

SECTION ON

CLINICAL LEGAL EDUCATION

NEWSLETTER

88-1

MARCH, 1988

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COMMUNICATION FROM THE CURMUDGEON

Good Morning, Viet Nam. I may not be as gifted as Robin Williams, who plays Adrian Cronauer in the movie, but the message may be the same. As such, my first report to you will encompass three zones of discontent.

First of all, our request of November 24, 1987, that the Executive Committee of the AALS appropriate Association funds from the Section dues receipts for a meeting of designated Committee Chairpersons as well as the Chair-Elect of the Clinical Section to be held at the National Office in either February or March 1988 was denied in Philadelphia over the weekend of February 5th. Executive Director Levin informed me by telephone a few days after the Executive Committee denial that my proposal was insufficiently precise and discriminate as to accomplishment of purpose as well as a mere substitute for the AALS Annual Convention at which the same purpose could be accomplished. I suggested to her no matter how precise and discriminate I made the proposal, the Executive Committee would continue to be reluctant to create an exception to AALS Executive Regulation 12.6(b) prohibiting Section funds generated by dues to be used for travel reimbursement. She did relate, however, that my request has precipitated further study what to do generally about requests for funds generated by dues for those Sections providing in their By-Laws such procedures. [See p.18 for the formal memorandum of denial dated February 16, 1988.] On down, two to go. Good morning, American Clinicians.

The second issue is one that is unquestionably the one closest to my heart--that is, the abject lack of actual clinical representation on the Council of the Legal Education and Admissions to the Bar of the ABA. The same situation existed in August 1981 when I led a sneak attack on the leadership of the Legal Education Section in New Orleans. The attempted coup occurred by petitioning clinical candidates for election to various positions on the Council in opposition to their Nominating Committee slate 24 hours before the annual business meeting. Instead of confrontation, I was talked into negotiation with the establishment. The outcome was predictable--to wit, promises of clinicians appointments to important Legal
(Cont'd p-2)

WHAT'S INSIDE?

COMMITTEE REPORTS.....	5
AMONG OURSELVES.....	6
OF INTEREST TO CLINICIANS.....	6
ESSAY.....	8
PUBLICATIONS.....	14
JOBS.....	13
1988 CLINICAL TEACHERS' CONFERENCE.....	16

Education Committees, more clinicians to be put on accreditation inspection teams, and a clinician nominee to the Council. The only promise fulfilled of any consequence was the nomination of Dean Rivkin of Tennessee to the Council a year later. He served his three year term and again we are unrepresented.

We are told that Dean Harbaugh is our champion and that he satisfies our concerns as to representation. Sympathy, I suggest, is no substitute for supervision. One has to be an actual line clinician in order to advance or defend our cause, as the case may be. Between 1981 and 1987, there has been a remarkable dearth of clinical appointments controlled by the Legal Education leadership. Although there has been some movement to rectify this invidious discrimination by present chairperson Wahl of the Legal Education Council, she is still reluctant to place clinicians on important committees---to wit, nominating. This is not unusual, because if my memory serves me correctly, there has never been an actual line clinician serving on this committee.

With the institutionalization by the ABA to provide automatic membership in the ABA as well as the Legal Education Section to full time faculty (clinicians, I am happy to say, qualify) to those ABA accredited law schools who pay an annual fee (over 100 schools have now subscribed), the size of the Legal Education membership has doubled. The Old Guard controlling the Legal Education Section must now face an electoral fact of life that their constituency is no longer controllable. Under existing By-Laws (before they are amended to restrict nomination by petition to not more than 10 members for one school, I predict), we can petition a slate to oppose their nominating committee candidates on a moment's notice. Georgetown, for example, with a full time faculty complement of 80, could produce the requisite number of qualified petitions within a matter of minutes.

But is this the way to go? I suggest that each one of us write a letter to James P. White, Indiana University School of Law, 735 West New York Street, Indianapolis, Indiana 46202, earnestly adjuring that an actual line clinician be nominated for a Council position effective at the Annual Business Meeting of the Legal Education Section to be held in Toronto on the afternoon of August 8, 1988. Jim White is the proper person to whom to write pending Judge Anthony Kennedy's Chairperson resignation of the Legal Education Section's Nominating Committee. If we are denied representation by the nominating committee, we then must seek by petition redress of our grievances by organizing ourselves for an electoral battle royal in Toronto. Two down, one to go. Good afternoon, clinicians.

The last issue facing us is one of egregious obtrusion conducted by university administrators against clinicians---to wit, the seven years war against the Western Natural Resources Law Clinic of the University of Oregon and the arbitrary denial of tenure to Vanessa Merton at CUNY-Queens.

With regard to the former, the ABA Legal Education Council on February 6, 1983, adopted this policy statement regarding interferences in law school clinical activities:

The Council has received several reports of inappropriate interference in law school clinical activities. Improper attempts by persons or institutions outside law schools to interfere in the ongoing activities of law school clinical programs and courses have an adverse impact on the quality of the educational mission of affected law school and jeopardize principles of law school self-governance, academic freedom, and ethical independence under the ABA Code of Professional Responsibility. In appropriate ways, the Council shall assist law schools in preserving the independence of law school clinical programs and courses.

