Clinical Legal Education: Reflections on the Past Fifteen Years and Aspirations for the Future

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PANEL DISCUSSION

CLINICAL LEGAL EDUCATION: REFLECTIONS ON THE PAST FIFTEEN YEARS AND ASPIRATIONS FOR THE FUTURE*

Welcome. My name is Leah Wortham. I coordinate the ten clinical programs here at Catholic University Law School. This weekend we are celebrating the Fifteenth Anniversary of one of those programs, Columbus Community Legal Services. The celebration will be marked by a reunion of Clinic alumni and a symposium on clinical legal education. This panel kicks off both of those events.

Columbus Community Legal Services was one of the first programs established by a law school to offer law students credit for a clinical experience. Its fifteenth birthday offers some unique opportunities. With assistance from Dr. David Baker of the University's Sociology Department, the Anniversary Committee of Clinic faculty and alumni have designed a survey of those who have taken the clinic. That survey attempts to test some hypotheses about clinical education including why students take the courses, what they gain from them, effect on career plans, and whether answers of students from one era will differ from those of another. The results should be of interest to clinical education, and law schools, generally.

This panel also offers another opportunity for legal education. To celebrate the Clinic's fifteenth anniversary, we have assembled an extraordinarily distinguished group of clinical teachers to reflect on developments in the past fifteen years of clinical legal education and to comment on the greatest needs for the next fifteen years.

Our panelists represent at least sixty years of experience in clinical teaching and include three former Chairs of the Association of American Law Schools' Section on Clinical Legal Education. As I introduce them individually, you will see that each panelist brings a wealth of background to the panel. Let me first introduce each in the order of their presentations. After opening remarks by the panelists, they will respond to each other, and then we will open the floor to questions and comments.

* Panel discussion delivered at the Catholic University Law School Conference on Clinical Education, October 18, 1986.
The first speaker will be Kandis Scott. Kandis is the Director of the Santa Clara University Legal Clinic. She is one of the former Chairs of the American Association of Law Schools Clinical Section on this panel.

Our next speaker will be Dean Hill Rivkin, another of the Chairs of the Clinical Section. He has been a professor at the University of Tennessee Law School for ten years. He was a teaching fellow at Harvard Law School in 1975-76 and a visiting professor at U.C.L.A. in 1980. He has been very active in the Association of American Law Schools beyond the clinical section, as well as the American Bar Association, having served as a member of the Association of American Law Schools' Professional Development Committee and the American Bar Association Section of Legal Education and Admissions to the Bar.

Philip G. Schrag is a Professor at Georgetown University Law Center and Director of the Center for Applied Legal Studies. He has been at Georgetown for six years. Phil was a professor at Columbia Law School in New York from 1971-79. Phil is one of the most prolific writers in the clinical legal education movement, having written five books and several articles on clinical education and public interest law.

Roger Wolf is one of the historians of Columbus Community Legal Services, with whom we were debating the Clinic’s exact age earlier. He has been at the University of Maryland Law School for five years and currently is a Law School Associate Professor. He directs the Attorney General’s Consumer Protection Clinic. From 1971 to 1978, he was at Catholic University Law School as a pioneer at Columbus Community Legal Services.

Finally, we have Elliott Milstein, who is a Professor of Law at American University, and Director of Clinical Programs there. He has been at American University for fourteen years, following one year at the University of Connecticut Law School and practice with New Haven Legal Assistance Association. He is another one of our past Chairs of the AALS Clinical Section and is a member of the AALS Accreditation Committee.

KANDIS SCOTT:

I want to thank the people at Catholic for the honor of inviting me to celebrate with them Columbus Community Legal Services’ years in clinical education. Let me describe one narrow development in clinical education in the last fifteen years: the changing place of clinical courses in the law school curriculum.

Clinical courses originated on the fringe of the law school not its core. Some programs began with students volunteering at legal aid offices. At other schools, students pressed the faculty to offer “boutique” courses. The faculty expected student interest to fade and then to remove these courses
Clinical Legal Education

from the curriculum. Another important impetus for clinical courses was “free money” from the Council on Legal Education for Professional Responsibility.

Despite its origins around the edges of the legal education establishment, clinical education has become a legitimate part of the curriculum. Some criticism of clinical courses remains, especially criticism focused on cost because our student/faculty ratio is substantially smaller and, therefore, more expensive than traditional courses. But I venture to say that almost every law teacher in the country now assumes that some clinical courses belong in the permanent curriculum. That is quite a change from fifteen years ago.

Another measure of the increased legitimacy of clinical courses is their influence on the traditional curriculum. That influence has been strongest in the areas of teaching methods and skills training. For instance, there are many teachers of traditional law school courses who are no longer comfortable using what they call the Socratic method, a technique which often degenerates into a lecture mode. These educators are introducing small changes to make their courses livelier and more relevant. The modifications may be as simple as converting to the problem method, using video tapes, demonstrating a courtroom procedure or distributing a sample document, or perhaps even taking an interdisciplinary approach. Such innovations were stimulated by the presence of clinical teachers using interesting and exciting teaching methods in the law school.

A second change is that teachers of some traditional courses are assigning students new tasks. For example, some teachers now ask their students to draft wills in estates courses and mortgages in real estate transaction courses. Legal research and writing teachers provide the information for writing exercises by showing a video tape of a lawyer interviewing a client. And so, clinical education has had an important effect on the traditional curriculum.

This legitimation of clinical education has not been without cost. As we clinicians have become part of the law school establishment, we have become more established. I see some loss in our effectiveness as a force for further change in the law school in the future. We may have become a little less the gadfly around the law school.

Leaving these observations I would like to offer my wish for the future. I wish that clinicians would move away from the areas in which they have been most successful and have had the most influence: development of novel teaching methods and training students in lawyering skills. I suggest that clinicians focus more on touching students profoundly, something that traditional courses cannot do. In clinical courses, students do more than acquire factual information or the ability to think analytically. Clinical courses force
students to confront the same dilemma as that of a lawyer whose zealous representation may permit an alcoholic to continue to drive. Students must face sexism or racism in the justice system which they are unable to change immediately. Good clinical teachers use their students’ personal, even emotional, reactions to such problems of practice to encourage them to reflect on how they will be as professionals, not just how they will act. Traditional courses cannot do this. I wish that in the future clinicians would emphasize helping students make the transition from an academic life to their new roles as sensitive, thoughtful, professionals participating in the justice system.

DEAN HILL RIVKIN:

My remarks focus on the reform mission of clinical education, what I view as the “meta-ethics” of this field. Since its inception, clinical legal education has embodied a variety of visions of professional reform. In these often inchoate visions, clinical educators aspired to effect sweeping reform of legal education, and more ambitiously, the legal profession. Claims of legal education’s potential as an insurgent movement for change infused much of the early rhetoric about the clinic.

