

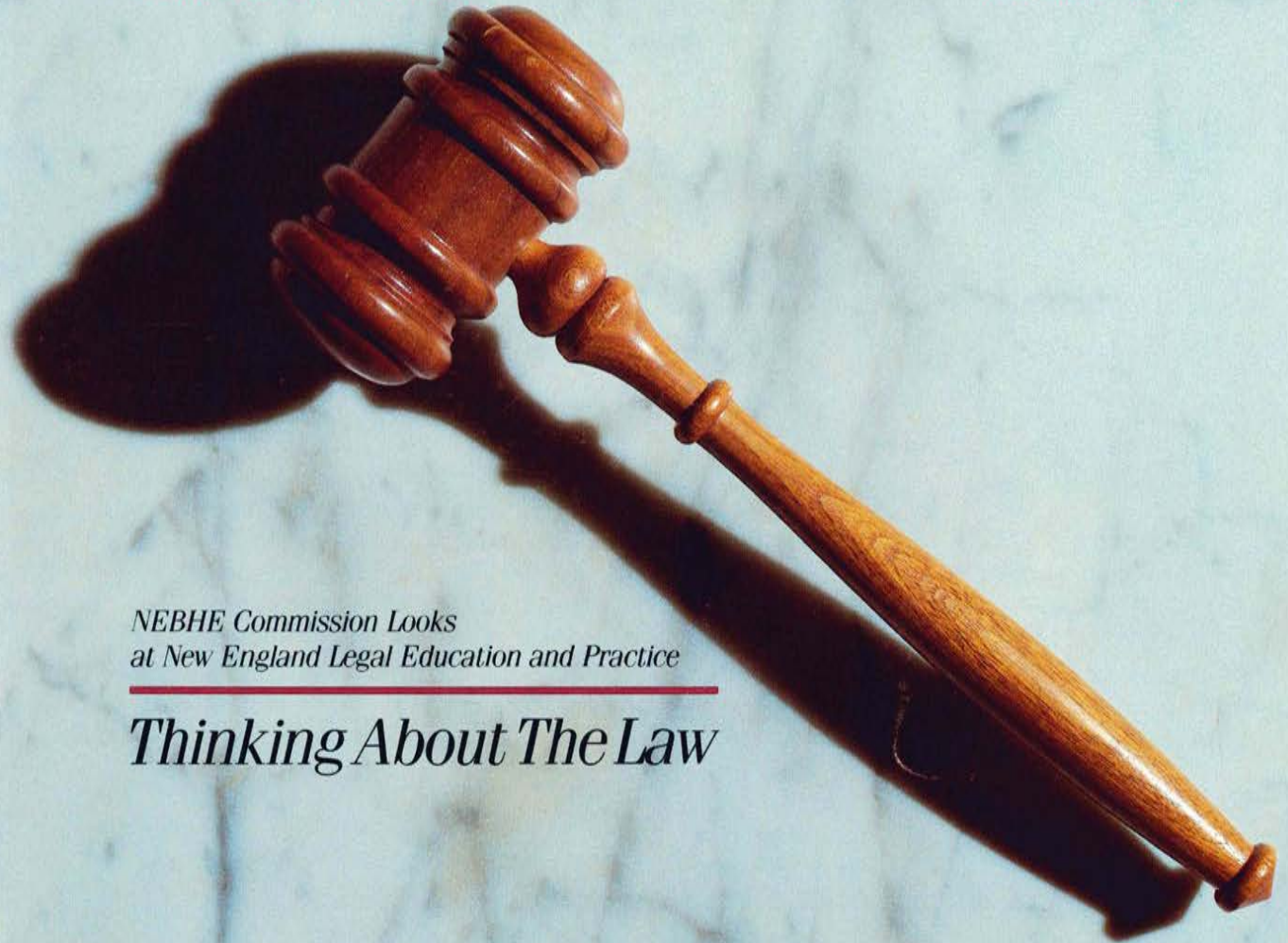
# CONNECTION

NEW ENGLAND'S JOURNAL

OF HIGHER EDUCATION AND ECONOMIC DEVELOPMENT

VOLUME III, NUMBER 4

WINTER 1989



*NEBHE Commission Looks  
at New England Legal Education and Practice*

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## *Thinking About The Law*

### *Also Inside:*

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*The Billion-Dollar Business of College Fund-Raising  
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NEBHE Establishes New England/Nova Scotia Exchange*



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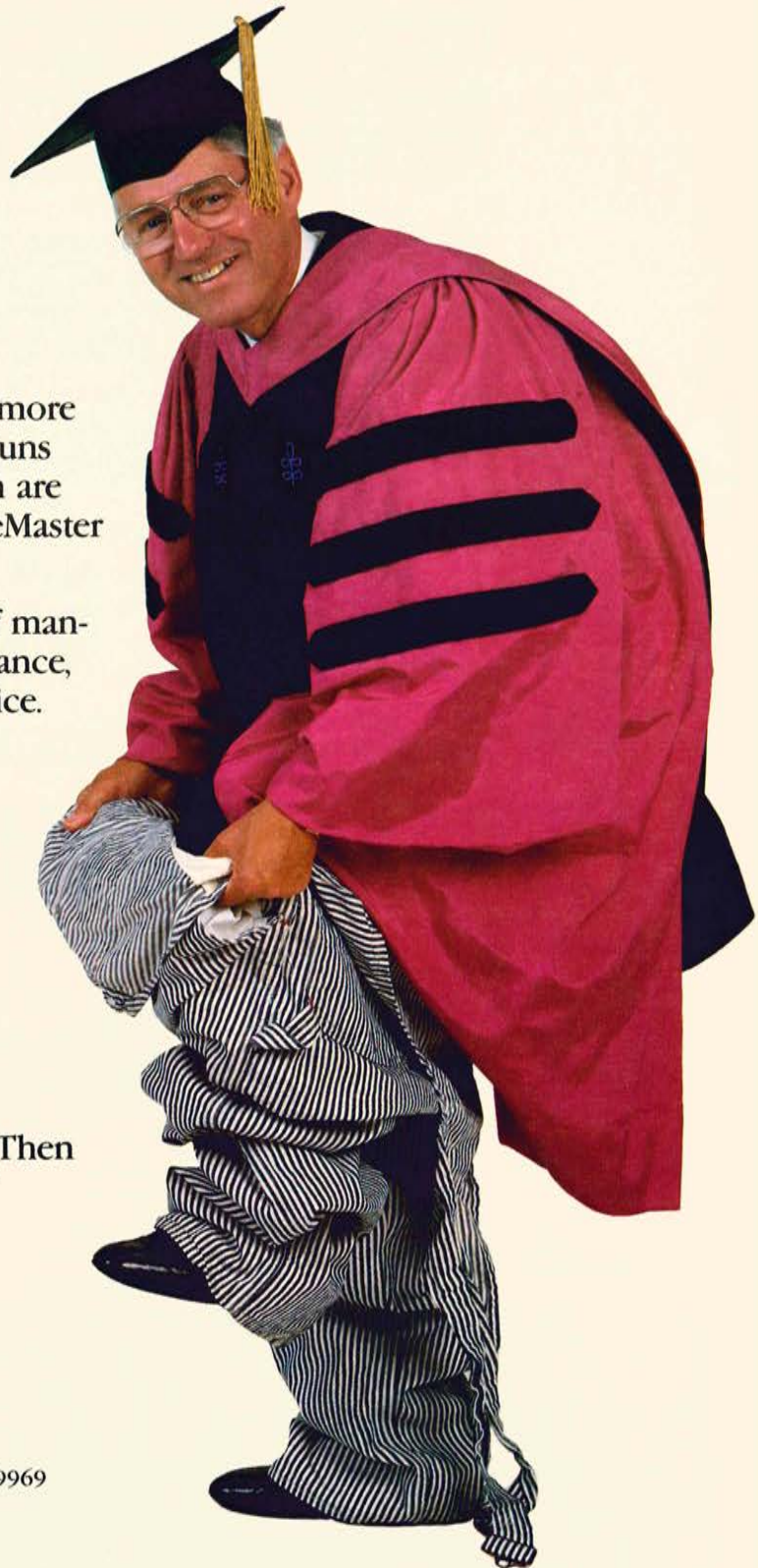
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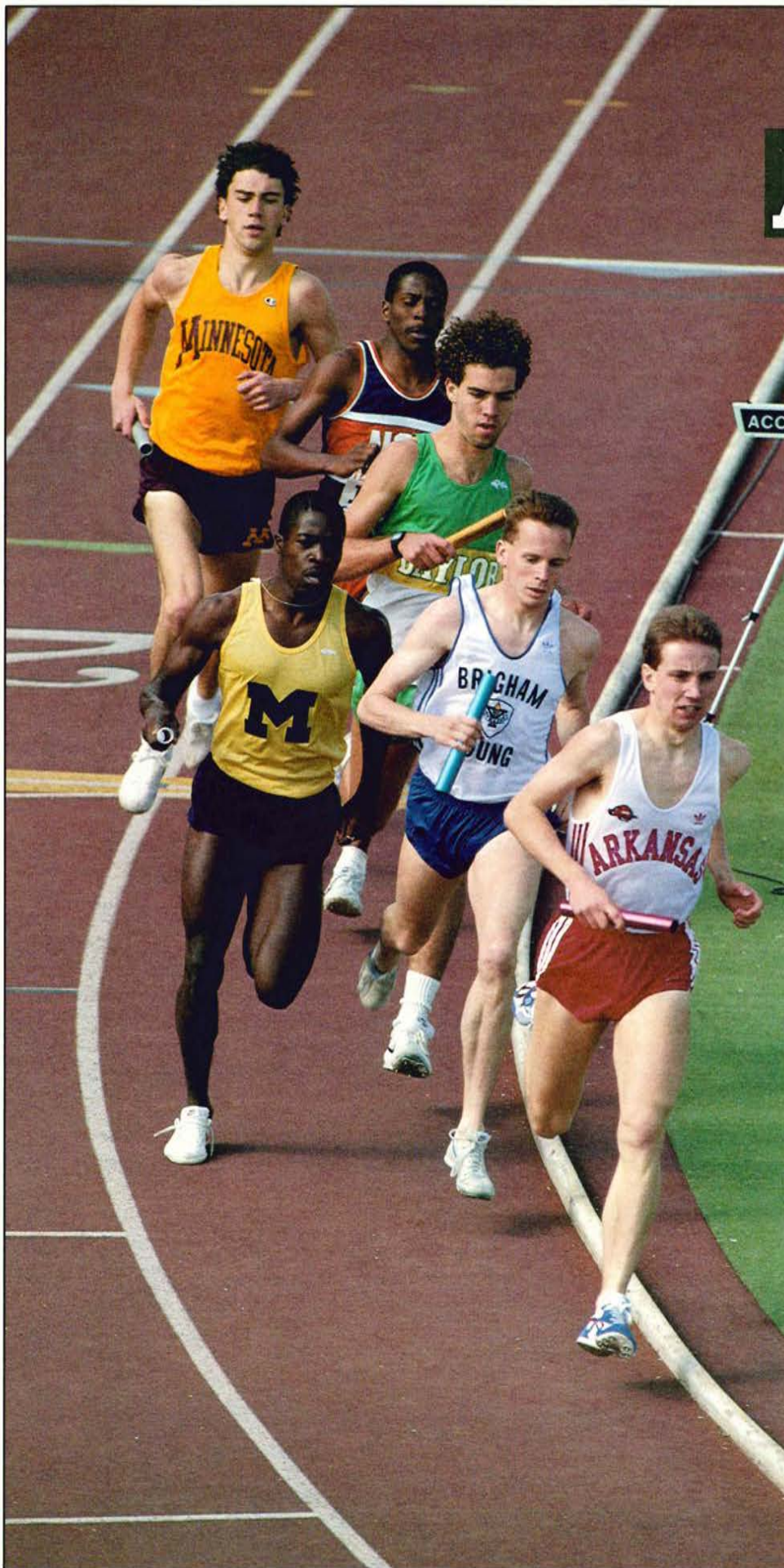
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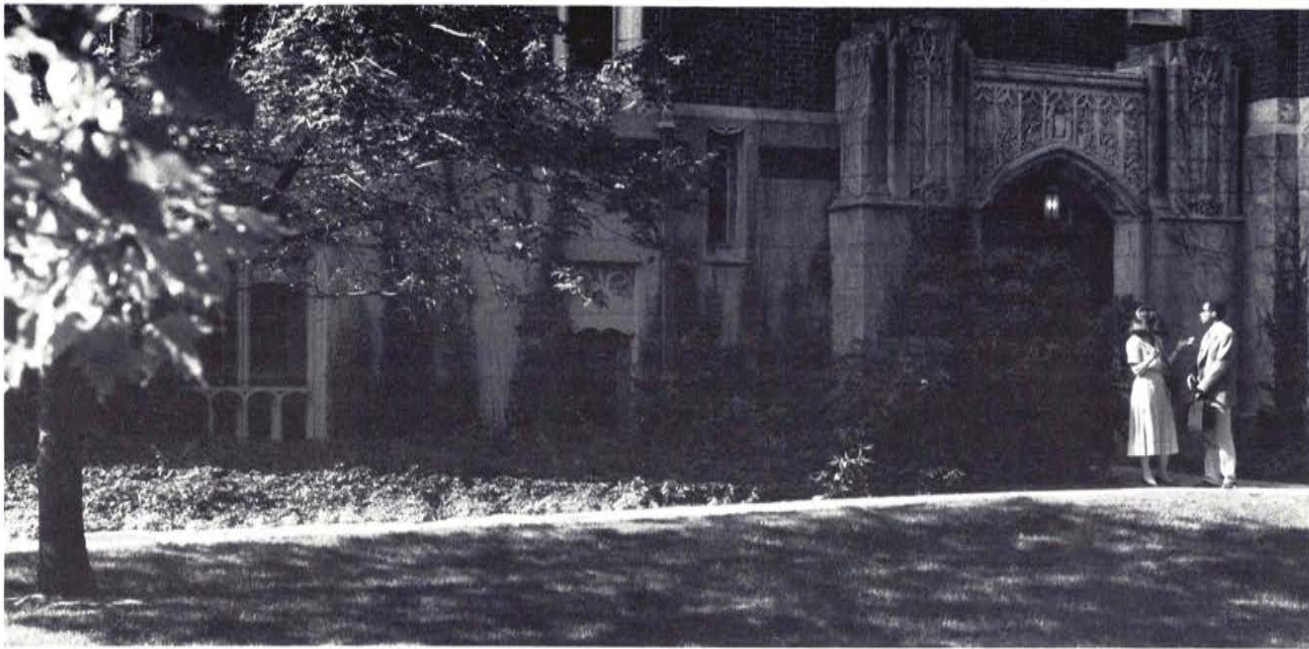
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# CONNECTION

NEW ENGLAND'S JOURNAL  
OF HIGHER EDUCATION AND ECONOMIC DEVELOPMENT

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**Education** was established as a nonprofit agency by the New England Higher Education Compact, a 1955 agreement among the six states that was ratified by the U.S. Congress. It is the purpose of the Board to advance and develop programs that encourage higher educational opportunities and improve efficiency in the use of resources among New England's public and independent colleges and universities.

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## EDITOR'S MEMO

The New England Board of Higher Education has been thinking about the law. Specifically, we have considered how legal education and practice interacts with society and the economy in our region. For this issue of *Connection*, we asked members of New England's legal and judicial communities to share their thoughts on a law-related topic of their choice with *Connection's* readers. We thank them for their generosity in contributing their time and providing many valuable insights into legal issues.

In *Connection*, Boston Attorney Ansel B. Chaplin examines a widely recognized but as yet unsolved problem: competently making the transition from law school to professional life when a legal education, however costly or comprehensive, cannot furnish the young lawyer with all the expertise he or she needs to practice. The Hon. Bruce M. Selya of the U.S. Court of Appeals, Providence, R.I., addresses the growing impersonality of a profession whose mainstay was once the relationship between client and lawyer-as-counselor. As Judge Selya says: "General practice has departed; General Motors has arrived." Professor Quintin Johnstone of Yale, a nationally known expert on paralegals, discusses the role this rapidly expanding profession plays in the practice of law.

Richard G. Huber, professor at Boston College Law School, focuses on the shortage of minority lawyers, and explains why this shortage is tragically self-perpetuating. Lonnie F. Powers, executive director of the Massachusetts Legal Assistance Corp., discusses the lawyer's obligation to making a democratic legal system work by donating his or her services to those who otherwise could not afford them. Meanwhile, Maine writer Donna Halvorsen takes a look at how legal-aid bureaus in northern New England are struggling to meet the "pervasive and complex" (in Powers' words) legal needs of the poor.

New England's lawyers, judges and law students no longer struggle with dusty tomes in antiquated libraries. Yale Law Librarian Morris L. Cohen's survey of legal information resources in New England demonstrates that libraries and law offices in the region fell into step with the information age long ago. But microforms and databases haven't yet pushed the lawbooks off the shelves: Law library design today is an effort to integrate the old with the new. Architect Maurice N. Finegold illustrates how this task will be carried out at the Vermont Law School and Harvard University law libraries.

*Connection* has published the findings and recommendations of a gender-bias study conducted by the New Hampshire Bar Association Task Force on Women in the Bar, as summarized by Task Force Member Susan B. Carbon of the Laconia law firm Wescott, Millham and Dyer. Bar associations in Connecticut, Maine, Massachusetts, Rhode Island and Vermont have conducted or are planning similar studies. *Connection* Contributing Writer John O. Harney responds to the question: Are there too many lawyers? The answer is not as simple as one might think.

In 1986, NEBHE President John C. Hoy appointed a 37-member Commission on Legal Education and Practice and the Economy of New England, whose final report will be published later this spring. *Connection* Associate Editor Ellin Anderson describes the work of the Commission and discusses some of their preliminary findings. *Connection's* Finance Department features John O. Harney's investigation of college fundraising, now a billion-dollar business in New England. And *Connection* Washington Correspondent Michael J. Bennett spotlights a rare initiative on which Republicans and Democrats agree: creation of a citizens' "National Service Corps" that would attack illiteracy and other societal problems. □

Charlotte Stratton is managing editor of *Connection*.



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### NEW UMAINE ENGINEERING CENTER EXPANDS SERVICES

The new University of Maine Center for Engineering Studies has been founded to identify and meet the educational and service needs of students, business and industry in southern Maine. Established at the University of Southern Maine by the UMaine System Board of Trustees, the center will provide undergraduate, graduate and continuing education courses, research, preparatory and enrichment programs, planning studies of short- and long-term engineering education needs in southern Maine, and promotion of cooperative education experiences for university students in area industries.

### BIOTECH PROGRAM LAUNCHED AT UMASS/AMHERST

A new program in biotechnology has been launched at the University of Massachusetts. Former chairman of the department of food science and nutrition R. Glenn Brown will direct the program, coordinating biotechnology efforts between the departments of food science and nutrition, food engineering, veterinary and animal science, biochemistry, microbiology and chemical engineering. Brown will also forge communication links between the departments and the rest of the university, and with industry.

### CCRI INSTITUTES MINORITY MENTOR PROGRAM

The Community College of Rhode Island this year instituted a Mentor Program for minority students enrolled at the college. Housed at the Lincoln campus, the program is being funded by the Rhode Island Board of Governors for Higher Education Incentive Fund for Excellence. The purpose of the program, primarily for freshmen, is to provide encouragement and support for academic excellence and personal growth among minority students. Participating students are matched with three mentors — a second year student, a faculty member or administrator and a community representative — who act as positive role models for students and advise them on accomplishing their goals.

### COLLEGE BOARD PUBLISHES SPANISH VERSION OF AID HANDBOOK

The College Board's popular publication, *Meeting College Costs*, is now available in a Spanish language version, *Enfrentando los Gastos de la Universidad*. The eight-page booklet contains information on how financial aid works, estimating expenses and financial need, investigating sources of financial aid, how and when to apply and alternatives to aid. To obtain copies, send a request with the title, item number (236263) and a check for \$7 (per package of 50 copies) payable to the College Board to: College Board Publications, Box 886, New York, NY 10101-0886.

### WICHE EXCHANGE ENROLLMENT EXCEEDS EXPECTATIONS

Nearly 650 students — 25 percent more than anticipated — enrolled in out-of-state colleges and universities in the West to take advantage of a new regional program that provides substantial tuition reduction and a wide selection of undergraduate educational programs. First-term figures reported by the exchange coordinator for the Western Interstate Commission for Higher Education showed 643 students enrolled in 32 of the 56 participating public colleges and universities in 10 states — Alaska, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Utah and Wyoming — through the Western Undergraduate Exchange. The program is patterned after the New England Board of Higher Education's Regional Student Program (RSP). The RSP enrolled 5,231 interstate students in 1987-88.

### UMAINE OFFERS GRAD DEGREE IN WILDLIFE CONSERVATION

Starting this fall, students at the University of Maine can work towards a master's degree in wildlife conservation through a new program: the Master of Wildlife Conservation, the first program of its type offered in the region. The new degree will provide wildlife administrators with the equivalent of an MBA. The MWC program is expected to interest people who have a degree in wildlife or a related field and several years of experience, and those who are changing careers and have one or more degrees in other fields.

### OLIN AWARDS \$5.5M FOR TUFTS LANGUAGE CENTER

Students studying modern foreign languages and culture at Tufts University will have a new high-tech building in which to work and learn as a result of a \$5.57 million grant from the F.W. Olin Foundation, Inc. The four-story structure, to be named the F.W. Olin Center for Language and Culture Studies, will be the centerpiece of the academic quadrangle on Tufts' Medford-Somerville campus, emphasizing the importance of language and cultural studies in the university's undergraduate liberal arts curriculum. The center is expected to open by September 1990.



### UHARTFORD/MIT CO-OP WILL BENEFIT CONN. BUSINESSES

A consortium of five Greater Hartford-area small businesses will benefit from a new cooperative arrangement between MIT and the University of Hartford. Through the MIT Laboratory for Manufacturing and Productivity Industry Collegium, special technology and information about manufacturing technology will be transferred to area firms, a special arrangement orchestrated by the College of Engineering Applications Center at the University of Hartford. These are: Jacobs Manufacturing, Bloomfield; Sessions and Son and Superior Electric, Bristol; Zygo Corp., Middlefield; and Wiremold, West Hartford.

### UMAINE SYSTEM LAUNCHES NEW JOURNAL

*The Maine Scholar: A Journal of Ideas and Public Affairs* was released to the public early this winter as a joint product of all honors programs in the University of Maine System, edited by Jeremiah Conway, director of the University of Southern Maine's Honors Program. The journal's subject matter is widely varied: featured in the first issue are discussions of Maine author Stephen King's works as serious literature, the Israeli/PLO conflict, and feminist explorations of history. Contributors to the journal are directly or indirectly associated with the University of Maine. Manuscripts may be submitted to *The Maine Scholar*, 102 Bedford Street, Portland, ME 04103.

### GRANTS SUPPORT COLLEGE/BUSINESS PARTNERSHIPS

Connecticut Commissioner of Higher Education Norma Foreman Glasgow has announced the award of \$2.1 million in research grants to 15 partnerships involving Connecticut business firms and the University of Connecticut and its health Center, Yale University, Wesleyan University and the University of Bridgeport. These Cooperative High Technology Research and Development Grants will allow four Connecticut universities to work with large and small industries in exploring new advances in the most advanced fields of high technology.

### REGIONAL SEA GRANT MAGAZINE DEBUTS

The first regional Sea Grant magazine for the Northeast will debut this spring. Appropriately named *Nor'easter*, the magazine will focus on marine and coastal issues, featuring articles on such topics as global warming and sea-level rise, red tide, and the Long Island Sound Study. *Nor'easter* is a combined effort of several Sea Grant programs: those of Connecticut, the Massachusetts Institute of Technology, New York, Rhode Island, and Woods Hole (Mass.). Rhode Island's Sea Grant staff will lead the project as editors and designers, while the staff of all five Sea Grant programs will contribute articles and serve on the editorial board.

### ENVIRONMENTAL JOURNAL LINKS RESEARCH, POLICY

The charter issue of a journal intended to bridge the gap between research and international environmental policy appeared in February. Created by Dartmouth College adjunct professor of environmental studies Konrad von Moltke, *International Environmental Affairs: A Journal for Research and Policy* seeks to present cohesive environmental policy information for researchers in both the academic and private sectors, in order to improve international awareness of environmental problems and policies. Joining Dartmouth in launching the journal are Tufts and Clark universities in Massachusetts, the University of Vermont and the University of New Hampshire.

### NEW JOURNALISM MAJOR AT UNH

The University of New Hampshire's informal journalism program has been a well-kept secret for years. Now the secret is out, having received degree status. The new major will impose a formal structure on the program, and will attract students seeking training in journalism who might otherwise have chosen colleges with journalism majors. Students will be required to take courses in literature, English, newswriting or non-fiction magazine writing, and editing. An internship at an approved newspaper or magazine is also required.

### COURSE IN JAPANESE MASS MEDIA OFFERED BY ST. MICHAEL'S

St. Michael's College of Winooski, Vt., an institution with extensive ties to Japan, has announced a new six-credit course in Japanese mass media, offered through the department of journalism. The course centers around a three-week trip to Japan, to be conducted for the first time this summer. Open to 15 qualified students from St. Michael's and other accredited colleges and universities, the course is the first of its kind in the United States. Participants will visit television facilities, newspapers, press conferences and government briefings.



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## More Engineering Faculty Should Be "Made in USA"

JOHN C. HOY

Some disturbing trends cast doubt on our effectiveness in preparing tomorrow's engineers. New England's and the nation's advanced engineering programs have looked so good to students in other countries — and industrial salaries have looked so good to the relatively small number of U.S.-born engineering students — that the United States has become dependent on foreign suppliers for engineering graduate students and faculty.

The number of engineering doctorates conferred nationally dropped from 2,500 in 1970 to 1,280 in 1985, and only about half of these degrees were awarded to U.S. citizens or permanent residents. Approximately half of the foreign engineering students who earned doctorates were expected to return to their native countries, taking their degrees and knowledge with them.

*Although foreign engineering talent has made invaluable contributions to the U.S. economy and national security, our dependence on foreign faculty is unsettling.*

As a result, engineering colleges are drawing from an insufficient pool of U.S.-born doctoral candidates and full-time faculty. And declining interest in engineering among entering college freshmen indicates that the pool will shrink further. As this trend continues into the next decade, it will be exacerbated by a likely rash of retirements among the many engineering faculty hired in the 1960s.

Already, almost 40 percent of the nation's most competitive engineering colleges are hiring more teaching assistants than they would like — and more than half of those teaching assistants are foreign, according to *Boon or Bane*, a report by the Institute for International Education.

Although foreign engineering talent has made invaluable contributions to the U.S. economy and national security, our dependence on foreign faculty is unsettling. A 1987 report by the National Academy of Sciences suggests that if U.S. engineering schools suddenly were told to terminate foreign faculty at the assistant-professor level, the nation would lose 50 percent of its youngest and most enterprising engineering faculty. Such a Draconian step is highly unlikely. But if political or economic events prompted foreign students to stop viewing the United States as the country of choice for engineering studies, some U.S. institutions would be forced to cut back or terminate their engineering programs.

The quality of U.S. engineering education may be suffering already. *Boon or Bane's* authors noted that surveyed faculty would prefer that lectures and laboratories be led by U.S. teaching assistants rather than their foreign counterparts, because U.S. teaching assistants communicate more clearly with students and better understand U.S. academic culture.

Higher education, government and business must collaborate to assess future industrial and academic demand for engineers, reducing the nation's reliance on foreign engineering talent. The following objectives are critical:

*Encourage early interest in engineering.* Oversimplified media attention to slowed growth in high-tech industries threatens to perpetuate declining student interest in engineering. U.S. students hear much about engineering layoffs, but not enough about the cyclical nature of the engineering labor market or deepening shortages of engineers in certain fields. Higher education, government and industry can serve their own needs by working with high-school teachers to encourage

early interest in engineering careers.