This policy statement, you guessed it, was precipitated by the first attack on Oregon's environmental law clinic. Thus, it would appear that Professor Bonine and Axline will receive support from the ABA in their Second Battle of Oregon. Chairperson Wahl has informed me that her Council on or about February 6th last has reaffirmed their policy in a strong letter to the President of the University of Oregon.

As to Professor Merton, I am amazed, astounded and at a loss to understand how a university administrator in the face of overwhelming evidence of scholarship, teaching ability, and collegiality, by any stretching of the imagination, could have rationally denied her tenure. As a faculty member at the Third National Clinical Teacher Training Conference at Snowmass in June 1979, I first had the pleasure of working with Vanessa. I have watched her growth as an educator, litigator, and a person since that time. Her most recent rendition of all three of these qualities was the exhibition she put on at the ABA Teaching Professional Skills Conference at Albuquerque last October, when she mesmerized a small group of us with her Main Street Legal Services Clinic and its attendant operation.

What happened to Vanessa does not portend well for Barbara Bezdek, Sue Bryant, and Rick Wilson, the former two being graduate fellows that I taught here at Georgetown. They are to be evaluated for tenure next year at CUNY-Queens. Perhaps, the Tenure and Promotion Committee of the Clinical Section, of which Sue is Co-chair for obvious reasons, will devise a strategy to prevent the decision that befell Vanessa. In any event, if any of you out there sees signs of potential denial for any reason, do not hesitate to get in touch with either Sue Bryant or Roy Simon of Washington University at St. Louis for guidance and counsel in such matters.

In closing, I am going to ask Sandy Ogilvy to consider putting out a Bulletin in between newsletters for extraordinary announcements. I have in mind that our constituency should be apprised of the 1988 membership of the Legal Education Nominating Committee as soon as possible. We must be heard as to representation.

1988 SECTION OFFICERS AND
COMMITTEE CHAIRPERSONS

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Georgetown

Chair-elect:

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Past-chair:

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Boston University

Liz Ryan Cole
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Attorney Fees:

Fordham

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Computers:

John Copacino
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CLE:

Carolyn Kubitsckek
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Externships:

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Georgia

Nancy Daniels, co-chair
Florida State

Future of the In-House Clinic:

Phyllis Goldfarb
Boston College

Insurance:

Nicki Russler
Tennessee

Integration of Clinical Methodology
into the Traditional Curriculum:

Douglas Frenkel
Pennsylvania

International Clinical Education:

Frank S. Bloch
Vanderbilt

Legal Services:

Jeff Hartje
Denver

Paula Galowitz
New York University

Membership:

Phyllis T. Bookspan
Deleware

Nominating:

TBA

Political Interference:

Katherine Federle
Hawaii

Samuel Weisselberg
Southern California

Tenure and Promotion:

Sue Bryant
CUNY Queens

Roy D. Simon, Jr.
Washington University

COMMITTEE REPORTS

Continuing Legal Education: The committee has three separate but related goals for the coming year. First, it will be available to provide advice and technical assistance for clinicians who want to develop and deliver their own CLE programs, or to participate as trainers in CLE programs which already exist throughout the country. In conjunction with that goal, the committee is seeking to compile a library of CLE programs, program outlines, and other information. The committee is also collecting information on CLE requirements of those states that have mandatory CLE programs, so that interested clinicians can develop CLE programs which meet those requirements.

Second, the committee is working with groups, such as the American Trial Lawyers Association, who might be willing to provide continuing legal education to clinicians. The committee is also attempting to ascertain what sort of CLE programs clinicians would like made available to them.

Finally, the committee is compiling the results of a survey of substantive specialties of clinical teachers. The results will be available soon for all interested clinicians. It is hoped that this will encourage networking around areas of specialization, as well as providing valuable data on what sort of substantive areas different clinics handle. Anyone who has not received a copy of the questionnaire can get one by calling Carolyn Kubitschek at (516) 560-5934.

Legal services: Committee Members: Paula Galowitz (NYU), Co-Chair; Jeff Hartje (Denver), Co-chair;

Danny Greenberg (Harvard); Peter Hoffman (Nebraska), David Medine (Indiana, Bloomington); and Mary Wolf (Indiana, Indianapolis).

The Committee met at the AALS in Miami to discuss a variety of issues relating to the funding of clinical programs by The Legal Services Corporation (LSC). Topics discussed included the standards for awarding grants, the process for awarding grants, service goals, and the relationship between the local legal services field programs and the clinical programs. Charles Moses, Assistant Manager of the Program Development and Substantive Support Division of LSC, attended part of the Committee meeting.