Today those claims are locked up in the closet, surfacing infrequently in scholarship and in public settings. What has transformed clinical education over the past fifteen to twenty years into a relatively safe academic specialty? In these remarks, I hope to shed some light on this troublesome evolution.

In its early years, clinical education lay claim to a long standing tradition of reform from within legal education. Clinical educators drew inspiration from Jerome Frank, Karl Llewellyn, and other legal realists who, taking insights from other disciplines, diffused many traditional notions about law and, in turn, legal education.

The clinical movement also learned much from the legal process thinkers of the 1950’s and 60’s, lead by the Hart and Sacks’ Legal Process materials.

In a limited way, the legal process thinkers struggled to transcend the prevailing formalism of the time. I do not think it is any coincidence that


4. In recent years, the Legal Process materials have been criticized for promoting an unacknowledged pluralist political vision of the legal process, a vision that staunchly maintains the status quo. G. Bellow & B. Moulton, The Lawyering Process (1981) (promoting a critical view of the legal profession by encouraging lawyers to question the choices available to
Bellow and Moulton's clinical text, *The Lawyering Process*, has that title. In some sense, the book follows in the Hart and Sacks' tradition by examining the "interstices" of the lawyering process.

It was the societal legacy of the sixties, however, that most shaped clinical education. The fervor of the sixties penetrated law schools quite passionately. To overstate, law schools were criticized as detached, dehumanizing institutions educating one dimensional technicians divorced from the hurly-burly of the real world. The clinical movement at the time predicted that law students trained in this manner would inexorably become bad lawyers—professionals characterized by insensitive personal relationships and crabbed aspirations about the law's potential for good. The clinical movement, on the other hand, offered itself as a revolutionary alternative.

In these early days of clinical legal education, the days of Watergate, and the days of Viet Nam, advocates of clinical education genuinely believed that reform of legal education would lead to reform of the profession. The clinical movement saw itself as the antithesis of years of entrenched ideas about pedagogy and change in legal education. Clinicians claimed to be sensitive, egalitarian, nonhierarchical, mutual trusting, caring, open, etc.—offering a sharply contrasting professioned model to their nonclinical colleagues.

As the movement rapidly matured, the intellectual roots of the emerging discipline also began to sprout. There was a humanistic strand drawing, among others, on Carl Rogers' well-known methods. This emphasis on interpersonal relations was in part responsible for the notion that clinical education was soft or lacking substance in the traditional sense. There also was an ethics strand in the early days that sought to translate exposure to real life ethical dilemmas into moral growth. Finally, there was a political strand that was closely aligned with the then growing legal services and public interest law movements.

Each of the so-called schools developed formative ideas about the need to reform both public, and in a limited sense, private lawyering. During these

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fleeting years, there was hope that the rhetoric of reform in clinical education actually might have some substance. Lamentably, academic movements with potential for change have a way of becoming coopted. What was once the fringe, or, as one of the Presidents of the Association of American Law Schools called it—"the side show"—now has become the main stream.

The reasons for this transformation are complex. In many ways, the gentrification of clinical legal education has matched the changes that overtook other forces of change that were spawned in the sixties—the civil rights movement, the environmental movement, the consumer movement. In all, a number of the core impulses of these movements have been overtaken by this country's powerful ability to assimilate, through conflict, movements of political and social reform.

For clinical education, the confrontation with the legal education establishment has taken its toll. Clinical education in recent years has literally become "clinical," in all that that word connotes. Slowly, the early normative emphasis has shifted to congeries of relatively safe, narrow goals. Skill acquisition became paramount—how to interview, how to bargain, how to conduct a deposition, etc. Emulating other quantitative trends in legal education, clinical education began to concentrate on testing and measuring.\(^\text{10}\)

The performance tests on the California bar epitomize a number of these developments.\(^\text{11}\)

Today, the clinical education movement is in the throes of a serious identity crisis. Critical legal studies and the law and society movement have outflanked clinical education on the left. Few serious efforts to forge alliances with these currents are underway. Indeed, clinical education has been accused by Critical Legal Studies people of legitimizing, in a negative sense, the law school's social obligations.\(^\text{12}\)

What does the future hold? I am not sure, but at least I can identify some possibilities. The work being done at City University of New York Law School at Queens, is an attempt to fuse the early ethical, humanistic, and political roots of the movement into a real substantive method—a pedagogy that is nurturing insight over technique, intuition over method, and imagination over procedure.\(^\text{13}\)

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10. Although it is treacherous to compare the two, the zeal of the law and economics movement to "quantify" human behavior resembles the recent clinical focus on "testing" skills.


12. The argument from the political left is that clinical education provides token outlets for those students whose social consciousness aligns them with critical legal studies. This allows law schools to tout clinical programs as satisfying the institutional responsibilities.

A second strong need for the future is to develop an ethnography of lawyering—a specific, contextually based approach to understanding what it is like to be a lawyer on a day to day basis. We need an approach that goes beyond the handful of the most sensitive books about lawyering—James Kunen's book, "How Can You Defend Those People? The Making of a Criminal Lawyer" or Seymour Wishman’s book, “Confessions of a Criminal Lawyer.”

Some of the novels about law have embodied such an approach. For example, James Mills book, “One Just Man,” is a powerful story about a public defender in New York City. The defender decides that, because the criminal system is so systemically corrupt, he is no longer going to bargain on behalf of his clients. The moral stand of this one individual leads to the filling of the jails and, eventually rebellion in the streets of New York. This is fiction, but it sensitively portrays some of the moral and political choices that exist on a daily basis in law practice.

As a prominent anthropologist recently put it, “[G]ood ethnography is an intellectual exorcism in which we are wrenched out of ourself.” For me, this is what scholarship in clinical legal education requires—an examination of dynamics such as power, coercion, manipulation, or persuasion in a very concrete context. Such writing would, for example, examine the “free spaces” in which some theorists believe lies the political potential of lawyering today. This is the type of scholarship that we are in a unique position to generate.

In conclusion, this kind of change, both institutional and personal, is not going to be easy. It is risky, uncomfortable, and threatening. It is also necessary. More so than ever before, clinical education's capacity for change is being sorely tested. If the movement remains faithful to its reformist roots, such change will enlarge our understanding not only of lawyering but also of social change.

PHILIP SCHRAG:

In the fifteen years that I have been teaching clinically, I have seen a disturbing trend. It may be another perspective on the same trend that Dean is talking about. But where Dean focused on teachers, I am going to focus on students.