*Make engineering degrees more attractive.* Gifted U.S. students will pursue engineering only if they know that a broad education, with a strong liberal arts component, will make them intellectually competitive long-distance runners in the job market. The global economy demands that international features such as relevant overseas internships must also be added to the engineering curricula.

Higher education must also be responsive to high-tech engineers who increasingly need international competencies to negotiate and manage projects across cultures. But with certain notable exceptions, colleges and universities have not offered appropriate courses in convenient locations or at convenient times for business personnel.

*Higher education, government and business must collaborate to assess future industrial and academic demand for engineers.*

*Offer incentives for engineers to work in academia.* Loan-forgiveness programs and industry-sponsored fellowships are needed to encourage engineering students to resist the lure of industrial salaries, pursue doctorates and teach. Engineering students also need accurate information regarding academic careers: the respectable salaries commanded by full professors of engineering, and the opportunities professors have to do private consulting or even create corporations.

The key issue is enlightened self-interest. It is in the interest of all the major institutional sectors, including industry, to ensure that adequate numbers of gifted U.S. engineering students choose careers teaching others. □

John C. Hoy is president of NEBHE and publisher of *Connection*.



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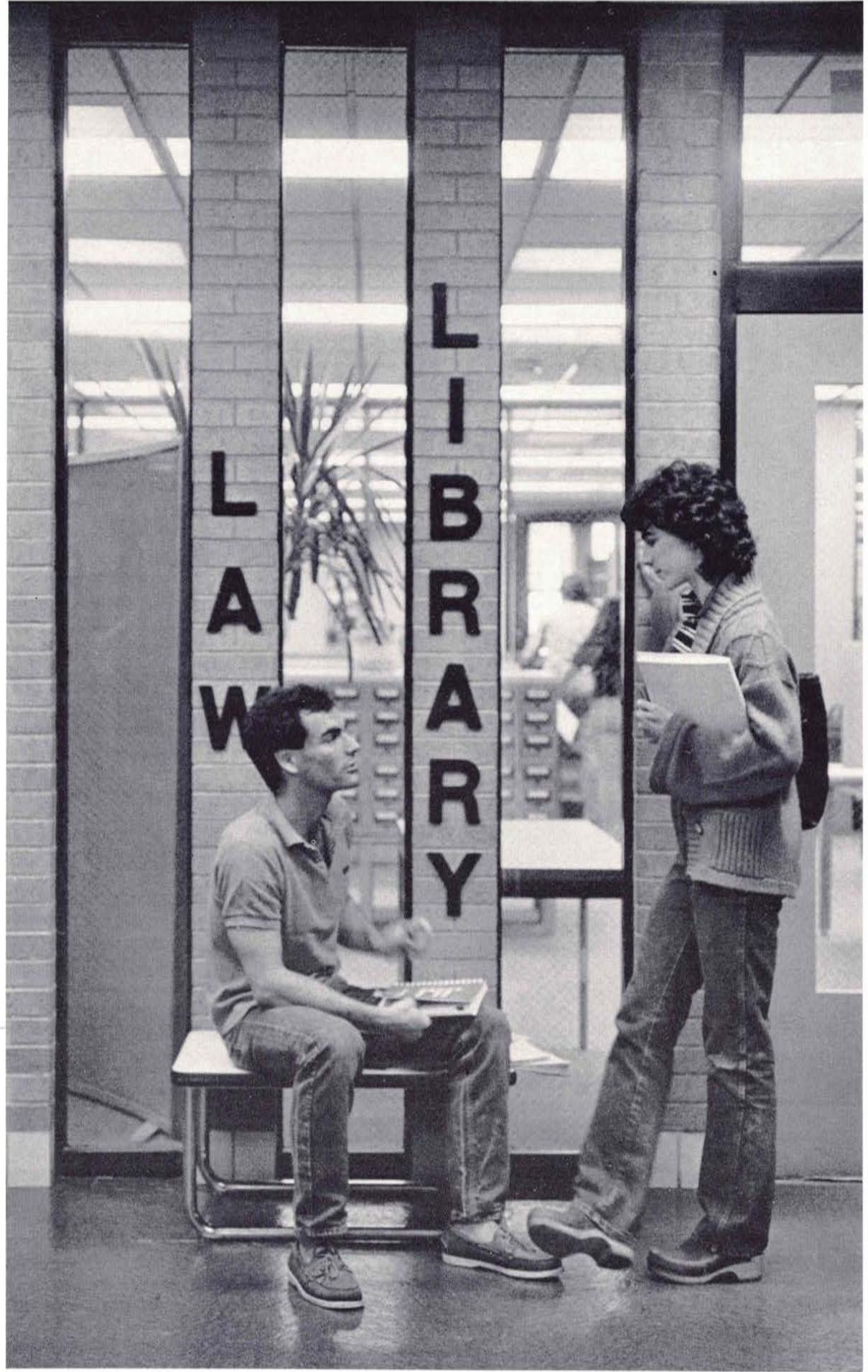
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# Legal

## Education & Practice in New England

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**L**awyers are perhaps the object of more respect, resentment, envy and misunderstanding from the public at large than any other group of professionals. Biased views, fed in large part by a media that delights in reporting immense lawsuits and inflated legal fees, may obscure the reality of lawyers' actual economic and societal contributions to the New England region.

New England supports one of the highest concentrations of lawyers in the United States. Between 1960 and 1985, the number of attorneys in the United States grew twice as fast as the nation's labor force and four times as fast as its population, with New England showing a similar pattern of growth. While popular opinion holds that "there are too many lawyers," in actual fact, lawyers in substantial numbers are vital to this region's legalistic and knowledge-intensive society.

Has the growth of the legal profession in New England been a passive by-product of the region's shift from an industrial to an information economy? Or have New England's lawyers played an active and positive role in spearheading the region's rise to prominence as an internationally recognized center for high-tech innovations? Is there a civil litigation crisis? Are legal fees excessive? If so, what can be done to reduce them? And do lawyers compensate for their privileged status by performing an adequate amount of work "for the public good"?

◀ *AT LEFT:*  
New England has a distinguished law school library system. The availability of interlibrary loans and library networks, particularly the New England Law Library Consortium, make these collections a truly regional resource.

Western New England College photo, courtesy of Lawyers Weekly Publications, Inc.



No regional study has attempted to answer these questions in depth until now. The New England Board of Higher Education's Commission on Legal Education and Practice and the Economy of New England, appointed by NEBHE President John C. Hoy and chaired by Former Vermont Governor Thomas P. Salmon, is in the process of completing a three-year investigation of New England's legal profession and law schools.

Their work will result in a final report, to be released later this year.

The Commission has found that lawyers have played an indispensable part in the process of infusing capital into the new ventures of the region's knowledge economy, and in the worldwide export of the resulting data and goods. It is lawyers who design and negotiate the legal relationships that make possible the de-

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*NEBHE Commission on Legal Education and Practice  
and the Economy of New England*

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velopment of capital, the expansion of business, the protection of new technologies, and product and workplace safety.

New England's 13 law schools have been reviewed by the Commission as to the informational and other resources they provide, the types of students they are training, how well they prepare students for the practice of law and how those students use their training following graduation. The report will also focus on the necessity of viewing legal and judicial education as a lifelong process, and addresses the critical need for every lawyer to meet high professional standards.

In each area, the Commission will make specific recommendations, intended to help policymakers determine where the legal profession stands now, and what steps should be taken to assist it in fulfilling its unique responsibility to American society. Issues to be discussed in the final report of the Commission will include the following.

### **New England's law schools**

New England has 13 ABA-accredited law schools, enrolling nearly 11,000 J.D. students. They account for 7.5 percent of the nation's 175 approved law schools. The size of their collective student bodies and teaching facilities, however, exceed that percentage. This is due partly to the fact that three of the country's largest law schools are located in Massachusetts: Harvard, Suffolk and Boston University.

Law students account for only about 1 percent of all students enrolled in New England's 260 colleges and universities. Law schools account for a modest \$99.5 million in direct spending and approximately \$250 million in indirect expenditures. However, they have influence far beyond their small numbers. Their graduates occupy central positions in the political, economic and social life of New England. Their faculty exert considerable influence through their teaching and research, and contribute significantly to legal reform through consulting, conducting institutes and serving on public service panels.

As NEBHE Senior Fellow Thomas P. Fischer points

out, the decision to enroll in law school is delayed more than in past years, and that it is based in part on the status, influence and income of the profession. The Commission is concerned that too few law school entrants know enough about the profession, and are particularly ignorant of its societal responsibilities.

New England's law schools educate seven out of every 10 new attorneys employed in the region. The Commission believes that business and industry would not function as effectively as they do without these "home-grown" lawyers, nor would society long remain orderly or generally equitable without their influence. According to NEBHE Senior Fellow Melvin H. Bernstein, with its several nationally acclaimed schools, New England is also the largest "exporter" of legal talent to the rest of the nation.

### **The cost of legal education**

The Commission has examined the cost of legal education, which until recently was considered one of the region's best higher-education "bargains." At most New England law schools, tuition was lower than that for baccalaureate programs at the same institution: In 1975, at New England universities with law schools, the average undergraduate tuition was \$3,230, while law school tuition was \$2,459. By 1980, tuition for law school and bachelor's-degree programs drew about equal, but by 1985, the cost of legal education had moved ahead: \$8,540 as compared to \$6,910 for a B.A.

Tuition, however, does not tell the whole story. If other expenses are added (room, board, books, travel), a single, in-state law student living away from home can expect to pay \$9,000 annually if attending a public law school, or \$14,500 at an independent institution — perhaps more. In round figures, that is between \$28,500 and \$45,500 for a three-year J.D. degree, including inflation. If costs escalate in the next decade as they did in the last, by 1995 law degrees could cost \$56,430 and \$117,850 respectively.

Not only is tuition a disincentive for would-be law students, but it adds to the indebtedness they accumulated as undergraduates and extends the period of

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### *New England's 13 ABA-accredited law schools*

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repayment. In 1986, borrowing limits were increased for the federal loan programs most often used by law students (National Direct Student Loan and Guaranteed Student Loan), but eligibility qualifications were tightened.

Obviously, the ability to finance a legal education is a major factor in maintaining the pluralism of the profession. Increases in minority enrollment, which is still well below its share of population, have virtually stopped. It is generally believed that financing is a key to the enrollment of minority groups, and to many non-minorities as well. The Commission is concerned that the sharply escalating cost of a legal education may discourage talented individuals from attending law school.

Finally, the burden of paying off loans deters some graduates from taking lower-paying jobs following graduation, particularly those in government, legal services and education. Such career choices result in untold benefits to society. The profession cannot afford to have most law school graduates forego socially important public service positions in favor of higher-paying jobs in private firms.

#### **Employment of women**

Based on a Commission survey, many large New England firms actively recruit women. These firms indicate that they have adjusted their personnel policies to make their positions more attractive. The success of this initiative is unclear. It appears that women continue to face career-advancement obstacles at large firms. The Commission's data on this issue was cor-

roborated by recent studies done by the Boston and New Hampshire bar associations.

Nearly two-thirds of all female law-school graduates in New England take positions with government or firms of fewer than 25 attorneys. Nationally, at present the largest growth area for female employment is in large law firms. If observed trends continue, there could be a shortage of women lawyers in the employment areas where demand is greatest: medium and large law firms. However, the Commission anticipates that these employers will be able to find incentives to recruit the best female candidates if need be.

#### **Employment of minorities**

New England law-school deans indicate that 80 percent of their minority students (Blacks, Hispanics, Mexican Americans, Asian Americans, Puerto Ricans and Native Americans) come from outside the region, and it is estimated that most minority graduates take non-regional jobs. In 1984, only 66 of 251 minority graduates of New England law schools, or 26 percent, indicated local employment. Those who were locally employed gravitated more to business and government positions and less to private practice than their national counterparts.

The available data, from a 1984 National Association for Law Placement survey of New England minority graduates, indicate the following:

- A large plurality of minority law-school graduates are employed by state and local government, about

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double the non-minority rate. Few were employed by the federal government.

- Employment in business and industry ranked second.
- Solo practice and public-service positions tied for third, but were much more common for minorities than for non-minority graduates.

The scant information available suggests that most New England minority graduates leave the region for their first job. Legal employers can do more to stem this migration and open New England's legal profession to minorities. Established minority professionals have a major role to play in this process.

Much of the data about minority job placement is based on a largely Black population. Future employment statistics may differ for minorities as a whole, since law-school minority population is gradually becoming more Asian and Hispanic. The Commission sees little prospect that the absorption of Blacks into the profession will accelerate significantly in the foreseeable future.

#### Is there a civil litigation "crisis"?

Recently, much concern has been expressed about a civil-liability "crisis" in this country: an inordinate number of lawsuits being filed, and undue expense and delay in resolving them. Concurrently media attention has been lavished on a small number of multimillion dollar damage awards (only 2,540 since 1962) and ex-

pensive "advertorials", published by insurance companies, public interest groups and the like, as each side attempts to make its case to the American public with respect to contingent fees and caps on jury verdicts.

These public perceptions — some doubtless shared by lawmakers — result in tremendous pressure to "do something." State legislators, bar organizations, insurance companies and consumer protection groups have all made corrective proposals. Twenty states passed tort-reform legislation in 1986, and 28 did so in 1987, including five New England states. As of September, 18 new bills had been passed in 1988.

Despite this activity, the Commission does not believe that there is a "black-and-white" answer regarding the existence or nonexistence of a "crisis." No solitary culprit has been found, although contingent fees, an overburdened legal system, plaintiffs' expectations, new forms of liability, oversize verdicts and the sheer volume of laws and regulations all contribute to the problem. What is clear is that a great deal of money is expended in a civil liability system that is often tediously slow, and that sometimes too little ends up compensating victims. As the key players press on toward a constructive solution, it is unlikely that a true crisis will result.

#### Legal information resources

New England has a distinguished law-school library system, perhaps its most valuable single source of legal information. Viewed against other regions, New England's academic law libraries are among the strongest



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in the country. Only New York City, the San Francisco Bay area, and Washington, D.C. (including the Library of Congress) approximate it. The availability of inter-library loans and library networks, particularly the New England Law Library Consortium, founded in 1983 and embracing 15 law libraries, make these collections a truly regional resource. However, New England law school libraries need additional support to fulfill both their academic missions and their broader responsibilities to the bench and bar.

The acquisition and maintenance of computer technologies and communications media are additional drains on academic library budgets. These costs

presently exceed 10 percent of most law school budgets and are likely to increase in relative terms in the years ahead. Only the best-funded public and private collections can expect to keep pace without increased funding and collaboration.

### How important is continuing legal education?

As comprehensive as it is today, law school training can provide only the core of the initial substantive knowledge a lawyer needs. He or she must thereafter develop a range of practice skills and update information as the law evolves, through careful, periodic

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## The Lawyer-Client Relationship

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**T**he New England Board of Higher Education has performed a valuable public service in initiating and coordinating its Commission on Legal Education and Practice and the Economy of New England. The study will provide a number of insights into the impact of the legal sector on the New England economy.

NEBHE's report represents a first. No other region, to our knowledge, has undertaken an analysis of the economic effects of legal services. Undoubtedly, the survey will influence the way law is practiced in New England for decades to come.

One clear fact revealed by the study is that in the 1990s, economic constraints will exert increasing pressures to reduce legal expenses. As a result, one can

speculate that the attorney-client relationship will experience some dramatic changes. Lawyers will face a more demanding and better-informed client — one who expects a larger role in the cost management of his or her cases.

Even today, many clients are unhappy with the treatment they receive at the hands of their lawyers. They pay the bills but are



William T. O'Hara

often relegated to spectator status as their attorneys "take command." They have little say in the way their case can proceed. Decisions that ultimately cost the client money are made by lawyers acting independently. Obviously, some procedures and steps are indispensable. There are situations, however, where undertaking a deposition or filing a motion is discretionary, and it is here that the client should have input. The ultimate example of indifference to client involvement is the issuance of a monthly statement that provides no more than cryptic entries explaining legal

services. The legal profession can expect increasing reaction — even a backlash — in response to this kind of cavalier treatment.

In the ways I've just noted, lawyers have alienated more than a few of their clients. The enlightened client is beginning to respond by demanding a more central role in his or her legal affairs. Clients are asking more questions that get to the heart of cost control. For example, what are a firm's rates for paralegals and associates? Do charges include such expenses as postage, telephone calls, and time for preparing the bill?

As a result of client inquiries, limits will be set on first-class travel and overtime. Work will be monitored and clients will be on the lookout for duplication and inaccurate billing. The profession can expect that clients will be more willing to shop around. They may spread their legal business among several firms. They may negotiate more astutely for fee agreements and demand that monthly bills provide adequate detail.

The more involved and cognizant clients become, the more "satisfied customers" there will be. Inevitably, the legal profession will benefit. Resentment regarding spiraling legal costs will abate. Those who use legal services will feel an increased sense of control. There will be a closer bonding between lawyer and client. Ultimately, the attorney will be seen more as an ally than as an expensive imperative.

Clients have been brushed aside for too long. The time has come to make them active participants in the legal matters that affect them directly. Those who refuse clients a wider role and participation had better be prepared to see their practices diminish, for, in the final analysis, without clients, there is no practice.

WILLIAM T. O'HARA, ESQ.

*President, Bryant College*

*Member, District of Columbia Bar*

*Member, NEBHE Commission on Legal Education and Practice and the Economy of New England*



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reviews of new developments in substantive law. This effort can be supplemented by various forms of "mentoring" at the hands of senior attorneys, court clerks and the lawyer's peers. Often, voluntary attendance at legal seminars and other courses will achieve the objective of competency.

The type of post-law-school training that involves formal seminars or courses of instruction is commonly known as "continuing legal education", or CLE. Most U.S. jurisdictions now require participation in such programs by all licensed attorneys.

Providers of CLE have grown rapidly. They include profit-making as well as non-profit organizations, including law schools. Typically, however, independent, non-profit organizations such as bar associations or their affiliates provide the bulk of the CLE programs offered.

Today only a few states — Vermont alone in New England — require an "apprenticeship" as a prerequisite to full licensure. An additional few states (none in New

**H**ave New England's lawyers played an active and positive role in the region's economic resurgence?

England) require that attorneys take a course to bridge the "gap" between law school and practice. This type of instruction generally takes place within three years of graduation, when a lawyer has begun to appreciate the need for practical skills not taught in law school.

A recent survey on behalf of the Massachusetts Supreme Judicial Court showed that two of every three new lawyers voluntarily took a "bridge-the-gap" course. Over 90 percent of those who did so found the course valuable, and 70 percent felt that the program should be required.

The legal profession was perhaps somewhat slow to commence post-admission training programs, but today some continuing education (typically 15 hours a year) is commonly *required* in U.S. jurisdictions. However, Vermont is the only state in this region that does so. Five years after law school graduation, each member of its state bar must complete 20 or more hours of CLE every two years.

Although elective outside Vermont, the volume of

### *A Layman Looks at Lawyering*

**W**hen I was asked to serve on NEBHE's Commission on Legal Education and Practice and the Economy of New England, I accepted with mixed emotions. Would I be able to speak the same language as lawyers? Would my cynicism towards them, which had run through peaks and valleys during my business career, affect my objectivity? Finally, would the fact that I had a lawyer son influence my thinking?

Challenge and enthusiasm prevailed, and, to my delight, I found myself taking part in a study whose results will be illuminating to many who read it.

Just a little explanation about my cynicism: It was always my feeling that laws were written by lawyers to make work and create legal fees; that a law-school education was a ticket to a very high income; and that most lawyers were not concerned about community responsibilities. (By the way, as a banker, I'm sure that a few notions could be spun about our profession.)

Putting my feelings aside, the chance to participate in the study helped to dispel many of my ideas. It was quite easy to get into the spirit of things, because the commission took a businesslike approach to the study: the strategic management approach, with assumptions based on the past, present and future environments. Specific objectives and results were targeted. Information had to be supported by facts and figures, and action plans were based on the organizational efforts of both volunteers and professional staff. As part of this

planning approach, many issues arose and were discussed and documented.

It was interesting to me to find that lawyers recognize that they *do* have a duty to serve their community, and that a law-school education is not a ticket to riches. For example, some law students don't take the bar exam, and of those who do, some go not into private practice but public service, or corporate law and various business professions.

My final impression was that of our New England law schools. Theirs is a finely tuned, businesslike approach to product and quality. Although a large volume of students graduate each year from these schools, the deans constantly research curriculum to enable graduates to practice and serve more efficiently, whatever their career path. My assessment was that our New England economy is well served by these schools and their graduates.

My feelings have always been that lawyers are taught to be analytical. If I had gone to law school, this commentary would probably have been more analytical, and less personal.

**JOHN H. BARRY**

*President and Chief Executive Officer  
Banknorth Group, Inc.  
Burlington, VT.*

*Member, NEBHE Commission on Legal Education  
and Practice and the Economy of New England*



CLE courses offered in New England and the number of attorneys attending them has grown considerably in the past decade. In 1987, approximately 15,400 registrants attended 252 live courses in over 25 locations in the six states. Additional courses, not counted in these figures, are offered via videotape. A recent Massachusetts study found that only about 60 percent of "active" legal practitioners take as many as three hours of CLE (one half day) in any two-year period. That is not enough to stay current in most legal fields.

In order for CLE to be effective, it also must reach those practitioners who need it most. They are generally assumed to be attorneys in small firms and solo practice who find CLE programs require too much time and/or are too expensive. These lawyers generally make the greatest sacrifice to obtain CLE. Large law firms, by contrast, often schedule programs in their offices, or grant lawyers the time and money needed to attend outside programs.

## Are lawyers meeting their public service responsibility?

It is the legacy of lawyers to defend unpopular causes and individuals. Their contributions of time and skill are referred to as *pro bono publico*, Latin words meaning "in the public good." These services are not limited to indigents and the criminally accused. Rather, they extend to many individuals and institutions needing legal services, and include public service on charitable and educational boards and elected and appointive offices at every level of government. Much of this legal work is uncompensated. Sometimes, it is done at reduced fees. In other programs that provide needed services for the poor (e.g. Medicaid), professionals are paid for their services.

The Commission has not found it possible to quantify the *pro bono* contributions of New England's lawyers, except for isolated programs. The Commission is satisfied, however, that such contributions are com-

### The Lawyer's Public Interest Commitment

Lawyers in New England are committed to the precept that admission to the bar brings more than an economic license; that the lawyer as a professional has a wide variety of tasks to do, one of the most important and rewarding of which is work for the public good.

Consider these *pro bono* contributions of lawyers in Boston and New England:

Approximately 800 attorneys have agreed to take at least one poverty law case a year through a private bar panel in Boston, the Volunteer Lawyers Project of the

Boston Bar Association. The time contributed on cases closed in 1988 had a billable value in excess of \$600,000.

In 1987 and 1988, a lawyer from a small law firm in Springfield, Mass., spent over 1,000 hours on a post-conviction death penalty case in Georgia, currently on appeal to the United States Supreme Court.



David E. Rideout

In 1986, a small group of lawyers in Maine, together

with the Maine State Bar Association and representatives of the medical profession and insurance companies, forged an agreement on tort and insurance reform, which evolved into legislation that has helped to stabilize medical malpractice insurance rates for physicians in that state.

A lawyer in Manchester, N.H. was a key organizer in the effort to protect the Legal Services Corporation, the corporation that funds the public effort to provide legal services to the poor in this country, from administrative and budgetary cut-backs. The same lawyer

helped fashion a new system for funding of private counsel services to poor persons in criminal cases in New Hampshire and personally coordinated his firm's *pro-bono* program. He spent approximately 1,000 hours on these and related matters in 1986 and 1987.

To put these numbers in perspective, 1,000 hours are, for most lawyers, easily more than one-half of the total working hours in a year.

These efforts come at a time of change in the economics of law practice. Regional and national law firms have opened offices in many New England cities and are prospering. Well-organized "law firms" exist within corporations, state and local government and public agencies. There are more lawyers in private practice. As a result of these changes, competition among lawyers has increased substantially. At the same time, rents and operating expenses are up, and professional liability insurance premiums are at record highs.

Although maintaining a profitable law firm is more of a challenge in 1989, it is unlikely that lawyers will reduce their commitment to public interest. Look around you at the next meeting of a non-profit corporation or city or town committee and you will see a lawyer actively participating in public interest work. Ask your own lawyer and you will find that he or she provides legal services on more than an occasional basis for persons who are unable to pay for it. Check with your state legislator and you will find that private lawyers representing the state or local bar association are of frequent assistance in drafting legislation of one type or another in the public interest.

#### DAVID E. RIDEOUT

Partner  
Palmer & Dodge, Boston, Mass.



## Are There Too Many Lawyers?



Kevin E. Booth

The Commission on Legal Education and Practice and the Economy of New England wrestled frequently with the question: "Do we have too many lawyers?" The Commission's difficulty was not so much with the underlying facts as with the meaning of the question itself. Ultimately,

the Commission report will answer it in terms of the ability of the New England economy to absorb the supply of lawyers available for employment in that economy.

I would submit that while the Legal Commission may have answered the only question that is appropriate to it, the public perception of a "lawyer glut" is not a perception of the inability of lawyers to find work. It is a perception that there are more employed lawyers than the good of the economy requires. The Commission's finding that we do not have too many lawyers may be no more than a reaffirmation of the wise old axiom that "in a town with one lawyer, the lawyer

will starve, but in a town with two lawyers, each will find full employment."

The question of whether the level of participation of lawyers in the economic processes of New England exceeds the value of what they add to the economy may be the real question. While I respect the Legal Commission's reticence in getting into this deeply theoretical and philosophical question, I believe that ultimately, the question of the value that lawyers bring to the economy, and whether the cost of their services exceeds that value, should be studied. I recognize that in this study the conclusion may be that lawyers are catalysts rather than raw material and that their contributions to a project cannot be measured in terms of value-added economics.

KEVIN E. BOOTH, ESQ.

*Booth, Mattern and Clarke  
Niantic, Conn.*

*Member, NEBHE Commission on Legal Education and Practice and the Economy of New England*

## Judicial CLE Should Be Required

One of the hot topics around the country is mandatory continuing legal education for lawyers. This is not a hot topic around New England, however, most likely because our supreme courts have rejected the notion as not being a panacea for ensuring that when the public goes to a lawyer, it can be assured of the quality of legal representation it will be getting.

The major thrust of mandatory CLE has been twofold, with the primary objective being some sort of guarantee to the consuming public that its lawyers are competent. The other thrust of mandatory CLE has been to provide lawyers with the opportunity to continue to take courses, particularly in specialized areas, and then hold themselves out as specialists.

When the various courts throughout New England — which hold supervisory power over the practice of law and could thus mandate that attorneys take a certain number of courses per year to keep practicing — considered the value of requiring education to achieve these ends, they decided that the benefits of making someone sit in a classroom, without any other factors, did not achieve greatly desirable results. This was a wise decision.

The fact that supreme courts in other parts of the United States have decided differently makes no difference. The one notable result of mandatory CLE in other states has been the bonanza created for the providers of continuing legal education, particularly the for-profit groups that seize an entrepreneurial opportunity to move into a new business arena.

While legal retraining is still voluntary here in New England, there is widespread concern over the lack of continuing education for the judiciary. There are programs developing such as the Flaschner Judicial Institute in Massachusetts, but they all suffer from a serious lack of funding, in part because the concept of judicial education has no real constituency on which to base its pitches for money. While no one thinks that continuing to assist our judges in their personal and professional development is anything but a great idea, no one wants to be responsible for paying the bills.

State legislatures, bar associations and public interest groups all think continuing education for judges is important, but none of them views it as a funding priority. Moreover most of them take no responsibility for funding it, nor for doing anything about developing it at all. Continuing education for our judges must be elevated on everyone's list of what is needed in the legal system.

