SECTION ON

CLINICAL LEGAL EDUCATION

NEWSLETTER

SEPTEMBER 1987

Reply to: Sandy Ogilvy
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MESSAGE FROM THE CHAIR

By
Peter T. Hoffman, Nebraska

An important announcement before I get to the main body of what I want to say: The ABA Section on Legal Education and Admissions to the Bar is sponsoring a National Conference on Lawyer Competence, Professional Skills and Legal Education to be held at the University of New Mexico in Albuquerque on October 15-18. See elsewhere in this issue of the Newsletter for details. Announcements about attendance, accommodations, etc., have been sent to your deans so check with them if the information has not been passed on. The Conference is designed to be a major statement on the importance of clinical education and should be well worth attending. I hope we can have a large turnout from our ranks as well as from the traditional teaching community. Please do come.

Now to the main body. My last Message, where I wrote about the problem of declining enrollments, seems to have struck a responsive chord judging by the comments I have received from teachers with similar problems at their schools. I want now to take the analysis a step further and give my thoughts about what is necessary for the long term survival of clinical education.

Last time I mentioned that student interest is necessary for the success of clinical education. This is so obvious that it would seem almost not worth mentioning. But its importance is often ignored. Clinical education is expensive and in a time of stagnant or declining budgets, deans are looking for ways to cut expenses. Clinical education, which is usually thought of as an add-on and not a regular part of the curriculum, presents itself as a tempting area for reduction. The target becomes even more attractive if a clinic is operating at less than capacity. Then the barracudas on the faculty who see more "important" uses for the funds argue that the school can ill afford to support a program with such low student-teacher ratios and little student demand. Such arguments are often bogus, but you can see they appeal to a dean who has been ordered to cut the law school budget by five percent.

But the reverse of this is deans will think twice about cutting a program that is fully subscribed and with a waiting list of students who wish to take the course. Deans, by necessity, must be politicians serving a variety of constituencies, one of which is the student body. Not surprisingly, they are loath to take actions which will cause one of their constituencies to become upset. Cutting popular courses is one sure way of making a dean's life unpleasant.

ASSOCIATION OF AMERICAN LAW SCHOOLS/Suite 370, One Dupont Circle, Washington, D.C.

Student interest also results in alumni support when the students graduate. The alumni are an even more important constituency since alumni make donations. And, of course, a small percentage of alumni themselves become law school faculty members who, we hope, will continue to support clinical education. In short, the surest way to survival of clinical education is strong student interest in taking clinical courses.

But how do we insure that there will be strong student interest? Some of the problems were mentioned in the last Message, but the bottom line is students will take those courses which they see as being beneficial to them. What is beneficial varies widely from student to student and from school to school. For some it may be that the course covers a topic that will be on the bar examination, for others it might be the enjoyment derived from taking the course because of an interesting teacher or subject matter or it might be the prospect of an easy grade. While we hope we are the Mr. Chips whose students take the course because of our entertainment value, few of us have generated the sort of cult of personality which brings students in droves to our classes. We certainly do not have the advantage of many of our colleagues of having our course covered on the bar examnation. Which leaves us in the same boat as the teachers of jurisprudence and similar such courses. Unless...

The unless is we must have students perceive our courses as leading to success in their careers. This means that we need to be teaching skills. What skills we teach depends on our school and where our graduates are headed, but they must be skills that will be used in practice. I am using "skills" here in a broad sense; it may be skills analysis, the traditional skills of interviewing, counseling, etc., or whatever. But unless students see the course as useful to their later success as lawyers, we will end up with only those students who take us because of interest alone, the same as the thought courses.

I am not arguing that becoming like the thought courses is wrong, although I strongly believe the teaching of skills is a desirable pedagogical goal irrespective of student interest. But becoming a thought course will certainly make our job of survival more difficult. Nor am I arguing that we should not be teaching those things that we consider more important but are not perceived by the students as essential to their later success; for example professional responsibility or interpersonal relationships. We should continue to teach these, but they must be coupled with what is seen as important by the students.

All teachers take this route--UCC teachers teach not only what is contained in the Code, but also the theoretical considerations behind the Code. But if they limited themselves to the theory, their enrollment would decline to the level of those courses which do not improve the prospects of passing the bar.

Finally, some may be shocked by my cynicism and I would be too in a world where students took courses because of their intrinsic intellectual interest. But that is not the world in which we live nor, more importantly, the world which threatens our existence. We must continue to exist as a part of the curriculum if we are to teach anything. And that requires student demand.

If I am correct, the next question is what do we do about it. The answer is simple, but difficult of appliation. It means identifying what skills our schools' alumni deem essential to their practices and structuring our courses to provide for the teaching of these skills. This is a harder task than it may seem--it requires carefully identifying the skills required by our alumni and then the creation of experiences to teach those skills. In short, it requires planning rather than the haphazard creation of courses.

I am sure I will draw some heated disagreement with my thoughts, but I will have succeeded in my task if I have provoked you into thinking about what you are trying to accomplish through your courses and how this fits into the curricular needs of your schools. One of the reasons the term of a chair of the Section is limited to one year is so that you only have to hear so much of this stuff from any one person. I will be in Albuquerque on the 15th if you wish to personally express your displeasure to me. Hope to see you there.

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COMMITTEE REPORTS

1988 CLINICAL TEACHERS CONFERENCE

Kandis Scott (Santa Clara) chairperson of the 1988 Clinical Teachers Conference Planning Committee reports that planning for the 1988 Conference is proceeding. A five day conference in May, 1988, is being scheduled. The title for the conference is yet to be decided, however, the topic will be the clinical classroom component and its relationship to student supervision. The conference is being designed to appeal to the needs of all clinicians whether or not they presently are involved in the classroom component of a clinic. Participants at the conference will either teach or present a video tape of their teaching for discussion and critique. The teaching demonstrations will focus on the teaching of negotiation. Many more details will be available in the November issue of the Newsletter.

COMMITTEE ON ATTORNEY FEES

In 1985 the Committee on Attorney Fees surveyed clinicians to find out who was recovering attorney fees, how much they recovered, and what was being done with the fees. The information generated was used in preparing a committee report. Unfortunately only a small number of clinics responded to the initial survey.

Since the initial survey, interest in clinical recovery of attorney fees has grown substantially. In order to update the Committee's report and bolster its data base on clinical recovery of attorney fees, the Committee asks that you please take a few minutes and fill out the following survey. The Committee believes that this instrument is the efficient way of getting information from all clinical programs, but it will only work with your cooperation. Your responses will allow the Committee to better assist you with answers to your questions regarding attorney fees.

AMONG OURSELVES

- Nancy Daniels (Florida State) recently directed two week-long training conferences for the Florida Public Defenders Association.

- Joy Blumkin has joined Cornell Legal Aid after having practiced at Westchester Legal Services and Nassau-Suffolk Law Services. She also supervised in the Disability Law Clinic at Pace.

- Glenn Galbreath (Cornell) recently addressed the Kentucky State Human Rights Commission about housing issues, and gave a similar presentation to the Tompkins County, New York, Human Rights Commission.

- Bob Seibel (Cornell) reports that their clinic has been representing a farmer in a variety of substantive and procedural disputes with the Farmers Home Administration. Bob would like to hear from any clinicians who have been involved in representing farmers.