Over the last fifteen years, while law school faculties have been asking more of their clinicians, students who enroll in clinics have been insisting that we make fewer demands of them. Clinicians are increasingly caught in a bind that is very familiar to our more traditional colleagues. Our peer groups and our own professional standards push us to offer our students greater subtlety in the analysis of the work that they are doing, more abstraction, and an emphasis on helping students to begin a long term process of professional development. But law students in general, and clinic enrolllees are no exception, seem to have increasingly narrow learning goals and relatively less time and energy available for exploring the by-ways of the legal system.

In looking at this fifteen year period, let me start with faculty expectations. As Kandis described, when the clinical movement began in the late sixties, most faculties lacked a clear understanding of what the goals of this new educational methodology would be. Student demand for a more participatory experience, coinciding with the availability of grants from the Council on Legal Education for Professional Responsibility (CLEPR), made it inevitable that most schools would experiment by applying the medical school model to at least a small part of their curriculum.

Since few existing faculty members wanted to spend the vastly greater time that clinical teaching entailed, new faculty members were hired—generally from the public interest movement, legal services programs, or public defender’s offices. These lawyers began by teaching what they knew best—trial and pretrial skills such as case planning, motion practice, witness examination, and introduction of evidence. For the most part, the clinics’ clients were poor people or underrepresented groups. The students were excited by a more participatory methodology and by the opportunity to make a social contribution to the law school.

But after a brief honeymoon period, skeptical faculty members demanded that clinicians offer students something more than they would learn in the first year of working in a law firm. “Mere skills-training,” faculty members argued, had no place in a university. Clinicians tended to agree. In a number of different ways, we began to offer our students much more than instruction and rehearsal of the skills associated with advocacy.

Some clinicians plumbed the student’s cases for ethical content. Their
Clinical Legal Education courses became seminars that delved very deeply into particular dilemmas of professional responsibility. Some focused on the systems in which the students practiced, using the cases as windows into the world of the judiciary, the bar, or of particular administrative agencies. In these clinics, the students learned about aspects of law and society by observing certain institutions closely. Other clinics taught students how to become aware of their personal values. Their instructors were able to show students how their work on cases advanced or conflicted with their expressed values. Still others taught students sophisticated models of creative problem solving, which the students were able to test in their cases. Some clinics developed techniques for improving certain skills that many faculty members had doubted could be taught at all in a law school, such as assertiveness, time management, and leadership. Some specialized in teaching students to become aware of and to analyze the subtlety of interpersonal relationships in the practice of law and the group dynamics of work-related meetings. Most clinics offered some combination of these objectives, as clinicians reacted against the charge that mere skills training was not an appropriate goal for an institution of higher education.

Through most of the 1970's, this pattern of evolution worked. Clinicians stayed intellectually fresh by challenging themselves to define new curricular objectives and to develop methods for achieving them. Traditionalists realized that clinicians were offering something not available either in other classes or in law firms. They responded by enhancing the status of the clinicians of their schools. Students trusted the teachers' definitions of appropriate learning objectives. Their sense of play enabled them along with their teachers to reach for new insights about how the legal system worked and how groups within those systems behaved. By the 1980's, clinics were accepted at most law schools as permanent, stable features of the landscape.

I agree with Kandis that Clinics likely are here to stay, but I see a disquieting trend in recent years. Just as faculties have stopped challenging clinicians for doing too much skills training, students have begun to demand with increasing urgency, that the clinics drop their intellectual frills, and concentrate on what the students see as basic skills of the litigation trade, particularly trial skills.

This development seems related to national economic trends. In fact, I think the first signs of charge can be traced back to 1973. First, we had a recession triggered by the oil embargo, then a weak economy, then double digit inflation along with substantial unemployment, and finally a lawyer glut. So, for more than ten years, law students increasingly have regarded the economic world that they were about to enter as one of scarcity, rather
than one of opportunity and intellectual challenge. And throughout all this period, tuition at private undergraduate and private law schools has risen steadily, leaving most students tens of thousands of dollars in debt before they begin to earn any money.\textsuperscript{19}

Under these circumstances, it would not be surprising if law students today demand more rules and less philosophy than they did in the 1960's when many of today's teachers were themselves in school. Nor is it shocking, given the very large percentage of clinic students in urban areas who work fifteen to twenty hours a week at outside jobs, to discover that clinic students want fewer cases, or that they do not work up their cases as thoroughly as their predecessors, or that they resent having to read books or do other classroom work, such as simulation, as part of their clinical courses.

It is not surprising, although it certainly is dismaying, that many students use clinics not for a different intellectual perspective on legal doctrine or practice or institutions, and not to participate while in law school in societal reform, but to take a law school offering that they think will train them more quickly to be successful practitioners. Indeed, some students have even confided to us that they are taking a clinic, not for any educational reason at all, but to add a line to their resumes that might make them more interesting to law firms.

Of course, there are many impressive exceptions to this discouraging trend. In my own clinic and elsewhere, there are many wonderful students who have had the personality or luck to escape the rut of feeling that they are working to survive rather than to learn or to serve. These exceptional students do not feel that they have drifted into law school, and they can identify some social values that they want to pursue as professionals. They have not resigned themselves to unsatisfying but lucrative jobs. They see the clinic as an educational rather than an economic opportunity. But each year the number of students who feel in control of their careers and their educational destinies seems to decrease.

I do not know when this pattern will change again, but I do not expect a large number of law students to take full advantage of what clinics can offer until they believe that they can afford to take time, during their law school years, to slow down and until they can afford to believe that their learning is personally and not just financially enriching. Neither clinics nor law schools

\textsuperscript{19} Recent economic trends have affected the attitudes of students at virtually all levels of education; their effects on law schools are only part of a larger social phenomenon. Shortly after these remarks were delivered, a survey released by the American Council on Education showed that "a record 73 percent of [freshmen at 552 colleges] listed 'being very well off financially' as a top goal," up from 39% in 1970. "More Freshmen Prepare for Business," N.Y. Times, Jan. 12, 1987, at A15, col. 1.
nor universities can solve the problems of careerism and survival psychology. Only changes in the economic prospects for lawyers, or in national attitudes about the purpose of professional education, are likely to help law students to think about the clinics—or for that matter law schools—as something more than way stations on the road to personal economic security.

Meanwhile, while we wait for the societal changes that could improve the quality of study in legal clinics, we instructors must resist the temptation to respond to students either by condemning them or by simply scaling back our educational requirements to suit their busier schedules and more limited goals. After all, we have more opportunity than anyone else on the law school faculty to inspire these students, if only because we have more contact with them than anyone else does. The first step in the process is simply to recognize that, as Professor Anthony Amsterdam noted in a recent edition of the Newsletter of the Section on Clinical Legal Education of the Association of American Law Schools, clinics in the mid-1980's present some problems that clinicians have not previously had to face. The second step is to develop solutions that enable us better to accept some—but only some—of the limits that many students want to impose. We must distinguish between the limits we accept and those we need to challenge. And when we choose to challenge, we must do so in ways which do not seem punitive or arbitrary, but which cause students to feel enriched by expanding their concepts of how they can benefit from clinical study.