SAMUEL B. SPENCER

*Publisher*

*Lawyers Weekly Publications*

*Member, NEBHE Commission on Legal Education and Practice and the Economy of New England*



Samuel B. Spencer

number of courses per year to keep practicing — considered the value of requiring education to achieve these ends, they decided that the benefits of making someone sit in a classroom, without any other factors, did not achieve greatly desirable results. This was a wise decision.



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SPECIAL NOTE: Effective January 1, 1989, The Short Term Fund changed from quarterly crediting of earnings to monthly crediting.



monplace and very likely exceed those of any other profession. Because they are rarely computed or publicized, they are often ignored when assessing the profession's contributions to the region.

### The legal profession and society

The legal profession provides great benefits to society: effecting citizens' reasonable expectations of justice, and, as "transactional engineers" allowing the American economy to grow and expand while addressing the competing demands placed upon it.

There are voices that urge caution regarding excessive and unrealistic expectations of our legal system. Some will claim we are near the point at which further investment of resources in the legal system may not be justified by its societal benefits. On the other

hand, New England as a whole has flourished in this decade even as the legal profession has. NEBHE's Commission on Legal Education and Practice and the Economy of New England will try to determine whether these twin developments were coincidental or somehow related.

In its final report, the Commission will also attempt to portray the profession as it really is, rather than as it is often perceived. The Commission will reflect on the profession's successes and failures, and suggest solutions for the key problems it has identified, offering recommendations for constructive remedial action. In some areas, the Commission believes, the time to initiate such action has come. □

Ellin Anderson is Associate Editor of *Connection*.

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## International Law in New England

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New England is not an advanced center of the practice of international law, even though it is the home office of a significant number of business corporations with far flung exports, financial and consulting services, component sourcing and foreign manufacture. Among the membership of a typical international business and world trade organization, only a small percentage are law firms and only one or two members of the larger Boston firms are listed as "international."

The pace of the transformation of legal practice from parochial to international concerns has been glacial. When a problem of international contract dispute settlement boils up to the level of litigation, it often ends up in New York. However, an informal survey of the 20 leading business firms in the Boston area turns up consistent concern about legal and tax problems of overseas activities. Many of these corporations have a legal staff that includes internationally trained house counsel, and thus consulting outside counsel on routine international problems is not necessary.

The internationalization of existing law firms is still possible if they concentrate on the available facilities in the Boston area. Obviously the Harvard Law School is turning out a number of international lawyers, especially at the graduate level, where at least half of the LLM candidates are in the fields loosely described as international law. Other law schools have programs in international banking law (Boston University) and intellectual property law (Franklin Pierce). Harvard has pioneered in the International Program in Taxation and East Asian as well as Soviet legal studies. The programs and publications of these centers are most impressive and provide basic information to practitioners. The foreign lawyers who come to learn about U.S. law go home as true internationalists.

In addition to the well-known schools at Harvard, Tufts, Boston University and Boston College there are many non-academic institutions in the Boston Area that

offer periodic programs; for example, The World Trade Center, the International Business Center of New England, and the Boston Bar Association. Each year the foreign lawyers studying in the area are invited to tour some Boston law firms and attend a reception at the headquarters of the Boston Bar. On the national level, the American Bar Association has an active sector on International Law and Practice, the International Law Association has an American branch and the American Society of International Law recently held its annual meeting in Boston.

The next three years, through 1992, should stimulate international law practice in New England. The opening of trade with Canada should be most relevant to the Atlantic states and to New England in particular. The European Community, long a strong trader with New England, will be infused with new life by its increased economic integration, to say nothing of Eastern European trade and countertrade stretching to the shores of the Pacific in the Soviet Union. The rapid rise of the Pacific Basin, especially Japan, Korea and Hong Kong/Singapore as world traders, leads to a need for more knowledge of the laws of these countries. The new economic programs in the People's Republic of China has led to the establishment of many bilateral entities and joint ventures which will need legal advice on an international scale.

Finally the global implications of the "Communications Revolution," centered on the technology of our own Route 128, will see more and more New England firms drafting international licensing agreements, technology transfer contracts and protecting hardware and software know-how as our clients expand overseas.

### WILLIAM SPRAGUE BARNES

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International Commercial Law, Emeritus  
The Fletcher School of Law and  
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## Will Supply of Lawyers Outstrip Demand?

JOHN O. HARNEY

**I**s there a lawyer glut in New England? Between 1960 and 1985, while the population of the six states rose 21 percent, the number of lawyers shot up 126 percent from 18,000 to 40,000, according to the Commission on Legal Education and Practice and the Economy of New England, a group of lawyers, judges and others appointed by the New England Board of Higher Education to study legal practice in the region.

Numbers like these are music to the ears of a handful of lawyers and a great number of lawyer-bashers who have long contended that the profession is growing too fast. But this case is far from closed. The majority of lawyers say the growth of their profession is barely adequate to keep up with skyrocketing demand for legal services, which they attribute *not* to population growth, but to an increasingly complicated economy and a fast-growing body of state and federal laws, as well as local ordinances.

New England's contribution to U.S. Gross National Product rose from \$30 billion in 1960 to \$259 billion in 1985. At the same time, the economy became more regulated, more technical, more international--and, not surprisingly, more dependent on lawyers. "Much of what lawyering does is to keep the economic life of society moving," says Richard Huber, a Boston College Law School professor and former dean, who is president-elect of the Association of American Law Schools.

The body of laws governing the workplace, civil rights, environmental protection and consumer protection also grew significantly after 1960, and new social welfare programs provided fertile ground for legal disputes. "People who once had no legal problems to speak of now have a large number of them," says Huber. "If you're a welfare mother, you have to deal with the welfare system, the social work system, and

often a justice system that is more complicated than it was at one time. You can protect yourself, but often a lawyer representing you is more effective and efficient."

In addition, as real estate development boomed across the region, the demand for legal services boomed, too. Developers, who occasionally needed a legal secretary to expedite building permits and land transfers, today need lawyers to guide them through a maze of community planning requirements.

"To build a shopping mall today, if you're lucky, it will take five years in hearings and what-not before all the different local, regional and state bodies. You have to bring in other professionals, but a lawyer is really the only one who can steer through all the mechanisms," says Thomas Debevoise, former Vermont attorney general and former dean of the Vermont Law School.

New community planning processes also have given residents a real chance to stop developments if they present their case forcefully enough. As a result, today's citizens' groups are also enlisting lawyers to go head-to-head with the developers. Debevoise says the increased demand is obvious. "For years, lawyers in Vermont didn't advertise for help in the bar journal. Now they do."

### Fragile demand

However, there are already 700,000-plus lawyers in the United States, more than twice as many as in 1970, according to estimates by the American Bar Association.

### PHOTO ABOVE:

Although New England is home to just over 5 percent of the nation's population, its 13 law schools produce more than 8 percent of all U.S. law school graduates. New England Law School photo, courtesy of Lawyers Weekly Publications, Inc.



tion (ABA). And some more recent economic trends indicate demand may not remain brisk enough to sustain the 3.8 percent annual growth rate projected for the profession.

The rise in corporate mergers, for example, brings business to many law firms, but when the big corporate deals are sealed, there are fewer companies to seek legal help. In addition, the real estate boom that has kept many New England lawyers busy in recent years may fizzle. "In the last several months, the condo market has gone soft around Boston, and in western Massachusetts, real estate prices seem to be leveling. Where does that leave [lawyers] in terms of closings?" asks Justice David Sacks, a probate and family court judge in Hampden County, Mass.

True, the body of law and attendant need for legal advice will keep growing, but who dispenses that advice is changing. In 1975, when the U.S. Supreme Court ordered state bar associations to stop setting minimum fees for lawyers, the court, in effect, began a deregulation process, which today has bankers and other professionals planning estates and performing other tasks that were once strictly lawyers' work.

Most lawyers say the new competition won't significantly cut demand for their services because consumers will be wary of nonlegal professionals, such as real estate brokers, who may know contracts, but do not carry malpractice insurance or work under stringent regulations. "A person shouldn't try to do a land transfer without an attorney any more than I should take out an appendix," says Barry Mills, a Maine lawyer and former president of the Maine Bar Association.

#### Why the growth?

There are about three lawyers for every 1,000 people in the United States, roughly 25 times as many per 1,000 as in Japan. That contrast has elevated the issue to a matter of how America uses its best minds.

One perspective: "Lawyers are actually a drag on productivity," says Paul Choquette, president of Gilbane Building Co. in Providence and a lawyer himself. "In this global economy we operate in, you'd like to think that some of the best brains were getting into manufacturing, really contributing to productivity," says Choquette, who is past president of the New England Council, an association of major businesses in the region.

But that shift has not taken place. In fact, in the late 1980s, even as some large law firms folded, and the cost of a three-year legal education reached between \$29,000 and \$46,000, law schools were gaining in appeal.

Roughly 115,000 Law School Admissions Tests were administered nationally in academic year 1987-88, up 26 percent from two years earlier, according to Bill Kennish, vice president for operations at the Law School Admissions Council. A gradual 12-year decline in LSAT administrations ended in academic year 1985-86, and will be completely reversed this year when an estimated 135,000 tests will be administered, Kennish says. The current number of slots available to entering freshmen at ABA-accredited law schools: approximately 42,000.

Why the interest in law school? Law school officials point to rapidly growing enrollment among women, the

stock market crash of 1987, which may have steered prospective MBA candidates toward law, and even the influence of a popular television show about lawyers. In addition, they say law is once again in vogue as an entrée to business leadership or public service or both.

"There's a natural progression from practice into other areas of personal interest. We have bigger advancement in this profession than in a lot of other professions," says Kenneth Curtis, a Maine lawyer who so far has made three temporary departures from private practice, to serve as governor of Maine, U.S. ambassador to Canada, and, most recently, president of Maine Maritime Academy.

Law school officials say they do not believe rising interest in law school presages a lawyer glut, because of the law students who will never practice law, and because while women make up a growing portion of law school classes, many of them choose not to practice law full-time until after they have raised families.

Still, higher-than-average interest in law school among New Englanders is accompanied by higher-than-average bar admissions in the region.

Although New England is home to just over 5 percent of the nation's population, its 13 law schools produce more than 8 percent of all U.S. law school graduates. Between academic years 1986-87 and 1987-88, the number of law school applicants in the region rose 19 percent, compared with 16 percent nationally, according to the Law School Admissions Council.

From 1984 to 1987, bar admissions increased 21 percent in New England, compared with 16 percent nationally. In those years, more than 3,800 new lawyers were admitted to the bar in the six states, according to the National Conference of Bar Examiners.

In 1987, Portland, Maine, claimed more lawyers per capita than any U.S. city except Washington, D.C., according to the Maine Bar Association. Meanwhile, Massachusetts' one lawyer for every 309 residents was the fourth highest concentration of any jurisdiction, behind only the District of Columbia, New York and Alaska, according to a study by legal consultants Altman & Weil.

#### State exams vary

If ever there were a tool to match the supply of lawyers to demand for legal services in given areas, it would be the state bar examination. Already states develop their own sections on state law and predetermine the pass rate for the national sections of the exam.

Nationally more than 67,000 bar exams were administered in 1987. Of those, more than 45,000 or 67 percent got passing grades, according to NCBE. But 92 percent of test-takers passed the North Dakota bar, while just over 47 percent passed in California, where a large number of non-accredited law schools make examiners extra tough.

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**T**he rise in corporate mergers brings business to many law firms, but when the big corporate deals are sealed, fewer companies are left to seek legal help.

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In 1987, pass rates within New England also varied widely, from 80 percent in Maine and Rhode Island to 52 percent in Vermont, according to NCBE. In Massachusetts, 74 percent of those who took the bar passed. In Connecticut, 69 percent passed, and in New Hampshire, 68 percent passed.

But bar examiners insist that pass rates have nothing to do with supply and demand. "The general position of the various jurisdictions is that [the bar exam's] purpose is not to raise artificial barriers for economic purposes," says NCBE president Joseph Julin.

### No job shortage

Indeed, most New England lawyers say they see no need for such controls on the profession's growth. Law school deans generally agree that the roughly 8 percent of law graduates who take nonlegal jobs do so by choice, not because the field is saturated.

Even in Massachusetts, law school graduates are not driving taxis, as legend has it. But for many of them, especially those who pursue legal service jobs, the profession is not a pot of gold. "A lot of legal service attorneys maybe would drive taxis in their spare time, but I don't think any of them have spare time," quips a staff member of the Massachusetts Bar Association.

Justice Sacks says he thinks some new lawyers in western Massachusetts, even in private practice, will have to struggle for years to make a living. "Even people who have been out there for 15 or 30 years are struggling for a piece of the pie," he says.

What worries some observers is that if the supply of

lawyers outstrips demand, individual lawyers will take their piece of the pie by "overlawyering."

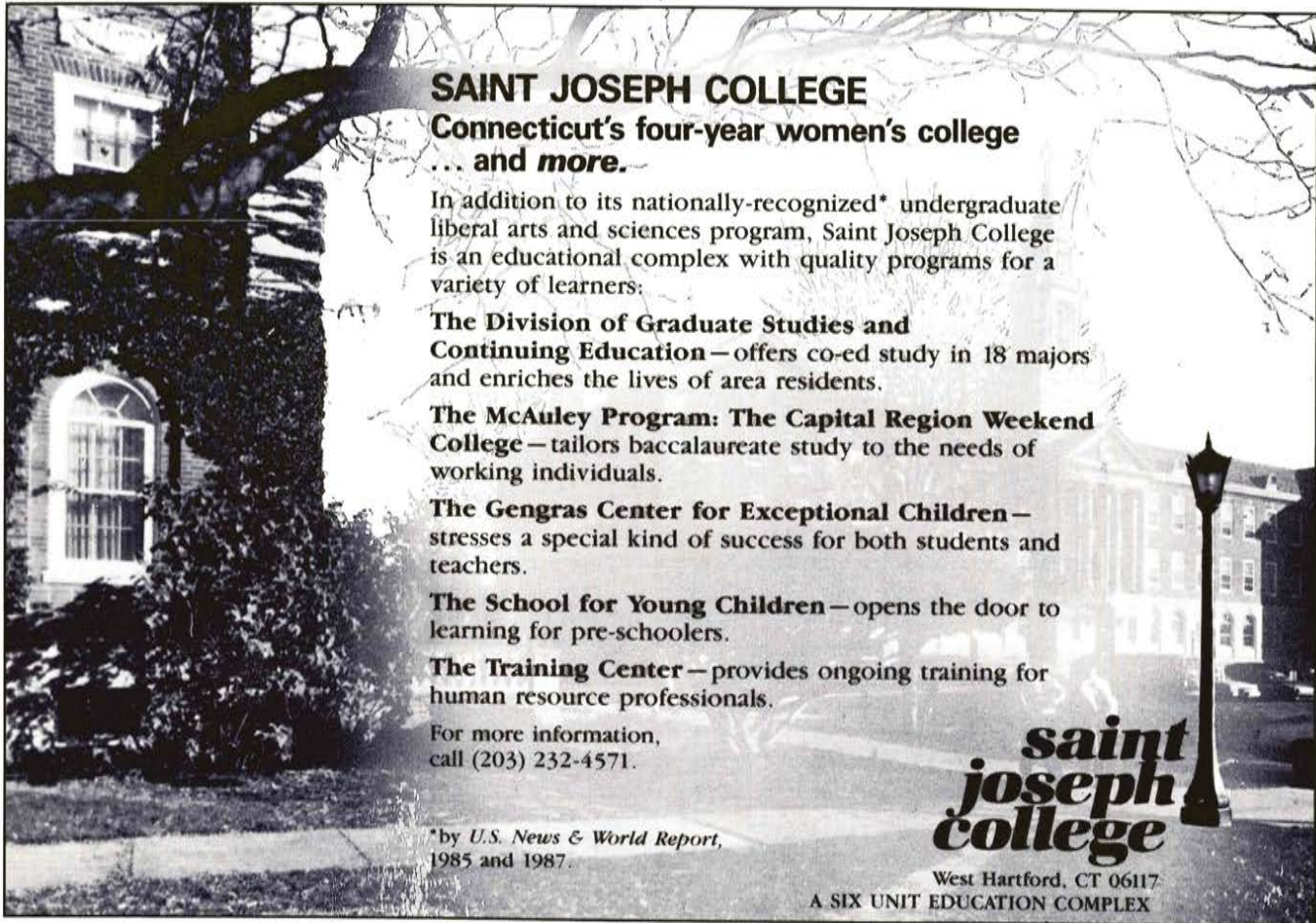
Choquette says they're already doing it. "Because construction-related litigation tends to be very complicated, lawyers tend to work for themselves, rather than the client," he says. "Instead of looking for a speedy resolution, they turn cases into monumental undertakings."

Even with the best intentions, lawyers tend to "develop complications in their use of law," because they advise clients based on what happens if there is litigation, says Huber. "Lawyers are trained to try to cover every base. That is, it's poor lawyering to draft a will which is 99 percent good, but upon the happening of some event, is ineffective," he says.

The same sense of caution adds lengthy eminent domain provisions to the standard lease of an office tower even if there is almost no chance the building would ever be taken. Overlawyering? Probably not, according to Huber. "There's a lot to be said for being able to have people look at an instrument and say, 'This is covered by this language in which we agree,' rather than say, 'Let's go into court....' "

### Where are the lawyers?

While the debate surrounding the overall supply of lawyers lingers on, there is no debate that the nation's and the region's lawyers are maldistributed. Your ability to find a lawyer when you need one hinges on where you live and, often, on how much money you have.



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Mills points out that a 1986 Maine Bar Association study found the ratio of lawyers to Maine residents varied from one lawyer per 260 people in Cumberland County to one lawyer per nearly 1,600 people in Franklin County.

In some urban centers throughout New England, dense concentrations of lawyers serve mostly corporate clients, while large concentrations of residents are "horribly underserved," in many cases, because they don't speak English and the lawyers speak only English, according to Huber.

The National Association for Law Placement, which publishes data on legal employment, reports that of the new graduates of the class of 1986, 62 percent entered private practice; 13 percent took judicial clerkships; and 9 percent went to corporate legal departments. But only 12 percent went to work for government, compared with nearly 18 percent of the class of 1975; and only 3 percent took public interest and legal service positions, compared with 6 percent in 1978.

This maldistribution is backed by informal, but powerful, financial incentives. A 1988 ABA survey estimated that nationally, the average starting salary for lawyers at private firms in the fall of 1988 would be \$37,000, up from \$24,000 in 1983. But starting salaries at firms in Boston and other corporate hubs could top \$50,000, while a state Supreme Court clerk in Vermont would make \$23,000 his or her first year. A lawyer starting with the U.S. Justice Department would make \$28,000, and a new lawyer with a legal-aid group would start at about \$29,000.

The higher-paying practices are doubly magnetic for the many law students who borrow as much as 75 percent of their tuition costs by graduation. Loan forgiveness programs encourage young lawyers to take lower-paying public service jobs, but more federal support is needed, law school officials say. "I was talking to a young man the other day who wants to know what to do with his life, and he owes \$65,000. Well, I know what he's going to have to do with his life. He's going to have to spend five years in high-paying practice to start paying off that debt," says Huber.

To make matters worse, federal funding for local legal aid programs has declined through the 1980s. In

Massachusetts between 1980 and 1986, legal service caseloads grew nearly 50 percent, but the number of legal service attorneys dropped by 30 percent, according to a study published in 1987 by the Massachusetts Legal Services Corp., a group that supports legal aid programs with money collected from civil filing fees and private funds.

In 1986, about \$15 million in federal, state and private funds as well as the volunteer services of attorneys and others helped represent about 50,000 low-income Massachusetts people in civil cases. But the services met no more than 15 percent of the civil legal needs of the poor, the MLSC study found.

In response to the service gaps, the ABA has urged practicing attorneys to volunteer a minimum of 50 hours a year of free service. Some state bar associations have discussed compulsory *pro bono* work, others have urged lawyers to handle cases at below-market rates, and are considering ways to have lawyers adjust their fees based on a client's income. But those lawyers who are struggling for a piece of the pie can't be much help. "The difficulty is when you say to a lawyer, 'You get \$150 an hour, cut it to \$75,' that doesn't mean he takes home \$75, that means he probably loses \$10 by the time he pays his rent, library fees, secretaries and associates," says Huber.

Ironically, the geographic and professional maldistribution may best be addressed by encouraging more students to become lawyers, rather than trying to coax lawyers from one region or one practice to another. "In pure economic theory, it is probably better to have a slight oversupply than a slight undersupply at least to keep prices down," says Huber.

Besides, a slight oversupply may prove to be a small price to pay to correct another pressing problem: the profession's dismal record with minorities. The percentage of minorities in law schools is less than half that of the general population. Says Huber: "Even if I agreed that there were too many lawyers--which I don't--I would say adding 100,000 more minority lawyers is essential." □

John O. Harney is a contributing writer for *Connection*.

### Admission to Bar by States\*

| State         | 1984   | 1985   | 1986   | 1987   | % increase<br>1984-86 | % increase<br>1984-1987 |
|---------------|--------|--------|--------|--------|-----------------------|-------------------------|
| Connecticut   | 818    | 935    | 1,100  | 1,213  | 34.5%                 | 48.3%                   |
| Maine         | 176    | 205    | 219    | 276    | 24.4%                 | 56.8%                   |
| Massachusetts | 1,738  | 1,915  | 1,821  | 1,819  | 4.8%                  | 4.7%                    |
| New Hampshire | 165    | 170    | 207    | 209    | 25.5%                 | 26.7%                   |
| Rhode Island  | 160    | 147    | 193    | 218    | 20.6%                 | 36.3%                   |
| Vermont       | 107    | 77     | 65     | 83     | -39.3%                | -22.4%                  |
| New England   | 3,164  | 3,449  | 3,605  | 3,818  | 13.9%                 | 20.7%                   |
| U.S. Total    | 33,986 | 41,901 | 37,595 | 39,365 | 10.6%                 | 15.8%                   |

Source: NEBHE Analysis (January 1989) of data from the National Conference of Bar Examiners, 1987 Bar Examination Statistics, *The Bar Examiner*, Vol. 57, No. 2, May 1988.

\*Figures represent licensures, not individual lawyers.



**L**aw schools are non-profit, tax-exempt institutions. Theoretically, law schools strive to facilitate scholarship and provide students with a sound legal education. In accordance with these objectives, law schools should treat current and potential students in a direct and forthright manner. This obligation to be forthright includes providing students with meaningful and realistic data about employment prospects upon graduation.



The Hon. Florence K. Murray

Today, law schools compete with one another for the perceived best and brightest students. In addition, they also market themselves to the legal community, legal employers, alumni, the academic community and would-be faculty members. Recruiting potential students, however, carries with it some extra responsibilities over and above marketing to these other groups. Sales puffery concerning the employment of graduates, while presumably appropriate when dealing with legal employers, may inadvertently mislead current and prospective students.

For example, many placement offices utilize statistical summaries such as "students employed in legal-related positions after graduation." Oftentimes, the percentage of students en-

gaged in law-related work is very high. Upon close scrutiny, however, it appears that many jobs included in this type of survey do not require a graduate degree of any kind, much less a license to practice law. For instance, the term "legal-related employment" may include work in areas such as investment counseling, banking, the corporate executive field, or non-attorney government positions. If students aspiring to be lawyers were informed that a significant percentage of previous graduates pursued careers in fields only tangentially related to the law, then perhaps these same students would never have entered law school and accumulated (in most instances) large sums of debt. It is not suggested that any law school intentionally misrepresents post-graduation employment statistics. Rather, surveys employing statistics similar to the percentage of graduates ostensibly employed in legal-related positions may unintentionally deceive the potential or current student. Law school administrators should be aware of the need for detailed and accurate data in this area and realize that, in the process of marketing themselves within the legal community, they are also obliged to present straightforward employment information to students.

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# The Growing Significance of Paralegals

QUINTIN JOHNSTONE

**P**aralegals, or legal assistants, as they are often called, are one of the nation's fastest growing occupational groups.<sup>1</sup> This growth is a nation-wide phenomenon that is occurring in New England as it is in all other regions. The United States Department of Labor has estimated that from the mid-1980s to 1995 the number of paralegals will have increased by 50 percent<sup>2</sup> and will have doubled by the year 2000.<sup>3</sup> Statistical data on numbers of paralegals is, however, uncertain, partly because there is no universally accepted definition of who paralegals are and what they do. A definition that is helpful but does not resolve all classification problems is that a paralegal is a law-office employee who has not been admitted to practice law but who performs legal tasks also performed by lawyers and who is under the general supervision and control of one or more lawyers.<sup>4</sup>

A very rough calculation of total numbers of paralegals has been made by applying a ratio of lawyers to paralegals, the number of lawyers being ascertainable with considerable accuracy. There is some empirical

support for that ratio standing at eight lawyers to one paralegal, using the above definition of a paralegal.<sup>5</sup> Projecting this to a licensed-lawyer population in the United States of approximately 750,000 gives a paralegal population of about 94,000. Applying the same ratio to the New England licensed-lawyer population of approximately 48,000 gives a new England paralegal population of about 6,000. But no matter what formula for counting is used it is obvious that the number of paralegals has increased dramatically in the past 20 years, and there is every indication that the number will increase substantially

in the years immediately ahead.

Not only has there been a remarkable recent increase in numbers of paralegals, but during this expansion period, paralegals have also developed a strong sense of occupational identity and a set of institutions specialized to their interests. Among these institutions are 350



Quintin  
Johnstone

schools now offering educational programs for paralegals, including some colleges and universities in which bachelor's degrees may be earned with a major in paralegal education. The occupation also now has two major national associations, each with a network of affiliated local and state associations. In addition, there are a number of periodicals, several with national circulations, focused on the concerns and needs of paralegals. Although American law offices long have employed nonlawyer support staff, including some secretaries and clerks performing lawyer-type tasks as part of their duties, there clearly has emerged a sizable and separately identifiable occupation functioning as lawyer substitutes in much of what it does. Similar paraprofessional development has occurred in other fields, notably medicine, where such physician substitutes as nurse practitioners, physical therapists, emergency medical technicians and physician assistants have become common.

## What they do

It is readily apparent, then, that paralegals are an increasingly important specialty group in providing skilled legal services to the American population. But more precisely, what is it that they do — how do they contribute to the work of law offices?

It is sometimes said that paralegals do everything that lawyers do except try cases in court, but this is misleading. Generally, paralegals are assigned more routine and repetitive types of work, work calling for a limited level of professional skill and knowledge; they usually are not given responsibility for legally characterizing client problems or developing solution strategies; and a greater percentage of their time tends to be spent on the investigation, assembly, and analysis of facts than usually is true of lawyers. Nor may they give legal advice to clients, and they ordinarily do not accept clients or set fees. In addition, they are under the direction of lawyers, their work commonly is carefully monitored and supervised by lawyers, and lawyers are ultimately responsible for what they do, including liability for errors and omissions. Paralegals are lawyer

**P**aralegals are lawyer substitutes, but normally are assigned to subordinate roles, and roles less professionally demanding than those of lawyers.



substitutes, but normally are assigned to subordinate roles, and roles less professionally demanding than those of lawyers.

Considerable variation exists among law offices, however, in the degree of responsibility given to paralegals. Major private law firms frequently restrict paralegal assignments to simple chores, especially in big litigated matters where large law firms often concentrate their paralegals. On the other hand, legal aid and some local and state government law offices, often seriously underfunded for the volume of work they are expected to perform, tend to rely on their paralegals for a wider range of tasks, many calling for considerable legal skill and knowledge, and to give their paralegals more autonomy of action. There are, of course, many law offices, particularly smaller ones, employing no paralegals, either because the principals believe they can and should do all the legal work themselves or because they cannot afford this kind of staff assistance. As is to be expected, more experienced paralegals and those who concurrently are law-school students are usually given greater responsibility.