The Committee plans to continue to discuss these topics. One area of particular interest is the relationship between clinical programs and the local legal services field programs. We plan to gather information from the current grantees on their relationship with the field programs and the specifics of how the clinical programs have been able to supplement the field programs. The Committee is eager to hear from grantees on these issues. We will follow-up with a formal questionnaire to each grantee.

In future NEWSLETTER articles, we plan to disseminate the information that we have gathered. We also plan to keep people informed about issues generally affecting LSC. We would like to hear from anybody with information about or opinions on these issues. People interested in working on the Committee should contact either Jeff Hartje or Paula Galowitz.

Attorneys' Fees: Having already determined that many clinics do receive fees under fee-shifting or other statutory provisions, and that for some clinics they are an

important source of income, this year we hope to explore further what clinics are doing with those fees, and we hope to establish some fairly detailed recommended guidelines that will ensure that those uses do not run afoul of ethical prohibitions against the sharing of fees with lay entities (such as law schools). New members to the Committee are welcome and those who have served on it in the past are especially encouraged to continue.

Externships: The Committee will continue to study the ABA accreditation and site evaluation situations. Any clinician who has a program undergoing site evaluation this year or next is asked to contact Wendy Watts at Georgia.

International Clinical Education: The Committee will continue to serve as a clearinghouse for information on clinical teaching opportunities abroad. The Committee will also monitor development in other international activities of interest to clinicians, and if asked, will serve as a resource. Anyone interested in becoming a member of the Committee and/or with suggestions related to its work should contact the chair, Frank Bloch at Vanderbilt (615) 322-4901.

AMONG OURSELVES

Peter Hoffman (Nebraska), past chair of the section, has been reappointed chair of the AALS Standing Committee on Legal Education by AALS President Richard G. Huber.

James Klein (Toledo) has been appointed delegation leader for a team of labor law specialists from throughout the United States that will participate in a professional

exchange with their counterparts in the Soviet Union, Sweden, France and Great Britain. The exchange is sponsored by the Citizen Ambassador Program of People to People International, which was founded in 1956 by President Dwight D. Eisenhower.

Lauren Brown-Perry (Wisconsin) has served as a consultant and participated on a number of occasions in training correctional personnel with the National Academy of Corrections in Boulder, Colorado. Lauren also is serving on a reaction committee of the Wisconsin Division of Corrections to review proposed revisions of administrative rules relating to youth in correctional custody.

Ben Kempinen and Ken Lund (Wisconsin) were CLE presenters on "Basic Appellate and Postconviction Practice" at the Statewide Public Defender's Conference.

Jack Longert (Wisconsin) is currently a member of a Wisconsin Judicial Council subcommittee exploring the role of the Guardian ad Litem in various Wisconsin proceedings.

Maxine McConnell-Tobin, who has been Director of the Civil Cases Clinic at Southern Methodist University School of Law since 1970, retired in December, 1987.

Valli Jo Rowley (Southern Methodist) has been appointed Visiting Assistant Professor of Law and an Associate Director of the SMU Civil Cases Clinic.

OF INTEREST TO CLINICIANS

Hamline received a \$19,000 grant from the Dayton Hudson Foundation to support the General Practice Clinic, which provides civil legal services to refugees from Southeast Asia.

Marian S. Gilbert, Witness Program Coordinator at UCLA, wishes to contact other law clinical programs that utilize volunteers from the community for simulation exercises. If your program uses community volunteers, Marian asks that you complete the questionnaire attached to the back of the NEWSLETTER and return it to her at UCLA.

The 1988 ---No. 1 issue of McGeorge Magazine, McGeorge School of Law is devoted, in large part, to the clinical programs at the law school.

The Legal Aid Clinic of the University of Puerto Rico is preparing the first Moot Court Competition held in Puerto Rico for the three law schools on the island. The Clinic is also preparing a proposal to expand its services to handicapped and senior citizens.

Georgetown Law Center's Institute for Public Representation has recently reactivated its clinical program in Communications Law. Students and Fellows in the clinic will be working on public interest issues concerning mass media and telecommunications. Angela Campbell, a former IPR Fellow in Georgetown's Masters of Law in Advocacy program and former Department of Justice attorney, has been appointed Assistant Professor to teach in the clinic.

The Schools of Law of UCLA and University of Warwick (England) have announced the Second International Conference on Clinical Education and Scholarship to be held in fall 1989. The conference will be followed by a two day program at the UCLA School of Law. Papers for the conference are encouraged on any subject within the general headings of lawyering, sociology of the legal

profession and legal process or clinical method. For further information contact Dean Susan Gillig, School of Law, UCLA, 405 Hilgard Avenue, Los Angeles, CA 90024.

At the January AALS meeting in Miami, the Externship Committee coordinated a discussion articulating Educational Objectives. Participants were Leah Wortham from Catholic, Gary Myers from Northwestern School of Law of Lewis and Clark College, and Liz Ryan Cole from Vermont. The focus of the session was addressed through presentations on Classroom Components, Mentor Training and working with Classroom Faculty. Although the session was taped, Jane LaBarbera reports she was told none of the Clinical Section morning sessions after the morning break were to be taped. There is, therefore, no record of that discussion.