- Washington University School of Law's Clinical Education Program received the 1987 Emil Gumpert Award for Excellence in Teaching Trial Advocacy from the American College of Trial Lawyers. The award, which carries a grant of $25,000, was established in 1975 to honor exceptional lawyering skills programs in American and Canadian law schools. The prestigious award honors the late Emil Gumpert, the chancellor-founder of the American College of Trial Lawyers, an eminent trial lawyer, president of the California bar, and trial judge. The Clinical Education Program is directed by Karen Tokarz; Professors E. Thomas Sullivan, Roy Simon, Kenneth Chackes, Susan Carlson, and Merton Bernstein also teach in the program.

- The University of North Dakota has received a grant from the Legal Services Corporation to expand its legal aid services to an adjoining rural county that presently receives little service from the statewide legal services program because of the distance from the nearest regional office.

- William Mitchell College of Law is another recipient of a grant from the Legal Services Corporation. Ann Juergens at the William Mitchell Law Clinic reports that the funds will be used for the established Intensive Practice Family Law Clinic and to create a rural debtor-creditor clinic (see Job Announcements -ed.). Ann also wishes to solicit from other clinicians examples of literature used to inform prospective students about their clinical programs. William Mitchell is thinking about putting together a brochure, in conjunction with the Admissions Office and Public Relations Office, that describes clinical eduction, their clinical offerings and clinical instructors.

- Ronald W. Staudt (IIT Chicago-Kent) has just completed editing a book entitled A Handbook of Micro Applications for Lawyers, published by Dow Jones-Irwin. Ron is also on the faculty of the ABA National Institute on Personal Computers for Lawyers to be held in Chicago October 22-23 and November 5-6, 1987.

- Katherine Federle (Hawaii) has joined the Youth Development and Research Center at the University of Hawaii as a researcher. She will be conducting interdisciplinary research, writing amicus curiae briefs and developing legislation on youth-related issues. Kate now holds a dual appointment; she is half-time with

• the Center and half time as a tenure track professor at the law school, where she has created a new Juvenile Defense Clinic. The new clinic will be a year long, six credits per semester. Professor John Barkai has modified the Prosecution Clinic to be a one semester, four credit clinic. Now, students at Hawaii can select a clinic option based on their interests and on the time they want to devote to a clinical experience.

• Paul Reingold reports from Michigan that the Law School's faculty approved in May a committee report on the status of clincal faculty. The committee recommended "programmatic tenure" in the form of seven-year renewable contracts, offered after a 1-5 year probationary period. Shorter term appointments will be retained (1-3 year contracts, primarily for "soft" money teachers), but all clinicians will attend faculty meetings and serve on faculty committees. The short-timers will have the title (if not the salary) of Clinical Assistant Professors. Clinical faculty will not vote on tenured personnel decisions. Standards for long-term contracts will be worked out by a new Committee on Clinics during 1987-1988.

• Also from Michigan: The Environmental Law Clinic, directed by Mark Van Putten (who is also regional counsel for the National Wildlife Federation) is currently working on two major lawsuits. One involves a utility's discharge of dead fish into Lake Michigan a the huge Ludington pump-storage power facility; the second, scheduled for trial in D.C. in the fall, is an action to compel the EPA to control dioxin and fursans emissions throughout the United States. In the Michigan Clinical Law Program (the general practice civil/criminal clinic) Andrea Saltzman (visiting from the University of Illinois) is completing work on her textbook on law for social workers, to be published by Nelson-Hall next year. Clark Cunningham, late of Stark & Gordon and Michigan Legal Services in Detroit, will be joining the Clinic in September on a two-year appointment. In March, 1987, MCLP teacher Marty Geer and Director Paul Reingold had the pleasure of hitting the federal Bureau of Prisons for $230,000 in attorneys' fees under the Equal Access to Justice Act in a suit challenging the Youth Corrections Act. Assuming the fee award survives appeal, it will go to Legal Services of Southeastern Michigan and the National Center for Youth Law. Suellyn Scarnecchia joined the faculty of the Child Advocacy Law Clinic in July. Sam Gross, currently at Stanford, has been hired as a tenure-tracked "quasi-clinician." (Paul promised more on this later, after they figure out what it means.)

• Rod Jones (formerly Dean of Monterray Law School) is visiting at Santa Clara.

• Jeff Hartje has moved from Gonzaga to Denver.

• Joe Harbaugh (American) has become the dean at Richmond.

• Roger S. Haydock (William Mitchell) spoke to the ABA Section of Legal Education and Admissions to the Bar at the 1987 Annual Meeting in San Francisco. His topic was Legal Education: On Course or Not? -- A View From the Law School Front Lines.

•David C. Cummins at Texas Tech School of Law reports that students at the school in Lubbock have created a clinic to provide legal services to the indigent. The project, called Volunteer Law Students and Lawyers, Inc. will open in September. Second- and third-year law students will work with volunteer licensed attorneys in three-person teams to deliver the services.

•Patricia A. Siuta (Hamline) is moving to Georgia State to direct the Lawyering Skills Development program there.

•Dean Hill Rivkin (Tennessee) was awarded the National First Amendment Award by the Society of Professional Journalists.

•David Binder (UCLA) was a member of the faculty of the third session of the China Center for American Law Study held at Peking University in July.

•John Capowski (Maryland) is moving to Pace.

•Leonard Riskin (Missouri-Columbia) was among the workshop faculty at a conference sponsored by St. Louis University School of Law, May 29-30, entitled, Dispute Resolution: Legal, Ethical and Philosophical Issues.

•Bob Dinerstein (American) traveled to Chile in the week before classes began at American as a member of the International Human Rights Law Group to study the possibility of free elections in that country.

•Nancy Cook (American) taught at American University's program in China this past summer.

•Elliott Milstein (American) is planning a conference on Clinical Education in the Americas for spring of 1988. He has met with legal educators from Argentina, Chile and other South American countries. The conference, for which he is presently seeking funding, to be co-hosted by American University, Catholic University, and the University of Diego Portales, will be held in Buenos Aires.

•Nancy Palokoff, formerly of the Women's Legal Defense Fund in Washington, D.C., has joined the faculty of American University's Public Interest Law Clinic.

EXTERNSHIPS

TALK BY JOHN ELSON (NORTHWESTERN) ON THE PROS AND CONS OF EXTERNSHIPS AT THE MIDWESTERN CLINICAL TEACHERS CONFERENCE, APRIL 11, 1987

After hearing Vivian's (Gross) description of her excellent externship program at Kent, I feel like condemning those who conceived the overly simplistic, point-counterpoint debate format that was planned for this morning's session on externships. I will resist that impulse, however, since some here will be only too quick to point out that not only am I a member of the planning committee that thought up that format, but I actually volunteered to present the case against externships. Reflection on the subject of my talk, however, has clarified several points for me that were not entirely clear when I so intemperately volunteered for the deconstructive role: first, that the question of the proper role of externships in law schools admits of no easy or clear-cut answers; second, that this question is inherently intensely political; and third, that the question fills me with cognitive dissonance.

On the one hand, as a person whose career for the last 16 years has been in in-house clinics, I am acutely aware of the practical threat of externships to my career interests and to those of clinicians at the many schools where live client clinics are not so firmly entrenched. This threat is on two fronts.

