial Authority and Self-Restraint,” and “International Law and Rights Jurisprudence.”

The discussions began in earnest on Thursday, July 27, with the first of six sessions. On Thursday the Justices discussed “Court Jurisdiction and Organization” during the first session and “The Role of the Judge and Judicial Ethics” during the second session. On Friday, the Justices discussed “Separation of Powers” during the first session and “Federalism” during the second session. Finally, on Saturday the Justices discussed “Judicial Authority and Self-Restraint” during the first session and “Rights” during the second session. Each of the discussions was moderated by a professor from either New York University or Saint Louis University. Seated around the table were nine Justices in addition to several faculty from both law schools.

At the beginning of the first session, one Justice from each court took approximately ten minutes to present some reflections on how his or her court approached the particular topic for discussion. Following the presentations by each of the four courts, the floor was opened to a free-wheeling discussion. Inter-spersed between these discussions were cultural events and dinners which afforded time for continuing the discussions and for developing friendships.

Saint Louis University sponsored the first visit of Justices of the Russian Constitutional Court to the United States in 1992. Secretary of the Court, Yuri Rudkin, and Justices Oleg Tiunov, Nikolai Vedernikov, Anatoli Kononov, and Gadis Gadzhiev visited the country for ten days in November 1992. Highlighting...
1996-97 Judicial Fellows Program

The Judicial Fellows Commission invites applications for the 1996-97 Judicial Fellows Program. The Program, established in 1973 and patterned after the White House and Congressional Fellowships, seeks outstanding individuals from a variety of disciplinary backgrounds who are interested in the administration of justice and who show promise of making a contribution to the judiciary.

Up to four Fellows will be chosen to spend a calendar year, beginning in late August or early September 1996, in Washington, D.C., at the Supreme Court of the United States, the Federal Judicial Center, the Administrative Office of the United States Courts, or the United States Sentencing Commission. Candidates must be familiar with the federal judicial system, have at least one postgraduate degree and two or more years of successful professional experience. Fellowship stipends are based on salaries for comparable government work and on individual salary histories, but will not exceed the GS 15, step 3 level, presently $74,426.

Information about the Judicial Fellows Program and application procedure is available upon request from Vanessa M. Yarnall, Administrative Director, Judicial Fellows Program, Supreme Court of the United States, Room 5, Washington, D.C. 20543. (202) 479-3415. The application deadline is November 17, 1995.

NYU and SLU co-sponsored a second visit of the Russian Justices in 1993 for similar discussions and visits. Oleg Tiunov, Nikolai Vedernikov, and Nikolai Seleznev visited both schools for ten days. Again, the highlight of the visit was a meeting with Justices O'Connor, Scalia, Kennedy, and Ginsburg at the Supreme Court. At this meeting, the suggestion emerged that a longer meeting be planned that would include additional constitutional courts. With the guidance of Justice Sandra Day O'Connor, the Summit on Constitutional Adjudication took shape.

Nations around the world are turning to constitutional courts to transform their constitutions from aspirations into what Professor Ronald Dworkin has called “hard law.” Particularly since World War II, the Supreme Court of the United States has inspired the creation of many other constitutional courts around the world. The German Federal Constitutional Court and the Italian Constitutional Court have been two of the first and most vibrant among these. These three courts, in turn, have been an inspiration to emerging constitutional courts in Eastern Europe and the former U.S.S.R.

The Summit on Constitutional Adjudication held at La Pietra was a historic one which fostered closer contact and understanding among these prominent constitutional tribunals. The Institute of Judicial Administration at NYU and the Center for International and Comparative Law at Saint Louis University played important roles in planning the conference. The conference symbolizes the commitment of both schools to the development of Global Law.

The entire event was a tremendous success. It marks the beginning of what both Dean Sexton and Dean Attanasio hope will be continued future interaction with these very important courts.

Justice Sandra Day O'Connor of the Supreme Court of the United States and Dean John Attanasio of Saint Louis University School of Law prepare for a panel discussion at the Summit.
GLOBALIZATION
Continued from page 1
operate. They need to understand how to deal with the lawyers of many of their customers who come from across the sea.”

Jay Vogelson considered these changes from his vantage point as Chair of the Section on International Law and Practice. “From the perspective of the International Law Section, we would like to see in American law schools a greater emphasis, not just on teaching international law, but on teaching international aspects of every subject when you are teaching tort law, or contract law.” He also expressed a hope from the Section of International Law and Practice that the law schools would take a stronger initiative and provide more in the way of international education to not just their own students, but to the bar as well and to the judiciary. Peter Goldsmith, Queen’s Counsel and Chairman of the General Council of the Bar, London, discussed the impact of globalization in both education and practice. He spoke about a number of disparate initiatives “which all show a clearer trend towards a convergence of legal systems and a recognition of that in the way that professional training and education is provided.” Speaking on the impact in legal education, Goldsmith remarked that “Increasingly, however, there are moves for a more profound change to the training of lawyers. Proposals have been made for a European law degree training the true ‘European lawyer.’ ” He described a 1991 conference at Maastricht discussing this topic. “Interestingly, the assumption of the conference organizers, that a European law school could only be started if and when there was a large and consistent body of common law in Europe, was challenged by some commentators who argued that the way to develop a common legal language was by means of a European legal education preceding substantive uniformity of the law. The model of the American Law School, transmitting a common language to all lawyers in the United States allowing them to transcend jurisdictional barriers whilst maintaining differences between state legal systems, was much relied on.”