Liz Ryan Cole reports that for anyone interested in or currently using the Myers-Briggs Type Indicator, a certification program for people using the Myers-Briggs with lawyers and law students will be offered at a mutually agreed upon time in late spring, summer or early fall. Depending on the number of people interested (maximum enrollment is 30), the cost will be roughly \$400 for the 4 day program. Room, board, and travel will be additional. Liz says that the anticipated site is North Florida, but if there is a large cluster of participants from another part of the country, or if a school has access to low cost housing - even if it is between semesters or sessions - that may influence the site of this certification training. If you are interested, please call or write Liz Ryan Cole at Vermont Law School (802) 763-8303.

ESSAY

CLINICAL DUNDEE: LEARNING BY DOING DOWN UNDER

By Don Peters
University of Florida

"She'll be right, mate" is a popular Australian response to doubt or concern. It also may serve as an accurate prediction of the future of learning by doing down under. Clinical legal education came to Australia in 1975 when a program assigning students to work at neighborhood legal aid centers was established at Monash University in Melbourne. The University of New South Wales started a similar clinic in 1981. These Universities currently offer the only simulation-based clinical courses emphasizing skill development although the University of Western Australia in Perth will soon add a trial practice class to its curriculum. In addition, five Australian states and the Australian Capital Territory have post graduate training programs that provide varying degrees of simulation-based instruction in the lawyering skills we label clinical.

Florida's exchange program with the Law Faculty at Monash University gave me the wonderful opportunity to participate in both their Trial Practice and Advocacy course and the seminar offered in connection with their clinical experience. Those memorable five months provided a glimpse of clinical education in Australia and generated these speculations about directions future growth might take and the potential for participation by American clinicians.

Legal services to the poor in Australia are provided primarily by private practitioners who are compensated by government commissions and supplemented by a few salaried lawyers working in legal aid centers. In Victoria in 1986, for example, one thousand barristers and solicitors received twenty-eight million dollars for legal aid work while \$1.4 million was allocated to twenty-one legal centers which employed forty-six full-time legal and administrative staff. Clinical students in Australia work at three of these community centers interviewing, counseling, referring, negotiating, and developing matters under the supervision of staff lawyers. Student advocacy before some tribunals occurs occasionally at Monash but matters requiring contested litigation are usually handled either by staff lawyers in Victoria, where the distinction between barrister and solicitor is eroding, or referred to outside counsel. Clinical students in New South Wales, a state where the distinction between solicitor and barrister remains, perform the same range of pre-trial tasks but all matters requiring contested courtroom advocacy must be briefed for referral to a barrister.

Both clinical programs provide credit for graduation and a classroom component offered while students are working with clients. Monash enrolls between 30 to 40 students a term sending them to two community legal centers while the University of New South Wales Program accepts twenty-five students at a clinic run by the law school. Both programs are directed and staffed by lawyers who hold academic appointments. The Coordinators of Clinical Education at Monash are highly respected Senior Lecturers, Sue Campbell and Guy Powles. Both are fully integrated into the mainstream academic faculty and share clinical duties on a rotating term arrangement. The other participants are either tutors or lecturers and either work full-time at the centers or rotate there on alternating terms.

The educational goals of these clinical programs are familiar to us and the problems these clinicians face are also strikingly similar. Most are at junior levels and experience status difficulties securing acceptance as normal faculty and gaining tenure. Finding time to engage in scholarship has also been difficult although no clinician yet has been sacrificed at this altar. Two clinicians at Monash were recently tenured in what was described as a struggle. Their contributions to a two-volume publication for practitioners was ultimately recognized as significant scholarly achievement. Non-tenured clinical staff are very concerned about reconciling the time demands of their teaching commitments with traditional scholarship expectations and express this concern by reluctance to work in the programs full-time.

The familiar tensions between service and educational goals also exist at Monash and are reflected in the two very different centers the clinical program uses. The Legal Aid Center at Monash-Oakleigh, created by the Law Faculty, is close to the Law Building and takes active steps to control its caseload so that the educational goals of supervised practice can be pursued. The Springvale Legal Aid Center, on the other hand, is several kilometers from the Law Building in an area where many recent and poor immigrants live [necessitating a translator service in ten languages ranging from Cambodian to Turkish]. It is Australia's oldest and busiest community program and saw 2,634 clients for the first time and 1,346 persons on continuing matters in the first six months of 1986. This service pressure has made it difficult to find lawyers willing to work there in recent years. It also adversely affects the amount and quality of supervision given to clinical students working there.