First, externships are very cheap; at the cost of one part-time faculty supervisor, a school can supply a substantial number of course credits - in some schools around 20% of graduation requirements.

Second, externships may result in a significant decline in student interest in in-house clinical programs. There are several possible reasons for this:

a. externships may help in the search for jobs;

b. students may gain experience in career-related areas of law practice not covered in the in-house program;

c. externships may be less demanding of student time than in-house programs;

d. academically marginal students may believe that ungraded externships will reduce their risk of failure; and

e. students may gain from the externship environment a sense of reality and independence that can't be duplcated in law schools, including in in-house clinics.

On the other hand, to reject externships outright because of the practical threat they represent would betray one of my fundamental educational beliefs that is the basis for my enthusiasm for clinical education; that is my belief that professional competence as a lawyer requires experiential learning and that by third year, students have far more to gain through immersion in practice than through more doctrinal analysis in classrooms.

I can resolve this disturbing dissonance easily enough, however, simply by concluding that while externships go part of the way in anchoring learning in experience, they cannot go as far as in-house clinics because, as professional educators, we can first assure that the bulk of the experiences students have in practice will be educationally productive and, second, we can enable them to become better practitioners and better self-learners from their own practical experience in the future. It, of course, naturally follows that law schools should strive both to have large in-house clinical programs and to support handsomely the in-house clinicians working in those programs.

Unfortunately, it's not that simple. In-house clinics' claims for superiority are not empirically supported and are not self-evident. We in-house clinicians feel that we are doing a better job than externships and we have some intuitively strong reasons to support that feeling as well as supportive feedback from many of our students; but, I wouldn't want to have to prove that the results of our efforts are clearly superior to the externships in order to justify my salary.

I think part of the difficulty in mounting an objective case for the superiority of in-house clinics is that we are only beginning to develop and publicize replicable methodologies that can first assure that our students' practice experiences are the type that promote the development of needed practice competencies and second and most important, that can assure that our students draw the right competency-building lessons from those experiences.

However, even if such clinical teaching methodologies were clearly elaborated and widely accepted, it would be hard to conclude that in-house clinics are necessarily superior. One reason is that in my experience of clinicians and of educators generally, natural or spontaneous teaching abilities and a love for teaching explain the success of the best teachhers; and those qualities can be found among practitioners perhaps as frequently as among law school teachers.

Essentially, what I am saying is that in-house clinicians cannot take for granted that their programs are pedagogically innately superior to externship programs and that we continually must strive to demonstrate what it is that we do better than the pure practitioners to whom law students are apprenticed.

To recognize that excellent teachers and profound learning experiences can often be found for our students in the pure world of practice, however, should not obscure the fact that in-house clinical programs have certain distinct educational advantages over extern programs.

First, as teachers whose first loyalty is to our students, in-house clinical faculty can avoid one of the primary threats of "unrestrained externism," that of exploitation of students for the practical goals of the field placement. Granted that "exploitive" may be too harsh a word to describe the average student-field placement relationship, in-house clinics nevertheless have the clear advantage of being able to assure that our students' learning, being the reason for our existence, is placed ahead of the other goals of an institution. Most important, in this regard we can maximize student responsibility in client representation. Because our clients give informed consent to the role our students play in their behalfs, our students can play roles unthinkable where clients or government superiors require their attorneys to appear to give the best efforts their law offices are capable of giving.

Second, although I can make no empirical claims and despite my foregoing caution, I do in fact believe that clinicians, because their primary focus is their students' education, because they are continually becoming more experienced at teaching through experiential learning, because they are paid to succeed at such teaching and because they (we) are innately sensitive and beneficient people, are in fact on the average better at teaching students from experience than pure practitioners.

On the other hand again, granted that on the average we may be better teachers and that we can avoid the major pitfalls of many externship programs, we should also recognize the educational goals that in-house clinics cannot provide as well as can externships:

a. we cannot very well teach the economics or practicalities of survival of private law parctice either on a macro office level or on a micro case decision-making level, especially, in the latter regard, how a lawyer goes about preparing or trying a case where there is not time and money to go by the book, to do it the NITA way, or to plan for all contingencies and rationalize all of the options through sophisticated risk analysis techniques;

b. we cannot teach what a law office is like where colleagues are in perpetual tension or competition over such matters as promotions, division of profits and preferred clients;

c. we cannot teach what it is like to work for a superior who cares first and foremost about results and is not particularly sensitive about why he or she doesn't get them; and,

d. we cannot teach what it feels like to work where the client and employer expect a dollars worth of work for a dollars worth of pay.

My conclusion from all of this is first, that externships and in-house clinics both have certain distinct advantages and disadvantages; as academics and keepers of the standards of legal education and as believers in the values of experiential learning, it is our task to maximize the advantages of each and minimize the disadvantages.

Second, I would note as a practical matter at many schools, there is no option; either externships provide the only opportunities available for supervised experiential learning or in-house clinics are so small that the student pressure for such learning requires externships. Further, Tony Amsterdam admonished clinicians at the clinical teachers' conference in Boulder a year ago that faculty supervision of students' clinical experiences is extremely expensive and is becoming and will continue to become an increasingly scarce resource which clinicians must learn to husband more carefully. Perhaps, one way to minimize this scarce resource would be to develop new ways to integrate the best that externships have to offer into a school's total clinical program.

Given that externships have a useful role and at many schools a necessary one, the question becomes whether there are ways to design externships to avoid the aforesaid disadvantages and maximize their unique advantages. This brings us to the question of the documents we distributed to you earlier, the interpretations of ABA Standard 306 and the guidelines on the review of professional skills programs that are given to the ABA site evaluation teams. These documents

were recently subjected to heavy cirticism by extern program proponents at the Clinical Teachers Conference at San Antonio. (There is an AALS Clinical Section Committee headed by Janet Motley of Cal. Western studying the general question of extern program regulation and I'm sure she would appreciate hearing your suggestions in that regard.)

My biggest problem with these documents is that by elaborating in great detail on all of the factors that would be well to consider in designing the best extern program, the guidelines detract from focusing on the critical issue of the identifiction of the vital prerequisites of a worthwhile extern program. Issues deemed important in the guidelines, such as the methods of faculty approval of externships, the secretarial services given students by the field placement, the availability of a manual of field placement's office procedures, and the articulation and individualization of learning goals for each student by the field placement are significant considerations, but they do not constitute the necessary foundation for a worthwhile externship.

What the interpretations and guidelines must do, and in this they must be led by clinicians, is to develop priorities that specify what is essential for an adequate program, and not what should be considered in developing the ideal program.

In deciding what is essential I think we should concentrate on assuring that two fairly obvious ingredients of effective clinical education are met by any extern program: first, that the nature of the work the students will do in the externship is such that they have an opportunity to test their own capabilities in performing skills that are important to the building of legal competence; and, second, that field supervisors give students guidance that will help them learn from their experiences what they did wrong, what they did right and what they must do better in the future.

In regard to the first essential of assuring that students get the proper type of fieldwork experience, it would be clearly a mistake to specify in guidelines what the substance of the student work must be, although it would be my strong feeling that it should be something other than purely legal research and memo writing, which are the staples of law school education.