Academic lawyers at the Program outlined how legal education in the United States might respond to these developments. Michael Reisman, Wesley N. Hohfeld Professor of Jurisprudence at Yale Law School, gave some personal reflections from the perspective of a very distinguished internationalist. “For the extraordinarily different environment of the near future—one of a transnational science-based civilization—law schools must train men and women to acquire fluency in the dynamics of what will be the relevant decision structures, to become adept in influencing their outcomes and in assisting other individuals in clarifying goals and developing strategies to achieve those goals in diverse contexts. A critical skill will become the creation of new institutions as well as the more traditional skill in the management and adjustment of inherited ones. For those involved in legal education, a critical skill may become the ongoing refashioning of curricula, as change and obsolescence replace stability and continuity as hallmarks of law.”

Dean John Sexton outlined NYU’s cutting-edge Global Law School Program and also spoke about the Global Law Faculty and the Hauser Scholars drawn from around the world. “The faculty component of the Global Law School Program that I think is distinctive is that we are in the process of identifying and appointing to our faculty on a long-term basis. two dozen, 24 of what we identify to be the leading English-speaking law professors from around the world,” Sexton said. “This past academic year at NYU School of Law had 200 full-time students at our law school out of a student body of around 1,200 full-time students—200 full-time students at our law school who are citizens of foreign countries. There are 48 countries represented.”

Professor Isaak Dore, Co-Director of the Center for International and Comparative Law at Saint Louis University, described Saint Louis University’s myriad international programs including the new Transatlantic Law Journal co-sponsored with Warsaw University, the Certificate in International Law for J.D. students, the L.L.M. for Foreign Lawyers, and visiting professors from Oxford, Orleans, the Polish Constitutional Tribunal, and the Commission of the European Community. He also described the language requirement which forms part of the law school’s International Program. “The language program is designed to encourage students to brush up on old foreign language skills and diversify cultural awareness. Without these qualities, the practice of international law is often baffling and tiring. Much of the process is misunderstood, and relations become strained when parties speak and act at cross-purposes because they do not understand the other person’s mode of communication.”

At the conclusion of her presentation, ABA President-Elect Ramo expressed her thoughts about the Program. “I think that this is a very important meeting. What I hope is that this will not be a meeting which will end after all of the far more erudite speakers than I tell us what really goes on in legal education or should, but in fact, that the International Law Section and our marvelous Section on Legal Education would reach out to the legal educators of some of the other countries that are represented here at this meeting, and begin an ongoing dialogue, so that we can take from them those things that they do better than we and export those things that we might have to add.”

18 SYLLABUS FALL 1995
Testing and Disability Experts Discuss Accommodations

by Margaret Fuller Corneille

The Bar Admission Committee of the Section and the National Conference of Bar Examiners assembled a panel of testing and learning disability experts at the annual meeting in Chicago. The joint program was designed to shed light on issues faced by law schools and bar examiners inundated with requests from students for special test accommodations.

The panel was moderated by Peg Corneille, co-chair of the Bar Admissions Committee and Director of the Minnesota Board of Law Examiners, who confirmed the increasing numbers of special test accommodations by pointing to California’s bar examination requests. In 1988, less than 1 percent of the test population requested special accommodations. By 1995, more than 4 percent of the students were being accommodated. While the majority of these requests involve physical condition, an increasing number involve learning disabilities, particularly dyslexia, and more recently adult attention deficit disorder (AADD).

The first panelist, testing and measurements expert Dr. Susan Phillips, said the problem in testing law students with learning disabilities is that the disability is intertwined with the skills to be measured. Bar exams are tests of cognitive skills and persons with learning disabilities have impaired cognitive skills. For example, the dyslexic student for whom the test is read aloud has not demonstrated competence in reading comprehension because the accommodation is related to the mental skill intended to be measured. Unless the test as given to both the accommodated and the unaccommodated test taker measures the same constructs, the required accommodation destroys the validity of the test and the scores of accommodated test takers do not have the same meaning as scores of persons tested under standard conditions.

Dr. Phillips said that the challenge will be to interpret the ADA legislation so as to correct the abuses without destroying the purpose of testing or rendering test scores meaningless. She suggests that bar examiners and law schools consider unlimited time in test giving. By changing bar exams from timed tests to power tests, making the exam more difficult, it will be possible to reduce (or eliminate) the role that time plays in test performance. She recognized the problem with this approach: if an attorney requires two or three times as much time to perform a task as other attorneys, why should the client or employer bear the cost of that deficit?