The major impediment to clinical development in Australia is the issue that plagues each of us in varying degrees, money. The Commonwealth Tertiary Education Commission Report of 1987 extensively surveyed skills training in Australian legal education. While recommending clinical growth, this Report noted its comparatively high cost and concluded that the establishment of additional programs soon did not appear to be likely. This Report also indicated that several Australian law schools, including Adelaide, Australian National University in Canberra, Macquarie in Sydney, Melbourne, and Tasmania, would like to establish clinics as part of their curriculums. Adelaide University in 1975 and Australian National University in 1984 actively investigated starting clinics but neither could find a funding source. A request for funds submitted by the Macquarie Law School in 1981 was rejected by its University. The Commonwealth Tertiary Education Commission also surveyed Deans at Australian law schools who indicated that clinical development was not a high priority. Extraordinary staffing inadequacies caused many Deans to conclude that new resources should first be allocated to providing an adequate range of elective, academic subjects. It is time for a CLEPR-like cavalry to come charging around the billabong because clinically channeled funds are definitely needed.

The growth and development of simulation-based courses are afflicted by similar resource limitations. The Trial Practice and Advocacy Course at Monash, for example, is offered to twenty students once a year by Senior Lecturer Tim Pinos. My visit permitted doubling enrollment to forty and forty-five students applied for these positions. One of Tim's still unmet goals has been to find another Monash colleague interested in teaching the course so that it can be offered every semester.

The separation between teacher and practitioner in Australia is even more pronounced than it is here. Recruiting and retaining clinical faculty has been difficult partially because academic salaries compare poorly to what can be earned in practice. Simon Smith, Springvale's coordinator and a ten year clinical veteran, recently left to return to practice and the New South Wales program also lost staff to resignation and burnout.

Admission to practice in Australia follows a post-graduation period of either articles with a practicing lawyer for a year or a shorter training course. This course is mandatory in New South Wales, South Australia, Tasmania, and the Australian Capital Territory, and is an optional alternative to articles in Victoria and Queensland. These courses last six months and require students to attend full-time.

Meetings with the Directors of both the College of Law in Sydney, which serves New South Wales, and the Leo Cussen Institute in Melbourne, which handles Victoria, produced a surprising complaint that this was too short a time to accomplish their objectives. I then learned that their curriculums seek primarily to communicate information about substantive law, procedure, and the very technical aspects of office practice. Simulated case files are used but the instructional emphasis is focused almost exclusively on drafting documents, processing them properly, complying with local trust accounting rules, and the like. Using simulations to place students in role and interact with clients and each other is seldom done. Instruction in interviewing at the Leo Cussens Institute, for example, is provided by a requirement that students spend three mornings observing solicitors at the Legal Commission. Some, but many, opportunities to negotiate and advocate are provided in these curriculums but neither are emphasized to any substantial degree.

The proper balance between information dissemination [including the technical walk-throughs and form-filling exercises which are identified as simulations] and skill instruction [as we define it] in post-graduate legal education is under debate throughout the Commonwealth. The Australian approach now clearly chooses information dissemination. The programs in Victoria and New South Wales do not identify the development of a critical, self-reflective approach to effective task performance, honed by developing conceptual models and providing opportunities to practice them, as objectives of their curriculum.

The argument that skills instruction should be left to the post-graduate level, a variation of which many of us hear occasionally, is met in Australia, as here, by the response that it is not done there. This permits supporters of clinical education programs and simulation courses in law schools to contend that the University is the best place to develop and present the body of theory and learning relevant to counseling, negotiating, and advocacy. This scenario could lead to coherent coordination between the two levels even though collaboration between them now ranges from nonexistent to minimal. A notion that the introductory theory courses belong in the law school while post-graduate programs should be build on them by providing repetitive opportunities in different, important substantive areas that should be understood by beginning practitioners could emerge. On the other hand, a substantial commitment to skills instruction as we define it by the post-graduate courses could undermine future clinical growth in Australian law schools.

The most likely obstacle to either scenario emerging in the near future concerns the numbers of students involved and the cost of providing this educational opportunity at either level. The College of Law in Sydney, for example, offers its six month program twice a year to an average of 320 students each time. The Victoria program is offered once a year to 120 students while an estimate 300 more do articles each year. Making the course compulsory in Victoria is now under debate. All of this suggests that learning by doing down under will develop slowly and haphazardly at both levels depending upon resource allocations and the interests of the persons involved.

This preliminary and fluid state of clinical legal education in Australia offers several challenging opportunities for American clinicians interested in spending a sabbatical there. Although resource limitations undoubtedly will either constrain or prohibit significant reimbursement, clinicians with paid sabbaticals might consider writing Australian legal institutions to assess their willingness to support either research or additional clinical development. Vast opportunities to participate in clinical scholarship exist. Monash clinicians have done an excellent job starting the development of simulations, teaching materials, and literature about the lawyering process that fits Australian culture and practice but much more remains to be done. The first book on trial advocacy in Australia, for example, was published just before my visit and used as a text in Tim's course. Very little has been written developing, transposing, and refining models of effective task performance in the other skill areas we identify as clinical. If my experience was an accurate barometer, collaborations and contributions from Yanks will be welcome in this effort. A colleague from the University of Indiana at Indianapolis, Larrie Wilkins, was on a sabbatical at Monash during my visit. He arranged this by writing the Monash Dean and conducted an extensive empirical research project surveying negotiation attitudes among lawyers in Melbourne and Sydney.