Instead, what the guidelines and standards should focus on is the adoption of procedures by law schools to assure that the nature of the student work is discussed and clarified at the outset and that such work is actually performed during the course of the externship. To accomplish this, a school's externship program should have at least three elements: first, a contract with the extern supervisor specifying in detail what the student will be doing during the externship; second, a system by which both the field supervisor and student report in writing whether the student is in fact doing the work agreed to at the outset; and third, law school faculty who have the time, experience and inclination to monitor the externships in order to assure that students are getting useful learning experiences.

The problem of assuring the second essential of an adequate externship, that students are getting the type of supervision that will help then learn appropriate lessons from their experiences, is more difficult to address. Probably the most important ingredient here is in choosing field supervisors who are willing to take the time and who have the teaching ability and inclination to analyze the

students' experiences and reflect with them on what was good and bad and how the job could be done better in the future. Again, this requires that law schools supply a faculty director of externships who has the time and experience to select appropriate supervisors.

Requiring field supervisors to submit forms detailing their educational discussions with students is probably futile and counter-productive to obtaining good field supervisors, who naturally are more interested in lawyering and teaching than in reporting about their lawyering and teaching.

One promising way to promote learning from field experience is to require students to submit structured journals in which they both report on what they have done and reflect upon the lessons to be learned from what they ahve done. Some of the important questions to be addressed in such journals could be: first, what their experiences were; second, what preparation they did and what alternatives they considered; third, what their own evaluation of the strengths and weaknesses of the performance is ; fourth, how they evaluate the strengths and weaknesses of the performance on the case of the various attorneys involved, including their field supervisor; fifth, what critique their field supervisor gave them and how accurate they think it is; and sixth and finally, what competencies they need to improve upon and how they think they should go about such improvement.

Clearly, the process of writing such a journal, if given serious attention, can be productive of much learning. But, in order to assure that it is given serious attention and in order to help students draw appropriate lessons from their experiences, the school must give an experienced faculty member the time to review and discuss the journals. This is a significant commitment of time, but it is still a lot cheaper than staffing an in-house clinic.

Finally, I'll say a brief word about my ideal externship program. It would combine two components. First, the field work of all of the students would be in a single area of law practice, such as employment discrimination, criminal practice, special education or rate regulations to name a few examples. Second, there would be a regular class component that would focus on three subjects:

first, after sharing some introductory didactic information about law and practice in the field, the class would discuss the alternative ways of approaching the most challenging problems raised in the field;

second, the students and faculty would critique the field work that was actually done by fellow students and jointly try to come up with alternative, better solutions; and

third, the class would discuss how their experiences in the field relate, on the other hand, to broader social questions of justice, equality and the particular ethical responsibilities of attorneys, and, on the other hand, to their perception of what they would like to become as practicing lawyers in terms of their job satisfaction, their social commitments, and their preferred life styles.

After talking with externship supervisors at several schools, I have developed the strong feeling that classroom components of externships in which the students are engaged in very disparate types of practice have not been successful and have usually been abandoned fairly quickly. Hopefully, by bringing together students who have some common base of doctrinal and practical knowledge, the class discussion of the lessons of the field experiences would be a far higher level of sophistication. Class discussion also should be more interesting for the students both because it would be immediately useful in their field work and would engage them in analysis rooted in their own experiences. Were I not a true believer in the superiority of the in-house clinic, I think I would even consider supervising such an externship.

Finally, in closing, I think it is now clear that I have considerably strayed from my assigned role in the point-counter-point debate over externships that the conference planning committee originally and naively envisioned. I hope, however, that I have not let them, and me, down too much by failing to resist strongly enough the in-road of externships on the purity of the in-house clinical model. I should note in that regard, that in your answers to our conference questionnaires, no one reported that externships were actually threatening the viability of their in-house programs; indeed, several respondents said that their in-house clinics were being helped by their schools' externship programs. Whether or not externships are anything more than a theoretical threat to in-house clinics, I'll count myself a strong believer in the educational superiority of the in-house clinic. Perhaps, in our small groups, however, we can do what I have failed to do: that is come up with a vision of clinical education that can combine the strengths and eliminate the weakneses of both the in-house and externship models of clinical education.

OF INTEREST TO CLINICIANS

•At the annual meeting in Los Angeles in January, Roy Simon (Washington University, St. Louis) "volunteered" to act as Clinical Section archivist. He asks that any section member with Section memorabilia or information contact him. He especially would like to find a complete set of past Newsletters. There is no need to send anything to him at this time, just call him if you have access to information that should be preserved by the Section Archivist. Roy can be reached at (314) 889-6411.

•At the ABA Annual Meeting in San Francisco, a delegation from the Executive Committee of the Section met with the new chair and representatives of the ABA Section on Legal Education to lobby for increased involvement of clinical

teachers in the ABA. The Clinical Section members urged appointment of increased numbers of clinicians to ABA accreditation inspection teams and the appointment of clinicians to the ABA Section's committees. As a result of the meeting, Rosalie Wahl, Chair of the ABA Section on Legal Education and Admission to the Bar, asked the Clinical Section to submit to her the names of clinicians interested in committee assignments. Any clinicaian who is an ABA member of the Section on Legal Education, and who wishes to be considered for a committee assignment within the Section should contact the Clinical Section Chair, Peter Hoffman, at Nebraska so that he may pass your name along to the Chair of the ABA Section.

Clinicians who have avoided becoming ABA members because of the expense involved might want to explore the possibility of becoming members through the new Law School Faculty Group Program. If your school becomes a member of the Group Program, all full-time law school faculty are eligible to become members of the ABA at no additional fee. The fees paid by the school includes the dues for Legal Education Section membership. The group membership fee will also provide the law school a subscription to ABA/net, the electronic communications network developed by the ABA for lawyers.

The ABA Section on Legal Education has tentatively agreed to co-sponsor with our Section a half-day session at the AALS annual meeting to train people who want to serve on accreditation inspection teams on how to evaluate skills training programs. John Elston (Northwestern) has agreed to coordinate the session for our Section.

The ABA Section on Legal Education will be holding a National Conference on Professional Skills and Legal Education in Albuquerque, October 15-18. The conference is co-chaired by Roy Stuckey (South Carolina) and Kathy Grove of the ABA. The primary goal of the Conference is to provide a forum for law schools to share detailed information about their professional skills instruction programs and for faculty members and members of the bar to develop an understanding of current trends and evolving norms in professional skills education. In addition to descriptive information about courses and programs, participants will learn about methods of problem-solving and creative solutions which some schools have used to overcome obstacles to professional skills instruction. If you have mislaid your registration materials, contact Kathleen S. Grove, Esq., Assistant Consultant on Legal Education, American Bar Association, Indiana University School of Law - Indianapolis, 735 W. New York St., Indianapolis, Indiana, 46202.

The ABA's Standing Committee on Dispute Resolution seeks law students to work as legal interns in the Washington, D.C. office. The law students assist in the Resource Center, analyze legislation, research law and policy issues, and perform a variety of other tasks. All of the positions are unpaid. For more information contact Larry Freedman, staff attorney at (202) 331-2258.

