

Nourishing the Profession

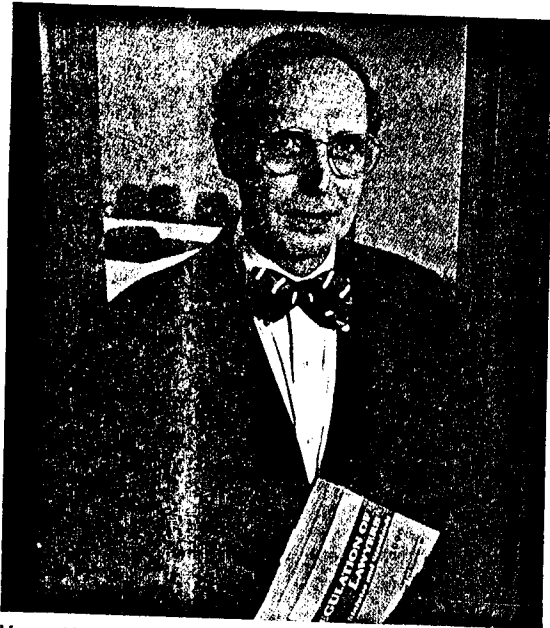
Report on professionalism calls for ethics training, civility rules in court

BY JOHN GIBEAUT

As the 21st century approaches, many worry that the legal profession is disintegrating into just another cutthroat business, where the prevailing ethic is kill or be killed.

But Darwin need not have his way, according to a recent ABA report on professionalism.

"We have much less of a sense of shared values than we used to



Harry Haynsworth: Law schools can, should do more.

have," says Harry J. Haynsworth, dean of William Mitchell College of Law in St. Paul, Minn., and principal author of *Teaching and Learning Professionalism*.

"There was a common understanding of how you acted. You zealously represented your client, but you had respect for the other side and treated them with dignity. Afterward, you'd all go out for a drink."

Completed in late summer, the study was a three-year effort by the Professionalism Committee of the Section on Legal Education and Admissions to the Bar. The committee distributed 8,000 copies to law school deans—enough for every full-time

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faculty member in the nation—and another 7,000 to groups that deal with practitioners, including bar associations, state supreme courts and other ABA committees.

The report continues the work of two previous studies that addressed the issue, one by the 1986 Stanley Commission and the other by the 1992 MacCrate Commission. It also coincides with efforts to increase professionalism on the part of state bars and licensing authorities.

Among causes and symptoms of declining professionalism, the report cites: loss of the perception that law practice is a "calling," economic demands that make it harder for lawyers to spend time on public service work, and a decline in courtroom civility.

The report embraces a classical definition of professionalism, describing the lawyer as "an expert in law pursuing a learned art in service to clients and in the spirit of public service; and engaging in these pursuits as part of a common calling to promote justice and public good."

Haynsworth says the report is much more specific than previous ones in focusing on law school and on the profession, and in making specific recommendations for each area.

In fact, the report stresses, training in ethics—the philosophical study of moral conduct—should begin at the undergraduate level.

That may be wishful thinking, Haynsworth acknowledges, but schools can and should do more. Most significantly, the report recommends that ethical and professionalism concerns be addressed pervasively throughout law school curricula instead of being relegated to two- or three-credit courses on professional responsibility.

Law professors also must serve as role models for students, accord-

ing to the report. And schools should try to hire as faculty significant numbers of successful practitioners who also "manifest a respect for and a commitment to the legal profession and an understanding that part of their calling is to serve the public interest," the report advises.

"The students need to see that you can practice law ethically and professionally and be successful as well," says committee Chair Wm. Reece Smith Jr. of Tampa, a former ABA president.

Call for Leadership

In the practice of law itself, the report calls on bar associations to assume a leading role in enacting professionalism programs. ABA President-elect Jerome J. Shestack of Philadelphia says emphasis on professionalism will be a cornerstone of his tenure, which begins in August. He wants to implement a comprehensive three-year plan on improving professionalism in every section and committee. "I'm going to go beyond the report," Shestack says. He expects the plan to be ready by February. "It will be an entire mosaic."

Among the recommendations for practicing lawyers are mandatory continuing legal education courses covering ethics and professionalism, and programs for newly admitted lawyers on similar issues, as well as topics such as courtroom etiquette and civility.

Judges also need to become more active, the report states, by adopting civility rules in their courts, making it clear that poor preparation for hearings and trials will not be tolerated, and by showing a willingness to report incompetence and unprofessional conduct to disciplinary authorities.

Pressure and lack of trust among lawyers are two primary causes of bad courtroom manners, Haynsworth says. "But there's no excuse for it. You're always going to be under a lot of pressure."

In the end, Haynsworth says, merely issuing a report will not restore professionalism in the wink of an eye. "This kind of process will take a long time." ■