

Essays on Legal Education
Neil Gold (ed.)
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143 pp.
Iris C. Allen*

This book contains seven essays which deal with the reform and improvement of legal education. Edited by Neil Gold, co-director of the Centre for Studies in Canadian Legal Education, the essays attempt to challenge some of the traditional aspects of most legal education systems. It is the hope of the editor that if not stimulated into action, the reader at least will be provoked into thought.

Paul Weiler, MacKenzie King Professor of Canadian Studies at Harvard Law School, discusses the changes which have occurred in Canadian legal education in the past 25 years, and notes as most significant the fact that "the study of law is now conceived of as an intellectual discipline, warranting a central place in the scholarly community."¹ He views a university-based education as the best way to meet the challenge of teaching prospective lawyers how to develop the mental equipment required for creative solutions to potentially complex legal issues. He stresses the need for a scholarly focus on law faculty appointments. Weiler voices the opinion that high quality articling and bar admission programs are needed to complement the university-based education, in order to give students the practical training needed, when and where it can best be offered. He concludes that division of labour between the practical bar admission programs and university education is indispensable to the future of the university-based scholarly mode of education.

Francis Allen, Edson R. Sutherland Professor of Law at the University of Michigan, argues that the university-based legal education must go beyond the narrow study of law into a study of societal values and humanistic disciplines. The author reasons that i) the legal scholar must study humanistic disciplines in order to understand the values and conflicts which are present within the law arena; ii) the study of law is to a significant extent a study of public policy, and thus of necessity must include a study of those disciplines (including history, philosophy, sociology, psychology, etc.) which evaluate and focus on issues of public policy; and iii) the law and future development of law can be understood and anticipated best within a humanistic legal education framework.

Neil Gold, Director, Bar Admissions Program of British Columbia and Professor at the Faculty of Law, University of Victoria, presents his view that a comprehensive program of continuing legal education (CLE) is the most practical mechanism for ensuring competence within the legal profession. He considers that policing, maintenance, and promotion of competence should be the responsibility of the governing bodies of the legal profession. Gold identifies those elements that he feels are indicative of a competent lawyer, and which as a consequence should be of concern to CLE educators. He recommends that these educators address the concept of competence and education in

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an orderly way. Gold further suggests that CLE educators determine the motivations of their learners, instigate remedial CLE programs, consult professional adult educators, and make available self-study materials in CLE programs.

William Twining of Warwick University suggests that the study of evidence, proof and facts (EPF) has been neglected in most legal education programs. He argues that fact finding rarely is studied in a comprehensive manner, yet is just as important as any of the more traditional legal education courses. Finally, Twining claims that the inclusion of an EPF program will broaden analytical skills.

Andrew Petter, Commonwealth Scholar at Cambridge University, attempts to delineate those educational objectives that a law school should seek to attain. He identifies learning objectives in terms of two domains, the cognitive and the affective. The cognitive domain concerns the recall or recognition of knowledge and the development of intellectual abilities and skills. The affective domain concerns changes in interest, attitudes, and values, and the development of appreciations and adequate adjustment. He briefly reviews six major classes of cognitive learning objectives, and demonstrates that it is desirable if not essential that law schools cover these objectives in their curricula. Petter notes that although currently all six objectives are evaluated on most law school examinations, not all are addressed in lectures (a situation for which remedial action is outlined). Although not universally accepted as necessary to the law school curriculum, Petter briefly reviews learning objectives in the affective domain. He argues that the inclusion of these objectives in a curriculum would give "[s]tudents...an opportunity to think about the law from a values perspective, and to develop their own set of interests, attitudes, and values concerning the law,"² and concludes that with such studies students will be "not only...better lawyers, but will be better prepared to fill those formative roles in society into which so many lawyers appear to be drawn."³

David Johnston, Principal and Professor of Law at McGill University, points out the importance of the corporate lawyer in a society wherein the influence of multinational corporations can in some instances, be greater than that of national governments. He suggests that the legal education system must, as a consequence, strive for international rather than national or even regional excellence. To further this goal, he argues that both the staff and student constituents of the law school be chosen from a broad national and international base, in order that the student may be exposed to a variety of backgrounds, countries, cultures and experiences. He recommends an undergraduate exposure to a range of subjects, suggests the inclusion of cross-disciplinary programs in the legal curriculum, and encourages post-graduate law studies. He also recommends that the legal education system could benefit from programs developed in other professions, and as a first step calls for an evaluation of the needs of the legal education system in Canada.

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The final essay in this collection is authored jointly by Gail Starr, Lawrence Fisher, and Larry Katz, respectively Professor of Law, Professor of Medical Education, and doctoral candidate in the Department of Educational Psychology, all of the University of Calgary. They indicate results from their study of the first three years of the admissions policy at the University of Calgary law school. Two of the major goals of the admissions policy are 1) to accept into the school students with not only excellent academic standing, but also wide-ranging backgrounds and experience (i.e. acceptance of mature students), and 2) to accept Native students who have attended the University of Saskatchewan Program of Legal Studies for Native Canadians. The authors outline the three criteria for admission, namely i) traditional GPA/LSAT evaluation ii) mature or Native student criteria, and iii) random selection procedure, which are used to achieve the admissions policy goals. The authors utilize graphs and tables of LSAT scores and student academic performance (GPA) over the three year study as a measure of the success (or lack thereof) of the admissions policy. The authors found a significant difference in law school performance only in the first year of studies, with the mean "traditional" group performance significantly better than that of the other two groups. After the first year, however, there was no statistically significant difference among the three groups. They conclude with the proposal that they will conduct further analysis along similar lines in the future.

The essays contained in this book consist essentially of general observations and opinions concerning legal education, and as such have little substantive legal content. The essays are completely independent of each other, linked together through the common topic of reform and improvement of legal education. This book should be of interest to all persons who have some concern with legal education.