Neil Gold, Director of the newly established Commonwealth Institute for Legal Education and Training at the University of Windsor, Windsor, Ontario, Canada, seeks input from non-Commonwealth members in the work of the Institute. Their first project, a publication contaning state of the art materials on teaching

legal skills, is currently in production. Other possible work of the Commonwealth Institute is detailed in a document entitled "Taking Skills Seriously: A Research Prospectus." Anyone interested in receiving a copy of the Research Prospectus or discussing the work of the Institute may want to contact Neil at the Faculty of Law, University of Windsor, Windsor, Ontario, Canada, N9B 3P4. (519) 253-4232.

FUNDING CLINICS

It seems that, at most schools, clinical programs have historically been underfunded or are the first courses to suffer cutbacks when tuition or state funding recedes. Some programs are allowed to exist only if they can generate their own funding. Since many of many of us are continuously seeking ways to keep clinics operating or to expand existing clinics to meet the needs of students for clinical experience, we will try to use this space to share with each other the wide variety of methods by which we fund our clinical programs.

The inaugural article in this series was written by Kate Mahern at Thurgood Marshall School of Law, Texas Southern University. In it she describes something of the pleasures and travails of funding a clinical program through small yearly grants.

FUNDING CLINICS WITH GRANTS

The Elderly Law Clinic at Thurood Marshall School of Law receives all its funding from grants. The Clinic was initially funded by a two-year grant from the Legal Services Corporation. This grant provided for a full-time, adjunct professor, but little else. We were able to supplement the LSC grant in the first year with a smaller grant from the local Area Agency on Aging using Older American Act funds. At the end of the first year of the LSC grant, I began looking for additional funding. The Clinic has two components, one is legal education for senior citizens, and the second is legal representation of low-income senior citizens. When I began my investigation of funding sources, I had several avenues to explore: those foundations or agencies that funded programs for the elderly, those funding education, and those funding legal representation to the poor. Other avenues exist for funding that I have not yet investigated, such as funding for legal education. Since Thurgood Marshall is a historically Black law school, there is possible funding for the program as it addresses the educational needs of minorities.

In addition to seeking refunding from the Office on Aging and the Legal Services Corpration, I sought funding from the Texas Bar Foundation and the Equal Access to Justice Foundation (the foundation that distributes funds from interest on lawyers' trust accounts - IOLTA). I have received grants on two of the four proposals; on the third proposal I was asked to resubmit the proposal on a narrower aspect of the Clinic; and on the fourth proposal a grant was denied on a technicality, which will be remedied in next year's proposal. During the upcoming year I plan to write grant proposals to each organization mentioned above as well as seeking funding from the Houston Bar Foundation and from foundations funding programs that assist specifically targeted groups such as the handicapped, institutionalized, homebound, or for those suffering from specific diseases such as cancer or Ahlzeimers disease. The more grants I write, the more ideas I develop for the Clinic and how it operates.

When I began writing grants, I used the grant proposal that initially funded the Clinic as my basic resource. Unfortunately, every foundation and agency has different requirements, so it is nearly impossible to write one grant and use it for several grant requests. Once I receive the grant application I review it very carefully to see if there are any clues as to what they are looking for in a grant recipient. It is usually easy enough to find out the names of past recipients, how much was given, and what the money was used for.

From the Texas Bar Foundation I obtained a list of every grant given since its inception, what the money was used for, and how much was given. Reviewing this list I saw that every law school in the state had at one time or another received a grant from this foundation except for Thurgood Marshall, which, to my knowledge had not previously asked for one. This, I felt would work to our advantage. I also saw that their average grant was for an amount considerably less than what I had anticipated asking for, therefore, I revised my figures downward. This particular foundation had funded numerous continuing legal education events, as well as, public education, but had never funded programs for direct legal representation. I knew there were two ways to approach this foundation - ask for funding for public education, for which there was a history, or propose funding for direct representation and hope that a new and creative use of grant monies would catch their attention. I decided to take a chance and seek funding for direct representation. Unfortunately, I was wrong this time but in the rejection letter the foundation requested that we submit a proposal for the public education portion of the Clinic. Since the foundation asked for a second proposal to be submitted, I assume that our chances for future funding are good.

There is, of course, a down side to grant writing. Generally, notices of available grants are received only a few weeks before the submittal deadline and usually, if a grant proposal is not postmarked or received by the deadline, it is not accepted. This means clearing time on your schedule to finish writing the proposal well in advance of the deadline, because chances are that it will have to be signed off by the Dean, a fiscal officer, and possibly the University president. Getting these signatures could take several days. Applications for grants always seem to come at the most inconvenient time. In may case, the application for two grants arrived at my office only a few days after I had delivered my second child, and were due within three weeks. I had not planned to be in the office for at least eight weeks, but I found myself there with my newborn for several days, trying desperately to work to the tune of a wailing infant, and expecting the secretary to type as fast I wrote and rewrote the proposal. As the deadline on the second proposal drew near my two-year old became ill and I brought him and the newborn to work to finish up the proposal. It was probably the worse day in my life. As my colleague, Sandy Ogilvy, drove off to the post office to mail the proposal, I knew in my heart that I had submitted inferior proposals and that I might as well begin clearing out my desk. To my total suprise the Clinic received grants from both proposals and I immediately began formulating ideas for my next grant proposal.

Now it may seem that writing proposals can consume so much of one's time that there is little time left to be a clinician. I will admit that writing grant proposals has become a mild addiction for me. It allows for creative programing since there is generally less administrative interference in clinics operating with non-university funds. We have received a grant to expand the Clinic by adding a part-time staff attorney. This will free up some of my time to write proposals while ensuring a high quality clinical experience to students. As time goes on, grant writing becomes easier and less time is spent on each successive proposal.

I didn't relish the idea of grant writing when I came on at the Clinic, but necessity, along with prodding from Sandy Ogilvy, enabled me to overcome my hesitancy and fear of grant writing. Now I look forward to finding grants to fund the Clinic and to fund some pet programs. And I derive a sense of accomplishment when I open the grant award letter, knowing that his Clinic will be able to continue, at least for a while.

ESSAY

STUDYING MUSIC, LEARNING LAW: A MUSICAL PERSPECTIVE ON CLINICAL LEGAL EDUCATION

By Alfred C. Aman, Jr.

(These remarks made at a Cornell alumni luncheon held on April 15, 1986, at the Plaza Hotel in Rochester, New York; they were reprinted in the Cornell Law Forum (February 1987) and are reprinted here through the permission of the Cornell Law Forum and Professor Aman.)

I want to talk about an important issue in legal education today: the role of clinical education in the law school curriculum. I hope to shed some light on that issue by looking at another professional school model - not the medical school model, which is the usual approach, but the music school model. I want to reflect on my experiences as a student at the Eastman School of Music and my recent conversations with Robert Freeman, the director of the Eastman School, and members of the Eastman faculty. In so doing, I want to suggest some parallels between musical and legal education that may enable us to see clinical legal education in a different light.