Both Christopher Roper, the Director of the Law College in Sydney, and Frank Langely, the Director of the Leo Cussens Institute in Melbourne, expressed willingness to consider collaborations with American clinicians, so this could be another sabbatical possibility. The program in South Australia, directed by John Sloan, is developing more skills components and the door is open to new approaches elsewhere. The Law College in Sydney, for example, may soon bring a clinician from Warwick to help restructure their curriculum to add more skills training as we define it.

Teaching opportunities on a sabbatical leave may also exist although the potential for reimbursement will be constrained by the resource limitations mentioned earlier. Tim Pinos and Hank de Souvera, who teaches the Trial Practice course at the University of New South Wales, would probably welcome the opportunity to reach more students either by team-teaching a double enrollment or adding an additional section. Our colleague, Jim Klein of Toledo, will spend his sabbatical next year at the University of Western Australia in Perth to help teach their trial advocacy course.

Tim Pinos also has recently established a privately funded Visiting Professorship in Trial Advocacy which will employ someone for one month to assist in his course. This grant may be used to fund either an overseas visitor or a local member of the bench or bar. Tim is interested in hearing from American trial advocacy teachers who would consider this shorter term

possibility.

My five months in Melbourne lead me to recommend serious consideration and exploration of these possibilities. Visiting and working with clinical education in Australia was a marvelous experience and teaching skills there was great fun. Tim's Trial Practice and Advocacy course devoted equal coverage to pretrial and trial skill areas and ended with a complete trial presented to student jurors recruited from the first year Legal Process class. The emphasis on trial skills may have been excessive because virtually all students begin their careers working primarily as solicitors. Those who aspire to litigate as barristers receive instruction in Bar reader courses which, in Victoria at least, are starting to develop simulated, NITA-style approaches.

The impact of a solicitor-barrister distinction on notions of effective task performance intrigued me but we did not have time to develop it significantly. It certainly presents a challenging context for investigating collaborative lawyering. We did discuss how the difficult process of making accurate predictions about how issues will be resolved if litigated can be even harder when done by lawyers who never try cases and thus don't know local patterns and judges. We also critiqued the custom in Victoria which entitles a barrister to full fee upon receipt of a brief regardless of the amount of work performed. Our students discussed ways this practice affects planning and negotiation strategies and we concluded that the custom also impacts negatively on trial preparation.

All of our students were in their final or fifth year and this minimized any negative effect arising from the first degree nature of legal education in Australia. The predominately lecture approach used in Australian legal education did, however, cast a long shadow. Students started and remained nervous about public performance throughout the course despite our efforts to be supportive in our critiques. Although each student performed in class at least seven times, many never got past the stage fright that usually dissipates by mid-term in courses here. Most students also listed anxiety about public performance as the most troubling aspect of the course. Limited video resources [one camera and one monitor] hampered our ability to build confidence because we were not able to provide repetitive opportunities to attribute self-confidence by watching tape. Our students saw themselves only once.

The students worked hard and prepared diligently. Although our Midwestern accents [Iowa for me and Ontario for Tim] caught friendly flak, our students graciously refrained from commenting on the appropriateness of two North Americans teaching a course about practicing law in Australia. We bridged that gap by bringing in members of the profession to help us present discussion classes and critique student performances. A personal highlight was the opportunity to meet and work with two Justices of the Victoria Supreme Court, two County Court Judges, one of Melbourne's most noted Queen's Counsel, and four very able, dedicated solicitors.

Collaborative critiquing in this context produced interesting comparative insights. In one class where I had positively evaluated a student's use of the blackboard to diagram an accident scene during an opening statement, the County Judge with me dissented brusquely, saying: "You Yanks are so frightfully fond of demonstrative approaches." A later experience observing a portion of an examination in chief in Victoria'

Supreme Court, where the elegantly robed and bewigged barrister and his witness got hopelessly entangled with numbers, confusing everyone in the courtroom, then reinforced my now defensive view that demonstrative approaches would be useful in Australian practice.

Another memorable experience occurred from my inappropriate assumption that we share a common language with Australia. One student during a class discussion on how interventions when investigating facts may shape "truth" said in a very disgusted, emphatic way, "that's sus." Paraphrasing her remark later as a conclusion that my pointed "sucked" produced a shocked and horrified non-verbal response from the entire class. It dissipated into laughter only when Tim intervened and explained that "sus" is Australian ['Strine] for suspect.

This 'Strine tendency to chop off the ends of words coupled with a general avoidance of sentences longer than five words also rendered many parts of my demonstration teaching videotapes hilariously counterproductive. The result was a collaboratively written and produced tape on interviewing and counseling in 'Strine. The client-centered assumptions of this tape were then tested under fire in a robust, provocative and delightful debate when Tim and I showed it to a group of suburban solicitors in a CLE program. The opportunities for valuable involvement in continuing legal education in Australia, as here, are enormous.