ROGER WOLF:

Before the panel, we were trying to figure out how old the Clinic is. I guess that is a test of how old I am. I remember Dean Clinton Bamberger forcing me to write an application to the Meyer Foundation so that we could buy the building that now houses the Clinic, and I remember arguing our request to the Foundation. Fifteen years ago most of those of us who got into clinical education came from legal services. The selling point to the Meyer Foundation, CLEPR, and other good-hearted souls that were giving money away was that we were serving poor people.

Life was very simple at that point. The big debate was between in-house or out-house clinics. Those of us who came into clinical teaching from legal services had reacted to the system and formulated agendas to address what we thought was wrong. Our criticism of legal education arose from our own experience, because our legal educations had not prepared us to practice the kind of law that we encountered in our practice. Clinical teaching in law schools offered a respite from legal services and an opportunity to train law students to go back and fight the same battles that we had fought. We had
not just a skill but a value orientation as well. We wanted to teach more
than just substance in courses.

There was a wonderful merging because the students at that time had the
same agenda. Our agenda may have kept us separate and struggling with
law schools for some kind of credibility, but students and teachers in the
Clinic shared the same goals.

That has changed over fifteen years. I agree with all the previous panelists
that clinical education has become an acceptable part of the law school cur-
riculum. My concern is that the values we tried to teach when we first
started clinical education are very difficult to transmit today.

Because of the economic circumstances, because legal services is not a
ready employment source, because public interest law firms are few and hard
to get into, it becomes much more difficult for students to find jobs that mesh
the values of the early days with post law school employment. Students
coming to law school and trying to find jobs have to direct themselves other-
wise, and they are going toward traditional law firms. As a result, they are
coming to the clinics looking for skills only. I am afraid we have begun to
accommodate that so that we provide primarily skill-training rather than the
values we originally set out to teach.

One problem with teaching values is that usually clinicians do not get
students until the third year. Because clinical education still is not effec-
tively integrated into the entire curriculum, the values and way of thinking
about the law that we are trying to teach does not get communicated to
students until after their perceptions have been fixed and the traditionalists
have molded them. We need to integrate our approaches, resources and con-
cerns more into the first two years. The tremendous wealth of raw experi-
ence and data we have developed through our clients and cases needs to be
incorporated into the first and second year courses of civil procedure, con-
tracts, property, and criminal law to maximize our impact as well as to util-
ize us effectively.

We, as clinicians, find ourselves in somewhat of a depression as we see our
values and goals grudgingly tolerated by the students so that they can get
skills training. We need to begin reevaluating our own goals and renew our
commitment. Perhaps we need to adjust those goals. Perhaps the things we
think are important are not as important as we believe they are. I hope that
is not so. One of our most important objectives as clinicians is conveying the
values, meaning the total process of practicing of law, and not only the skills.
We need to reenergize ourselves as clinicians, so that we can get back on
track with some of those roles that we originally had.
Recently, I was cleaning out an old file cabinet and found a clipping from a Chicago paper. The headline said something like, "Northwestern Law Clinic Students Handle Real Cases, Idea May Spread." There was a picture of Gary Laser, who is now the clinic director at Chicago Kent Law School, looking very much like a child. Looking back, the only profound thing I can say is what an exciting and wonderful thing it has been to be part of this experimentation that has changed the face of legal education.

Lots of things have changed in the years since all of us started being clinical teachers. We have changed. Our students have changed. The law schools have changed and the world has changed profoundly. If we are looking to the future, we should be looking for a way to adapt to the world as it is, rather than into the world as we would like it to be.

For me, the concept of the clinical program as a laboratory, is a very important one. What does the clinical program as a laboratory mean? It means the clinic is a place to discover information about the practice of law, information that has been missing from the law school curriculum. When I graduated from law school in 1969, the faculty taught us about an idealized world where there was some scientific way of looking at the law. We went out into the world and saw it was completely different from what they had told us. There was tremendous dissonance between what we were lead to believe would be there and what was there. Not only did we lack the skills we needed, there was also quite a difference between the substantive law we learned and the legal rules which were enforced. The law was what the trial judge said it was. He had never read a Supreme Court case and did not know what was going on in the Warren Court. It was all wrong.

This led some of us to go back to the law school to say, "Hey, this is wrong. You are missing what is happening in the world." The Clinic as laboratory, then, has sought to identify both from a skills perspective and from a legal doctrine perspective how the curriculum has needed to change to better equip students to deal with the world as it is.

Clinics teach people to have the combination of skills that are necessary to practice law and the intellectual skills to be able to use the law to achieve client objectives—to identify and achieve goals. Because the first clinical teachers came from legal services practices, we shared the values that Dean was talking about—law reform, to change the world. We had a law reform objective for our clinics and maybe even something broader. We wanted to reform the society. We saw a possibility of social change through the practice of law.

We early teachers were lucky because fifteen years ago students were part
of the same social movement from which we had come. The students had a
generational consciousness that there were things wrong, that there were
ways to cure those things, and that we could work together to change the
world. The 1986 we dreamed of then differs widely from the one that has
come to be. We thought that perhaps Charles Reich would be Chief Justice
and not William Rehnquist.

When I began teaching in a clinic, the students I have today were eight
years old, the same age as my son. We do not share many common experi-
ences. I need to find a way to reach them that takes advantage of who they
are rather than who I am.

Kandis said: "We touch our students profoundly." What do we mean
when we say we touch them profoundly? It means to me that students are
individuals, not metaphors. We can teach them to identify their own values
and the relationship between those values and the decisions they have to
make as lawyers. At a fundamental level, their values are most often altruis-
tic. But career paths which permit the application of non-selfish ideals are
not apparent to them. We can help them see the choices regarding careers,
clients, cases, and ways of practicing law which are more nearly consistent
with their own core values as well as our own.

I think all the schools that Phil mentioned are important parts of the intel-
lectual history of clinical education. I disagree, however, with one central
aspect of saying we follow the medical school model. The poor people we
serve have a very different relationship to the education of law students than
the patients for medical students. The poor people who are medical patients
probably present all the illnesses that the medical profession will see in their
practice so that they do not have to treat their patients as metaphors. The
poor people we serve have a very different set of legal problems from the
people most of our students ultimately will serve. We need to look at ways
that those cases can be metaphors for the practice of law.