Why the recent rapid growth of the paralegal occupation? Cost saving is the primary reason; paralegals are cheaper than lawyers. Private law practice has become increasingly competitive, and private law firms are being forced to give more attention to operational efficiencies and holding down personnel costs in a very labor-intensive field. Public-sector law offices, almost universally understaffed, have also been forced to enhance their efficiency and stretch their staff funding

budgets. Experience has shown that many law office tasks formerly performed by lawyers can be performed as satisfactorily and more cheaply by nonlawyers. As law offices have become more specialized, with more repeat-type work, prospects for profitable reliance on nonlawyer legal assistants have been further enhanced. The less-skilled and less-knowledgeable can often perform at a high level of proficiency if their tasks are limited and routine. Further, as the paralegal occupation has matured, more and better legal assistants have become available to fill the need, additionally enhancing demand. The advantages of hiring paralegals have also been extensively publicized and promoted by the organized bar, paralegal associations, and paralegal placement agencies, still further encouragement to paralegal use.

The growth in paralegal numbers, skill and service potential is having a substantial effect on lawyers and law offices beyond cost saving and the possibility of increased lawyer financial remuneration. In some instances, paralegals are providing their offices with capabilities that lawyers in these offices do not possess.

**E**thnic paralegals in some legal aid agencies provide a cultural bridge between lawyers and clients who have difficulty in understanding the legal process

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Good examples are the ethnic paralegals in some legal aid agencies that provide a cultural bridge between the lawyers and their ethnic clients who have difficulty in understanding the legal process or the advice they are receiving from agency lawyers. There are also paralegals providing essential accounting, computer, investigative, law-office marketing or other skills or knowledge that lawyers in many law offices cannot provide.

**Their effect on lawyers**

Another impact of paralegals on the legal profession is that in many law offices, paralegals are affecting what lawyers do. Assigning so much dull, routine legal work to paralegals, a type of work commonplace in nearly every kind of law practice, is enabling lawyers to devote more of their time to more demanding tasks and to avoid much of the onerous and less-interesting detail that they had to take on in pre-paralegal times. However, for many recently admitted, less-experienced lawyers, these task-shifts to paralegals have enhanced the pressures and demands of breaking into the profession. In many offices, beginners must take on more important work more quickly, and few easy routing tasks are still available to them. This acceleration in responsibility can acutely accentuate the orientation stress of becoming a lawyer.

Present-day paralegals are an obvious new force in

**E**mployers should encourage their less-qualified paralegals to take outside paralegal training courses, the employer paying the fees

the legal profession, and many law offices and lawyers have had difficulty in adjusting to this new skill group. There have been problems not only in what work paralegals should be assigned and how closely they should be supervised, but serious problems have emerged as to how this nonlawyer occupation, emulative of lawyers, should be treated and what status its members should be accorded. Where do they belong in the law office hierarchy?

A few suggestions are in order for more satisfactorily resolving these issues. First and foremost, lawyers should recognize that to obtain the best from their paralegal employees, these employees should be treated with consideration and respect, an elementary essential to good personnel relations. Paralegals aspire to be professionals. Their schools, their associations, and their on-the-job training all instill standards of service and performance similar to those of lawyers. They see themselves as members of a skill group able and willing to provide quality legal services. Too often lawyers treat them as low-level clerical help hired to perform simple-minded tasks and whose opinions are not worth asking or of giving credence to if proffered. This approach means that many law offices do not obtain as much from their paralegals as their paralegals are capable of giving, often because of the dampened enthusiasm, even resentment, resulting from this treatment.



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Lawyers should also realize that many paralegals become frustrated by the apparent dead-end character of their jobs. If paralegals do not go on to law school, and many do, they rather quickly move as high as seems possible in the limited strata of law office jobs. As a result, many of the more ambitious and able drop out of the occupation. Restrictions on career progress are inherent in many paraprofessional occupations, but there are steps lawyers employing paralegals can take to limit the dead-end threat. Categories of paralegals can be established within the office, with gradations of pay and responsibility that encourage efforts to move up in the hierarchy and that provide adequate rewards for doing so.

### Not a dead end

To the extent that the employer has higher-status nonlawyer positions than line paralegals, encouragement should also be given to paralegals qualifying and applying for these jobs. Some examples are office managers, supervisory paralegals in larger offices, and higher-grade positions outside the legal department, in the case of corporations and government agencies. Then, too, paralegals planning to go on to law school can be promised serious consideration for future lawyer openings in the firm if they perform well as paralegals and in law school. Law offices should also show more concern for training their paralegals. If this can be done effectively in-house, fine. If not, employers should encourage their less-qualified paralegals to take outside paralegal training courses if available, the em-

ployer paying the fees. Even correspondence courses can often be beneficial. Added training can improve job performance and, given proper recognition, makes for more productive and satisfied employees. Lastly, when paralegals are offered jobs, employers should fully and accurately explain what the work entails and what promotion prospects are possible. This can help avoid the frequent disappointment and antagonism that comes from accepting employment based on false expectations.

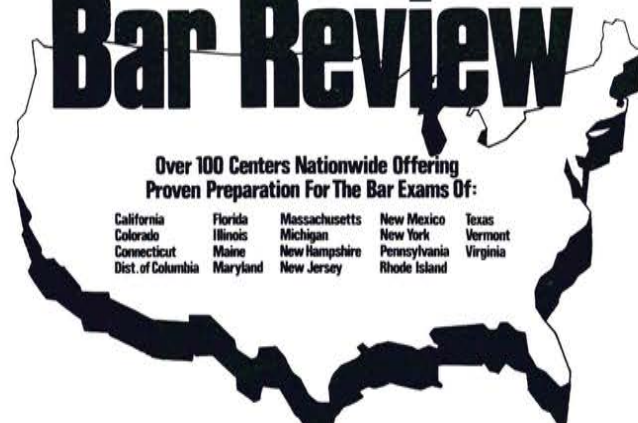
The paralegal occupation is here to stay as an important and expanding resource in the provision of legal services. Most law offices that employ paralegals can do better in how they utilize and relate to these valuable assistants. □

Quintin Johnstone is Justus S. Hotchkiss Professor of Law Emeritus at Yale Law School and professor of law at New York Law School.

### NOTES:


1. Much of what is discussed in this article is considered in greater detail in a book by Q. Johnstone and M. Wenglinzky, *Paralegals: Progress and Prospects of a Satellite Occupation* (Greenwood Press, 1985).
2. U.S. Department of Labor, Bureau of Labor Statistics, Bulletin 2253 at 45 (1986).
3. U.S. Department of Labor, Bureau of Labor Statistics, Bulletin 2302 at 50 and 56 (1988). The Department of Labor uses a somewhat narrower definition of paralegals than what appears in the text to this article, and it estimates a lesser percentage increase for legal technicians except clerical, a more inclusive class that apparently includes paralegals. *Id.* at 50.
4. Johnstone and Wenglinzky, *supra* note 1 at 3.
5. *Id.*, at 4.

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# An Urgent Need for Minority Lawyers

RICHARD G. HUBER



Richard G. Huber

**H**istorically, this nation has not thought that equal representation of racial, ethnic and religious groups at the bar was a matter of concern. Why are race and color now seen as being so much more important?

There are certainly several obvious reasons. We have, first of all, become much more sensitive during the past 40 years to the concept of equality, whether required by the Constitution or just as a matter of public policy. This has become a particularly serious concern as our economy has matured. Thus, the opportunity for persons who are willing to work but who have

little or no training is limited, if it exists at all. This has created a permanent economic underclass in our society, a class from which it is possible to rise only by extraordinary effort or certain economically important talents.

During the great waves of immigration from Europe, newly arrived Americans started out at the bottom of the economic scale. At that time, however, the state of both our society and our economy permitted reasonably rapid advancement. For one group of our earliest "immigrants," our Black citizens,

these opportunities have not existed, nor have they been made available to Native Americans. Hispanics, particularly Mexican-Americans and Puerto Ricans, and many East Asians, have also shared the environmental, economic and educational disadvantages that have created a large economic underclass, chiefly urban and unemployed. In fact, the changing nature of job opportunities makes some members of this group unemployable, for reasons beyond their control.

## Assuring equal justice

One of the goals of our regulatory society is to assure that every person has a basic package of economic and political benefits that will provide some security.

A major problem for those the programs are designed to benefit is the administrative difficulty that must be overcome before they can obtain and retain these benefits.

This is why minority lawyers in substantial numbers are critically needed. All lawyers of good will and strong professional ethics are capable of assisting those who are being denied the benefits society should provide, but for many persons at the poverty level who are also minorities, seeking help from one who is not a member of their own racial or ethnic community is difficult — or impossible. An understanding of language and culture should be a basic requirement for those who serve this population. For many of these poor, a comfortable and open relationship is only possible when their lawyers and other advisors share the same racial and ethnic background. These lawyers also provide a less direct but equally critical service: *They are examples of achievement, and of lives dedicated to serving others.*

Of course, minorities should also be given the opportunity for success in the mainstream. We should never expect all minority lawyers to remain in their communities, just as we do not expect it of others people within our society. Minorities should be brought into all areas of law practice, and into other careers for which a legal education is beneficial.

## Why the shortage?

To assure a supply of minority lawyers in much larger numbers, we obviously need more minority law students. Why don't we have them?

The first and most obvious reason is the cost of a legal education. Most of this is, of necessity, covered by borrowing — and only by achieving a high level of income after graduation can the debt be paid. And a top-salaried job is by no means assured for the minority law-school graduate.

Educational background often results in minority students having lower law-school grades than their non-minority peers, despite obvious equality of intellect and general ability. Law firms, under pressure to hire the

**F**or many minorities, seeking help from one who is not a member of their own racial or ethnic community is difficult or impossible.



"best" students, tend not to look beyond grades. Thus, the larger number of minority law students rarely obtain those well-paid positions and are too often left with good but moderately-paying positions that do not provide enough income to cover stiff loan payments.

Secondly, people seek particular careers because they know something of them and see these careers as viable choices. It is possible for the unusually gifted and ambitious young person to recognize that no horizon is unreachable. But students from poor families, often attending schools that do not excite them about education, have few examples of success within their community and are not likely to consider a profession to be a possibility. Our society needs to reach these students as youngsters, to challenge and excite them, and to make their ambitions real.

Educational systems at all levels, and assuredly in the law schools, are obliged to help all students succeed. Students whose education has not always been the best will necessarily have difficulties readily mastering ideas, processes, and problem-solving methods that are less troubling to those from stronger educational environments. This inequality of background must be remedied by programs designed to assist those who have had educational deprivation.

**W**e cannot wait for these students to arrive at college so that we may then help them develop a positive self-image.

Without the confidence that comes from mastery of an educational program, too often discouragement and withdrawal or unsuccessful academic progress occurs. This is not the message we wish to send to the next academic generation of minority students.

**Poor self image is root cause**

While there are a number of other reasons why the percentage of minority students in law schools is so much lower than that of minorities in the general population, I believe that the root cause is the failure to assure that minority young people develop a positive image of themselves as successful lawyers, or, for that matter, successful persons in the mainstream of society. We cannot wait for these students to arrive at college so that we may then help them develop a positive self-image. We must find effective ways to enter the minority community, to encourage and assist young people in their formative years. □

selves as successful lawyers, or, for that matter, successful persons in the mainstream of society. We cannot wait for these students to arrive at college so that we may then help them develop a positive self-image. We must find effective ways to enter the minority community, to encourage and assist young people in their formative years. □

Richard G. Huber is professor of law at Boston College Law School, and a member of NEBHE's Commission on Legal Education and Practice and the Economy of New England.

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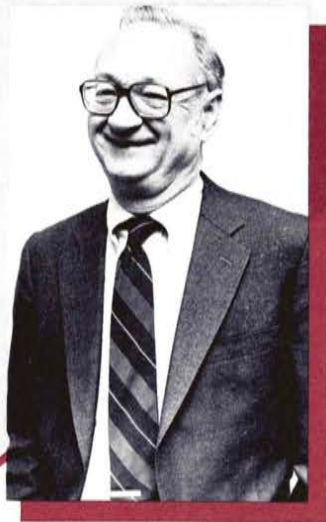
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## Bridging the “Gap”: The Problem of Transitional Training

ANSEL B. CHAPLIN

**N**ew England’s law school deans are in complete agreement that graduating law students are not competent to practice law without further training, if by “competent to practice law,” we mean “reasonably proficient in the application of law for the practical benefit of actual clients with specific legal problems.” Broadly speaking, law schools feel it is their mission to provide their students with a sound education in legal doctrine rather than to equip them with all the skills needed to practice law competently from the day of graduation.

So also, the boards of bar examiners in our several New England states are equally clear that they do not certify to their respective supreme courts that those law students who have successfully passed the bar examination in their jurisdiction will be competent practitioners upon their admission to practice. There is nothing in a so-called bar review course which purports to train students in how to practice law; the function of such courses is rather to provide information as to certain aspects of legal doctrine which may not have been covered in law school courses.

The missing ingredient before minimum competence can be expected from novice lawyers is a program of concentrated practical training in the application of law for the benefit of clients. Yet there is no mandatory CLE (continuing legal education) program in any New England state specially designed to provide that kind of training. Vermont, and Vermont alone, does have a non-specific requirement; namely, a six-month “clerkship,” for which there is no curriculum nor any requirement beyond attendance at the mentor’s place of business for the stated period of time either during or right after law school.

Traditionally, new lawyers in New England and elsewhere essentially learn by doing, hopefully under the supervision of someone who knows what needs to be done and how to do it. To some extent, in more recent years the novice has been able to derive significant support as well from voluntary, Bar-sponsored how-to-do-it courses, such as Massachusetts Continuing Legal Education’s Practical Skills Program for newly licensed lawyers.

Contrast the medical profession. Of the four years spent in what is called “medical school,” at least two years are devoted primarily to clinical rotations on hospital wards in the basic fields of medical specialization — gynecology and obstetrics, pediatrics, surgery, psychiatry and so forth. There are core rotations and optional rotations to permit the would-be physician to gain exposure to the actual practice in his or her fields of particular interest. Nor does the awarding of the M.D. degree and the completion of associated examinations entitle one to “practice medicine” at that point. An intensive year of internship in a hospital and another rigorous examination are prerequisite to the status of licensed physician.

Even then, after three years of direct exposure to the practice of medicine, there are real concerns on the part of the new physicians and their instructors as to whether threshold competency has been attained. There is serious talk within the medical profession at present, for example, that there should be two years of compulsory internship. But, as matters stand, newly licensed medical practitioners are certainly miles ahead along the road to competency, relatively speaking, than their peers who receive licenses to practice law.

### Vermont’s apprenticeship program

For example, Vermont’s apprenticeship program is not designed to provide a specific curriculum of transitional education. The would-be attorney must simply spend at least 30 hours a week for 24 weeks in a qualifying office in order to satisfy the clerkship requirement. The 24 weeks need not be consecutive, and credit can be earned at any time after the first year of law school. Whatever pedagogic value the experience may prove to have for any particular person depends upon a sort of osmosis. The premise is that one learns how to practice law simply from being present where law is being practiced.

So we should not conclude that Vermont has solved the problem of entry-level competence for lawyers. Even where a clerk in that jurisdiction actually works at legal tasks (as opposed to serving as a glorified file



clerk or messenger), there is no requirement that he or she draft a will or trust, form a corporation, search a title, collect a debt, close a loan or defend a person charged with a minor crime, all to the satisfaction of the supervisor, before receiving a license to practice law.

Indeed, six months is self-evidently far too short a term in which to learn competence in the general practice of law from even the most skillful and conscientious mentor. Moreover, most mentors in Vermont (or anywhere else) have not been trained in how to teach their apprentices to bridge the "gap" between law school and law practice. As instructors, *they* are also "learning by doing."

It should be recognized, however, that Vermont — to its very significant credit — is at least acknowledging that there is a gap between law school studies and the attainment of minimal professional skills. Furthermore, Vermont has attempted to make an institutional response to the problem in the form of compulsory apprenticeship.

The keeper of the educational conscience of the American legal profession is a group known familiarly as "ALI-ABA," an acronym for the American Law Institute and the American Bar Association's Joint Committee on Continuing Professional Education. ALI-ABA has developed a model Bridge-the-Gap Program for adoption in the several American jurisdictions. At the moment, New Jersey alone has implemented this type of training course at a level that would meet ALA-ABA's standards.

### **Mentorship no longer guaranteed**

There are good historical reasons for the gap that presently exists. There was a time when a universal *de facto* apprenticeship system existed. Virtually all new lawyers worked for an experienced practitioner until the employer felt the fledgling was ready to fly. But it is generally recognized that the days of one-on-one mentorship have long since passed as a consequence of the sheer number of lawyers now being admitted to practice and the high overhead costs associated with training them.

After a decade of considering this general problem, I have come to the painful conclusion that no one other than ALI-ABA really wants to admit that there is a patent structural (or institutional, if you prefer) defect in the training of lawyers. Law schools — thanks largely to incentive funding from the Ford foundation — have made significant strides from the 1960s forward towards incorporating clinical components into their curricula. But, as the New England Board of Higher Education's Commission on Legal Education and Practice and the Economy of New England has found, the best one can say after 25 years is that *about half* of New England's law students will have taken *at least one* clinically oriented course before graduation. Only 20 percent will have had any chance to work directly with a client as opposed to participating in a simulation.

At best the conscientious student can achieve a bare beginning on a very long road during the course of law school. Northeastern University Law School, for example, has a co-op system that alternates, after the first



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**O**nly Vermont has attempted to make an institutional response to the problem in the form of compulsory apprenticeship.

year, a quarter of classroom instruction followed by a quarter of field placement. But not even that school has attempted to integrate its students' "clinical" experiences into the law school curriculum. The mentors in the field placements are simply practitioners (be they in private practice or the public sector), not members of a highly qualified adjunct clinical faculty. Thus, the pedagogic value of any given "clinical" placement is — like a Vermont apprenticeship — purely haphazard. The mentor may or may not know *how* to teach; it is even more uncertain whether he or she will know *what* to teach.

Nor is continuing legal education after law school a panacea. Although a host of courses are available to the conscientious practitioner on a voluntary basis, such courses are, by necessity, heavily oriented towards providing "legal information" as opposed to "legal education." Even when CLE instructors are telling people "how to do it," we all know from our earliest experience with a hammer and saw that there is a world of difference between being told what to do and actually doing it ourselves.

#### Profession must recognize problem

The legal profession, particularly in the person of law school deans, bar examiners and supreme court judges (as the ultimate licensing authorities), needs to commit itself to an extended dialogue based upon recognition that there is a serious institutional gap in the training of lawyers, a gap for which ALI-ABA almost alone currently acknowledges any professional responsibility.

ity. Until that self-assessment occurs, the problem of undertrained newly licensed attorneys is not likely to be solved.

How extensive a problem is it? No one really knows. Anecdotally speaking, we are aware that the large firms are making extensive and very sophisticated efforts to train their associates in-house, in group settings. Perhaps 10 percent of all law school graduates are able to commence practice in such a nurturing setting. Many of the rest are undoubtedly learning how to practice law at the expense of clients. There is obviously no way of measuring what the economic cost of those mistakes may be. The loss of public confidence in the profession may also be incalculable. And, as is equally serious, many clients may not even know that they have been the victims of inept legal practice.

We can do better. We need to do better. As a profession, we have systematically neglected the how-to training of our young; hence, the recommendations of this Commission for a compulsory bridge-the-"gap" program in our several New England states and for mandatory continuing legal education for all lawyers. Even those programs will be no more than a small step towards the equivalent of the clinical training which the medical profession provides. But a strong beginning would be a solid commitment to future improvements in transitional training.

There will inevitably be a heavy financial cost for the formalization of transitional training for lawyers. One can hope that the cost will be offset many-fold by the increased cost-efficiency of enhanced legal services provided by newly admitted attorneys. But, in the end, who can put a price upon justice? A well-trained legal profession is surely our best guarantee that the most open society ever known to human history will continue to flourish. □

Ansel B. Chaplin is an attorney with the Massachusetts firm Chaplin & Milstein, and a member of NEBHE's Commission on Legal Education and Practice and the Economy of New England.

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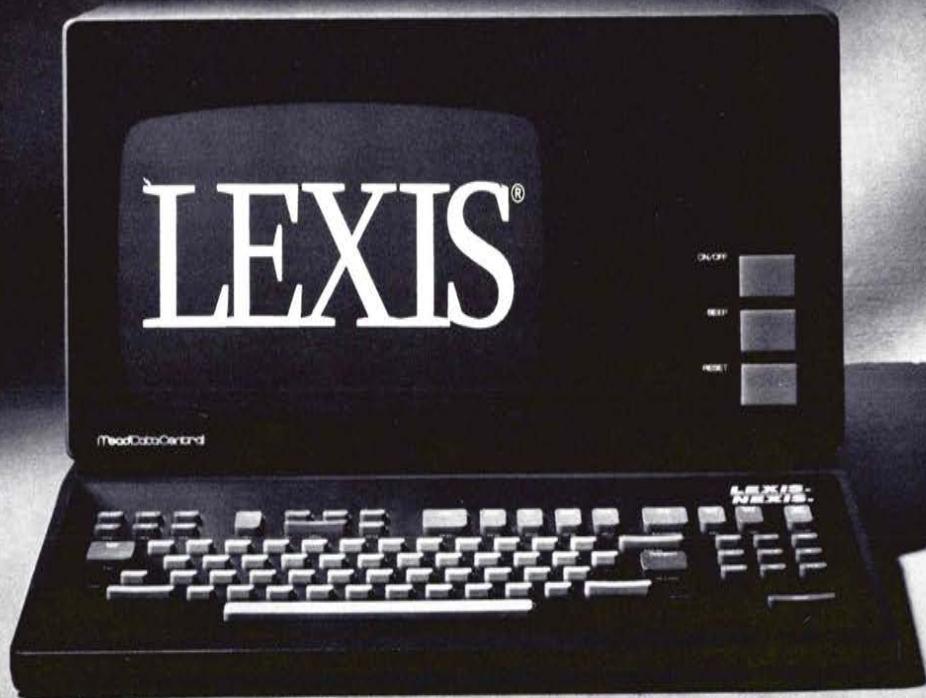
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# Legal Information Resources in New England

*Telecommunications are an asset—if costs can be kept down*

MORRIS L. COHEN

Access to published legal information through law libraries and computer technology in New England varies throughout the region, depending upon the researcher's location. Although such access is quite good along the coast in southern New England, it is less adequate in the northern-tier states and in the western parts of Connecticut and Massachusetts. As elsewhere in the country, urban centers are better served than rural areas, and larger cities better than smaller cities and towns. Access is substantially improved by the number, quality and availability of law-school libraries in the region.

The bar in the Boston area is served by the Social Law Library, one of the largest and most distinguished bar libraries in the country; by six law-school libraries (including the Harvard Law Library — the largest academic law-library in the world), and by the Massachusetts State Library, making that area the best-served in New England and one of the best in the country.

Except for those larger law firms and corporate law departments that maintain their own libraries and have their own subscriptions to computerized research services, most of the New England bar depends on access to law-school, county and court libraries and on the few "public" computer terminals in the region. In addition to the 13 law-school libraries, a regional survey found approximately 59 "public" and bar libraries and 35 "public" computer terminals, i.e., those accessible to the bar for research purposes at commercial rates, (see table below).

The importance of private-sector support for the academic law libraries in the region should be noted here. Those 13 libraries are an essential part of New England's legal-information resources, and as such deserve more financial support from the bar than they now receive. They are perhaps the most valuable regional resource for access to legal information and research. Relatively little of the alumni support to most



law schools is designated for library use, and yet library support of local alumni practice is substantial and should be compensated directly.

In addition to their libraries (most of which are available to the legal profession on some basis), the law school *faculties* offer another important source of information and individual legal expertise to the bench and bar of New England.

## Diverse uses for high-tech

The accessibility of legal information in research has been radically improved for the bench and bar in most of New England by the adaptation of computers for full-text storage and searching of legal materials. This innovation and a number of other electronic improvements in communication and data transmission, although not yet regularly used by many lawyers, are changing the way legal research is carried on in this country.

After almost 20 years of development, computer-assisted legal research is now being used by most large law firms and the larger corporate law departments, by most federal courts and the high courts of most

| State         | Public and Bar Libraries | "Public" Access Terminals    |
|---------------|--------------------------|------------------------------|
| Connecticut   | 13                       | 2 (5 more projected in 1989) |
| Maine         | 19                       | 3                            |
| Massachusetts | 18                       | 20 (estimated)               |
| New Hampshire | 3                        | 7                            |
| Rhode Island  | 3                        | 1                            |
| Vermont       | 3                        | 2                            |

## PHOTO ABOVE:

Today's modern law library provides access to legal materials via traditional as well as technological means. WESTLAW®, the CALR (Computer-Assisted Legal Research) service from West Publishing Co. of St. Paul, Minn., contains over 1,500 databases.



states, and by the students of virtually every American law school.

Two commercial services — LEXIS of Mead Data Central and WESTLAW of the West Publishing Co. — dominate the field, with approximately 900 and 1,500 databases, respectively. A number of smaller, specialized computer services are now appearing in the marketplace as well. Many legal and law-related databases from other vendors are also available through LEXIS and WESTLAW, and through standard office or home computers from database vendors such as BRS and DIALOG. The expense of these services and the inevitable inequality of access to them is only slightly mitigated by the availability of "public" or shared terminals.

Computer-based litigation-support systems are employed by large law offices to index and retrieve the documentation of complex and protracted lawsuits. They are typically used to control and provide access to pre-trial depositions, daily trial testimony, exhibits, and documentary and statistical evidence.

These systems are available through LEXIS and WESTLAW and from a number of other vendors. They are very expensive, and are economical only where the amount of data and the number of documents are unmanageable by manual retrieval, and where clients can be expected to accept the cost of their use. Since there are no "public" terminals or cooperative arrangements available for this purpose, the problem of inequality of representation in such cases is exacerbated.

Electronic services are also improving communications in the legal profession. Among them are electronic mail and conferencing (internal and external); facsimile transmission of documents (between branch offices, libraries, lawyers and clients, and between law offices and printers); electronic bulletin boards in large organizations; and desktop publishing.

#### **Future trends**

All of these developments are likely to increase in scope, sophistication and general acceptance by the legal profession in the foreseeable future.

Their use in larger law offices

and corporate law departments can be expected to spread further, to smaller offices and beyond urban centers, as costs decrease. Computer applications in courts, legislatures and government offices have become widespread, particularly for court calendars and docket management, and in legislative bill tracking.

Training in the use of computer-assisted legal research systems is now an accepted (and often required) component of the law-school curriculum. Computer-assisted instructional programs are used for coursework in many law schools, along with simulated exercises in lawyering skills, audio-visual instruction, and other interactive computer-based instructional techniques. Student use of word processing and

computer-assisted research, and increased computer literacy among law students generally, are likely to accelerate acceptance of new computer applications by the next generation of lawyers.

The competition between LEXIS and WESTLAW has served to enhance the scope of their respective databases and may have future impact on the subscription costs of these systems. The use of "public" terminals and shared terminal arrangements, available for some time from both of the major vendors, has been slow, but seems to have increased in the last few years. Intense competition among law-book publishers, and between book publishers and vendors of computerized research systems, has persuaded some publishers to develop database alternatives to their book publications. On-line access to Shepard's citators, statutory codes, looseleaf services, treatises and legal periodicals are but a few examples of a trend that will accelerate in the coming years.

The use of optical and compact disks for the storage and retrieval of legal information is likely to increase in importance in the near future. This technology is already widely used for periodicals indexing, and several other applications have already appeared or have been announced. It offers high-density storage, convenient viewing on a video screen, printing capability and inexpensive updating. Although current prices of subscriptions to the available services are high, costs should decrease with competition and with the use of standardized equipment. This should be an ideal format for smaller law offices, and will be particularly desirable for discrete information files of limited size requiring periodic updating, such as looseleaf services and procedural law collections.

In general, the future will undoubtedly bring an expansion of existing databases for legal research; new databases on LEXIS and WESTLAW and on compact and optical disks; a gradual increase in retrospective materials on microfilm and microfiche; and improved reproduction of paper copies from those formats. Interlibrary cooperative efforts, facilitated by improved electronic communications and information transmission, can also be expected. This development will tend to extend the reach of law libraries and enable them to tap the resources of larger and more specialized libraries. Such arrangements will inevitably require some system of compensation to the source library.