The Clinical-Theoretical Debate

Any discussion of clinical legal education today inevitably generates questions that go to the very heart of what we are about. Just what is law school? Are we interested primarily in legal theory and techniques, or should we be responsible for the practical application of those theories and techniques? If our curriculum does include a clinical component, does it further a broad-based liberal arts approach to legal education or does it undercut it? Moreover, how should we treat the clinicians themselves? Should they have tenure? Should we expect them to write the kinds of theoretical articles that are traditionally the bill of fare of law reviews, or should their work be more pragmatic? Indeed, if clinical teachers are carrying a substantial caseload, should they be

expected to write in a genre other than the legal briefs and memorandums that any busy law practce generates? Do they need additional time to reflect on, and then write about, their practical experiences? Perhaps clinicians are and should be different from traditional law professors. Is it perhaps the difference in their pedagogical approaches to law that adds strength to a law school curriculum, not their similarities to "traditional teachers"?

The nature and overall cost of clinical education raise important issues of resource allocation as well. Clinical teaching takes a great deal of time and effort. It is labor intensive and does not lend itself easily to the paper-chase model of legal education - one professor teaching 150 to 200 "terrified" students. Clinical teaching is expensive not only from an institutional point of view but from a personal point of view as well. Because it is time-consuming, it limits the instructor's opportunity to be a reflective scholar.

From the student perspective clinical education fuels a different controversy. There is, in the view of many students and faculty alike, something called "third-year malaise." Our students learn how to play the Socratic game well in the first year. Thereafter they want a change; they want to begin to apply their skills in new and challenging ways. Thier level of motivation rises considerably when at last they can perform in professional contexts. Many students find that there are a number of factors relevant to success in law practice that a blue-book examination cannot test. Students who have been apathetic about law school often come alive in a clinical setting.

Those different perspectives on clinical legal education have generated a lively debate among professors in the law school world. Those who emphasize the graduate school aspects of legal education may fear that clinical programs might undermine the liberal arts basis of the curriculum, while those who emphasize the

professional school aspect of law argue that we have an obligation to expose students to the kinds of skills they will need to be effective lawyers. While most faculty members believe that graduate and professional school goals are not mutually exclusive, issues concerning the form, content, and extent of clinical courses in the law school curriculum continue to raise important differences of opinion that are often difficult to resolve.

The Musical Model

To help gain insight into clinical legal education, legal educators have often looked to medical schools for guidance. I think that is because medical schools employ the clinical method of teaching so effectively. But aside from that, law as a subject and medicine as a subject have little in common. Law is grounded largely in the humanities, medicine in the sciences. I do not doubt that there is much to be learned from the medical school model,[1] but I propose to posit a different model or, perhaps, a different simile. Legal education is more like musical education than medical education, and the professional music conservatory can be a source of insight into the ongoing debates surrounding clinical legal education.

Music is tied closely to the humanities and, perhaps more than nonmusicians might think, requires not only musical talent but a high degree of analytical and intellectual ability. Understanding the sturcture of music, its historical roots, and its creative possibilities has many similarities to studying law. Moreover, though this is neither the time nor the place to argue this point, I will nonetheless assert that just as it may come as a surprise to nonmusicians to realize how much of an intellectual structure exists in music, it may be equally surprising to some to realize that there is more emotion involved in law than might first meet the eye. I am not talking about the kind of emotion that a masterful trial lawyer can arouse as he or she succeeds in moving a jury to tears on behalf of

a client. I am talking about the kind of sensitivity, feeling, and intuition that goes into what we call legal creativity. How does a lawyer decide which strategy to follow or how best to present a particular kind of case to certain judges? Just as none of us is born full grown, legal disputes, especially those on the frontiers of the law, rarely present themselves in a tidy fashion, ready to fit snugly into some pre-existing legal pigeonhole. Creativity and judgment as well as technique come into play as a first-class lawyer goes about his or her tasks.

One of the insights that I took away from my recent conversations with members of the composition department at the Eastman School was that they recognize not only the importance of technique, but the need they have as educators to foster, to encourage, and yes, even to teach creativity and its handmaiden, judgment. I think that same need to foster, encourage, and teach creativity exists in the law school setting as well. To explain that statement, let me make my comparisons between legal and musical education more specific. In the process I must be a bit autobiographical.

As an undergraduate at the University of Rochester, I spent a good deal of time at the Eastman School of Music. I was not a music major, but the study of music was one of my primary interests. Long before entering college, I began studying drums, piano, and arranging. I toyed with the idea of pursuing a music career, and that, among other reasons, was why I never considered going anywhere but to the University of Rochester. The Eastman School opened up a world that existed no place else, and gave me a chance to pursue the aspects of music I cared most about - jazz, percussion, and arranging. When I finally decided (much to the relief of my parents) to go to law school, it may have seemed like a dramatic shift in intellectual focus and one that would take me in a very different educational direction. It was not. And to the extent anyone can be intellectually prepared for the rigors of law school, I believe that I was. What any serious

musician learns early on is the value of technique, the need to master your instrument. That does not happen overnight. As John Gardner has said, "Mastery is not something that strikes in an instant, like a thunderbolt, it is a gathering power that moves through time, like weather."[2] It takes years of intense work - scales, arpeggios, and exercises. No one expects that kind of playing to be music. It is as unappealing to listen to as a jackhammer, but it is necessary for a true command of one's instrument. Of course feeling and musicality are what all serious players strive for, but know that without at least a modicum of technique they are doomed to waste their finest feelings on the wrong notes. Discipline, mastery of one's instrument, and a knowledge of the effort that goes into a first-rate musical performance precede the ability to perform and create with the facility of a real artist.

For me much of law school, the first year in particular, was very similar to music school. We were learning techniques - the technique of reading a case and the technique of reading statutes and engaging in legal reasoning and legal discourse. Classrooms were just big practice rooms where we could learn our analytical skills and to read much more carefully than ever before. I was not necessarily looking for great moral or political revelations, not because I did not think they were important, but because I was, to use the musicians' vernacular, developing my "chops."

But though every music student knows that technique is but a means to a creative end, there is a tendency in the law school setting for students, usually unconsciously, to begin to treat technique as an end in itself. It is difficult to have the imagination necessary to convert the classroom hypotheticals and cases - the scales and exercises - into actual performances. Moreover, there is a tendency for students to take on the role of senior partner - or law professor -

when confronted with classroom exercises. They can easily become too detached and critical, pointing out what this or that court did wrong or why this argument or that argument won't fly. Much of our analytical technique building is based on the ability to be critical and to spot the flaws in one's own argument. That is all well and good, but it can have a tendency to inhibit constructive creativity - the ability to posit one's own solutions to a problem. I sometimes think that we do a better job of training law students to play the role of the senior partner than preparing them to be the laboring oars that most young lawyers will have to be. By "laboring oars" I do not mean they will be engaged solely in the mundane tasks of lawyering, but the creative ones as well. And those require a constructive legal approach and creative, positive energy if they are to succeed.

The ability to create takes imagination, and the ability to choose among various approaches requires judgment. Can one teach creativity? Can one teach judgment? I believe so. And it is in achieving those pedagogical goals that clinical education combined with a first-rate technical and theoretical education can be of enormous value. To explain how those crucial skills - creativity and judgment - can be fostered in a clinical setting, let me describe a class I took at the Eastman School nearly twenty years ago. As a law teacher, I have often reflected on that class, and I continue to draw on it as a source of pedagogical inspiration.