In time, with luck and the hard work of the dedicated Australians in the field [plus a possible contribution or two from us notwithstanding the language barrier], learning by doing down under might rise to the level of another favorite 'Strine phrase, and indeed have, "no worries."

PUBLICATIONS BY CLINICIANS

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Morris, John K., "Power and Responsibility Among Lawyers and Clients: Comment on Ellmann's Lawyers and Clients", 34 UCLA L. REV. 781 (1987).

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consideration will require at least three years of professional experience in the public interest bar, legal services agencies, or other law related work in the public interest. Applications must be postmarked no later than April 11, 1988. For more information, contact: Charles H. Revson Legal Fellowship Program c/o Max E. and Filoman M. Greenberg Center for Legal Education and Urban Policy The City College of New York Shepard Hall - 25 Convent Avenue at 139th Street New York, NY 10031 (212) 690-5425

The University of Florida College of Law seeks an individual to supervise student practice and

teach lawyering skills in its Civil Clinic. The position is a twelve month, non-tenure accruing appointment at the rank of Lecturer, and does not permit teaching assignments outside the professional skills curriculum of the College of Law. Admission to practice in Florida and a minimum of three years experience in law practice involved in direct client representation is required. Salary will be commensurate with qualifications and experience. Send letter of application and resume postmarked by April 30, 1988, to Professor Don Peters, Chairman, Search Committee, University of Florida College of Law, 105G Bruton-Geer Hall, Gainesville, FL 32611.

1988 CLINICAL TEACHER'S CONFERENCE — MAY 21-26

Kandis Scott (Santa Clara), chair of the 1988 Clinical Teacher' Conference reports that the Conference has found a home: The University of Indiana Law School, Bloomington, Indiana. From May 21 through May 26, clinicians from around the country will be examining the Classroom Component of the Clinic, how to improve it, and how to teach better. To unify the examination of different teaching techniques, the participants will focus on the teaching of negotiation.

The typical format of the large group sessions will be a demonstration of teaching followed by a discussion and question and answer period with the presenter. Presenters will explain how and why they prepared and taught the class as they did. The entire group can question the presenter and offer suggestions and alternatives.

In addition to demonstrations of teaching techniques, there will be a look at variations in clinical group teaching and at some possible new topics for class.

In small groups each participant will teach a 20 minute class or a part of a class which will be critiqued by others. (The planning committee wants to discourage a demonstration of teaching substantive or procedural law because those topics are least useful to participants who are looking for ideas applicable to their own programs.) Those who prefer to bring a video tape of their actual teaching for critique should begin now to prepare tapes. Those who do not teach in a formal class setting should bring tapes of student supervision, small group sessions, or other work which they would like to have critiqued.

The planners have tried to allow enough unstructured time so that participants can talk with one another and reflect on their clinics and teaching away from the press of it all. However, there will be discussion groups in the evenings focusing on topics of interest to clinicians, such as funding, externships, use of computers in the clinic, and status issues.

The program will include the following large presentations: Role Playing, Discussions of Ethics and Values in Negotiation, Simulations, the Case-Focused Class (case rounds, etc.), and others. The presenters include Bob Burdick, John Elson, Roger Haydock, Wally Mlyniec, Rex Perschbacher, Ellen Scully, and Antoinette Sedilla-Lopez. Small group leaders include Richard Boswell, Noah Funderberg, Victor Goode, Ed Greenebaum, Jeff Hartje, Michele Hermann, Peter Hoffman, Jane Johnson, Carol Liebman, Al Moore, Nikki Russler, Kandis Scott, Kathy Sullivan, and Karen Tokarz. The banquet speaker will be Bea Moulton of Hastings.

The official announcements of the Conference will not be mailed by AALS for some time. However, Kandis Scott encourages people to make airline reservations now. The conference will begin in the late afternoon of May 21 and run until about 5:00 p.m. on May 26. Remember to start making your teaching demonstration tape!

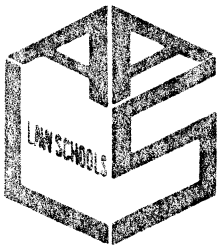
WHAT'S HAPPENING IN BLOOMINGTON?

Bloomington, Indiana, located 50 miles south of Indianapolis, is set among beautiful, rolling hills. The film "Breaking Away" was filmed in Bloomington and it is the home base for John Cougar Mellencamp. There are restaurants in town to suit everyone's taste. For night owls, there are several live music clubs.

Just east of Bloomington is Brown County State Park, which offers a variety of outdoor experiences, especially in the spring. Indianapolis is rapidly becoming a sports mecca, besides being the site of the Indianapolis 500. The small amount of free time built into the Conference can be spent profitably in and around Bloomington.

A REMINDER AND AN INVITATION

Any clinician interested in serving on one of the Section's committees should contact the chairperson of the committee directly. See page 4 of this NEWSLETTER for the names of the chairs.