Dr. Phillips said that her research shows that it is difficult to distinguish between learning disabilities and slowness. If a learning disabled reader is accommodated, why should not a slow reader also be accommodated? Dr. Phillips suggested that special test accommodations have gone too far. There needs to be a restored balance. In saying that, she recognizes that under the ADA the institution which denies the request bears the burden to show the correctness of the decision to deny. She had three recommendations for test givers: have a written policy on special accommodations in place; treat similarly situated people the same; have an appeal procedure in place. She also recommended that legal test givers consider the flagging of test results or adopt differential licensing.

The second panelist, dyslexia expert Dr. Vellutino, stated that the research in the area of dyslexia is meager, and that the definitions of learning disability are often arbitrary. There are no clear-cut symptom patterns, no neurological and psychological assessment procedures or clinical diagnoses agreed upon by professionals in the field. Dr. Vellutino said that the one description of dyslexia for which there is consensus among psychologists is that it is “a significant and severe deficiency in identifying printed words as whole units and/or in identifying them phonetically, through the use of letter sounds.” Vellutino described dyslexia in adulthood as a significant deficiency in word identification and/or phonetic decoding skills.

Vellutino pointed out that there are no national standards for assessment and treatment of learning disorder; and in fact, anyone can claim to be an expert in diagnosing and treating a learning disability. He also said clinical reports he has read in working with the New York Board of Legal Education were highly subjective and full of logical inconsistencies. Dr. Vellutino reported that it was clear that the clinician had become an advocate for the student in many cases. He said he has seen many psychologists use a battery of intelligence and achievement tests with subscores, and then point to the lowest subscore as an indication of a learning disability. He stated that interpreting low scores on subtests as signs of pathology is incorrect.

His recommendations for evaluators of learning disabilities were the following: consider using a power test as opposed to a timed test; evaluate students with learning disabilities through the use of a reading test (math scores are irrelevant); and develop guidelines for testing and a roster of evaluators who are qualified to administer the tests who are not advocates for the student. Dr. Vellutino suggested that law test users need to be more realistic, and in many instances, more skeptical, in evaluating special accommodations requests.
Dr. Vellutino proposed that in evaluating the credentials of persons who provide learning disability diagnoses, preference should be given to the licensed psychologist who diagnoses the condition. Vellutino pointed out that each psychologist may have his or her own definition of dyslexia and may each employ his or her own criteria for making the diagnosis. Dr. Vellutino offered specific recommendations for law schools and bar examiners in evaluating requests for special testing accommodations on the basis of learning disabilities. The diagnosis of dyslexia should be based exclusively on measures of reading ability, i.e., measures of word identification and phonetic decoding skills, not on spelling problems alone. Measures of disability should be based on adult norms encompassing a broad age range. Oral reading tests should be administered because timed reading tests are subject to malingering. He also suggested that the results be cross-validated by taking both forms of Woodcock Reading Mastery test. Persons who are of average intelligence who score at or below the thirtieth percentile on measures of word identification and phonetic decoding ability have a significant disability and may need extra time.

Dr. Vellutino said that the technique of using the IQ score and comparing it to the achievement test score for discrepancy as the basis for a finding of learning disability has been discredited. Because there is no agreement on the etiology of dyslexia, measures of psychological processes such as visual memory, auditory memory, motor function, or eye-hand coordination should not be used to diagnose learning disabilities. He also cautioned against the use of clinical judgment or qualitative analysis in this diagnosis.

The final panelist was Dr. John Ranseen, a neuropsychologist and associate professor of psychiatry at the University of Kentucky Medical Center, as well as program coordinator of the Evaluation Services Unit of the Department of Psychiatry at the Kentucky Medical Center. Dr. Ranseen is currently conducting research on the neuropsychology of adult attention deficit disorder.

Dr. Ranseen was equally skeptical about many of the requests he has seen for additional test time based on diagnoses of AADD. To an even greater extent than with dyslexia, there are no generally agreed upon criteria for diagnosing AADD. He suggested that recent media attention to the possibility that this disorder exists in adults as it does in children has fueled the interest of persons who believe their difficulties in the academic setting are a result of AADD.

Dr. Ranseen expressed doubt that there is clinical support for concluding that large numbers of persons suffer from such a condition. He said one of the difficulties in diagnosing such a condition is that it is always retroactive in application: the patient recalls difficulties in learning during childhood and from that data, clinicians conclude that the patient suffers from the condition.

Another problem with the AADD diagnosis is that the criteria for identifying and diagnosing the condition are a list of characteristics which are evident in a large portion of the population, if not in everyone. The list includes inattention to detail, forgetfulness, lack of organization, moving from one topic to the next without completing any, and so forth.

Dr. Ranseen suggested that any law school or bar examiner who receives a request for additional test time because of AADD should obtain a second opinion from a medical professional who is not acting as an advocate for the student.

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