Computer-assisted research will become more and more widespread throughout the legal profession, facilitated for smaller offices and less affluent practitioners by "public" and shared terminals accessing the larger research systems, and by the development of smaller and less-expensive databases on optical and compact disks. Although the promise of totally electronic libraries is unlikely to be fulfilled in the foreseeable future, electronic legal research will undoubtedly grow in use and scope.

#### **The cost factor**

Costs of the new information technology for practicing lawyers are high. Basic subscription rates for LEXIS and WESTLAW are beyond the reach of most small offices. Since real costs are determined by use charges, a busy office with regular use of these terminals will incur expenses far beyond the basic rate.

**A**ccess to legal information in New England has been radically improved by the adaptation of computers.



Charges for non-legal databases such as NEXIS, which are popular with lawyers, are even higher. These costs are usually passed on to clients directly or indirectly, thereby increasing the cost of legal services.

Marketing promotion of LEXIS and WESTLAW often argues that use of the computerized services reduces research costs. This may be true, but in some instances savings are diminished by excessive or inept use of this expensive technology. Often search questions are framed too broadly or the database being searched is not effectively limited by the researcher. Sophisticated search strategies can reduce costs and improve the results enormously. The increased computer training now being offered in most law schools should eventually reduce that waste, as current students move into practice.

The wider use of "public" and shared terminals — an option badly neglected by the bar — could become another cost-saving factor. The vendors of these services should promote the use of such cooperative arrangements more actively. LEXIS offers a "membership group" program that allows small offices (usually 10 lawyers or less) to access the system through their own personal computers, under the sponsorship of a

**T** raining in computer-assisted legal research is now an accepted component of the law-school curriculum.

bar association or institutional library. LEXIS is now available to lawyers, on this basis, through membership in Boston's Social Law Library, the Maine, New Hampshire, and Rhode Island state bar associations and the Hartford County Bar Association. WESTLAW offers a similar scheme that seems to be less widely used in New England. More extensive use of these economical programs requires only initiatives by local bar groups, and practitioner interest in using them.

The development of free-lance research services or part-time employment of trained librarians accessing LEXIS, WESTLAW or other computerized information systems at their home terminals may offer an alternative for law offices who

do not need or cannot afford full-time library or research personnel. The beginnings of such a "cottage industry" is apparent, and could serve practitioners who have only occasional need for sophisticated research assistance. □

*This article was excerpted from a paper by Morris L. Cohen, head librarian at Yale Law School, that summarized findings of a Task Group on Legal Information Resources in the region. This Task Group study was conducted as part of the work of NEBHE's Commission on Legal Education and Practice and the Economy of New England.*

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# Law Library Design: Meeting Changes in Legal Education

MAURICE N. FINEGOLD, AIA

**W**hat distinguishes the law library from other graduate or research libraries? Case studies, library programs, and goal statements of individual law libraries speak in generalities applicable to any type of library. Certainly there are basic "ingredients" of users, resources, staff and special services in every library. In law libraries, however, the proportions and mixes of these "ingredients" differ significantly from other academic libraries.

The legal profession uses the medium of the word to convey its message. Law is not studied or practiced in the laboratory, the studio, or in the field. Medicine, science, architecture, music, and education, among other disciplines, all use other media for communication and learning. Consequently, if words are of the utmost importance, then how they are studied is also significant. Research and training are focused on legal precedents shaped from the application of laws, documented in case after case. In this age of growing specialization and complexity, the rules, regulations and interpretations by which our democracy is tempered unfold in volume after volume.

As a direct result of this plethora of material, a patron of the law library simply has to — and does — spend more time in the library than users of other libraries. It is the length of each visit, not the frequency, that necessitates creating an environment supportive of long-term study and research. Study tools are found not only in printed text, but in microforms, databases, and interlibrary-loan mechanisms. The environment

must go beyond the simple comfort of a study station to the greater community to accommodate that most significant factor in graduate-level education, interaction with fellow students.

The development of classroom interactive teaching devices, while not unique to the law, creates another situation. The library is now responsible for storing, cataloging and managing all of the software for these classes. The boundary between the classroom and the library is becoming hazy. We are experiencing the transition of the pure research/academic library into a teaching library; the traditional lecture room into a resource room.

While some law schools have freestanding libraries, many do not. Most libraries, such as those at Harvard and Northeastern, are fully integrated into the physical plant. Consequently, the library is surrounded by classrooms, faculty and administrative offices, stairs and corridors. These activities have a direct impact on the building's usage pattern. As demands on the library increase, maintaining a

clearly defined and secure library boundary is becoming a critical issue during design and planning.

How, then, can the architect respond to the new challenges facing law libraries and their staffs? How can one best accommodate the basic building program and still create appropriate spaces that can easily adapt to growth and technological advances?

*DRAWING ABOVE:*

*Rendering of planned Vermont Law School Library, Notter, Finegold and Alexander.*

---

**L**ibraries  
in transition to  
technology require  
additional space,  
not less.

---



The simplest answer is to design a large, open, flexible space — the "universal space." But this response may be neither practical nor fulfilling. Many sites do not allow such expansiveness; remodellings and additions are limited by their context. In planning and design, a careful balance of function and character must be combined in a way that is supportive of program goals and future change. To illustrate these points, I will draw upon my firm's experience as architects and academic planners for two very different law libraries at two New England institutions: Vermont Law School in South Royalton, Vt., and Harvard Law School in Cambridge, Mass.

### Vermont Law School

Vermont Law School is that state's only law school. Its 400 students are currently served by a library containing 60,000 volumes in 6,000 square feet of space. This modest size contrasts with the enormity of the material available. Vermont Law School has no intention of building a huge collection such as Yale University's 700,000 volumes, or Harvard Law School's 1.4 million; it does not have the resources, nor does it need them. As a specialized regional law school, its requirements are not as universal. But the universe is available to it — through the external, shared databases of the electronic library.

The blessings and curses of automation have been exposed during the design phases of Vermont Law School's new library project. In just a short time, changes have been significant, and dependence on technology continues to grow. Databases are added and expanded regularly. Increasingly, students and faculty have more sophisticated levels of expectations, as well as experience, in using such resources. The impact of these new demands on library space requirements also continues to grow. Automation will not replace shelving, texts, nor the library itself; the student will need and use both printed and automated texts. Libraries in transition to technology require more space, not less.

The proposed plan for the Vermont Law School expansion is to create a new library; the existing building will then be converted to a new student center. From a planning point of view, the open, welcoming space of the original remains an informal area and a buffer between classroom and library, encouraging students and faculty to socialize.

Librarian W. Leslie Peat knows that today there is less emphasis on the traditional Socratic teaching method and more on original research and written exercises. This creates more dependence on the library, and seating and shelving capacity is affected proportionately. His goal is to keep the space flexible and open. The design concept supports this goal while retaining the inspirational quality of scale and warmth now found in the existing library and in the traditional design vernacular of the Vermont village.

### Unique challenges at Harvard

Harvard Law School's library needs represent a unique set of challenges quite different from those at Vermont Law School. The library itself is also quite unique. Begun in 1906, Langdell Hall is the oldest academic law library in the United States. It contains over 1.4 million volumes on 30 miles of shelving, and in-

cludes 200,000 rare books. Among the memorabilia is a lunch box used by Justice Oliver Wendell Holmes while he served on the U.S. Supreme Court.

The library acquires 15,000 volumes and 10,000 microform per year. The collections are planned for 1.8 million volumes, 5 million microfiche, and 500,000 reels of microfilm. Langdell Hall currently serves 1,800 students, 100 faculty and 24 visiting scholars. Housed in two separate buildings with collections stored in several basements and warehouses, it occupies more than 100,000 square feet of space and is managed by a staff of more than 100 people.

On the top floor of Langdell Hall is a 600-foot reading room, containing 90 percent of the library's seating and a mere 5 percent of the collection. Access to the remainder of the collection is below the reading room through a maze of split level stacks. Separate circulation desks in Langdell Hall and the International Legal Studies building compound the frustration to staff and patron alike. The path that a resource item takes is equally convoluted, and causes delays and inefficiencies in processing. Of the processing tasks, collections preservation is the most demanding. Because of the unstable paper used in books published after 1850 and the size of the collection, the task in energy and dollars is staggering.

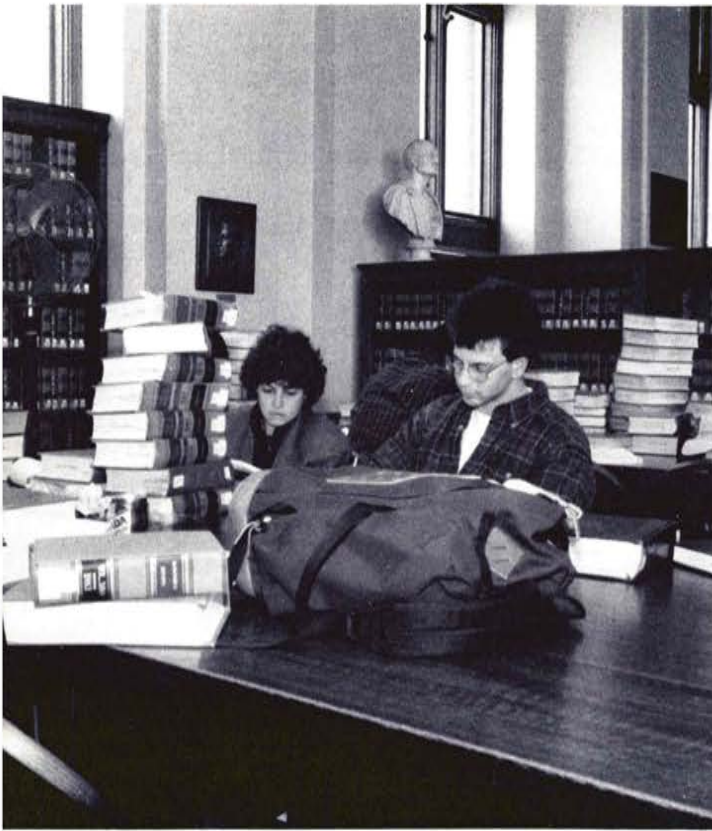
Program goals for the development of the library are to create an open, accessible collection with 1,200 reader seats dispersed in a variety of styles; to form a single circulation entrance point and secure the library boundary; to create a climate-controlled environment in order to stabilize the collection and improve comfort; to reorganize the flow of the resource material and the circulation of the patron; and to improve the functional adjacencies of the professional staff.

Solutions are not simple. Terry Martin, the librarian, has suggested that floor plates housing 100,000 to 150,000 volumes of the J.D. collection be developed with seating around the perimeter; that the circulation desks be combined on an entrance level, and the staff located on lower floors to facilitate the flow of material in an orderly manner. Consequently, three different plans have been developed: "mini," "midi," and "maxi."

The "mini" scheme is a small addition connecting the two buildings. It would house a central circulation desk, computer terminal stations, and additional stacks. The preservation department would be enlarged in place. The "midi" scheme involves reconfiguration of and additions to both buildings. The "maxi" scheme is represented by an entirely new library. Limited sites on campus preclude development of optimum floor plate sizes, and although this scheme would result in greater efficiency, it would require creation of a 10-

**G**reater emphasis on original research than on Socratic teaching methods creates more dependence on the library.





Harvard University Law School Library, Langdell Hall. Olga Solomita photo.

story building. Our experience in working on existing facilities suggests it is possible to accomplish the library program using the "midi" scheme. Whatever direction is selected eventually will improve the use and service of Harvard's unique law school library.

### Academic approach impacts libraries

As the study of law evolves more rapidly, current and future changes in academic approach will have a major impact on libraries. Development of more outreach programs will shift the study process from one of intense pragmatic case research to one requiring multiple avenues for resource access, for study and for formal and informal interaction among students and faculty. Transformations in spatial design and light, including social spaces, study areas and collection access, will address these new academic priorities.

While functional needs develop quickly, most institutions respond slowly. Flexibility and adaptability will become increasingly important for law libraries. The law is a noble profession, and those who teach and study it should be able to do so in an uplifting environment. Such spaces can only enhance one's ability to study, as the Harvard degree grants, "...the application of those just restraints that make [us] free." □

Maurice N. Finegold, AIA, is president of Notter, Finegold and Alexander, Inc., an architectural and preservation planning firm with offices in Boston, Mass., and Washington, D.C.

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# For The Public Good

LONNIE F. POWERS

In December 1987, the *American Bar Association Journal* published its first editorial in five years. The *Journal* called on lawyers to devote a minimum of 50 hours per year of free legal services to the poor. One of the studies cited by the *Journal* was *Massachusetts Legal Services: Plan for Action*, a statewide study of the legal needs of the poor issued in December 1987. That study found that poor people in Massachusetts confronted approximately 320,000 unrecognized and unmet civil legal needs in the state each year. The combined efforts of publicly and privately funded legal-services programs and *pro bono* legal assistance by thousands of lawyers throughout the state addressed at most 15 percent of the legal needs of the poor in Massachusetts. While similar studies have not been done in the other New England states, there is no reason to believe that the picture is any brighter there.

## Volunteers can't cover all needs

Throughout New England, *pro bono* lawyers are helping children, single parents, widows and others in need of free legal assistance. In New Hampshire, where there are approximately 3,300 members of the bar of

whom an estimated 2,200 are available to do *pro bono* work, about 850 lawyers participate in the statewide *pro bono* program. About 85 percent of the cases those lawyers handle are family-law related and about 8 percent are consumer related. Rhode Island has approximately 500 lawyers who participate in its Volunteer Lawyers Project. Of Maine's approximately 2,000 lawyers, 1,100 have agreed to provide direct legal assistance, or to be a "Lawyer of the Day" for the Maine Volunteer Lawyers Program. Just over 50 percent of all the cases handled by *pro bono* attorneys in Maine involve family law issues with

other significant percentages in consumer, government-benefits and housing cases.

Massachusetts has a wide range and variety of *pro bono* programs, including the Volunteer Lawyers Project of the Boston Bar Association, with approxi-



Lonnie F. Powers

mately 900 volunteer attorneys; the Cambridgeport Problem Center, where 25 lawyers volunteer 10 hours per week for at least one year; and the attorneys who accept *pro bono* cases from such organizations as the Lawyers Committee for Civil Rights Under Law and the Civil Liberties Union of Massachusetts. The majority of *pro bono* cases in Massachusetts are family-law related, but there are significant numbers of civil rights cases, death penalty post-conviction relief actions and work for clients with mental and physical handicaps, to name a few.

The legal problems faced by the poor are pervasive and complex. Despite the valuable lawyer time that is donated on their behalf, many of their legal needs remain unmet. There are at least two reasons for this. First, the sheer volume of clients who need representation far exceeds the number of volunteer or paid attorneys who are available to provide it. Second, there are some legal needs of the poor which could never be adequately addressed through purely volunteer efforts. The critical role of publicly and privately funded staff attorneys, paralegals and other staff must be understood and strengthened if we are to take full advantage of the volunteer efforts of private attorneys.

One of the core professional responsibilities of attorneys is to understand how the law affects the lives of one's clients and to help those clients come to a complete appreciation of their rights and responsibilities under the law. Part of the education of a client is an explanation of ways in which laws may be changed to benefit the client. Attorneys for the poor, no less than attorneys for the rich, have a professional responsibility to explore all legitimate avenues for legal change to improve their clients' lives. Attorneys should neither assume that clients want to bend the system in their favor, nor may they, without inquiring, presume that their clients are satisfied with the current state of the law.

The legal needs of the poor, the "clients" of those who practice poverty law, are not solely the discrete

**W**e must have a way to assist poor people in making the connection between what happens to them each day and legal remedies.



legal issues presented by a confrontation between a single mother from Southeastern Massachusetts and an unfeeling welfare worker. The structure of the welfare system itself, the type, level and incidence of taxation in a state or local jurisdiction and welfare payment levels so low as to deprive poor people of a statutory right to raise their children in their own homes are equally salient legal needs of the poor that must be addressed. Few citizens, poor or rich, could, unaided, undertake the analysis necessary to determine that legal remedies exist for such systemic problems.

### Understanding the disadvantaged

We must have a way to assist poor people in making the connection between what happens to them each day and legal remedies. Clients live their lives and lawyers section those lives out into rights, duties and remedies. Making the connection between life and the law requires trained legal advocates who work with poor people on a daily basis, understand the problems they confront, gain their trust, represent and assist clients in confronting their own problems, individually and as groups, and can link up the volunteer efforts of other attorneys with poor people needing legal assistance. Only in this way can we address the full spectrum of the legal needs of the poor in the most efficient and effective manner.

The smartest, most dedicated volunteer attorney from a corporate law department, a downtown Boston law firm or an individual practice is unlikely to know poor people personally. Those lawyers are even less likely to understand the impact of the law as interpreted and often distorted by social service systems on the lives of the poor and to have the time to connect their legal knowledge with the problems confronting the poor. It is equally unlikely that without assistance a mother on welfare in a poor neighborhood of Hartford would ever learn that the lawyers at a major insurance company are taking *pro bono* cases, or that a family living in poverty in rural Maine would know that there are lawyers in downtown Portland who would be willing to represent them if they would only ask.

To make these connections between the legal needs of the poor and the skills of volunteer lawyers, we have the staffs of legal-services programs and other similar organizations. These organizations are funded in large part with public money, and rely on the skills of full-time attorneys and paralegals who directly represent poor people and educate their clients to their legal rights and responsibilities. Only citizens who know and understand their rights and responsibilities can be expected to abide by the law.

Yet the last eight years have seen a vicious assault by former President Reagan and the majority of the board of directors he appointed to the Legal Services Corp. on federally funded legal services. That assault was turned aside by the Congress. The overwhelming support of the organized bar for federally funded legal assistance was in large measure responsible for the Congressional defense of legal services for the poor. Also critical was the leadership exhibited by many senators and congressmen from New England. There is reason to believe that the current administration will

better appreciate the necessity of adequate legal assistance to the poor in this society.

### The educator's role

Those involved in higher education can help in several ways to move towards the goal of equal justice for all citizens. One is to insure that students are taught a few fundamental truths: That access to justice is an essential foundation of a democratic society; that respect for the rights of others is one of the primary duties of citizenship; that having more money than another makes one neither an inferior nor a superior citizen. These lessons must not only be taught in the classroom but must be demonstrated throughout the structure of institutions of higher learning if they are to hit home. It is also essential that we all understand the role of attorneys in this society as advocates for the rights of citizens, whether in courts, before administrative agencies or before legislators.



*Legal aid services are charged with helping the poor make the connection between what happens to them in their daily lives and the legal remedies that are available to them. Kenneth Martin photo, courtesy of Massachusetts Legal Assistance Corp.*

Law schools should require that students participate in clinics providing legal services to the poor as a prerequisite for graduation. This will provide some additional legal assistance for the poor, but, more importantly, will expose law students to their professional responsibility to provide free legal services, as well as confronting them with the reality of poverty. Finally, the public-policy agendas of the leaders of higher education must include access to justice for all citizens. If we teach our children these lessons well, they will appreciate that the work lawyers do *pro bono publico* is indeed for the public good. □

Lonnie F. Powers is executive director of the Massachusetts Legal Assistance Corp.



# Northern New England's Legal Aid Crunch

DONNA HALVORSEN

**F**rail, disabled and a grandmother at the age of 40, the woman lived in an apartment in Maine with her three children and two toddler grandchildren. Her son had stolen her rent money, but she was unwilling to report him to the police so she could get some emergency help from the state or, at the very least, some sympathy from her landlord. So she was being evicted.

When the eviction case came to court, the woman was represented by Patricia Ender of Pine Tree Legal Assistance, Maine's poverty law firm. The judge who heard the case asked the lawyers to work out a solution. The landlord, he said, should give the woman 10 days to come up with the rent money. But in the 10 days that followed, the woman's plight grew worse. Her application for family crisis assistance was denied because the state pays rent only when the tenant is going to be allowed to remain — and the landlord wanted the woman out of the apartment.

Also during the 10 days, the woman's teen-aged daughter, who lived in the apartment, gave birth to her third child. It died within hours. While arranging burial for the child, the woman continued to face eviction.

In a last-ditch effort, Ender prevailed upon the state to grant the emergency assistance. And, at 7:30 a.m. on the 10th day, a Pine Tree secretary went to retrieve the state voucher. Later that day, the judge ordered the landlord to accept the rent.

hard times during the Reagan years. Pine Tree, with two dozen lawyers in six offices, has never claimed the ability to handle more than 20 percent of the needs of a diverse population that includes Native Americans, a sizeable French-speaking population and a far-flung northern county the size of Connecticut and Rhode Island combined. But the leanness of Reagan's policies further crippled its efforts.

"The severe cuts in federal funding experienced in the last eight years have seriously jeopardized the concept of equal justice for all," L. Kinvin Wroth, president of the Maine Bar Foundation, said in December while unveiling the foundation's second round of legal services grants.

The bar foundation, an adjunct of the Maine State Bar Association, has been the private bar's answer to the crisis. Established five years ago, it came into its own two years ago, when the Maine State Supreme Court gave its go-ahead for an IOLTA program similar to those that now exist in nearly every state. IOLTA stands for Interest on Lawyers' Trust Accounts; it pools small sums of money held by lawyers in trust for clients into interest-bearing accounts. The interest is turned over to the foundation to fund legal services programs.

During the past two years the program has generated \$797,737 in revenue, and Maine lawyers lead the nation with their 70-percent participation rate. Gov. John R. McKernan recently celebrated another milestone: he invited the entire Waldo County bar — 21 lawyers strong — to lunch when the county became the first in the nation to have 100 percent participation in a voluntary IOLTA program.

The private bar's other major legal services venture is the Volunteer Lawyers' Project, in which nearly half the state's lawyers have agreed to accept at least three *pro bono* cases a year. The VLP was called "very much of an experiment" and "an historic and important venture" by Portland lawyer Howard H. Dana Jr., a leader in Maine's legal services effort, when it was set up five years ago. It is an established entity now, adding the equivalent of four full-time lawyers to Pine Tree's poverty-law efforts by handling cases in such areas as domestic relations and consumer complaints that cannot be encompassed in Pine Tree's bread-and-butter agenda. Volunteer lawyers have contributed \$2.5 million worth of services since the program began.

But beyond the celebratory talk, and beneath the gloss of attorney participation rates, the state's legal leaders acknowledge that their efforts have fallen short of the mark. Both Pine Tree and Legal Services for the Elderly, the state's other major legal services organization, will go to the Maine Legislature this year for substantial increases in state funding. "Instead of IOLTA being the icing on the cake, what it's really do-



**Pamela Anderson,**  
executive director,  
Pine Tree Legal Assistance.

Such crises over basic human needs are common in Maine, a poor rural state where 18.7 percent of the population is at or near the poverty level. The task of tending to the legal needs of the state's poor falls largely to Pine Tree, an organization born of Lyndon B. Johnson's "Great Society," and one of many that fell upon



ing is allowing them to keep their doors open," says Nancy Chandler, the bar foundation's executive director. "We need a three-pronged approach: more federal money, more state money and more IOLTA."

"It's really great to see the reponsibility of the bar," says Pamela Anderson, Pine Tree's director. "But we need more money."

### N.H. & Vt. plead similar cases

In New Hampshire and Vermont, the other states that make up New England's northern tier, the story is much the same. Both are rural states with poverty-level populations smaller than Maine's — 10 percent in Vermont, 12 percent in New Hampshire — but whose needs legal leaders say they often cannot meet.

"One of the hardest jobs is being on the phone and having to say 'no' to people with legitimate legal needs," says Wendy Morgan, deputy director of Vermont Legal Aid.

Like Maine, New Hampshire and Vermont have worked hard to rebound from the funding cutbacks and morale problems of the early 1980s, when the number of staff lawyers at New Hampshire Legal Assistance had to be cut from 21 to 14. The number is now back to 21, largely due to an IOLTA program that expects to generate \$850,000 to \$900,000 in revenue this year, with a 60-percent participation rate among the state's lawyers.

As an indication of the program's impact, Virginia M. Guiser, director of training and community legal education for New Hampshire Legal Assistance, points to a 26-percent increase in services for 1986 alone due to the infusion of IOLTA money.

"IOLTA has made all the difference in the world," says Gail Kinney, director of the New Hampshire Bar Foundation. "It's the difference between survival in a quality way and not [surviving]."

New Hampshire, which gets no state legal services funding, relies heavily upon IOLTA money. Vermont has a smaller IOLTA program that generates about \$150,000 yearly, with 20-percent participation among the state's lawyers. But Vermont Legal Aid receives major state funding, accounting for 40 percent of its budget, and gets a large chunk of the \$200,000 that comes annually from a surcharge on civil filing fees. The organization maintains a staff of 30 lawyers in eight offices around the state, six of them focusing on the legal needs of the elderly, three others placing clients with lawyers who volunteer to take at least two *pro bono* cases a year.

In both New Hampshire and Vermont, about a third of the practicing lawyers have signed up to do *pro bono* work. But despite efforts in all three states to fill the gap created by federal cutbacks, nearly everyone involved in legal services acknowledges there are large areas of unmet need.

In Vermont, Morgan says the biggest gap is in lawyers who are willing to handle divorces, so that people are often forced to remain in bad marriages, complicating lives that are already shaped by poverty.

In northern New Hampshire, Guiser says, there are long lists of people waiting for *pro bono* attorneys because there are so few lawyers practicing in the northern reaches of the state.

In southern Maine and New Hampshire, a housing crunch and soaring housing prices have created additional problems for the poor that demand legal resolution. "Rents have just gone through the ceiling," Guiser says. "We have an incredible demand for assistance with housing-related problems."

### Bush administration may make difference

In Maine, there is hope for the dawn of a new age in legal services with President George Bush in residence at Kennebunkport and Maine's Sen. George J. Mitchell guiding the Democrats as Senate majority leader.



**Nancy Chandler,**  
executive director,  
Maine Bar Foundation.

"I hope the Bush administration will be a little friendlier to legal services than the current administration," says Pine Tree's Anderson. Adds Chandler of the Maine Bar Foundation, "We're hoping that with a change in administration, we'll also have a change of philosophy that won't mean getting rid of the Legal Services but increasing its funding."

In New Hampshire and Vermont, the mood is less optimistic for a shift in attitude and a boost in dollars. "I don't have high hopes," says Morgan of Vermont Legal Aid.

"We'll have to see," says Guiser of New Hampshire Legal Assistance. "I don't think we're going to see large increases in our funding. I'm sure of that."

The grim reality of the legal services picture is contained in studies done in Massachusetts and Maryland showing that, even with the best of efforts, only 15 to 25 percent of the legal needs of the poor are being met.

"I can't believe we're doing any better than that," says Kinney of the New Hampshire Bar Foundation. "What that means is that, even in the best of scenarios, for 75 percent of the people in New Hampshire who need to see a lawyer about problems of basic survival — food, shelter, clothing, the security of the family — those needs are going unmet. That ought to be of concern to everybody." □

Donna Halvorsen is a reporter for the *Portland Press Herald*.



# New Hampshire Bar Association Studies Gender Bias

SUSAN B. CARBON

**T**he New Hampshire Bar Association's Task Force on the Status of Women in the Bar was established in August 1987. It was charged with assessing the current status of female attorneys (their numbers, demographics and economic positions), exploring whether gender bias exists within the employment context (hiring practices, salary, partnerships), and determining whether any obstacles to women's full participation within the Bar existed.

The 16-member Task Force, comprised a broad cross section of the Bar, employed three principal methods for gathering information. First, an extensive questionnaire was sent to all female attorneys in the state and one-quarter of the male attorneys (a statistically-verified representative sample); over 70 percent of those surveyed responded to the questionnaire. The Task Force also held public hearings in each of New Hampshire's 10 counties and conducted 50 confidential interviews with lawyers and judges throughout the state.