ASSOCIATION OF AMERICAN LAW SCHOOLS

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February 16, 1988

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MEMORANDUM

TO: William W. Greenhalgh, Chair
Section on Clinical Legal Education

FROM: Betsy Levin, Executive Director ^{BL}

SUBJECT: Request from Section on Clinical Legal
Education to Use Dues Receipts for a
Meeting in Washington of Committee Chairs

At its meeting of February 5, 1988, the Executive Committee discussed the request of the Section on Clinical Legal Education for authority to use dues receipts to cover the travel expenses of its officers and chairs of committees for a meeting to be held in Washington at the National Office. The Executive Committee voted unanimously not to approve the request of the Section on Clinical Legal Education at this time. The Committee has asked me to convey to you some of the reasons for taking this action.

If the purpose of the meeting were to build bridges between the Section on Clinical Legal Education and the AALS office, it was agreed that this was an excellent idea and one that members of the Committee wholeheartedly endorsed. However, the Committee believed that there were probably other, better ways to do this than to pay the travel expenses of Section officers and committee chairs to meet in Washington.

As Executive Committee Regulation 12.6(f) indicates, the Executive Committee does not believe faculty should be reimbursed for travel. There was some concern that if some sections were allowed to raise dues for this purpose, it would treat unfairly other sections. Dues paid by members of a section should not be used for purposes other than the support of direct activities of the section as a whole. Some concern was expressed that members of the Section might not have known, at the time that they paid their dues, that the funds would be used to pay the travel expenses of its officers. The approval of a separate fee

structure outside of the general funds of the AALS was for such specific purposes as newsletters, surveys, bringing in non-law teacher speakers for the Annual Meeting section programs, and other purposes that went directly for the benefit of all members attending the meetings. Neither the Executive Committee nor the members of the Section contemplated that dues were to be used for the travel expenses of committee chairs.

Another important consideration was the difficulty of granting an ad hoc waiver for only one section. The Executive Committee -- through its newly-established Long-Range Planning Committee -- will be examining a number of questions, including the question of section dues. The Section on Clinical Legal Education is not the only section that collects dues. The question of what these dues receipts can be used for should be taken up not on an ad hoc basis but in a general review of what the AALS policy should be.

There was some discussion of the fact that the precedent you cited is more appropriate to the ABA, noting that the AALS employs other mechanisms. For example, the Committee on Sections and the Annual Meeting puts on a program at the Annual Meeting to which section chairs, chairs-elect, and other appropriate officers (as designated by the section chair) are invited. This provides the AALS with an opportunity to discuss with incoming officers most of the issues you raised in your proposal and that you covered in your ABA program. It was also pointed out that since the Section on Clinical Legal Education usually has a day-long program in advance of the regular Annual Meeting, an hour or two possibly could be found within that period for a meeting of committee chairs. I should note that occasionally other sections have had meetings of their executive committees outside of the Annual Meeting, but their law schools pay their way rather than the membership of the section.

Some members raised some questions about the structure of the Section on Clinical Legal Education, and what the function of the committees is that would require this extraordinary meeting. There was insufficient information to allow the Executive Committee to make a decision without understanding why a major planning meeting was required outside of the Annual Meeting or that could not be done by memoranda or phone calls. If this meeting was a one-time only meeting for a special purpose, more information would be needed. If it were a meeting for newly elected or appointed officers, that would or could be held every year, then some members believed an exception for one section should not be made until there was an opportunity to study the matter more generally.

Several members of the Executive Committee emphasized that despite the Committee's decision not to grant a waiver of the restrictions imposed on the use of dues receipts for the Section on Clinical Legal Education without considering whether all sections that raise dues should be permitted a waiver, it was very important to ensure continued and improved communications.

cc: Professor Richard Huber
Professor Herma Hill Kay
Steven R. Smith
Jane LaBarbera

BL/am
227.3

CLINICAL EDUCATION PROGRAM QUESTIONNAIRE

Name: _____ Phone: _____

Title: _____ School: _____

Address: _____

1. Do you have a clinical education program that utilizes volunteers from the community? Yes _____ No _____

2. Below is the name of a school and person to contact with an active volunteer clinical education program.

Name: _____ Phone: _____

School: _____ Address: _____

If you answered YES to Question #1, please complete the remaining questions.

3. How many volunteers do you have? _____

4. How do you find and recruit these volunteers? _____

5. Are they mostly retired people? Professionals? Please explain. _____

6. What kinds of exercises do you use volunteers for? _____

7. How do you prepare the volunteers for their roles? Do you give them scripts or fact sheets? Please explain. _____

8. Do you have a training program for the volunteers? If yes, please explain. _____

9. Do you have a Newsletter or anything similar for the volunteers? _____

10. How do you recognize or thank your volunteers? _____

THANK YOU FOR YOUR HELP. Please return _____ to: Marian Gilbert, UCLA Law School

405 Hilgard Los Angeles, CA 90024 (213)206-1193