There is a part of the medical school model that has something important
to say to clinical legal education. We need to reach beyond our students, to
the practicing lawyers. We should do for the legal profession what medical
schools do for the medical profession, to lead them in better ways to prac-
tice. We should send out from our law clinics the "wisdom" we have accu-
mulated from our analysis of the lawyering process. The data we have
generated about the practice of law, from observing and thinking about the
smaller pieces of the process, can surely inform the practitioner in ways
which have completely escaped traditional scholarship.

Finally, I want to address the question of change in legal education. In
October's AALS newsletter, Susan Prager wrote about the need for diversity
in legal education. She said that the best law schools have room for the
traditional analysts, the clinicians, the critical legal studies people, the femi-
nists, the law and economics, and other "law and —s." When I graduated
from law school, there was room for none but the analysts.

Teaching about skills and values is not left only to the law clinic these
days. Skills teaching effectively can be spun off from our laboratory into
classroom settings, e.g., by simulation. This gives us a tremendous freedom
that we did not have before when we had to teach everything in the law
clinic. Now we can concentrate our energy to teach those things that are
most important. For me that is teaching good judgment, the ability to make
strategic decisions that most closely achieve goals, to separate the lawyer's
values from the client's values, to understand what the appropriate goals are
and to have methods for achieving them. That, to me, is the goal of clinical
education both in the past and in the future.

LEAH WORTHAM:

In listening to the speakers, I was reminded of the transcription of an
address by Anthony Amsterdam that appeared in the Journal of Legal Edu-
cation. Amsterdam said his topic let him skip all the struggles of the twen-
tieth century and go right into the twenty-first. In his vision of the twenty-
first century, the Clinic had become the law school. The resources for a
pervasive clinical method were found by doing more cheaply that which is
easy to do cheaply, not clinical education but teaching substantive law.
With substantive law courses taught by programmed materials, the re-
sources were freed for clinical teaching to provide the rest of the curriculum.
We will see if that is what happens.

Our order was not an accident. We started and ended on an optimistic
note and kept our more skeptical speakers in the middle. I am going to take
the Chair's prerogative to ask a question. Like good lawyers, the panel par-
ticipants may respond by answering the question they wanted to answer any-
way. Dean and Roger said that they see a problem and a challenge in the
loss of a normative mission, the loss of a value orientation. Phil offered a
skeptical note about whether or not that is what students want to buy.
Kandis and Elliott agree about the normative mission, but they were more
optimistic about its salability in the world of the 1980's, 1990's or 2000.

What do you mean by the normative mission? Is it an anachronism?

ELLIOTT MILSTEIN:

Are students really different? Phil posed today's student concerned with a
job and wanting only the black letter law. Black letter law in the Clinic
would be translated into skills, i.e., teach me the ten commandments of cross examination.

My memory of law school is exactly that. The students wanted, but had to be pushed away from, a desire to memorize a set of things that would make it a trade school.

PHILIP SCHRAG:

My problem may be that Charles Reich was my teacher, in fact, my most inspiring teacher. The classes that inspired me in law school were the ones where Professor Reich, who taught the criminal law, created intellectual puzzles that had almost nothing to do with the rules. We spent the first four weeks of criminal law on the lifeboat case, Regina v. Dudley & Stephens;²¹ four weeks plumbing the philosophical depths of that one case.

In constitutional law, my most inspiring teacher was Charles Black. We began by studying the effort to call a federal constitutional convention to overrule the Supreme Court’s rulings on apportionment. It was a current controversy on the front pages of the newspaper. The issues were in some sense beyond the depth of students in their first week of law school, but we loved to struggle with them. The class really responded.

Clinicians offer intellectual stimulation that is often tangential to the actual cases that students are working on. For example, in a disability case in my clinic, a student discovered that her client had cancer, and the client’s doctor had not told her. We discussed whether the student should tell her client that she had cancer, whether the client might need psychiatric help that also would help in getting disability benefits, and what the differences were between the lawyer’s and the doctor’s role in the case. Many students were willing to investigate these issues seriously.

But in recent years, more students are likely to want to know only what they can do to move the case along. If we try to engage them in an ethical or interdisciplinary conversation lasting several weeks, they may become quite impatient. Many will decline our suggestions that they read articles that bear on issues in their case unless those readings will help to resolve outstanding problems. And articles critical of the social system in which they are operating are likely to seem particularly irrelevant to the goals which they sought to further through their clinical education. They tend to want to get through an issue and go onto the next one.

ROGER WOLF:

The change I see does not so much concern whether students see law

²¹. 14 Q.B.D. 273 (1884).
school as a trade school. It is that they are coming to law school as a secure way of making lots of money rather than a way to change society.

ELLIOTT MILSTEIN:
Maybe they are right.

ROGER WOLF:
They may well be right. Maybe we have to take their values as they are and say you are not wrong in trying to make lots of money, but let's do it ethically.

ELLIOTT MILSTEIN:
That is not what I mean about them being right. I do not know if money-making is the issue. The question is whether law can now be an instrument of social change, whether litigation can change institutions. Those kinds of questions may be beyond the scope of our panel, but maybe the perception that litigating is not a way to effect change is accurate. But perhaps we can change some other aspect of lawyering that is, if not of equal value, or at least of some value.

ROGER WOLF:
Like what?

ELLIOTT MILSTEIN:
Protecting clients.

ROGER WOLF:
You mean doing a better deal?

ELLIOTT MILSTEIN:
No, protecting clients from lawyer's values. I suppose Tom Shaffer's old example is still relevant. Could there be as many husband's who think ill of their wives' intelligence as there are spend-thrift trusts?

We did a simulation in our clinic using a sex-offense case. We mixed the Women in the Law Clinic with the Criminal Clinic students. There was a lot of anger that we had chosen this sex offense case as an example, because they thought it stereotyped women. The client in this simulation, however, never claimed consent as a defense. He said he did not do it. The students came up with consent as a defense. It had been imposed on the client from the lawyer.

Isn't changing that kind of behavior an important value—lawyers over-reaching their clients? This is just one example. We probably could go around the table and take a look at others.

DEAN HILL RIVKIN:
I think that forces in the market places are too powerful to hope that we shall have influence in reforming the private sector. That is, unless we mean
writing a book like *The Inner Game of Lawyering* to teach people to do things better and, in doing so, to be happy, content people. I find that problematic in itself given the dissatisfaction I see in people in large and even medium-sized firms. It seems to me to discard the whole notion of struggling to come up with ends for the process as opposed to an emphasis on means.

**ELLIOTT MILSTEIN:**

When was it different?

