

considerable influence upon the thinking in other jurisdictions about the structure of their own legal education systems and the relationship between the component parts.

Editor

Scenes from the continuum: sustaining the MacCrate Report's vision of law school education into the twenty-first century

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The mission of the ABA Task Force on Legal Education and the Profession in the production of the report known as the MacCrate Report was (1) to undertake a comprehensive study of how lawyers were prepared, (2) to identify the commonly perceived deficiencies in the lawyering skills and professional values of today's law graduates, and (3) to describe the means to improve the education of American lawyers.

The MacCrate Report bases its vision of legal education on five elements: first, that each member of the legal profession is personally responsible for self-assessment and self-development; secondly, that the law, despite its diversity, remains a single profession identified with a perceived body of learning, skills and values; thirdly, that the preparation of lawyers should include the acquisition of fundamental lawyering skills and professional values; fourthly, that skills and values are developed along a continuum that starts before law school and continues throughout a lawyer's professional life; and, finally, that skills and

values are capable of being taught using the teaching methodologies developed over the past 25 years.

The Report identifies the law school as the most intensely focused educational experience that lawyers are likely to receive at any time during their careers. Accordingly, it is law schools that are pivotal in implementing the MacCrate Report's vision of legal education. The Report found that today's law schools fall short of achieving optimal coverage of the skills and values outlined. The question that remains to be answered is how law schools are to make the transition from where they are now to where the MacCrate Report suggests they should be. The Report entrusts the responsibility for this transition to the law schools themselves and avoids the formation and use of an implementation body. It is, however, difficult to imagine how the implementation of the transition will proceed without the continuing nurturing of the Task Force's proposed Institute, the American Institute for the Practice of Law. In changing, law schools face the inherent inertia to change common to institutions and the drain on resources that such changes may at the outset have.

The author offers his view of what the law school of the future will be like by providing a hypothetical description of a 'day in the life of your average twenty-first century law student'.

In conclusion, the MacCrate Report articulates a powerful vision of legal education but fails to present a coherent strategy for its implementation. Implementation of the Report can only be done through the

collaboration of law schools, practising lawyers, the judiciary and law students.

Legal education: observations and perceptions from the bench

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The image of lawyers is in decline whilst the market is flooded by them. Why has the image of lawyers become so tarnished, and what can legal education do to advance the perception of lawyers? Even those involved with the profession and in the profession are disillusioned.

One factor that may have contributed to the low esteem and image of the profession is excessive advertising, brought about by the decision in *Bates v. Arizona*. Consequently, some lawyers have prospered through marketing and advertising and not through their ability to serve their clients' needs thoroughly and accurately.

Despite the apparent unpopular image of the profession, one wonders why it attracts the country's brightest graduates and why so many people choose law as their profession. The burden falls on law schools to refocus these bright young minds and open their minds to the service aspects of the profession. However, it becomes problematic when few of the professors have been in practice and are, at best, legal scholars. This fact goes to indicate that law schools do not and should not be expected to produce a finished product capable of counselling, advising, leading, managing and freeing a client from legal predicaments. Law

schools cannot instil in students that which can only be learned through experience. However, law schools could and should do more to foster practical skills.

Law schools need to find a reasonable mix of legal theory and legal practice. Law students need a taste of the real post graduation life in the law. Team teaching, whereby a law professor relates the legal theory and a practitioner emphasises the practical applications, is one such way to give students a taste of the real life and add an exciting dimension to the law school curriculum.

In improving the current situation, all law curricula should include a course on negotiation, as most cases in real-life settle before they go to court. In the current circumstance law schools should not be expected to go it alone, and the bar has an obligation to assist. Students should be apprenticed to practising attorneys. Such a system would be of immense practical benefit to the student. Importantly, law schools must do much to convince fledgling lawyers that the practice of law can be pleasant.

LEGAL PROFESSION

National competency standards: are they the answer for legal education and training?

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It has become increasingly difficult for law graduates to fulfil the practical requirements for admission to practice as a solicitor. The reason for the difficulty is the increasing number

of law graduates and the downturn in the economy. The situation begs the question as to whether the establishment and assessment of competency standards may be the solution for law students to be given the opportunity of obtaining entry level skills. The other concurrent question is whether the quality of legal education and training would be enhanced by the establishment of such competency standards.

Now that legal education is firmly settled in the university rather than in the profession, the gulf between legal education and lawyer training has widened. The need for graduates to obtain practical training before admission and the scarcity of the opportunities to obtain such training have highlighted the inadequacies of the current system and exposed the quality of all facets of the legal education and training continuum to question.

The debate as to whether it is the proper role of the university to teach students to be practitioners continues. In the early 1970s the Ormrod Committee was of the view that legal education should be divided up into academic, professional and vocational training. This approach has since been widely criticised and has led Nash to comment that the legal profession is the only profession which insists that its students learn all their theory before they are allowed into the laboratory. Conversely, Crawford, former Dean of Sydney University Law School, takes the view that the profession should respect the academic freedom of the university.

Articles of clerkship are still in use in some Australian jurisdictions. This system has traditionally assumed that the clerk will acquire the requisite competence without any curriculum prescribing experiences, standards or assessment. The defects of this system of professional training are well documented and include fundamental flaws, such as the failure to define clerk competence and the fact that a full range of experiences may not be available in the master's practice, as well as the fact that the availability of places is uncertain.

Practical legal training courses have become more popular and sometimes do require no additional work experience prior to admission. However, such courses have not been without their detractors.

The process of producing competent lawyers has not been systematically researched. Key questions need to be answered, such as, What do graduates do? What do graduates need to know? Who should provide legal education? and How should legal education be taught? There is no shortage of literature describing lawyer competency, so the raw materials are available. Establishing competency standards is the site of vigorous debate itself. The detractors argue that standards are an attempt to explain complex phenomena by discrete standardised concepts, whilst the supporters argue that such standards increase public confidence in the profession. Indeed, the issue has split both the professions and the universities.

The advantages of the adoption of competency standards for the legal