As a result, the Task Force found several significant patterns of discrimination, primarily in the areas of economics, attitudes and perceptions, and the impact of a family life on one's career. While historically, discrimination against women tended to be overt and commonplace, today it appears that discriminatory treatment is of a subliminal nature. Very few instances of intentional acts of discrimination were reported; rather, most of the problems continue as residual effects of a society and profession accustomed to certain patterns and practices, reflective of an all-male Bar.

## Economic disparity

One of the most disturbing findings of the study deals with the apparent economic disparity between men and women. The data reveal that there is an average salary differential of \$10,000 between men and women, *after* controlling for length of experience, geographic area of the state where practicing and size of firm. (Without controlling for these variables, the average difference is \$18,000.)

In addition to the salary disparity, men tend to be offered promotion to partnership approximately 20 percent more often than women, again controlling for length of experience. Since important decisions on mat-

Susan B. Carbon



ters including hiring, billing requirements, promotion criteria, parental leave and child care policies are made at the partnership level, women are being systematically excluded from full participation in the profession.

Another significant problem is that of attitudinal discrimination against women in the private and public environments. In the hiring context, for example, many women were asked questions regarding their personal life, such as marital status and plans for children, when in corresponding situations, male job applicants were not. Never explicitly stated, but implied nonetheless, was the assumption that a woman could not be as "dedicated" to the practice of law if she were also to have a family. Similarly, some women were told that their salary requirements should not be high if they were single, because they did not have a family to support; conversely, others were told their financial requirements should be lower if they were married because they had a husband to support them.

In the courtroom environment, the survey found, women were often treated with less respect by their male counterparts and by the judiciary than were male attorneys. Sexist jokes, inappropriate forms of address that involve endearments or reference to marital status, and improper comments about a female attorney's appearance were not uncommon. This type of conduct undoubtedly undermines the female attorney's credibility with her clients and with the jury, and, unfortunately, is not easily redressed.

Perhaps the most significant issue raised by the study is the disparate impact that having a family has for male and female attorneys. For women, the choice to have a family bears directly on quality of life. Many women are faced with the responsibility of being primary homemaker and child-care giver, while the majority of men have wives who do not work outside the home and are thus able to devote their energies almost exclusively to the practice of law. Because of these competing forces, many women are choosing to leave the profession entirely, or are seeking part-time employment, particularly while they have young children. Opportunities for part-time employment, however, are exceedingly rare, and are fraught with their own set of



liabilities. In a profession which prides itself on long and billing-intense hours, the concept of part-time employment is an anomaly. Those who seek that type of employment are often relegated to second-class status.

### Recommendations

Following an extensive analysis of the data, the Task Force set forth 12 recommendations for redressing some of the discriminatory practices that were unveiled. The 12 recommendations are as follows:

1. *Gender-Free Forms of Address.* It was recommended that courts adopt gender-free forms, documents and rules for addressing attorneys, both in written documents and in verbal exchange.
2. *Governing Documents.* The documents that govern the Bar Association, including but not limited to the Bylaws and Constitution, are to be reviewed to ensure gender-neutral language.
3. *Case Assignments.* Courts are asked to be careful to ensure that assigned cases are referred to attorneys regardless of gender.
4. *Non-Discrimination in the Workplace.* The Task Force has recommended that the Bar adopt guidelines for hiring attorneys to ensure that inappropriate questions are not asked during interviews, and has similarly recommended that once employed, female attorneys be offered the same opportunities for mentoring that are offered to men.

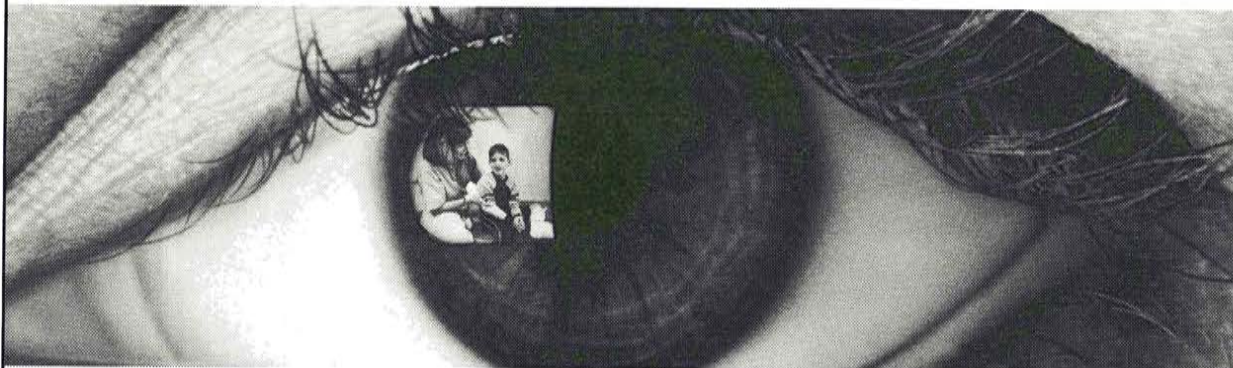
5. *Educational Programs.* One of the paramount recommendations of the Task Force is that the courts and public and private sectors adopt positions of non-tolerance toward gender bias in both objective and subjective contexts.

6. *Compensation and Promotion.* The public and private sectors have been asked to take an in-depth look at compensation and promotion criteria to insure that subconscious attitudes and perceptions are not superimposed negatively on women, so that both men and women can be treated equitably within their employment environments.

7. *Child Care.* The Bar has recognized that child care is an absolutely critical issue that can no longer be regarded as simply a women's issue: it is definitely a family and firm issue. The Bar Association has been asked to adopt model parental-leave and child-care policies, and explore creative day-care options so that all attorneys can have a reason-

**O**ften, single women were told that their salary requirements should not be high because they did not have a family to support.

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ble opportunity to enjoy a family and career.

8. *Part-time Employment.* The concept of part-time employment should be explored as a means of accommodating attorneys who would like to continue in the work force, but seek relief from full-time employment, particularly when they have young children.
9. *Full Participation of Women in the Profession.* The Bar is encouraged to appoint more women to committee work and leadership positions within the Bar Association.
10. *Judicial Appointments.* In New Hampshire, only 5 percent of the bench is female, far below the national average of 20 percent. The Bar has been asked to encourage the appointment of more women to the bench to ensure that New Hampshire has a fully representative judiciary.
11. *Lifestyles.* The Bar needs to recognize that there should be a balance in one's life between the personal and professional spheres, and that by pursuing goals other than the practice of law, one's commitment to the profession is not thereby diminished.

**S**urvey data revealed that there is an average salary differential of \$10,000 between men and women.

12. *Public Dissemination of Information.* Critical to the implementation of the above recommendations is complete understanding of the body of the Report. The Bar is encouraged to elicit other recommendations for further improvement.

The Task Force has been reappointed for an additional year to implement these objectives. Several have already been accomplished. Presently underway is a seminar to be conducted at the Midwinter Meeting of the New Hampshire Bar Association on various child-care issues. The Board of Governors has also approved financing for a video-

tape on the Task Force Report. With continued attention to the issues, many of the problems confronting attorneys will be readily resolved.

*[Note: The Board of Governors of the New Hampshire Bar Association has unanimously adopted and endorsed the report in full, together with its 12 recommendations. As Connection goes to press, studies of gender bias have been completed, are underway or are being planned in Connecticut, Maine, Massachusetts, Rhode Island and Vermont.]* □

Susan B. Carbon is an attorney with the firm Wescott, Millham & Dyer.

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# Changing Times for Lawyers and Clients

THE HON. BRUCE M. SELYA

**W**e live in a time when more and more attorneys are called upon to perform more and more services for more and more money. It is, some think, the Golden Age of lawyering. Law schools thrive and flourish, law firms enjoy exponential growth, the mean income of lawyers has soared — and the end, many think, is not in sight.

But in these halcyon times, there are, I fear, storm clouds on the horizon. Relations between lawyer and client have begun to erode. The delivery of legal services has become much less a profession than a business: general practice has departed; General Motors has arrived. The most ominous result, perhaps, is the pervasive impersonality that has infiltrated, and threatens to engulf, the practice of law that many of us know as an exercise in collective, shared endeavor.

Impersonality has many manifestations. It begins at home. As law firms grow in size, as specialties divide into subspecialties, attorneys within a single firm are increasingly isolated from each other. In turn, individual attorneys are more apt to be isolated from the clients whose causes they must serve. Isolation, I believe, is a function of many factors, of which burgeoning firm size is only one. While most are commonly acknowledged by persons concerned with the profession, I detail but a few — those that most obviously tend to destroy the collective spirit.

Mounting specialization is an obvious culprit. The attorney who is called upon to deal with an isthmian area of the client's problems, and nothing more, is unlikely to understand what the client is all about — or to care. The flip side of the coin is that the client, shunted from lawyer to lawyer with each new problem, sometimes with each facet of each problem, is quite apt to feel alienated. Clients, as individuals, are an endangered species, at risk of becoming objects of lawyerly indifference, entities whose concerns are to be repaired, not cared for.

The emphasis on law as a business generates a further measure of impersonality. To be sure, there is considerable economic pressure on law firms to conduct their affairs in a more businesslike fashion. Yet the



The Hon. Bruce M. Selya

motor, once in operation, suffers from the absence of a flywheel. The billable hour has become king; firms appear to value efficiency far more highly than the understanding borne of compassion; and small law firms are formed and dissolved, bought and sold, traded and absorbed, with whirlwind speed.

## Diminished loyalty

Impersonality is also produced by diminished loyalty. In an earlier time, when attorneys tended to spend entire careers with a single firm, when partnership prospects were on average much brighter than today, when clients did not play law firms one against the other but stuck by their lawyers (as their lawyers stuck by them), personal ties among attorneys and between attorneys

and clients were stronger and more enduring. Increasingly, these bonds are likely to be weak, inconsequential, and easily severed.

The last factor that I will mention relates to cost. The prevailing rates in the modern legal marketplace have emphasized productive time, placing an emphasis on "doing things" — problem-solving — rather than learning about the goals, hopes, and aspirations of one's clients. And cost has other ramifications as well. The enormous overhead attendant to operation of a modern law firm has impacted the way in which law is practiced. The new modalities are probably more efficient, but they have changed the basic character of the profession.

As a result of this collocation of factors, few clients dare indulge the luxury of desultory conversation. The art of lawyer-client conversation, like the art of generic legal counseling, is swiftly vanishing. I view this phenomenon as containing the seeds of an horrific har-

**G**eneral practice has departed: General Motors has arrived.



vest. Clients — whether individuals or corporations — cannot sensibly be viewed as a mere agglomeration of parts, each to be attended by separate counsel: "A" to handle tax matters, "B" to draft contracts, "C" to negotiate with unions. If lawyers are to fulfill their historic counseling function, they must minister to the whole. To do so requires that they focus not only on the nuts and bolts of everyday legal matters, but also on abstractions like philosophy, credo, objectives. A system that discourages lawyer and client from the broad exchange of views necessary to establish a mutuality of spirit and a feeling of shared direction will inevitably undermine the lawyer's role as a counsellor.

I do not debunk specialized knowledge. At times, it is invaluable to have an attorney who has, at the ready, every bit of information available about the ramifications of tariffs with New Zealand. Yet what has made the attorney different from the plumber or the mechanic is that, in addition to knowing a particular skill, the lawyer has also served as a sounding board for his clients, as a general source of questions and advice. In short, the lawyer's oldest and most valuable role has been that of counsellor — and it is this role that time and events seem to have diminished. If we deny

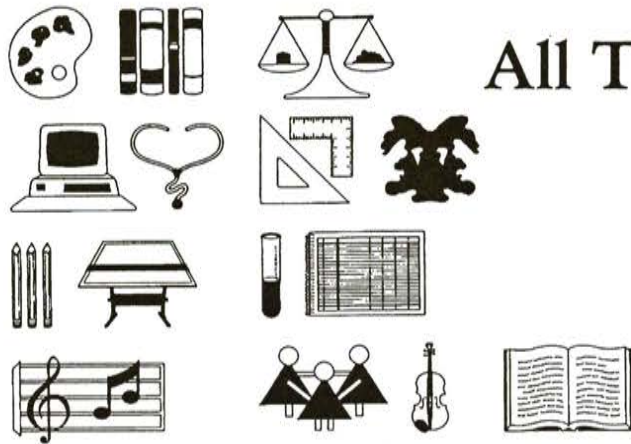
that there is more to the whole than the sum of the individual parts, then we, as a profession, will no longer be able to serve this important function. The impersonality of our times will have claimed a major victim — one whose loss would long be felt.

But there is more. Merely recognizing that our historic professional functions have deep roots and are well worth preserving is insufficient. We must also manage our firms to encourage lawyers to feel that they are participants, not merely hired hands; encourage law schools to remind their placement offices that all virtue does not reside in the largest firms in the largest cities, and that opportunities long on immediate dollars may be short in other salient respects. Perhaps most crucially, we must take the time — even if unbilled — to learn about those we serve, not just about their immediate (billable) problems.

I see these modest ideas not as steps along to road to Mecca, but as aid toward renewing the noblest impulses that motivated us to become lawyers. With the cynicism in which he so often wrapped the gravest truths, the playwright Thornton Wilder once wrote: "My advice to you is not to inquire why or whither, but just to enjoy your ice cream while it's on the plate." In certain respects, that is the premises on which many of today's law firms have been operating. It is, I think, delusional. The time has come when we must ask why and whither — for the ice cream is melting all too rapidly. □

Bruce M. Selya is circuit judge for the U.S. Court of Appeals in Providence, R.I., and a member of NEBHE's Commission on Legal Education and Practice and the Economy of New England.

**T**he lawyer's oldest and most valuable role has been that of counsellor — a role that time and events seem to have diminished.



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## Bipartisan Compromise is Possible on a "National Service Corps"

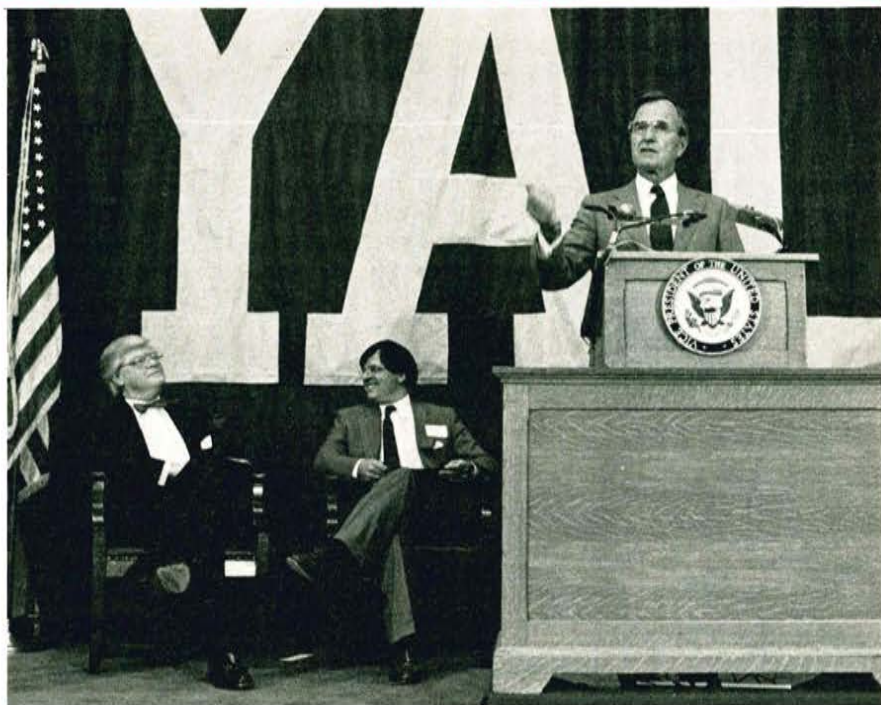
MICHAEL J. BENNETT

Moderate Democrats, after eight years of primarily reacting to Republican education initiatives, are trying to seize the high ground of education policymaking through a proposed civilian "National Service Corps" that would partially replace existing student-aid programs and create a new ethic of public life.

The concept of the corps, first announced last spring, was hailed at the time by David S. Broder of the *Washington Post* as "a bold national initiative of affordable scale ... which suggests a theme for the themeless [Michael S.] Dukakis campaign" as well as "a basic proposal that could appeal equally as well to Bush." Will Marshall, policy director of the Democratic Leadership Council, has served as the point man for the Council, the primary sponsor of the plan to date.

President Bush has accepted the general principle of the corps — on a much more modest basis — as a part of his "1,000 points of light" philosophy, in which he has stressed his desire to become "the education president." Any actual Bush proposal has not been detailed, but does have the prerequisite for an inspiring Washington program, a euphonious and presumptively meaningful acronym — YES — Youth Engaged in Service.

The DLC plan, if enacted, would help more than 800,000 young Americans a year earn rather than borrow their way through college — or finance the purchase of a first home. The corps members would be paid \$100 a week plus health insurance for working with the illiterate, the homeless, the elderly, etc., and a \$20,000 payout at the end of two years' service. Young men and women could also



President George Bush was a featured speaker at the dedication of an electrostatic nuclear accelerator at his alma mater, Yale University, in August 1987. Appearing with Bush were, from left, D. Allan Bromley, Henry Ford II Professor of Physics, Yale; Yale University President Benno C. Schmidt Jr.; and William F. Martin, deputy secretary, U.S. Department of Energy.

choose to do their national service in the military for the same pay, but with a slightly higher payout after two years, \$24,000, to compensate for presumably greater dangers and risks. Their salaries and benefits would be considerably less than those of volunteers for career military service.

But the DLC proposal in its pure form carries a stiff price: the phase-out of all nonrefundable grants programs, primarily the Pell Grants, named after Sen. Claiborne Pell, D-R.I., as well as Stafford (Guaranteed) Student Loans, a total of almost \$8 billion. Therein lies the center of the debate.

"It won't fly," counters Thomas Wolanin, former staff director of the House Subcommittee on Post-secondary Education, now an aide to Rep. William Ford, D-Mich., a leading Democratic liberal and chairman of the committee on the Post Office and Civil Service. "First, there is no mechanism for such a massive change. The Higher Education Act Amendments have already been passed," Wolanin said. "Second, no one is going to give up grants and loans."

And indeed, former President Reagan, who came into office call-

ing for the abolition of the Department of Education, proposed an almost \$1-billion increase in the agency's 1990 budget, from \$20.6 to \$21.6 billion as he left the White House. More than a fourth of the billion, \$256 million, would go for Pell grants to help the neediest students, for a total of \$4.5 billion.

The increase comes at a time when students have never been more concerned about paying for college and making money. More than 72 percent of 308,007 full-time freshmen surveyed at 508 two- and four-year colleges in the fall of 1988 said "making more money" was a major factor in their decision to go to college. That contrasts sharply with the 49.9 percent who gave the same answer in the 1971 annual survey conducted by the American Council on Education and the Higher Education Research Institute at UCLA. Furthermore, the proportion saying their primary purpose was to get a general education fell from 60.1 percent compared to 70.9 percent in 1977.

Stress among current college freshmen, as demonstrated in an increase in smoking after years of decline, is also a "red flag," according to Alexander W. Astin, director



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of the study. "We have very high suicide rates among college students now," he said. "We have tremendous pressures on young people to succeed. It's something that's got to be watched."

And money for tuition is a very large part of the problem. These students "came of age" in a period of high inflation and economic turmoil, Kenneth Green, associate director of the survey, noted. "I don't think they have a sense of economic optimism," he said, "The hallmark of middle-class expectation is that their children will have a better life. For many students, that sense of opportunity is drawn into question."

*The DLC proposal  
in its pure form carries  
a price: the phase-out of all  
nonrefundable grants  
programs as well as  
Guaranteed Student Loans.*

#### **Altruism and self-interest**

What the DLC proposal is designed to do is to restore that sense of optimism within a revived and renewed tradition of national service, composed of equal parts of altruism and self-interest, to benefit both individuals and society:

"The DLC believes that a strong ethic of civil obligation — of equal sacrifice for the common good — is integral to the success and survival of a free society. The ethic is, as well, the cornerstone of our party's progressive philosophy..."

"The DLC believes that, as a matter of national policy, no young American should be denied the opportunity of a college or post-secondary education for lack of money. In our view, allowing all youths to earn education benefits is the best way to fulfill that commitment. Our children's education is too important to be left to the vagaries of federal funding."

And the Council points out that costs for public and private colleges have risen 70 and 90 percent respectively since 1980 while family income has increased only 33 percent. And, during the same time, federal aid increased, accounting

for inflation, by only three percent.

The DLC unabashedly calls the Citizens' Corps a "new G.I. Bill of Rights," hoping to draw support from the millions of Americans who would never have been able to go to college or buy a home without the bill. The original G.I. Bill, now generally regarded as the most progressive legislation of the 20th century, drew on Republican and Democratic as well as liberal and conservative traditions.

John F. Kennedy gave expression to the same traditions in his inaugural exhortation: "My fellow Americans, ask not what your country can do for you. Ask what you can do for your country." William James, the Harvard philosopher, first gave expression to the concept in a famous 1910 essay, "The Moral Equivalence of War," as a program of service that would enable young people "to come back into society with healthier sympathies and soberer ideas." The Civilian Conservation Corps, which put unemployed young men to work replanting forests and fields, was one of the unqualified successes of the New Deal. A similar proposal, co-sponsored by Rep. Moe Udall, D-Ariz., and Sen. Patrick J. Moynihan, D-N.Y., narrowly passed Congress in 1984 but was vetoed by President Reagan.

The Citizens' Corps has recently been called "a grassroots approach to building up a base for national service [which] avoids the establishment of a large, stagnant federal bureaucracy and is much less expensive to fund in a decentralized manner," in the words of Dr. Howard R. Swearer, the retiring president of Brown University. A similar endorsement has come from Joe Duffy, president of the University of Massachusetts at Amherst.

In Congress, the concept has obvious appeal for Republicans such as Sen. James Jeffords of Vermont, the new ranking member in the Education and Labor Committee, as an earned benefit that profits society as well as individuals. Jeffords, who was also the ranking minority member of the House before he succeeded retiring Sen. Robert Stafford, has often said: "I and other Republicans are fiscally more conservative than the Democrats, but looking at



education as an investment, we see the need for increased funding."

But Republicans aren't the only advocates of fiscal conservatism as well as increased funding for higher education. No one has done more to provide educational opportunity for the poor than Sen. Claiborne Pell, D. R.I., Jeffords's counterpart on the other side of the aisle. But no one — not even former Education Secretary and now Drug Czar William Bennett — has been more concerned about the "intolerable" defaults on student loans (running about 1.6 billion) than Pell. "If they were an education program," Pell has said, "defaults would be the third largest in the Department of Education."

Pell is also the author of a Voluntary National Service and Education Demonstration Project Bill that would create a Peace Corps equivalent of the Reserve Officers Training Corps (ROTC). Junior and senior college students who work in areas of urban and rural poverty during the summer and agree to join the Peace Corps upon graduation would receive educational benefits.

Both Jeffords and Pell are ardent advocates of existing work-study programs, which allow students to pay their way as they go through college. Both also favor alternative means of paying soaring higher-education costs through mechanisms other than loans and grants. Pell is the prime sponsor of a bill, the National Education Savings Trust (NEST) Act, that would enable families to save up to \$2,000 a year per child, tax free, for college.

Jeffords, as a moderate Republican, also favors "voucher" systems in education as well as for housing the poor, an innovation pioneered by former Sen. Edward W. Brooke, R-Mass. The value of vouchers in promoting excellence in education is an article of faith of "movement conservatives," at the Heritage Foundation, for example. The biggest failure of the Reagan Administration in education, according to the Foundation's transition paper, which is expected to carry considerable weight with the Bush Administration, was "the failure to secure passage of any voucher or tuition tax credit.... The Department should have, but did not, make

vouchers a litmus test for poverty policy.... [C]ongressional liberals and education lobbyists remained firmly opposed."

#### A step away from entitlement

But if the corps seems to be "an idea whose time has come" as the Peace Corps was in the 1960s, it still faces high, if not unsurmountable obstacles. The fundamental weakness in the corps plan, at least as a substitute for existing loan and grant programs, is: Who gains, who loses, who gets the credit — in a word, politics. The corps "could be a supplement for existing programs," says Charles Saunders, vice president for government affairs for the ACE, "but never supplant them." Even Wolanin, as a spokesman for Rep. Ford, concedes the corps plan "might be acceptable on that basis." But Ford and other liberal Democrats who depend on strong union support are emphatically opposed to two-tier salary systems such as that proposed for Citizens' Corps members in the military. "That is just a raid of the Defense Department on the Education Department," Wolanin says.

And then there is the question of parentage. The Citizens' Corps, as the brainchild of the DLC, is closely associated with the political fortunes of its chairman, Sen. Sam Nunn, D-Ga. Nunn, a presidential candidate in 1988 and a likely one in 1990, was the spokesman of the Southern strategy which argued that the country would never elect as president an Eastern liberal such as Dukakis. But Nunn conspicuously failed to emerge from among the seven Democratic candidates who sought the 1988 nomination.

Further, the DLC itself grew out of the House Democratic Caucus, chaired by Rep. Gillis Long of Louisiana. And Marshall, the policy director, as well as Alvin From, the executive director, performed similar functions for Long. Consequently, critics derided the DLC as a "conservative white caucus," although From had earlier been an aide to former Sen. Edmund Muskie, D-Maine.

But the relatively conservative, Southern and Western orientation of the DLC is reflected in the membership of the Council. Only one of

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the 107 past and present members of the U.S. House on the DLC's board is from New England, Rep. Barbara D. Kennelley of Connecticut. The 17 governors on the board also just count one from New England, William A. O'Neill of Connecticut. The only New Englander among the 41 state and local officials on the board is former Attorney General Joe Lieberman, now U.S. Senator from Connecticut.

And the Council makes it completely clear that its values are quite different from prevailing liberal views: "A move toward national service is a step away from the prevailing ethos of entitlement — the notion that any segment of society has a permanent right to favors and privileges bestowed by government. Excepting the poor and infirm, we believe that public benefits should be earned, not given. In place of a politics based on group-interest and ever-expanding entitlements, we would substitute a new social compact based on reciprocal obligation and civic duty."

Perhaps for that reason, the Service Corps proposal was warmly endorsed by Sen. Lloyd Bentsen of Texas, the Democrats' vice-presidential nominee. Speaking at UCLA in October, Dukakis praised the DLC for "putting the Democratic party squarely behind the proposition that those who are helped by the government have a responsibility, in turn, to give something back to their country — to recognize that the benefits of government assistance carry with them an obligation to improve the community the government serves."

But the DLC — and the Service Corps plan — also enjoy considerable support among minorities and liberals. Pell is joined by Lieberman as the only senator from New England among the 26 on the Council board. Both he and Sen. George Mitchell, the new Democratic majority leader, have endorsed the "concept" of the corps, if not the particulars. Mitchell makes a point in his biography of his membership in the American Legion, which was largely responsible for the original

G.I. Bill. (See "Washington and Beyond," *Connection*, Fall/Winter 1987.) Mitchell, along with House Speaker Jim Wright, D-Tex., has promised to give Service Corps legislation "priority" in the current session of Congress, according to Marshall of DLC.

Black and Hispanic DLC board members include Rep. Tony Coelho, D-Calif., the third ranking member of the Democratic leadership; former Rep. Barbara Jordan of Texas; Mayor Tom Bradley of Los Angeles and Speaker Willie Brown of the California State Legislature; Mayor Henry Cisneros of San Antonio; and past and present mayors of Atlanta Maynard Jackson and Andrew Young.



U.S. Education Secretary Lauro F. Cavazos

### Cavazos may champion Citizens' Corps

But the key to the success of any service corps program may lie with the only member of the Cabinet carried over from the Reagan Administration, Education Secretary Lauro F. Cavazos — the only one whose life history is almost the opposite of George Bush's. Cavazos was born the son of a foreman on the giant King Ranch in Texas, not the son of a senator with an estate in Connecticut. Cavazos was the first Hispanic to attend the Anglo school in his community. Both Bush and Cavazos went to graduate school on the G.I. Bill of Rights, but Cavazos

earned a doctoral degree in physiology at Iowa State University while Bush was a member of the Skull and Bones at Yale Law School. Bush went to Texas to seek his fortune. Cavazos reached the high point of his career at Tufts University as dean of the Medical School before returning to Texas Tech University as president.