**ROGER WOLF:**

It was different in the beginning days. I want to take issue with your suggestion about law reform. We should be doing more law reform in clinical education. In our clinic at the University of Maryland, we have taken on Montrose, a juvenile institution in the state. We are challenging the treatment and care that inhabitants are getting there. It has been a wonderful experience. The problem has pulled a lot of clinicians together working on the same case and through it we are teaching a total lawyering course. First, we found the social ill that we wanted to change. We are attempting change through litigation and legislation. We are engaged in negotiations with the state. We have interviewed witnesses, taken depositions, developed our theory of the case through innumerable strategy sessions and the students have gotten a feel for what the lawyering process is all about.

This type of case that challenges one's values and skills—requires one not only to have legal skills but to understand the process and social alternatives as well. This is where clinical education comes out the strongest. Lately we have tended to try and get cases that can be handled in three months of a semester. We do not want to take the big case since students only get a little slice of it, and I think we have made a mistake.

**KANDIS SCOTT:**

I have heard a lot of conflicting things. Someone hoped the clinics might change the law schools into more than trade schools. Phil gave examples of the wonderful esoteric and exciting intellectual adventures he had in law school.

Elliott, on the other hand, expressed frustrations that many of us felt when we left law school: "I don't know how to do anything. And I resent my legal education, because law school put all these great ideas into what I hope was a good brain and then sent me out unable to do anything." We wanted to make law school into a trade school.

Now I fear that those of us who know how to ply the trade have become coated with intellectual pretension. Much of law practice deals with human problems, people struggling to cope with life as it changes, as Elliott said. I
fear we have turned our backs on the richness of human existence that is the raw meat of law practice.

Preparing students for practice is a wonderful, exciting challenge. Why don’t we get back to it and not be ashamed of it? I heard all of us, including me, criticizing skills training. Skills training should be put in the context of empowering smart law students so that they will then go out and help. I understand they could hurt too, but I am not afraid of that, as others of you might be.

PHILIP SCHRAG:

I do not think there is anything wrong with skills training. It just saddens me that we may settle for skills training when we could be doing, and used to do, much more. One of the main reasons why we are being pressed to settle for so little is simply that most students are now spending at least twenty hours a week at part-time jobs, in addition to going to law school. Ten years ago, many students worked, but most did not have to do so. I am not blaming the students for this. But it does mean they have less time left over for reading books and following the tendrils of the law.

KANDIS SCOTT:

One last comment about skills training. Listening to the others has made me rethink it. Is skills training less important now, or is it that we are no longer challenged by that part of our job? I wonder what we would find if we asked students how they value skills training and contrasted that to the answers of experienced clinical teachers. Skills training is easier for us now and maybe less exciting. I am not sure it is less important.

ROGER WOLF:

I am not sure that any of us deprecate skills training. The question is whether you take a case because it teaches a skill, or whether you take the case because of the value in the objectives of the case. Through handling the law reform case you can teach the same skills.

ELLIOTT MILSTEIN:

I do not have a problem with skills training. I do a lot of skills training, but I am afraid the words are pejorative. I have rethought for myself what skills training means. I used to think that if you taught open ended questions versus closed ended questions, talked about reflecting feelings, taught a set of ten or twelve ways of looking at the interview, that you taught a skill. But out of the context of a vision of the world, that skill is useless.

Somewhere, we need to take off the blinders, so that the students have a way to see and interpret the world. They need a way to see and interpret and use the non-rational factors that drive decisions in the real world, for example the racism and sexism in the court system. Not only to see such
forces and be angry about them, but also to use them to advantage. I want to push skills training off the plate because it can be done easily. It can be done in simulation courses. I want my client contact clinic where the students are in the world to do something broader, more grand. It is so expensive we should do something grand with it.

LEAH WORTHAM:

There is a problem in definition when talking about skills training. There is the first level of skills training—cross-examination, interviewing, counseling, negotiation. I think these are the first things that come to people's minds when they think about skills training.

There also is a second level of skills training—formulating hypothesis about how to gather information, developing cases and strategies, blue-skying about different alternatives to achieve an end, including legislative, litigation, and other strategies. I agree with Elliott about the first type of skills training. As a primary focus, simulations may be able to do it much more cheaply. It may be more motivating to teach those things to a live client, but I am not sure it is more effective.

PHILIP SCHRAG:

But there is at least a third level—integrating the knowledge that a student is getting from a case with what other people, often but not only scholars, have already done. Elliott mentioned sexism. There is literature on sexism. You can integrate what you have learned from your case and the way the judge or adversary is behaving with the literature on sexism. It is harder and harder to get students to explore that third level; for example, by reading a little political science or sociology and integrating it with what is happening in their clinic cases.

ELLIOTT MILSTEIN:

Several years ago, Frank Bloch wrote an article that talked about androgogy—that adult learners need to have some experience that motivates them to know that something is important to learn.22 We take advantage of that phenomenon in clinical education. I am not sure that the experience of students in the real world teaches them that they need to go read the philosophers or political scientists to be able to solve the problems that they have to solve on a daily basis. I do not know what would motivate them to do that. We once thought they read those things in undergraduate school. Perhaps we are not confident of that anymore.

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PHILIP SCHRAG:
The Bellow & Moulton Lawyering Process casebook is a brilliant book in bringing together relevant knowledge from many other disciplines—from economics, psychology, management science, and literature, among others. It is a very rich book, and it was designed to be used in clinics. The resistance of students to reading that book has been extraordinary. Clinical teachers all across the country tried to assign the book, but students will not take the time to read it.

ELLIOTT MILSTEIN:
The Critical Legal Studies teachers have been more successful in getting students to read philosophical literature. I do not know what they have done that is special. At American, the four or five faculty members who are involved in one way or another in Critical Legal Studies teach substantive courses like torts and contracts. They seem successful in getting students interested in looking at the relationship of values, ideology, and the law.

PHILIP SCHRAG:
Not only reading, but reflective writing increasingly is resisted in clinics. In my clinic, we used to have students write a seven page semester paper in addition to their classroom exercises and what they were writing to further their cases. The assignment simply called on them to write in depth about some small decisional moment or interpersonal event in one of their cases. They could write about a decision to file one kind of motion instead of another, or about a five minute, or even a five second, portion of a client interview. The point was to look at something closely and reflectively for seven pages. This year, after mutinies in two successive semesters over this diversion from case handling, we have had to abandon this writing assignment.

ELLIOTT MILSTEIN:
And because they were required to do it only because you said so. There was no demonstration of its usefulness in any way in their lives. I do not know that that is an irrational decision on their part or one that is fair to be angry about. With all the competing demands, telling a student something is in their interest is not enough. Students are not going to take your word for it. We need to create devices that interest them. We had a lot of success this year with simulations that had nothing to do with law. I took some ideas from Paul Bergman at U.C.L.A. We had students do an advocacy exercise where they had to convince the audience that men and women should share housework equally. Students worked in small teams. It was the best advocacy I had ever seen.