The course, taught by Ray Wright and Manny Albam, involved Jazz arranging and composition. Our goal was to write and arrange music for various-sized groups - small combos, big bands, and big bands supplemented by string sections and orchestral sounds such as french horns and oboes. The course lasted three weeks, and it culminated in a concert at Eastman Theater called the Arranger's Holiday Concert. Everyone involved in the course, including our teachers, Ray and Manny, wrote for that show.

Our classes consisted of analysis of famous arrangers - their styles and their use of the band, orchestra, or combo. The focus of the course, however, was our own arrangements. They were played by a first-rate band almost as soon as we finished them (and sometimes, it seemed, before). Classes were then devoted to an analysis of what each of us had done. We listened to the tapes with our scores spread out before us. Ray and Manny would stop the tapes to comment on both the good and bad aspects of an arrangement. They were critical and constructive. They taught us not only what and how something seemed to work, but, more importantly, they taught us how to learn from our mistakes. That is the beginning of wisdom. Learning that something doesn't work the way you thought it would is one thing, but learning how to learn from the experience is judgment. That is why wisdom and experience do not correlate with one another unless you know how to reflect on the good and bad of what you have done. There was something enormously stimulating about the process. We were analyzing our own work, trying to see how it fit or didn't fit with other broader approaches to similar musical problems. At the same time we were not just students but creators of music as well. We were not passive receptors of knowledge or critique; we were putting our very selves down on paper.

Nor were our teachers just critics and sources of information and knowledge. They were performers as well. Since they were helping us to write for the concert and also were writing their own arrangements, they were directly engaged in the creative enterprise. We all had to perform. We had a common enterprise, and we pooled our talents and energy to achieve a common end.

The educational value and stimulation of that course have stayed with me for these twenty years, and I think that there are some insights that we can learn from that approach that are applicable to the law school setting. First, there is enormous learning value in the teacher's being viewed not only as a critic but as a

performer as well. If nothing else, seeing an experienced professional in the act or creation can convince a student how much work is involved. But it also teaches in more-subtle ways. In music and in law there are many approaches to problems, and seeing how experienced professionals solve them can give the perceptive student insight into how one goes about such creative tasks. Moreover, when both student and teacher are involved in a common enterprise, the barrier between student and teacher is sharply diminished. There is a creative spontaneity that that kind of atmosphere can encourage. We are all creators; we are all engaged in similar tasks. That does not mean that student and teacher are equals in knowledge or experience, but it does mean that we are all professionals. The equal footing implies equal responsibility. And what one senses in such a setting is the responsibility that being a professional entails. I have often thought that at some point in law school we have to begin to move students from the reflective and analytic, but often receptive and passive, role to a more active professional role. They too are young creators of law, not just learners.

Second, the emphasis in class and in our final product was on imagination, judgment, and the need to exercise those talents and skills within a strict time frame. We had a show to write. On August 4 we knew there would be two thousand or more people in Eastman Theater because we told them that we would give them something worth listening to.

In the legal setting, performance pressure translates into greater emphasis on the creation of an argument, not just a critique of an appellate court opinion or the argument made by losing counsel. But that creatitivy goes further than an off-the-top-of-the-head answer to a question posed in class that, in effect, asks, What would you do?

Let me mention a course I recently supervised called the Death Penalty Seminar. We took a real case in which the death penalty had been imposed. The Georgia Supreme Court had turned down the defendant's appeal. Five students and I prepared and filed a petition for certiorari with the U.S. Supreme Court. The case was difficult - there is little room these days for success in this area of the law - but the students had to face firsthand both the difficulty and exhilaration of creating legal arguments out of a record several thousand pages long. They soon learned that claims that an argument won't fly, and the critical detachment that keeps us from going down the wrong path, did not help when it came to creating an argument that would work. Our essential task was one of creation, not just criticism. That takes imagination, and in my view, a different, more positive kind of mental energy. I believe that students need more opportunities like that, and that is what a vibrant and active clinical program can provide.

Finally, as I reflect on those classes with Ray Wright, I am reminded of a metaphor that I think we should strive to incorporate in our legal education efforts. Students should be seen and treated as aspiring artists, not technicians. A first-rate lawyer is an artist. He or she has the technique necesary to handle the easy cases and answer the basic questions but also the creativity and judgment to put form and shape into an amorphous set of facts that do not neatly fit a ready-made legal pigeonhole. Knowing the questions to ask to formulate the appropriate issue is not just technical skill. It is a creative, imaginative task. As artists, students will be expected to have the technique of their craft well in hand, but the goal is not technique for technique's sake. We need to inspire an appreciation of the creative role of law and a sense of what it means to mix vision with skill, and wisdom with action. To do that takes theory and technique, but it also requires an opportunity to try one's hand at actual lawyering. We need our own arranger holiday concerts in law school so that aspiring young lawyers

can experience the need for the artistry necessary to produce first-class work and so that they can see how the exercises, scales, and arpeggios of the classroom are converted into an actual performnce in the courtroom or at the negotiating table. That is what clinical education can do and is doing at Cornell. In short, teaching theory and technique alone is not enough. The application of techniques and theories in live situations fosters the imagination and judgment that are essential to first-class lawyering. It can enable us to teach that, in the words of the immortal tune by Duke Ellington, "It don't mean a thing if it ain't got that swing."

FOOTNOTES

1. See, for example, Roger Cramton's excellent paper "Medical and Legal Education: Learning from Each Other," Health Affairs (fall 1986).

2. John Gardner, THE ART OF FICTION (A. Knopf, 1983).

PUBLICATIONS BY CLINICIANS

Bergman, Paul (UCLA). "The War Between the States (Of Mind): Oral vs. Textual Reasoning," 40 ARK. L. REV. 505 (1987).

Bergman, Paul (UCLA). "Ambiguity: The Hidden Hearsay Danger Almost Nobody Talks About," 75 KY. L. J. 841 (1987).

Cavise, Leonard (De Paul) and Scott Tomassi. "Survey of Evidence," 18 LOY. U. CHI. L. J. 521 (1987).

Goode, Victor (CUNY). "The Texas Plan: Public Law School Education, Title VI, and the Settlement Monitoring Process," 12 SO. U.C. REV. 157 (1986).

Greenebaum, Edwin H. (Indiana, Bloomington). '"Understanding ...": Processing Information and Values in Clinical Work,' 11 J. LEG. PROF. 103 (1986).

Lubet, Steven (Northwestern). "Judicial Impropriety: Love, Friendship, Free Speech, and Other Intemperate Conduct," 1986 ARIZ. ST. L. J. 379.

Maher, Stephen T. (Miami). "No Bono: The Efforts of the Supreme Court of Florida to Promote the Full Availability of Legal Services," 41 U. MIAMI L. REV. 973 (1986).

Perschbacher, Rex (U.C. Davis). "Minimum Contacts Reapplied: Mr. Justice Brennan had it His Way in Burger King Corp. v. Rudzewicz," 1986 ARIZ. ST. L. J. 585.

Rosen, Richard (North Carolina). "Disciplinary Sanctions Against Prosecutors for Brady Violations: A Paper Tiger," 65 N. C. L. REV. 693 (1987).

Spiegel, Mark (Boston College). "Lawyers and Professional Autonomy: Reflections on Corporate Lawyering and the Doctrine of Informed Consent, 9 W. N. E. L. J. 139 (1987).