Both are children of the establishment, Bush as lineal heir, Cavazos as adopted son. And Cavazos has made it clear he wants to work with the higher education establishment. "He is far more sympathetic to education than his predecessor [Bennett]," John Brademas, president of New York University and a former member of Congress for 22 years, has testified. ACE President Robert H. Atwood echoes his feelings, saying Cavazos "genuinely wants to work with the education community as distinct from [Bennett's] bashing style."

As one would expect, many ideological conservatives are appalled. *Human Events*, the conservative weekly, reported: "He favors bilingual education, apparently doesn't care about vouchers or tuition tax credits as a way of providing competition in the public school system, and has been quoted as saying he's a big fan of Sen. Teddy Kennedy." Even more alarmingly, Mary Hatwood Futrell, president of the National Education Association, recently claimed to have been "very encouraged" by Cavazos' efforts to "heal the supposed wounds Bennett did to higher education."

Phyllis Schlafly, founder and president of the Eagle Forum, which was primarily responsible for the defeat of the Equal Rights Amendment, is also disappointed with Cavazos. "Most of the people trying to meet with him are tax-paid people in the school establishment.... He doesn't seem to know much about elementary and secondary education. Bill Bennett was extremely sympathetic to parents' rights. With Cavazos, I didn't get a negative reaction. He just seems to think education is the solution for all our problems. I guess I look at education as a cause of most of our problems."



And that's why Cavazos will probably run the Education Department quite differently than Bennett, but may become a champion of the Citizens' Corps. He has already departed from Bennett's posture in actively fighting for the increase in Pell grants. He also has a profound, almost religious faith in education. He has said, over and over, that the Education Department "is the most important in the federal government.... I will do the very best I can to present our ideas on the Hill, and talk about the issues and try to raise the budgets."

In speeches and press conferences he has stressed the need to improve educational standards among Blacks and Hispanics, but within a broad social and economic framework: "The biggest problem in the United States is that we do not educate every person. We can't afford to lose any of those people. We've heard alot about deficits. Budget deficits. Trade deficits. Well, we've got a third and equally dangerous deficit, the educational deficit."

"And we'd better treat it as seriously as the other two. For we may be able to pay back interest on the money Uncle Sam keeps borrowing. We may be able to boost the number of goods and services we ship overseas. But if we fail to educate a generation of American children, their ability to compete and protect freedom in America will be seriously impaired. And that impairment will be passed on to their children."

Social justice, which includes educational opportunity for all and full employment, becomes, from this perspective, perhaps the most fundamental necessity of national health and strength, not just a nicety devoutly to be wished but inherently unattainable.

To achieve that reality, Cavazos has endorsed programs in Rochester, New York, Dade County, Fla., Boston and elsewhere where more decision-making power has been turned over to parents and individual schools. And he has also called for more volunteers:

"We must attract into our schools people who will make a difference

in the lives of students. Some youngsters must have personal attention, one-on-one assistance if they are going to make it through school and learn what they need to learn. It's going to take volunteers: retired volunteers to read to elementary school children; high-school students to tutor junior-high youngsters; before- and after-school programs; summer programs for remediation and enrichment."

Obviously, some of those people who could make a difference could do it as members of a National Service Corps.

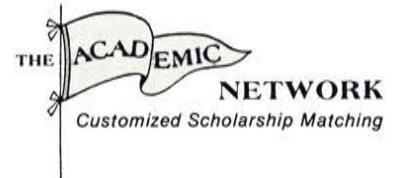
And that consideration could lead Cavazos — and the Bush administration — to give some thought to legislation that will be re-introduced in the current session by Rep. Leon Panetta, D-Calif. The Youth Service Corps is a scaled-down version of the DLC plan, enrolling 30,000 volunteers at an annual cost of \$50 million as contrasted to 800,000 volunteers and \$5 billion.

But it has an already demonstrated political track record. It was reported out of subcommittee in the last session and, in Panetta's words, "is similar" to the Bush "YES" plan. Panetta, while praising Bush for having "turned around 180 degrees on this issue," attacked YES as being "mainly concerned with the affluent. Panetta's program would presumably be for "all young people who want to serve their fellow citizens."

But when the partisan rhetoric is placed in perspective, it seems possible a Citizens' Corps may be not just "an idea whose time has come," an opportunity to play Washington's favorite game, "Let's Make a Deal."

"And if you're going to influence that outcome," Saunders of ACE observes, "you've got to get into the game. That's the challenge for Cavazos and for Bush, if he's going to become 'The Education President.'" □

Michael J. Bennett, Washington correspondent for *Connection*, was associated with the Peace Corps in the 1960s, as well as serving as a manpower planner for Action for Boston Community Development (ABCD) and the state of Massachusetts.



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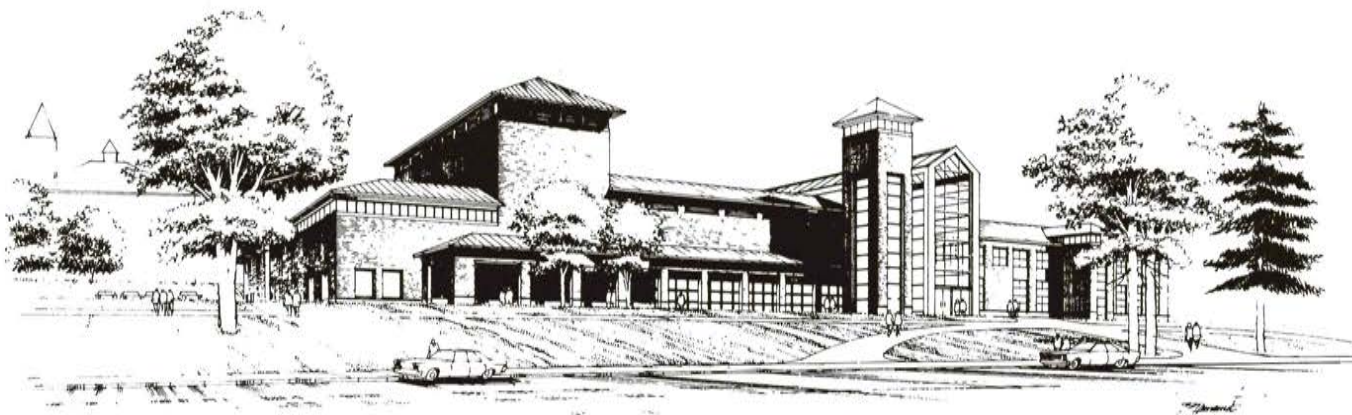
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## College Fundraising is a Billion Dollar Business

JOHN O. HARNEY

**I**n the business, they say college presidents work for college development officers. The business is college fund-raising. And if the practitioners are prone to hyperbole, it's for a good reason. In the 1986-87 academic year, they helped snare a record \$8.5 billion in private support for U.S. institutions of higher education.

Now New England colleges and universities are tossing around heavyweight numbers of their own, led by Boston University which late last year announced it would raise \$1 billion by the year 2000 in the biggest capital campaign ever launched by an East Coast university.

BU is still fresh from a campaign that ended in fiscal 1988 with \$200 million. But university officials say rising costs and shrinking government support demand the ambitious effort. "It's a matter of asking, 'By the time we reach the turn of the century, what are we going to need to keep this place financially viable?'" says Les Smith, BU's vice president for development.

And what will BU need? According to plans, an addition of about \$500 million to its \$165 million endowment, more professorial chairs and research positions, more student scholarship and loan funds and several new buildings, including a

performing arts center, athletic center and management school.

The BU wish list dwarfs others in dollar terms, but its needs, particularly in the areas of financial aid and faculty endowment, are echoed across New England. In Rhode Island, Johnson & Wales University's \$10 million capital campaign, its first ever, will pay for new academic facilities and provide research support. But half the total will go toward financial aid and faculty programs.

"We're looking at a student body, 90 percent of which has some type of financial aid, so a major portion of the capital campaign is scholarship endowment," says Harold Wilson, the university's director of major gifts and planned giving.

Faculty enrichment also is crucial to J&W. The U.S. government predicts the food-service industry will lead all others in employment growth over the next decade. That means J&W, a recognized leader in the field, is in line for hefty gifts from food-service corporations that will need trained people. But it also means J&W's faculty will be prey for labor-strapped companies. "We have to have salaries that can compete," says Wilson.

### A one-two punch

Competition for the charitable dollar is fierce. Never mind that Harvard and Yale universities and the Massachusetts Institute of Technology each collected more than \$100 million from private sources during the 1986-87 academic year. Consider that officials at Vermont's Bennington College, whose modest endowment of \$3 million confirms a traditional aversion to major fund-

raising, are contemplating a campaign to raise as much as \$50 million. Now, community colleges' campaign goals also end in six zeros.

Nationally, private gifts to higher education have jumped an average of 12 percent every year since 1974-75, according to "Voluntary Support of Education 1986-87," a report by the Council for Aid to Education (CAAE), a New York City group funded by business to encourage private support of education.

About 52 percent of private contributions went to current operations, while 48 percent were earmarked for capital purposes. More than three-fifths of capital support went to endowment funds, most of it for restricted uses.

Although early returns to CFAE suggest the steady increases will end in academic year 1987-88, the likely drop reflects not a weakening of philanthropy, but a distortion in the 1986-87 academic year. Late 1986 witnessed a surge in gifts as Americans who don't itemize their tax returns scrambled to take advantage of the deduction for charitable gifts — a break the Tax Reform Act of 1986 shut the door on, starting in 1987. "Even if the '87-88 figures show a decrease, it will be the second-highest year on record," says Hayden Smith, senior vice president at CFAE.

The new tax law was part of a one-two punch expected to knock college fund-raisers to the mat. In fact, neither the tax changes nor the second part, the 1987 stock market

*DRAWING ABOVE:*  
New Hampshire's Plymouth State College hopes to raise \$1.5 million in donations towards its planned \$10-million cultural arts center.



crash, have really stung development efforts — at least not yet.

Besides killing the economic incentive for non-itemizers to give to charity, tax reform slashed individual tax rates, effectively raising the cost of giving for taxpayers who do itemize. In the old 50-percent tax bracket, an incremental charitable gift of \$1 cost 50 cents. In the new 33-percent bracket, it costs 67 cents.

Tax reform will mean smaller gifts from some individuals, but will not deter giving in general, fundraisers contend. "What motivates a donor to give is a belief in the institution and the project and the influence of the person who is doing the asking," says Ralph Peterson, the New England region manager for Ketchum Inc., a Pittsburgh consulting firm working on capital campaigns at several New England campuses.

Development officers were also nonplussed by the market plunge of October 1987. The paper value of Harvard University's nearly 350 year-old endowment suddenly dropped 7.2 percent, but generally the more important income from endowments was unscathed. Gift-making foundations, which tend to make very conservative investments, emerged with few scratches. And major individual donors were not expected to let the sputter of a few days get in the way of campaign pledges that are usually spread over four or five years.

Due to unlucky timing, MIT just days after the crash kicked off a capital campaign, aimed at raising \$550 million by 1992. By early 1989, the campaign had gifts and pledges of \$350 million. And on the anniversary of the crash, MIT announced it had received \$83.7 million in cash, securities and real estate during fiscal 1988 — a record catch.

MIT vice president and treasurer Glenn Strehle says the crash probably did cause a dip in gifts. "But it now appears that individuals have developed increased confidence," he says. "With the recovery of the stock market and the continued strong economy, they have significantly increased their giving."

For colleges and universities, that news couldn't be better. Gifts from individuals represent more than half of all private support of higher education. A key job for the fundraisers is to turn trustees, parents and just about anybody else who has some affinity to an institution into a "friend." One way to make friends fast is to name a department or building or professorial chair after the donor. Named faculty chairs for \$1 million apiece have been "very attractive" during Smith College's ongoing \$125 million capital campaign, college officials say.

Nationally, giving by individuals to institutions other than their alma maters rose 16 percent in 1986-87 to account for 24 percent of all private support, according to CFAE. Still, the best friends tend to be alumni.

#### Cultivating alumni

In 1986-87, alumni gifts rose 29 percent from the year before and accounted for more than 28 percent of voluntary support. The rise reflects not only the late 1986 tax frenzy, but a fast-growing pool of alumni — in 1985, about 19 percent of all Americans over age 25, compared with 11 percent in 1970 — and more sophisticated "cultivation" of alumni by fund-raising staffs.

Instead of banking on a 1988 study which found graduates of women's colleges give in greater numbers than graduates of other institutions, Smith College development director Charlotte Heartt and company jet across the country prodding loyal alumnae for tidbits on classmates who have gone astray. Back at home, they pore over scores of newspapers to find out who has the capacity to make a gift, preferably a "leadership" gift of \$100,000 or more.

The legwork has paid off. Smith College collected \$28 million in cash from alumnae, friends, corporations and foundations between July 1987 and June 1988. That's the most successful effort ever for a women's college and nearly 12 percent more than Smith raised the previous year, tax scramble and all.

BU last year became the first U.S. campus to use a minicomputer-

### *Maine Maritime announces \$10-million capital fundraising drive*

Calling it "the most extensive fundraising campaign ever launched by a maritime college," Maine Maritime President Kenneth M. Curtis unveiled "On Course for Greatness: the Campaign for Maine Maritime Academy" at the State House in Augusta earlier this year.

The announcement of the three-year, \$10-million effort to upgrade student aid, faculty development and campus facilities was made immediately following a meeting of the academy's board of trustees, at which college officials were authorized to proceed with the ambitious drive.

Joining former Gov. Curtis in making the announcement were trustee and civic leader Elizabeth B. Noyce of Medomak, Maine, who will serve as campaign chair; Bath Iron Works Chairman and CEO William E. Haggett; and C.H. Sprague and Son Co. Chairman Henry M. Powers, who will serve as vice chairman of the campaign. Rounding out the volunteer leadership is Gov. John R. McKernan, honorary chairman.

Curtis was confident about prospects for the campaign's success, indicating that the academy has received advance commitments of more than \$3.7 million. According to Curtis, the lead gift of \$2.5 million was made by Campaign Chairman Noyce.

Curtis and the campaign leaders see their efforts culminating in 1991, the 50th anniversary of the founding of the state college. In addition to contributions from alumni and friends of the academy, the campaign anticipates donations from corporations and foundations. Of the total goal, approximately 80 percent is expected to come from private sources, and 20 percent from the state.



based telemarketing system, allowing student fund-raisers to personalize calls and promote university events while they make their pitch for funds. Before last year, student callers awkwardly shuffled index cards scrawled with the latest alumni data. Just over 21 percent of alumni participated in the annual fund campaign. BU hopes the new technology will boost that figure to 30 percent.

In fact, members of the annual giving staff may be the unsung heroes of BU's campaign. If the computer shows that a graduate had a key job promotion or recently increased giving, the graduate's name is removed from the system so the appropriate BU college dean can turn up the pressure on a more personal basis. "Faculty and deans are our best fund-raisers. Some haven't developed a comfort level yet. But I think all of them would tell you it's a necessary evil," says BU's Smith.

BU's solicitation of very successful alumni can take a year-and-a-half of wining and dining and letter-writing by university officials all the way up to the president. Still, the tough part is finding the alumni. Says Smith, "Unfortunately, we've found that we have to do some detective work to track people down. We often work through their parents to find out where they are."

For their hard work, college fund-raisers expect something in return. In fiscal year 1988, about 600 supporters contributed more than \$175,000 to the annual fund of the College of the Atlantic in Maine. In the fall of 1988, a college publication stated: "We are aware that we must work even harder to maintain this momentum and achieve an equally strong annual giving program for the 1988-89 fiscal year... The board of trustees has challenged us to raise \$210,000 from our friends."

College officials say they need the increase to keep up with an anticipated 10-percent annual growth in enrollments over the next few years, as well as the college's commitments to maintain one faculty member for every 10 students, and to fill 20 percent of classes with Maine residents, who tend to need



*Johnson & Wales University is a recognized leader in the food-industry field. That means J & W is in line for hefty gifts from food-service corporations that need trained people.*

more aid than out-of-state students. "Our community understands that we have to keep up support for salaries and scholarships," says Gary Friedmann, the college's director of development.

### Corporate gift-giving

Not surprisingly, an industry of fund-raising consultants is thriving on higher education. Even the biggest institutions use consulting firms, as the consultants say, "to make sure the right person is asking the right person for the right amount of money in behalf of the right cause at the right time and in the right way."

But the key challenge emerging for consultants is digging up information that could lead to corporate gifts. Sometimes, they don't have to dig deeply. Consider Raytheon Co.'s \$1-million pledge in the fall of 1988 toward construction of an \$18 million science and engineering facility at Northeastern University. Raytheon has shown a commitment to higher education, not only through large gifts, but by sending about \$300,000 annually to roughly 500 colleges and universities under a program to match employees' gifts to their alma maters. And the company has special links to Northeastern. Roughly 2,000 Raytheon personnel hold Northeastern

degrees, about 400 Raytheon employees continue their education at Northeastern and more than 100 Northeastern cooperative education students work with the company. Says a Raytheon spokesman, "We hire lots of engineers, so it makes sense for us to support programs that train and develop the best engineering talent."

State Street Bank of Boston, which employs more co-op students than any other institution in the city's financial district, has contributed \$200,000 in unrestricted funds toward Northeastern's current \$175 million capital campaign. A bank official says the co-op program is part of the reason, but Northeastern's efforts to serve city residents and minority students are equally important. "We think Northeastern is a good citizen in the city of Boston," says James Darr, the bank's vice president for community affairs.

Still, corporate contributions programs are under the gun. Corporate support of all charities has plateaued. And CFAE reports that while corporate giving to higher education rose 7 percent to \$1.8 billion in 1986-87, its share of all private support dropped to 21 percent, from 25 percent in 1984-85.

Unlike individual gifts, corporate contributions have been encouraged by tax changes, especially 1981 provisions granting increased deductions for corporate contributions and special deductions for donations of scientific property to higher education. So why the corporate sluggishness?

"I think the greatest disincentive to philanthropy today is that many (companies) have a profit squeeze," says Ketchum's Peterson.

"Charitable contributions are a cost of doing business. When profits go down, the time-honored reaction in the corporate community is to cut costs," adds Smith of CFAE. "It's pretty damn hard for a company to justify giving money away when it's laying people off and cutting its dividends."

In addition, criticism of elementary schools and high schools has prompted companies to funnel more of their education gifts toward basic and secondary programs.



Mergers and acquisitions have also taken a toll. Some takeovers remove contributions decision-makers from the communities where company employees work and presumably benefit from nearby higher-education institutions. But even worse, when companies merge, so do their giving programs. "They put them together and they give less as it turns out," says Heartt of Smith College.

Belt-tightening in corporate America has prompted some institutions to look abroad for corporate support. Japanese businesses are major sources of research gifts at MIT. They've endowed more than a dozen chairs at about \$1.5 million each. Strehle, the MIT treasurer, shrugs off charges that the new source of gifts compromises U.S. competitiveness. "We think we benefit as much as they do from these relationships," he says.

Meanwhile, many U.S. companies have created corporate foundations, which they fund in good years, so they can continue making contributions even during business downturns.

The corporate foundation of the Stamford, Conn.-based GTE Corp. makes grants to institutions that offer academic programs relevant to business and social programs in which it has a special interest, namely programs that help under-represented populations. The money tends to flow toward institutions located near GTE employees.

GTE recently sent \$50,000 to nearby Fairfield University, in part to help the university earn accreditation from the prestigious Assembly of Collegiate Schools of Business. An additional \$30,000 grant from GTE helps fund a Fairfield program to boost minority participation in science and math studies.

GTE makes grants to colleges and universities because it needs the skilled labor they produce, but also to help make the United States and individual communities more technologically proficient. "Goodwill is not to be belittled," says company contributions manager Martha Kramer.

But GTE's giving also reflects a few national trends that college

fund-raisers want to see reversed. Its contributions budget was flat in 1987 and 1988 and rose just slightly in 1989. About 40 percent of its contributions budget goes to education, but a growing share of that is directed toward basic and secondary education. And because corporate leaders want the GTE foundation to be more accountable, gifts for restricted purposes are favored over general operating grants.

These trends won't stop Fairfield from courting the corporations that have flocked to its corner of Connecticut. "We try to demonstrate that we are a resource for them — they send their kids here, employees take continuing education courses here and they come to lectures and concerts here," says Fred Wheeler, the university's associate vice president for development.

Alumni and philanthropic foundations also are critical to Fairfield's first-ever capital campaign, a \$35-million effort to pay for several planned facilities and boost the university's scholarship and library endowments, as well as faculty research and development.

Foundations, like corporations, account for a diminishing share of private support of higher education — about 18 percent today, down from 21 percent a decade ago. Still, Fairfield is reeling in foundation grants, including a \$1.5 million challenge grant for financial aid and science equipment from the Ira W. DeCamp Foundation of New York City. In addition, although Fairfield fund-raisers work with a small pool of alumni — the first class graduated in 1951 — about 41 percent of alumni made gifts last year.

Salve Regina College in Rhode Island is drawing from a similarly small and young group of alumni as it aims to raise \$5 million for a state-of-the-art library. Although alumni managed to contribute more than \$200,000 by January, Salve Regina is relying heavily on foundations and corporations, like Fleet National Bank, which generally will pay no more than 1 percent of a project's cost, but contributed \$100,000 to the planned library. "Because we're young, we've asked corporations to make an extra stretch, and they have responded,"

says Sister Therese Antone, Salve Regina's vice president of institutional advancement.

### Special problems for publics

While most institutions reported increases in gifts of over 10 percent in 1986-87, public baccalaureate institutions — as well as private two-year colleges — reported declines.

Public institutions face a special set of problems. For example, just 17 percent of the public-institution alumni asked to make gifts in 1986-



*Automated Telefund, Boston University. BU last year became the first U.S. campus to use a minicomputer-based telemarketing system.*

87 did so, with an average gift of \$240, according to CFAE. Among private-institution alumni, 28 percent of those asked gave. Their average gift: \$500.

The difference stems in part from the fact that in the aggregate, students of independent institutions tend to come from higher-income families than their counterparts at public institutions. But for many public institutions, the more nagging issue is loyalty.

"In the private institutions, there has been a tradition developed that (alumni) pay back through support of the university," says Philip Conley, who tracks foundations for the Associated Grantmakers of Massachusetts. "Alumni of public institutions have lacked that solidarity."



But now they're saying, "I went to school too, I graduated too, I'm prosperous, I also have pride--so maybe I owe something."

That change of attitude, plus good planning, has some public institutions running campaigns once considered worthy of independents only. The University of Connecticut in 1984 planned to raise \$25 million in five years. It raised \$55 million in half that time. "We did a study for them about 10 years ago that indicated they couldn't raise anything like that at that time. But they put a lot of things in place, a program to get business leaders and others involved, and they were able to do it," says consultant Peterson.

Now it's Plymouth State College's turn to put things in place. Plymouth State President William Farrell says he is optimistic that the New Hampshire Legislature will approve \$8.5 million this year toward a planned \$10-million cultural arts center. But then there will be a new challenge. Plymouth State, which

raises well under \$100,000 each year for its annual fund, will try to raise the remaining \$1.5 million in three years. How will Plymouth State do it? "In the past, Plymouth State College didn't even have a director of development. We have engaged one," says Farrell. "And though we're certainly including our alumni, we're optimistically looking at a broader constituency."

Nonetheless, public institutions are still dogged by negative images. Fund-raisers say the giving public is skeptical about anything funded by public dollars, and a misconception that state support for public higher education is adequate is only now breaking down.

"People are beginning to understand that we can't just depend on tuition and legislative appropriations alone to do all the things a university should be doing," says Tim Honey, vice president for development and external affairs at the University of Southern Maine, which last year began a campaign

to raise \$100,000, more than double its last effort. Five businesses already have pledged \$10,000 a year for three years for scholarships to USM's business school.

North Shore Community College in Massachusetts in 1983 launched a \$1.5 million fund-raising campaign to support student financial aid, technical assistance, student facilities and the arts and humanities. By June 1988, NSCC had secured \$1 million in donations and pledges.

"The first thing you have to explain to people is that there are many, many things that are essential to education that are not funded by the Commonwealth," says Joe Masterson, NSCC executive vice president. That would be simple enough, but among the items that aren't well-funded is the fund-raising apparatus itself. Says Masterson: "It takes front money and energy to organize alumni." □

John O. Harney is a contributing writer for *Connection*.



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# New England Governors Promote Biotech

JOANN MOODY

The New England governors have unanimously decided to recognize and promote biotech — broadly defined to include biological manipulations applied to medicine, plant and animal agriculture, waste treatment, pollution control and other areas — as a critically important technology for the region's economic development. Citing the New England Board of Higher Education as the stimulus for this decision, the governors thanked NEBHE for its insightful report, *Biomedical Research & Technology: A Prognosis for International Economic Leadership*, for several presentations, and for behind-the-scenes briefings of the Governors Conference staff. This report, issued in June of 1988, warns that a greater proportion of biomedical and biotechnical production will take place outside New England unless the states take immediate steps to keep these industries at home.

The specificity of the governors' four-part program is remarkable and deserves highlighting. Adopted unanimously by the New England Governors Conference at a December meeting in Warwick, R.I., the four-part program is as follows:

## PART I

**OBJECTIVE:** To assemble an information base to build public awareness and knowledge of biotechnology and the biotechnology industry in New England.

### ACTIVITY:

a). Compile an inventory of all state biotechnology resources covering all businesses, educational resources and research institutions, and highlighting services, programs, areas of expertise, sales, research dollars and other appropriate information.



Reports from CEOs of biomedical and biotechnical firms in Connecticut, Massachusetts and Rhode Island, and from lab directors at non-profit research institutes throughout the region confirm the following fact: New England campuses must do more to help meet the high demand for entry-level lab technicians. Presently, workers are being imported from France and England — and even “kidnapped” from large pharmaceutical firms in New Jersey. Above: Students in the University of Rhode Island's undergraduate clinical laboratory sciences program. University of Rhode Island/Doug Gamage photo.

b). Sponsor a major conference of persons involved in all aspects (private or public) of biotechnology in New England, and subsequently organize a series of seminars focusing on different aspects of biotechnology.

## PART II

**OBJECTIVE:** To encourage the six states to develop appropriate initiatives designed to ensure the continued growth and development of the biotechnology industry in New England.

**ACTIVITY:** The Technology Advisory Council should consider possible program models and initiatives to be taken by the six states to assist the biotechnology industry in the region, such as:

a). Enhance and stress appropriate science and mathematics courses in grades K through 12.  
b). Urge businesses and universities to award grants for graduate fellowships in scientific research areas related to biotechnology.

c). Develop needed technical biotechnology skills through training and retraining of the workforce.  
d). Channel applied research grants to businesses, universities and hospitals, to accelerate technology transfer and the development of new biotechnology products.  
e). Urge that the public sector consider providing innovative finance programs for start-ups or existing biotechnology companies.  
f). Work with private capital and investment financing sources to attract investment funds for companies involved in biotechnology.  
g). Encourage educational, training, financing or commercial programs that would stimulate and enhance biotechnology in New England.

## PART III

**OBJECTIVE:** To position and publicize New England as one of the world's premier regions for biotechnology.



## NEW CLINICAL LAB SCIENCE PROGRAM AT URI WINS NATIONAL AWARD

A new master's program in clinical laboratory sciences, offered for the first time last fall at the University of Rhode Island, has been honored by the National University Continuing Education Association Awards Committee as "demonstrating an outstanding response to a community need."

According to the eligibility requirements of NUCEA, the program must address a specific community need that the institution has identified, or which has been brought to the attention of the continuing education staff by an individual or group in the community.