PHILIP SCHRAG:
Did they do that during class?
ELLIOTT MILSTEIN:
Yes.

PHILIP SCHRAG:
Within class hours, students will do exercises. They resist the additional demands on their time. And given the other pressures on them, I agree with you that they are not being irrational.

LEAH WORTHAM:
Let us now turn to the audience for questions.

AUDIENCE PARTICIPANT:
Ms. Scott talked about clinical education as a bridge to the future. I have not been able to find a future in practice. Legal services jobs are very scarce. Are your students having similar problems?

KANDIS SCOTT:
I was not using transition to the future in quite the same way you are, but certainly my students have had as much problem as you describe. Jobs are declining in the public service arena, and there is less turnover in existing jobs. On the other hand, it seems to me that one should look at public service a little more broadly. Most practitioners in small firms are handling people's problems. Probably because they cannot collect all their bills, they provide much service pro-bono. Such practice often makes as important a contribution to the solution of human problems as work in the public sector. That may be a small consolation to those frustrated in their search for employment.

AUDIENCE PARTICIPANT:
Do you have any studies on the kind of jobs your Clinic's students take?

KANDIS SCOTT:
No. We are all looking forward to the Catholic University survey to get some information on that.

ELLIOTT MILSTEIN:
I wonder whether if it is correct that there are fewer public interest jobs. In 1969, there were actually very few. People invented them. I am not sure it is possible to invent them anymore.

I think that there is something different going on—the rise in the placement movement. In the late sixties, schools at the level of American University and Catholic University did not have much of a placement operation. The law firms were not so large and so institutionalized to use placement offices. The way placement offices function put special kinds of pressure on students to have jobs by December, January, and February. Few legal services programs, public defender offices, and public interest places hire
through placement offices or have jobs in February for next September. People feel like failures because they do not have jobs at a time when it is not rational to believe that they could have public sector jobs.

DEAN HILL RIVKIN:

I think Elliott is right. How many times do you talk about your law school and find yourself saying, “We have more and more people going to Cravath or Arnold & Porter.” Phil mentioned before that if we opened up a Covington & Burling Clinic in the law school, it would be immediately over-subscribed. There would be long lines of students waiting for this type of experience. How many schools do you hear proudly saying that they have half their class going to three or four lawyer firms in small towns?

ELLIOTT MILSTEIN:

How often do you say, “Wait. You don’t have to have a job in December. The best jobs do not come available until September or Christmas.”

DEAN HILL RIVKIN:

Then people start competing for judicial clerkships three years in advance. When they are in nursery school, they are applying for Supreme Court clerkships. And if you don’t go to the right nursery school, you’ll never get to the right clerkship.

ELLIOTT MILSTEIN:

Well, how do you feel about your students going to Cravath? You have taught them all you know about being a lawyer, and they are going to ply their craft on behalf of General Dynamics?

DEAN HILL RIVKIN:

When I have discussions with students about that, I put some stock in the old adage that you become what you are. As much as one seems to suggest that you will resist and you will be able to ward off all the pressures and negative influences of a big institution, I think I leave people with a sense that that is not necessarily going to happen.

AUDIENCE PARTICIPANT:

I have been working on the survey of Clinic alumni. We are asking why people took the Clinic, and how their experience affected them. We want to see if anyone went into a Clinic wanting to work at Arnold & Porter and came out wanting to work at the Clean Water Litigation Fund. How much do you think a clinic can affect people’s future plans?

ROGER WOLF:

That is a good question. It is my sense that we do not get in our clinic the people who want to go onto the Cravaths. I sense that big law firms telegraph that they do not need the experience we offer so applicants are wasting
their time taking a clinic. I have the sense that that message is transmitted by some other professors in the law school as well.

PHILIP SCHRAG:
We did a survey on that subject a few years ago. We surveyed all the major firms and a few minor ones. The overwhelming results were that firms did not care one way or the other what people took in law school. The few people who cared preferred that people take clinics.

DEAN HILL RIVKIN:
I was at a session with a lawyer from a major D.C. firm, who, in the best sort of noblesse oblige said, “We really consider it a neutral or maybe a negative factor. The problems students deal with in clinical programs are not rich and complex and interesting.” It was a total disconnection to what a clinic’s practice looks like.

ELLIOTT MILSTEIN:
Is that his fault for being ignorant, or is it our fault for not getting out the message?

PHILIP SCHRAG:
It is possible that on some level the disconnect exists, not because clinic cases are not rich, but because many law firm cases are not rich. When students go to a large firm they sometimes read deposition transcripts for several years. In a clinic, they are actually on the streets investigating something. They may be disappointed in the large firm.

AUDIENCE PARTICIPANT:
My question concerns scholarship as a means for clinicians to affect the profession. Should scholarship be defined as an important part of the clinician’s job? If so, what kinds of scholarship should be expected? How should work be disseminated? Is some kind of institutional change needed within the law school for clinicians to do this scholarship?

ELLIOTT MILSTEIN:
The scholarship question is a complex one. One of the problems with requiring clinicians, and in fact the whole faculty, to do scholarship is that it comes at a cost. Time spent doing scholarship is time not spent doing something else.

Clinicians have been engaged in scholarship for the past fifteen years. The development of clinical education as we now know it is the result of clinical scholarship. The work has not always appeared in print, but it has appeared in forms usable in the profession of clinical teaching in law schools. I think clinical teachers have not gotten scholarly credit for the innovation and ex-
perimentation that has gone on and been transmitted through clinical teachers’ conferences and networks.

In some law schools, scholarship is very narrowly defined to mean “two analytical law review articles in the University of Pennsylvania Law Review or better” before tenure, with $X$ number of footnotes.

Clinicians should do scholarship. The data that is available to us is not available to anyone else in the legal profession. It is urgent that we produce such information, but the young clinicians who are suddenly on a tenure track must make hard decisions about how to spend their scholarly time. Should they take the safe route and produce the kind of scholarship that the rest of the faculty does, or should they take the gamble of producing the kind of informal empirical scholarship that derives from their work as clinicians? I think that without the support and encouragement of the faculty, they will take the safe route. Then clinicians will produce scholarship that is distracting from, rather than a contribution to, the development of sound clinical education and sound legal education.

KANDIS SCOTT:

I have feelings as well as thoughts about this. Elliott says we do scholarship already. I go one step further and say that clinicians should be excused from scholarship as that term is commonly understood. That type of scholarship is a diversion of clinicians’ energies from what they can best offer to the community of scholars. I see traditional scholarship by clinicians as a waste of the law school’s resources.