Tokarz, Karen L. (Washington U., St. Louis). "Women Judges and Merit Selection Under the Missouri Plan," 64 WASH. U. L. Q. 903 (1986).

Van Putten, Mark (Michigan). "The Dilution of the Clean Water Act," 19 MICH. J. L. REF. 863 (1986).

Wortham, Leah (Catholic). "The Economics of Insurance Classification: The Sound of One Invisible Hand Clapping," 47 OHIO ST. L. J. 835 (1986).

PUBLICATIONS OF INTEREST TO CLINICIANS

Eyewitness Testimony: Civil and Criminal, by Elizabeth F. Loftus, Ph.D. and James M. Doyle (formerly of Georgetown) (New York: Kluwer Law Book Pub., Inc. 1987).

Symposium: Legal Education in an Era of Change, 1987 DUKE L. J. 191.

Symposium on Professional Conduct, 19 ARIZ. ST. L. J. 1 (1987).

CORNELL LAW SCHOOL seeks a highly qualified person to serve as senior lecturer or lecturer with the Cornell Legal Aid Clinic in the summer, 1988. The initial appointment will be for a period of two or more years, depending on qualifications, with possible extension beyond the initial period. Duties include supervision of students handling civil cases and teaching lawyering skills. Five years practice, with clinical teaching experience or prior legal services experience preferred. Send resume with names of three references to Barry Strom, Director, Cornell Legal Aid Clinic, Cornell Law School, Myron Taylor Hall, Ithaca, New York 14853-4901. Position available until filled.

THOMAS M. COOLEY LAW SCHOOL of Lansing, Michigan announces openings beginning January, 1988, in its affiliated clinical law program, the Sixty Plus Law Center, Inc., for clinical instructors to supervise and train law student interns in newly funded statewide Medicare Recovery Project. Prior experience in public benefits/legal services and law student supervision required. Admitted to practice in Michigan, or eligible for the next bar exam. Equal Opportunity Employer; minorities expecially encouraged to apply. Salary commensurate with experience and qualifications. Excellent fringe package. Send resume to Professor Nora J. Pasman, Executive Director, Sixty Plus Law Center, Inc. 1201 W. Oakland, Suite 231, Lansing, Michigan 48915.

KANSAS is seeking well qualified lawyers for positions beginning with academic year 1988-89. These positions are contingent upon the availability of funding and include permanent, visiting, 12-month, 9-month, semester, and summer session appointments. Positions can include tenure-track appointments in clinical education. Applicants must hold J.D. or LL.B. with outstanding academic record from an accredited law school. Significant legal experience is preferred. For information, contact Professor Robert H. Jerry, II, Faculty Recruitment Committee, School of Law, University of Kansas, Lawrence, Kansas 66045.

GEORGIA seeks a director for its Legal Aid Clinic. The director coordinates and supervises a staff of approximately 15 attorneys in providing legal assistance to indigent criminal defendants through all phases of litigation. Responsibilities may also include representation of defendants charged with serious felonies, including death penalty cases. Teaching responsibilities include the operation of the Legal Aid Clinic and the Criminal Defense Clinic. The position has faculty status for purposes of law school governance. Applicants must have a strong academic record and significant criminal trial experience. Experience in clinical education is strongly desired. Must be, or be willing to become, a member of the State Bar of Georgia. Applicants must send a resume by October 31, 1987, to Dr. Giles W. Kennedy, School of Law, University of Georgia, Athens, Georgia 30602.

THURGOOD MARSHALL SCHOOL OF LAW of Texas Southern University seeks to hire a part-time staff attorney for the Elderly Law Clinic. The position, currently funded for approximately 11 months, will commence October 1, 1987. The staff attorney will supervise law student interns in the Clinic, and must be licensed to practice in Texas. Bilingual in Spanish and English preferred. Salary range: $18,000 - $22,000, depending upon experience. Contact: Prof. Catherine Mahern, Thurgood Marshall School of Law, Texas Southern University, 3100 Cleburne, Houston, Texas 77004. (713) 527-7275.

WILLIAM MITCHELL COLLEGE OF LAW is looking for a person to be the attorney supervisor for a rural debtor-creditor clinic beginning in January, 1988. The attorney should have 5 years legal experience, preferably with a background in farm-credit programs or debtor-creditor problems. The position is half-time, funded for only one year at this point, and pays around $20,000 (for half-time, with health benefits) depending upon experience. Interested persons should contact Ann Juergens or Eric Janus at William Mitchell, 875 Summit Avenue, St. Paul, Minnesota 55105 (612) 227-7591.

SANTA CLARA UNIVERSITY invites applications for a visiting position in its clinical program. The applicant will supervise students in criminal cases and, in addition will be asked to teach a simulation or traditional course. Must be admitted to the California Bar and have two years of experience. Contact Professor Kandis Scott, Santa Clara University School of Law, Santa Clara, CA 95053.

SANTA CLARA also seeks an Acting Director of Clinical Programs for the summer of 1988. The person will supervise both civil and criminal cases in the clinics; no other teaching requirements in this position. The applicant must meet the State Bar requirements outlined above. Contact Kandis Scott at Santa Clara.

EDITOR'S NOTE

Response to my request for correspondents from each school has been gratifying. Thus far 26 schools with clinical programs have identified a person to serve as correspondent to the Newsletter. I hope that schools who have not yet responded will do so in time for the next issue in November.

Having a correspondent at each school should enable me to receive more information about what clinicians are doing in the clinics and outside. Please keep the information coming. This issue of the Newsletter also continues the dialogue about externships begun in June. I encourage you to send me any response that you have to the discussion so far.

This issue commences a new feature for the Newsletter -- a department called Funding of Clinics. I invite readers to contribute short pieces on how their clinics are funded, in whole or in part. The ideas may help other clinicians keep a program alive or expand programs now constrained by a lack of funding.

The next issue, November, will contain information about the AALS Annual Meeting in Miami. The day-long clinical section program is taking shape; details will be available in the next issue. Committees are encouraged to provide me with a copy of a year-end report of activities for publication in the November issue.

DEADLINES

November issue	October 15
March issue	February 15

ATTORNEY FEES QUESTIONNAIRE

Please return this questionnaire, within 15 days, to Mike Axline, Western Natural Resources Law Clinic, University of Oregon, School of Law, Eugene, Oregon 97403.

NAME:

SCHOOL:

ADDRESS:

PHONE:

TITLE OF CLINIC:

1. **Does your Clinic seek fees under fee-generating statutes?**

   Yes ___ Kinds of Cases:

   No ___

2. **If not, do you have an interest in doing so?**

   Yes ___ Comments:

   No ___

   Unsure ___

3. **Does your Clinic have flexibility to do so?**

   Yes ___ Comments:

   No ___

   Unsure ___

4. **Does your Clinic charge clients fees?**

   Yes ___ Kinds of Cases:

   No ___

   Unsure ___

5. **If not, do you have an interest in doing so?**

   Yes ___ Comments:

   No ___

   Unsure ___

6. Does your clinic have flexibility to do so?

Yes ___ Comments:

No ___

Unsure ___

7. If you recover fees, briefly describe what is done with them.

8. Please identify by name of school, title of program and clinical supervisor, all clinical programs you know about that handle fee-shifting cases.

9. Please identify all programs that you know about that charge clients fees for service.