Conceived and developed by the university's department of microbiology with the assistance and support of the clinical-laboratory community in southeastern New England, the program is designed to meet Southern New England's growing need for full-time medical technologists with graduate training. URI students pursue the degree on a part-time basis, with late afternoon and evening courses taught primarily at the College of Continuing Education in Providence (the administrative division responsible for the program). The M.S. in clinical laboratory sciences is not available at any other institution of higher education in Rhode Island.

"The expanded role of the clinical laboratory scientist, increases in new development and technology in the field and the greater use of health-care delivery systems, particularly by the expanding elderly population, have created the need for advanced study in the areas of supervision, management, education, research and clinical practice," says Gregory Paquette, coordinator of URI's medical technology program.

Undergraduate medical-technology education in Rhode Island is coordinated through the Board of Rhode Island Schools of Medical Technology, a consortium of five hospital medical-technology schools and three academic institutions, including URI. BRISMeT's board of directors, its executive committee and individual members each recommended the development of a graduate clinical laboratory sciences program in Rhode Island.

BRISMeT chose URI as the most appropriate site for this degree because of the university's strong tradition of commitment to continuing education, the strength of its undergraduate medical technology program, and its mission to support graduate level programs. Several professional organizations, including the Rhode Island Society for Medical Technology and the Rhode Island Clinical Laboratory Management Association, as well as individual clinical laboratories, expressed their need and support for such a program.

**ACTIVITY:** Initiate marketing efforts to inform appropriate persons and public and private organizations across the nation and abroad about New England's assets, capabilities and expertise in biotechnology: its scientists, researchers, universities, related industries and investment capital sources.

### PART IV

**OBJECTIVE:** To continue and expand the flow of information, cooperative program development and marketing through the formation of a New England Biotechnology Cooperative, under the auspices of the New England Governors' Conference, Inc.

**ACTIVITY:** Organize a New England Governors' Conference, Inc. Biotechnology Cooperative composed of public and private representatives to continue the exchange and sharing of information and to make recommendations to the Conference concerning the biotechnology program.

"This four-part program will bring immense benefits to the New England region," says Bruce Lang, chairman of the Governors' Technology Advisory Council, which developed the program. While the Council reviewed several other technologies, including superconductivity and alternative energy production, Lang explains, the Council found the techniques of biotechnology the most promising.

The New England Board of Higher Education supports the New England governors' pledge to make a concerted effort promoting biotech. As part of its mission to coordinate higher education and economic development in the region, NEBHE will monitor state initiatives designed to assist the production and manufacturing of biomedical and biotechnical products. □

JoAnn Moody is associate vice president and legal counsel for NEBHE. Copies of the report, *Biomedical Research & Technology: A Prognosis for International Economic Leadership*, may be ordered from NEBHE for \$5.00.



# Black and Hispanic Enrollment Report Draws Widespread Media Attention

**A**t a well-attended media briefing held on Martin Luther King Jr.'s Birthday, Jan. 16, 1989, the New England Board of Higher Education released a major report on Black and Hispanic enrollment and retention in higher education. *Equity and Pluralism: Full Participation of Blacks and Hispanics in New England Higher Education* is the result of two years' study and consideration by NEBHE's Task Force on Black and Hispanic Enrollment and Retention, appointed by NEBHE President John C. Hoy in 1986.

*Equity and Pluralism* warns that if the academic and subsequent job-market success of Blacks and Hispanics — two minority groups that comprise the fastest-growing segment of New England's population — is not ensured, the region will face dire social and economic consequences.

Before the cameras of Boston's national television affiliates, President Hoy and Task Force Co-Chairs Peter M. Rosa and Edgar E. Smith stated that New England higher education is not doing enough to educate and train the region's Black and Hispanic citizens.

"We're not saying that the campuses aren't working hard," Hoy said. "We're just saying that they can do a better job."

Also addressing the group were Connecticut Commissioner of Higher Education Norma Foreman Glasgow, Rhode Island Commissioner of Higher Education Eleanor McMahon and Massachusetts Chancellor of Higher Education Franklyn G. Jenifer.

Speaking to reporters during the two-hour conference, Task Force Co-Chair Peter M. Rosa, director of governmental relations for the Connecticut State University System, emphasized that those who read the report must keep in mind the people behind the statistics. "The intrinsic human dimension of this report must be considered by business, higher education and government," Rosa said. "These three sectors must recognize that it is in their interest — indeed in the public interest — to see that New England's higher-education gap, and by extension, its economic gap, is closed.... An undereducated and alienated workforce affects us all."

Co-Chair Edgar E. Smith, vice president for academic affairs for the University of Massachusetts System, made the crucial point that *Equity and Pluralism* must not be "relegated to the crypt of dead reports." Smith said: "We are strongly committed to the implementation of these recommendations, and expect a similar response from academic, corporate and government leaders."



Boston high school students meet with college representatives at the Northeast Regional Student-College Interview Session, co-sponsored by the National Scholarship Service and Fund for Negro Students and NEBHE.

## Recommendations made

Contained in the report are 20 recommendations to increase the participation and success of Blacks and Hispanics in New England's colleges and universities and as participants in the region's educated workforce. These include:

- more financial aid for low-income Black and Hispanic students;
- new and more aggressive steps to eradicate racism on campus; and
- increased minority representation on boards of trustees at the region's colleges and universities.

Since its release, the report has received significant regional and national editorial comment. Extensive television coverage was provided by five major Boston stations, as well as WTIC radio in Hartford, Maine Public Radio, and Boston radio stations WEEI, WBCN and WBUR. Newspapers including the *Providence Journal*, *Hartford Courant*, *Quincy Patriot Ledger*, *Boston Globe*, *Boston Herald*, *Worcester Telegram* and *Portland Press-Herald* have run feature stories on the report, which the *Boston Business Journal* described as "devastating."

Quoted in the *Boston Business Journal*, Task Force member Rebecca Flewelling of Tufts University said: "The brain that is together enough to run a drug gang can run a computer, be a technician, or be a plant manager.... We are a two-caste system. Are we comfortable with that?"

Publication and dissemination of *Equity and Pluralism* was underwritten by grants from The Aetna, the Bank of Boston, the New England Education Loan Marketing Corporation (NELLIE MAE), and The Education Resources Institute (TERI). Copies of the report are available from NEBHE, 45 Temple Place, Boston, MA 02111. Phone: (617) 357-9620 □



## HIGHER EDUCATION COMMUNITY RESPONDS TO EQUITY AND PLURALISM

The letters excerpted below are representative of those received by the NEBHE Task Force in response to *Equity and Pluralism: Full Participation of Blacks and Hispanics in New England Higher Education*.

The central issues which the Task Force explored require our fullest scrutiny. The solution to the problems uncovered in the study will require a major investment of human and fiscal resources on the part of state and federal policy-makers and educational opportunity professionals. It will require commitment and perseverance on the part of leaders and administrators within the higher education community as well as within the corporate world.

On behalf of the 1,278 TRIO programs throughout the nation, and specifically the 68 TRIO programs serving New England students, I salute the work of the Task Force and support your advocacy of *immediate action* to remedy the current situation.

I encourage you to vigorously pursue the next step — the full implementation of your recommendations. The National Council of Educational Opportunity Associations stands prepared to work with you in this effort.

ARNOLD L. MITCHEM, Ph.D.  
*Executive Director  
National Council of Educational  
Opportunity Associations  
Washington, D.C.*

I found the report compelling and comprehensive. Frankly, it was welcome to read a report which did not "pull punches" on such issues as racist behavior on college campuses. This report will be particularly timely for us, where we have convened several working groups to look at racism at Wheelock, minority recruitment and retention, and the inclusion of a multicultural perspective in our curriculum.

DANIEL S. CHEEVER, Jr.  
*President, Wheelock College*

Congratulations on your excellent report: *Equity and Pluralism*. It is a good summary of the current situation with respect to the participation of Blacks and Hispanics in higher education in New England as well as a useful agenda for further action.

DANIEL H. PERLMAN  
*President, Suffolk University*

Thank you for the report on *Equity and Pluralism*. It is very timely for us as we are moving ahead strongly with our efforts for Blacks and Hispanics.

In checking the mandates for college presidents, I am pleased that we are aware of and are implementing all those that apply to us as an undergraduate institution. We are offering a mentoring program for our young Black women, whom we have paired with our Black alumnae. An advisory board has been most helpful in pointing out directions for us.

Our Hispanic program is quite ambitious, designed for Boston high school students, who come to campus for four weeks of residence with intensive experience in academic, social and athletic areas.

Dr. Rosa, Dr. Smith and the task force are to be commended for the thoughtful and practical recommendations.

SISTER THERESE HIGGINS, C.S.J.  
*President, Regis College*

I have read the report with considerable interest, and have found it to be an excellent document. I would like to share the report with interested colleagues here, and would be grateful to receive extra copies.

JOHN T. CASTEEN, III  
*President, The University of Connecticut*

The New Hampshire Educational Opportunity Association is a recently formed organization representing a coalition of TRIO professionals and other educators and state policy-makers concerned with the obstacles facing many New Hampshire students in succeeding in higher education, brought on by poverty and physical disabilities.

While the Black and Hispanic population of New Hampshire is under 2 percent of the total statewide population, the issues raised in the study have great relevance to our work with students on the secondary and post-secondary level. The problems which have been identified are not dissimilar to those faced by low-income White and disabled students. The resolution of these deficiencies on our college campuses will most definitely benefit our clients.

We are convinced that New Hampshire must look beyond its state borders in providing educational opportunities for Black and Hispanic youth, especially those who have encountered limited and often inadequate academic preparation due to poverty and social inequities. Our state has a responsibility to educate students from across the economic and racial spectrum who may choose to come to our state from other parts of New England and the nation.

We commend you for your initiative and for bringing the issues of access and retention in New England to the attention of the public. We stand ready to work with Gordon Haaland, chairman of the NEBHE Board and president of UNH, Chancellor Claire Van Ummeresen, the presidents of all New Hampshire colleges and universities, and state policy-makers in implementing the Task Force's recommendations in New Hampshire.

PATRICIA HAGE  
*Coordinator  
New Hampshire Educational  
Opportunity Association*



## Former RSP Students Praise NEBHE Program

KENNETH CONNOLLY

Cheryl Kuran would not have considered attending the University of Vermont if she hadn't known about the New England Board of Higher Education's Regional Student Program.

"I had decided to study Russian in college but I couldn't find a program at a Maine state college or university. I would not have considered going out of state if it hadn't been for the Regional Student Program," Cheryl says from her home in Chapel Hill, N.C.

Cheryl graduated from high school in Waterville, Maine, intent on studying Russian in college. She had heard that the University of Vermont had an excellent program in Russian studies. While reading through the UVM catalogue, Cheryl discovered that this program was offered through the Regional Student Program at a much lower tuition than the usual out-of-state rate. Over four years, Cheryl saved more than \$15,000 in tuition.

Cheryl is only one of the many students who have realized the benefits available through RSP. Figures indicate that for the 1987-88 academic year, more than 4,800 students are enrolled in RSP programs throughout the six-state region, each one saving an estimated average of \$2,192 in tuition costs for the year.

Scott Rochette, a Connecticut resident, graduated in May 1988 with a bachelor's degree in meteorology from Lyndon State College in Vermont. He learned of the Regional Student Program through the *Apple Book*, which was provided to him by his high school guidance counselor.

The summer before his sophomore year at Lyndon State, Scott watched as his federal student aid was cut by almost 80 percent.

"Even though I had saved quite a bit for my college education, I wasn't prepared for the cuts in aid I incurred after a year in school.

The meteorology program at Lyndon was exactly what I wanted. A college education costs a lot these days, and I couldn't have made it through without the substantial savings in tuition offered under the Regional Student Program."

While these students are saving money they are also preparing for careers that will be in high demand when they graduate. Fields like banking and finance, computer programming technology, hotel and travel administration, communications and public health are just a few of the degrees available under the RSP.

Sandra Lary, a 36-year-old single mother of two, recently graduated from the University of Maine at Farmington with a degree in home economics and business management.

"This was the most creative way to finance a college education while focusing on a specific degree program," Sandra says. Prior to enrolling, Sandra was a resident of Berlin, N.H., but has remained in Farmington where she is happily engaged in a career in consumer affairs.

Established in 1958, the Regional Student program enables residents of New England to attend an out-of-state public college or university within the region at reduced out-of-state tuition for certain degree programs that are unavailable in their own state's public institutions. RSP presently offers more than 1,100 degree programs at 85 public institutions, with new degree programs being added each year.

A survey of RSP students found that 90 percent of graduates remain in New England to pursue their careers, contributing to the region's skilled labor force.

### Law programs available

Currently, residents of Massachusetts, New Hampshire, Rhode Island and Vermont are eligible to attend the University of Connecticut and University of Maine law schools under the RSP.

At age 31, Evelyn Bogen, a resident of Amherst, Mass., decided to pursue a law degree. "Though I was granted a full fellowship to another law school, I chose the University

of Connecticut law program because of its excellent reputation and the tuition break offered under the Regional Student Program," Evelyn comments. "It truly sweetened the deal."

Even with two young children and a very busy husband, Evelyn found the time to complete her degree in six years.

"I was disappointed that Massachusetts didn't have a law program, but under the RSP I can attend an excellent school at an affordable price," she says.

The process for applying for the program is surprisingly easy. A prospective student merely indicates on the college application that he or she wishes to apply under the RSP. Some of the applications for state colleges and universities have a box that students can check to indicate their RSP status.

"We get a large number of calls from New England residents wishing to participate in the program, requesting an application," says Michael Genovese, director of Regional Student Services and the RSP. "They are cheerfully surprised to discover that a short note included with their application is all it takes."

He adds: "The major misconception students have is that this is financial aid, whereas it is in fact an educational opportunity to study a certain degree program at a lower tuition rate."

The new 1989-90 *Apple Book* features a consolidated listing of RSP programs offered at both undergraduate and graduate institutions, and an updated list of the questions commonly asked by interested students. Published yearly by NEBHE, the *Apple Book* is distributed to all secondary schools, New England public colleges and university campuses, public libraries and state and federal legislators.

*Apple Book* catalogs can be ordered by writing to: Regional Student Program, New England Board of Higher Education, 45 Temple Place, Boston, MA 02111. Phone: (617) 357-9620. □

Kenneth Connolly is program coordinator for NEBHE Regional Student Services and the Regional Student Program.



# NEBHE to Initiate Timely U.S./Canada Student Exchange Program

MICHAEL GENOVESE

**B**ecause New England's cultural, historical and economic ties to Canada are stronger than those of any other region of the United States, knowledge and understanding of America's northern neighbor is of special importance to New England residents. The significance of New England's many interactions with Canada can only be increased by U.S./Canada Free Trade Pact, which will eliminate tariffs and other trade barriers between the U.S. and Canada over 10 years.

In light of this fact, the New England Board of Higher Education has initiated a Nova-Scotia/New England College and University Student Exchange Program. The program is the result of collaboration between NEBHE and the Nova Scotia Council on Higher Education.

NEBHE President John C. Hoy comments: "While students in the U.S. must learn firsthand about the challenges to the U.S. economy posed by the Pacific Rim nations and the European Economic Community, last year's approval of the Canada/U.S. Free Trade Pact should serve to convince them that it is time to learn more about our political, cultural and economic ally to the north. The pact presents both greater challenges to and opportunities for the growth in coming years of our increasingly global national economy."

The following general facts illustrate the importance of the New England/Canada connection:

- The United States and Canada share more international trade than any two countries in the world. Canada buys twice as many goods from the United States as does Japan, and more goods and services than the entire European Economic Community.
- Over \$120 billion in trade crosses the border each year — 78 percent of all Canadian exports and 22 percent of all U.S. exports.



*Summer student worker in the Macdonald Library's Rare Book Room, St. Francis Xavier University, Antigonish, Nova Scotia.*

- As many as two million jobs on each side of the border currently depend on this bilateral trade.
- American investment, amounting to \$44 billion, is the largest source of direct foreign investment in Canada, amounting to 78 percent; while Canadian investment in the U.S. equals \$19 billion, approximately 10 percent of U.S. foreign investment. Canada is the third-largest foreign investor in the United States.
- Canada was New England's primary trading partner in 1986. New England sold \$1.46 billion in merchandise to Canada in 1986, 40 percent of which was in computers and telecommunications equipment. It is estimated that 70,000 New Englanders are employed in positions related to U.S. — Canadian trade.

## Foreign study close to home

The Nova Scotia-New England Student Exchange Program has two particularly attractive aspects. Students continue to pay tuition to their home campus while studying abroad, and the program provides an opportunity for those students who do not wish to pursue an exchange program at a greater distance from the United States.

All 185 New England four-year, degree-granting universities have been invited to take part in the program, which will provide New England and Nova Scotian students with the opportunity to spend their junior year at a participating institution. Students may enter the program beginning in the fall of 1989.

President Hoy adds: "NEBHE has taken the position that the exchange of academic, cultural and economic experiences is one of the most immediate ways to foster continuing awareness and cooperation between nations. The Nova-Scotia/New England College and University Student Exchange Program has been launched in the hope that it will significantly contribute to students' knowledge of the extensive and growing economic relationship between New England and Canada."

NEBHE also administers, in conjunction with the Quebec Government Delegation in New England, the New England-Quebec Student Exchange Program. This program, which operates similarly to the Nova Scotia program, has served approximately 300 students from both regions since its inception in 1982.

The following Nova Scotia institutions have indicated their interest in participating in the program:

*Acadia University  
Atlantic School of Theology  
Dalhousie University  
Mount St. Vincent University  
Nova Scotia Agricultural College  
Nova Scotia College of Art & Design  
Technical University of Nova Scotia  
St. Francis Xavier University  
St. Mary's University  
Universite Sainte Anne  
University of King's College  
University College of Cape Breton* □

*Michael Genovese is director of Regional Student Services and the Regional Student Program.*





Paul E. Tsongas

## Paul Tsongas accepts Regents Chairmanship

WENDY A. LINDSAY

When former U.S. Sen. **Paul E. Tsongas** agreed in January to oversee Massachusetts' public higher education system, he made his mission very clear: to make Massachusetts' "the best public higher education system in the United States by the year 2000."

"This country is facing a descent into second-class economic status," he warned at a news conference on his appointment. "The only way out of it is education." Appointed by Gov. Michael S. Dukakis, Tsongas chairs the 16-member Board of Regents, which oversees the state's 29 public colleges, universities and community colleges. Tsongas resigned his law firm partnership in order to do so.

Tsongas plans to draw heavily on the cooperation of the state's business community. He recommends inclusion of business executives on college trustee boards and more college representation on corporate boards. "I am seeking to take the talent, expertise and skills that exist in corporate Massachusetts and link them into the public higher education system," Tsongas told mem-

bers of the Massachusetts High Technology Council soon after his appointment.

Tsongas' other recommendations include the use of performance-based evaluation as one criterion in determining the level of state funding for public institutions; establishing an academic review panel to screen appointments to boards of trustees; and declaring public higher education a "political-free zone."

Tsongas succeeds **L. Edward Lashman**, now the state's secretary of administration and finance. Tsongas, a former congressman, served in the Senate for one term, from 1979 to 1985, and subsequently left for health reasons. Since then, he has been associated with a Boston law firm and has served on the University of Lowell board of trustees. He is a graduate of Dartmouth College and Yale Law School.

### New higher education commissioner for Rhode Island

A seasoned administrator and educator with experience in both the public and private sectors is now Rhode Island's higher education commissioner. **Americo W. Petrocelli**, who attended college in Rhode Island, succeeds **Eleanor M. McMahon**. McMahon resigned in January after seven years' tenure as Rhode Island's first commissioner of higher education.

For the past 12 years, Petrocelli served as vice president for business and finance at the University of Rhode Island, and adjunct professor of chemistry. He was formerly president and chief executive officer of Yardney Electronic Corporation in Connecticut, and has held various research and administrative positions in the Electric Boat Division of General Dynamics. The author of several technical publications, Petrocelli holds two U.S. patents. He earned bachelor's and master's degrees in chemistry from Providence College, and a Ph.D. in chemistry from URI.

Speaking on behalf of the board of governors, Chairman Albert E. Carlotti said: "Rhode Island is fortunate to have as its next commissioner of higher education an in-

dividual with administrative and financial management experience in both the public and private sectors, who is also familiar with Rhode Island and its public higher education system. We look forward to our work with Dr. Petrocelli."

McMahon has taken on a distinguished professorship at Brown University. Her name was recently in the news as a possible candidate for U.S. under secretary of education.



Americo W. Petrocelli

### Wylie heads presidents' council

**Neil R. Wylie** is the newly appointed executive officer of the Council of Presidents of New England Land-Grant Universities. Wylie comes to New England from Ann Arbor, Mich., where he was vice president of the Great Lakes Colleges Association, a regional consortium of private colleges. He earned his bachelor's degree from the University of Minnesota and master's and doctoral degrees in psychology from Temple University.

As executive officer, Wylie is responsible for information exchange, coordination of joint projects, and regional planning among the six public land-grant universities represented by the council. Established in 1973, the council's offices are located on the University of New Hampshire campus in Durham.

### Woodbury to chair Council on International Educational Exchange

University of Maine Chancellor **Robert Woodbury** has been





*Adrian Tinsley*

elected Chairman of the Board of the Council on International Educational Exchange. Headquartered in New York City, the 205-institution member Council encourages study abroad for U.S. and foreign students.

Study abroad is an important part of the higher education agenda in Maine. Woodbury comments, "Study abroad is a matter of great personal interest for me. Soon after becoming Chancellor in 1986, I visited the Soviet Union to investigate student exchanges and indicate my priority for an international higher education agenda in Maine."

Woodbury chaired his first meeting of the Council in March.

#### **New presidents on campus**

As the following sampling of presidential appointments shows, New England continues to attract talented and experienced scholarly administrators from across the country to lead its colleges and universities. In Massachusetts, Bridgewater State College has appointed **Adrian Tinsley** as its first woman president. Currently executive vice president and provost at Glassboro State College in New Jersey, Tinsley will take office in July, succeeding **Adrian Rondileau**, who served as Bridgewater's president for 25 years. A graduate of Bryn Mawr College, Tinsley earned her master's degree from the University of Washington and a doctoral degree in English from Cornell University. She has held administrative and teaching positions at the University of Maryland and William James College in Michigan. Tinsley also served as associate vice chancellor for academic affairs for the Minnesota State University System.

**Humphrey Tonkin**, former president of Potsdam College of the State University of New York, was appointed president of the University of Hartford in February. Tonkin spent 17 years in undergraduate and graduate education and administration at the University of Pennsylvania, and has written widely on international studies and English Renaissance poetry. He earned a doctoral degree from Harvard, and bachelor's and master's degrees from Cambridge University.

Former president and chief executive officer of The New York Public Library **Vartan Gregorian** became Brown University's 16th president in January. Gregorian came to the United States from Armenia to study at Stanford, where he earned bachelor's and doctoral degrees and became a teaching fellow. He later served as provost at the University of Pennsylvania.

Wesleyan University has had a new president since November: **William Chace**, formerly vice provost for academic planning and development and professor of English at Stanford University. An outspoken and experienced university administrator, Chace became nationally known last year in a widely publicized clash with U.S. Secretary of Education William Bennett concerning Stanford's decision to replace some classic texts by men with great works by women and minority writers in a required course on Western culture.



*William Chace*

© Nancy Wala

#### **Upcoming resignations**

Meanwhile, several New England college presidents are resigning this year. **Thomas Hedley Reynolds**, currently the longest-serving college president in New England, will retire in June after 22 years as president of Bates College. **William T. O'Hara** resigns at the end of July after 13 years as president of Bryant College, Rhode Island's college of business administration. **Kenneth**



*Thomas Hedley Reynolds*

**G. Ryder**, president of Northeastern University for 14 years, will assume the office of chancellor when a successor is named. **Arthur Levine**, who has been president of Bradford College of Bradford, Mass. since 1982, leaves in July to chair the Institute of Educational Management at Harvard and join the senior faculty at Harvard's Graduate School of Education. Former Portland School of Art President **Peter Hero** left the school in January to become president of the Santa Clara Foundation, a major cultural and educational foundation in San Jose, Calif.

#### **Interim president**

Former Maine Congressman **David F. Emery** will serve as interim president of Thomas College in Waterville, Maine, until the college finds a permanent successor to **Cyril M. Joly, Jr.** Joly left in December to resume his Waterville law practice. Emery served four terms in the U.S. House of Representatives, then lost a bid for the Senate to Waterville's George Mitchell. He holds a bachelor's degree in electronic engineering from Worcester Polytechnic Institute.



### What's next for the retired college president?

After serving as president of Brown for 12 years, **Howard R. Swearer** returns to campus July 1



William T. O'Hara

© Jean Duffy McDonald

to direct the university's Institute for International Studies, which he helped establish in 1986. "In a way I'm going home again," commented Swearer. "I started out in international studies, comparative government and Soviet studies, and this position gives me the opportunity to return more fully to my field."

### Corporate law professor to head Harvard Law School

**Robert C. Clark**, a leading conservative on the faculty at Harvard Law School, was named dean of the

school by Harvard president Derek Bok who praised Clark for his outstanding record as a teacher and scholar when he announced the appointment in mid-February. The appointment concluded an extensive search initiated last spring that included nominations from faculty, administration and students and careful consideration by an appointment committee.

A professor at Harvard for almost 10 years, Clark succeeds James Vorenberg who resigns July 1 to return to teaching at the law school after serving eight years as dean. Clark's corporate law class has been hailed one of the most popular second year classes at the law school. He has authored numerous articles and books including *Corporate Law*, published in 1986, which has been called a "paradigm for future student texts."

In a *Boston Globe* article on his appointment, Clark was described as an outspoken opponent of the controversial Critical Legal Studies movement at the school. He was a central figure in a 1985 ideological battle with Critical Legal Studies adherents, who argued that the traditional approach to law preserves the status quo at the expense of social justice. Since that time, Clark has led the faculty's conservative minority, which successfully blocked a number of appointments at the school that were favored by a majority of the faculty, according



Robert C. Clark

© Brad Herzog

to professors interviewed by the *Globe* reporter.

Clark came to Harvard Law School in 1979 after teaching for four years at Yale Law School. He was previously associated with the Boston law firm, Ropes and Gray. Initially headed for the priesthood, he studied at Mary Knoll College, then received a doctorate in philosophy from Columbia in 1971, and his JD in 1972 from Harvard Law School.

A frequent speaker and consultant to law firms and government agencies, he has been a witness before various committees on regulation of financial institutions. □

Wendy A. Lindsay is assistant editor of *Connection*.



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I was pleased to see that the photo I sent to you of Tara Allen, a Trinity College sophomore, was used on the cover of the summer issue of *Connection*.

However, I must point out that the caption attributing a photo on page 33 to Trinity College is misleading. The caption reads: "The encouraging trend of increases in percentages of minorities enrolled in higher education that began in the 1960s has eroded in the 1980s. Trinity College, Hartford, CT" The implication from this caption is that the erosion in minorities is at Trinity. The caption should have at least said "Trinity College photo."

For the record, Trinity's efforts to recruit minority students have been quite successful during the past two years. Out of the 524 students in Trinity's freshman class this year, 85 (16.2 percent) are black, Asian or Hispanic. Last year's freshman class contained the same percentage of minority students. The number of freshman minority students has doubled from two years ago and this year's freshman class has more minority students in it than any other in Trinity's history.

One major goal of the admissions office was to attract more students from Hartford, CT which has a high minority population. In 1986, four freshmen from Hartford enrolled. In 1988, the number rose to 16.

Trinity College intends to continue to build on these recruiting successes. When you plan articles on this topic in the future, please keep us in mind.

MARTHA DAVIDSON  
Assistant Director of Public Relations  
Trinity College  
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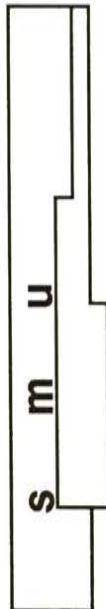
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