That is my heartfelt position, but I also can take a more moderate one. First, one should ask why it is desirable that clinicians publish articles, to use a crude term to talk about scholarship. It may be important to getting and keeping a job—tenure or long term contracts. Why is this writing necessary to getting and keeping a job? I assume the law school wants to be sure clinical faculty members are smart. There are many other ways to discover that.

A second reason may be to show perseverance and good work habits. Writing an article is a boring, painful, horrible thing to do, made only slightly easier by using word processors that put footnotes at the bottom of the page. Generally the clinicians are known to be among the hardest working, most disciplined, persevering members of the law school faculty. They need not publish to prove that.

Third, we want every member of the law school community to make a contribution to legal knowledge so as to make the world a better place. This makes us consider what clinicians can best add to our knowledge about legal education, practice, and doctrine. I think the clinician’s most valuable con-
tribution is not in traditional scholarship but rather, as Elliott said, in the
form of innovative curricular changes, new teaching methodologies. It may
be that we ought to make clinicians the specialists in teaching because they
have a better crack at doing it well. Teaching large classes is very hard. It is
difficult to make big classes exciting learning experiences, but almost easy to
do that in one-on-one teaching or in small classes. The challenge should be
to find ways to take teaching techniques from the clinic to the large class.
Alternatively, we could increase the number of clinicians so more students
could learn in a clinical, small group setting, while letting other members of
the faculty be our writing and publication specialists. In other words, we
should divide the law school’s responsibility to contribute to human
knowledge.

Finally, clinicians already do much writing in their work—briefs, memo-
randa and so on. The articles that I would want to read by clinicians are of
two types. One is interdisciplinary. I no longer believe that just because the
great granddaddy of Clarence Darrow said you should stand away from
your witness on direct examination, it is true. I would like to see clinicians
get together with sociologists, psychologists, even advertising executives to
examine the conventional wisdom which has arisen in fields like trial
practice.

Second, I would like to see clinicians writing about what lawyers do in
their offices. Morris Cohen, the librarian at Yale, recently wrote an article in
Syllabus about putting lawyer’s papers in law libraries. It would be exciting
to find out how lawyers do what they do most of the time; that is, work in
their own offices with their colleagues and their clients.

PHILIP SCHRAG:

I have a different view on traditional scholarship than Kandis does. Of
course, even traditional scholarship includes the kind of empirical, social
science investigation that Kandis has described.

To be able to spend time writing is a great privilege, not a burden or a test.
I think most clinicians would like to write if given the opportunity to do so.
What could be better than to be paid a large amount of money to sit and
think and write about anything that interests you?

The problem is that clinicians are expected to do this while taking on a
student contact load four or five times greater than that of most other faculty
members. It seems to me that the solution to this is to work towards a
system of expectations where clinicians do not teach clinics all the time, but
rather where a semester of clinical teaching is regarded as the equivalent to
two or three semesters of other kinds of teaching. For clinicians to write,
they need semesters of released time in which they can think and write at
leisure with only the normal number of students knocking on their doors, away from the pressures of daily court-imposed deadlines.

AUDIENCE PARTICIPANT:
As a clinic student, I would like to see more influence on private practitioners. I would think scholarship would be an integral part of that effort. I think many are not aware the clinic is there.

ELLIOTT MILSTEIN:
You really think that practitioners read articles? Another question is whether many of the things we are trying to teach can be taught through articles. I think clinicians should be involved in writing and participating in the training of lawyers who are engaged in the practice of law. It should be both.

AUDIENCE PARTICIPANT:
I remember when I first heard Dean, Kandis, and Elliott talk when I got involved in clinical education seven years ago. I now contrast that to what I hear today. This sounds like a wake.

You seem to be saying that what you talked about seven years ago is no longer out there. You sound as if the feelings about a relationship to a living, growing, exciting experience have died.

Perhaps it is that we have changed. We are no longer in our thirties. We are now in our forties. We have families and mortgages. I love to blame students too, and my students are as interested in making money as any. But perhaps, really, it is we who have changed.

Maybe we have lost our energy to keep the effort to bring our visions about. I hope it is not true. I intend to continue to be here and continue to do the teaching. We now have simulations as a required part of the curriculum for all the students at our school.

It did sound like a wake.

ELLIOTT MILSTEIN:
That may be a fair description of what happened today. It may be a fair description of we forty-two year olds, but I do not think it is a fair description of where clinical education is. The clinical section conference this summer in Boulder was very exciting with lots of new faces. There is a lot of excitement among the younger clinicians that perhaps you do not hear from us tired people.

PHILIP SCHRAG:
I do not think that students are to blame. The students are simply responding to the economy. If we ever again have a booming economy like that of the late sixties—perhaps this time without war—things could turn
around in clinical and legal education generally. Students' intellectual and professional aspirations would broaden accordingly.

FOLLOW-UP FROM AUDIENCE PARTICIPANT:
I see students worried about the future. They worry if they will ever be able to buy a house. Students come out of law school forty thousand dollars in debt and worry about how they will pay those debts.

PHILIP SCHRAG:
That is a very reasonable concern.

AUDIENCE PARTICIPANT:
I am a 1985 graduate of Catholic Law School and a Clinic alumni. I went to work for one of those rich law firms for a year and now have found a job with a public interest law firm.

I came to law school with the sole purpose of helping others. I heard that from all my professors at Catholic Law School including all the clinicians. I heard it from many other students who came to law school for that reason.

What bothers me is the arrogance of continually saying, "Go out and help others" without an acknowledgment of how hard it is to find work doing that. Even after a year at a fancy law firm, I found it difficult.

I think the challenge in 1986 is pointing people to ways to support oneself in practicing law to help others. I never received any counselling on creative ways to do that. I just heard the same old thing, "Go out and work for the public defender." The public defender has not hired anyone in two years.

Maybe the answer is that one goes to work for a large law firm at $50,000 a year and pays off one's debts so it is possible to go on to something else.

LEAH WORTHAM:
We have returned to the subject of our first audience question—how students who accept the normative goals that some of our panelists have said clinical education should foster can find work achieving those goals. A former Dean of this law school, Clinton Bamberger, who is here today, wrote a wonderful article with a perspective on that subject. In it he says the heroes of the profession are those who practice law for people. They are the lawyers in legal services, or on their own, or in small firms, who work with the wrenching issues that are most important to people—their homes, their children, their livelihoods. Dean Bamberger suggests that law schools may influence students to believe that such work is not a challenge worthy of bright law graduates and in doing so pushes them toward large law firms where clients do not "cry or bleed."

So we are left with meat for another panel on creative ways to use the law for good and clinical education's role in supporting that end. But our time is over, so we must hold that to the Twentieth Anniversary.