
The Evolution of Skills Training

Stuart G. Gullickson

In Volume XIV, No. 4, of The Gargoyle Professor Stuart Gullickson wrote about his experiences with the simulation method of teaching, specifically relating to our General Practice Course. He discussed the theory of such courses, their advantages and disadvantages, and concluded that the "simulation technique can be useful not only as an exclusive method of instruction, but also as a component in clinical programs, and as a supplement to traditional methods in larger classes. In this piece, Prof. Gullickson shifts to the larger scene: the worldwide spread of simulation for skills training, in law schools and as post-graduate courses. The article is adapted from a speech to the joint meeting of ACLEA and the International Bar Association in Washington, D.C., on July 3, 1985.

This is a special occasion when educators involved in our field convene for an international conference. The first such conference that I am aware of met in 1976 in Sydney at the College of Law in St. Leonards. Delegates from nine countries joined the Australians. By that time, I had spent seven years learning to teach skills through trial and error, but I'd had only one opportunity to exchange experiences with a fellow instructor. In 1975 Rosemary Balmford, Director of Melbourne's Leo Cussen Institute made a visit to Madison. We talked shop for a couple of days and among the things I learned from her was that skills training would be part of the agenda at the Sydney conference. That event proved to be most stimulating. Participants heard thoughtful affirmations of the importance of skills teaching, and I was reassured to find that problems I had been unable to solve were confounding others, too.

International sessions on skills instruction can be particularly fruitful because the subject knows no national boundaries. Techniques, such as negotiations, seem to be much the same the world over. Skills are nonjurisdictional.

I've chosen to view the evolution in this field from two perspectives: one is



the chronological emergence of new practical training courses; the other is the incremental change in the substance of them. I will develop both themes simultaneously.

In 1957 at Osgoode Hall in Toronto, the Law Society of Upper Canada adopted a new requirement for admission to practice in Ontario. It added a six-month training course onto its usual prerequisite of a twelve-month clerkship. The course proved to be the seminal program of the practical training movement. It influenced the worldwide development of similar programs.

At the time Ontario's course began, legal educators in the United States sought ways to bridge-the-gap between our law schools and law offices. Two national conferences, Arden House I in

1958 and II in 1963, sponsored by the Joint Committee on Continuing Legal Education of the American Law Institute and the American Bar Association (ALI-ABA), advocated that applicants for admission to practice in this country be required to take "a comprehensive course in practical skills." That view was advisory only because the supreme courts of our states determine the criteria for admission to practice in their respective jurisdictions. With the impetus from Arden House II, ALI-ABA's Joint Committee undertook a three-year study of alternatives for learning practice methods and, in its 1967 report, concluded that training courses were likely to be better vehicles than apprenticeships. The report recommended a model for such courses. At that time, the New Jersey Institute for CLE was presenting a five-week bar admission course and the University of Wisconsin was offering a ten-week one. I left private practice in 1967 to convert the Wisconsin course to the ALI-ABA model. ACLEA, at this organization's annual meeting in 1968, adopted a resolution endorsing "a comprehensive skills training course as a condition for admission to the bar."

Up to this point, in the late 1960's, the courses at Osgoode Hall, New Jersey, and Wisconsin were teaching about tasks not skills. They focused upon the information necessary for processing matters, such as probating estates, organizing corporations, and handling divorces, not upon skills like interviewing, writing, and negotiating. They operated in large class formats and used lectures and panels as teaching methods.

Then in the late 1960's and the early 1970's, major changes in course content and teaching methods occurred at Wisconsin, and in the Australian courses. All added skills instruction to their curricula, switched to a small class format, and utilized different teaching methods. Courses which had considerable chunks of substantive law in them continued to teach

International sessions on skills instruction can be particularly fruitful because the subject knows no national boundaries.

those segments to large classes through lectures and panels and broke into small groups for skills instruction. Others which presented very little substantive law moved almost exclusively into a small class mode. For example, at the Wisconsin Law School, we retained only six hours of lecture-method out of 250 hours of instruction. We began to teach skills pervasively along with our instruction in tasks and used a single cycle of teaching methods for both: discussion, demonstrations by teaching teams, performances by students, and critique. I learned when I visited with the Australians at the Sydney Conference, that all of us had made our modifications more or less simultaneously even though we had not been in contact with one another. The good news is that overseas those small group teaching methods proved over time to substantially enhance the quality of skills instruction. The bad news is that in the United States their comparatively high cost turned out, in my opinion, to be a major deterrent to our adoption of six-month training courses.

In 1974, the Law Society of New South Wales made the next advancement. It showed how the physical setting for small group instruction could be improved. It constructed the first building designed for a curriculum which emphasized skills instruction. Its new College of Law had 58 law office rooms and 7 courtrooms, and its program used all of them for one class of up to 300 students.

The two Irish courses came upon the scene in the middle 1970's. First, was the one at Belfast. However, we are indebted to Dublin's program for the next innova-

tion. In 1977, the Irish introduced the sandwich mode of instruction in the first Dublin model. They blended the classroom with the law office by alternating students between the two in a series of sessions. Their course has special significance to us in the United States for another reason: It is funded exclusively from tuition and law society dues. I will return to that point in a moment.

Consistent with the edict of the 1972 Ormrod Report, England and Wales started separate courses for barristers and solicitors in 1979. Scotland presented its first in 1980 and chose to start with the sandwich mode. In South Africa, the comprehensive Sampson Report in 1977 recommended revisions in the entire scheme of that country's legal education and, in part, urged that the system of articles be phased out and replaced by practical training schools. In 1981, four such schools opened at Johannesburg, Bloemfontein, Cape Town, and Durban.

Over this entire period, from the sixties into the early eighties, the number of Canadian courses expanded to nine with the advent of ones in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Quebec, and Saskatchewan. The Far East instituted courses in Hong Kong and Singapore.

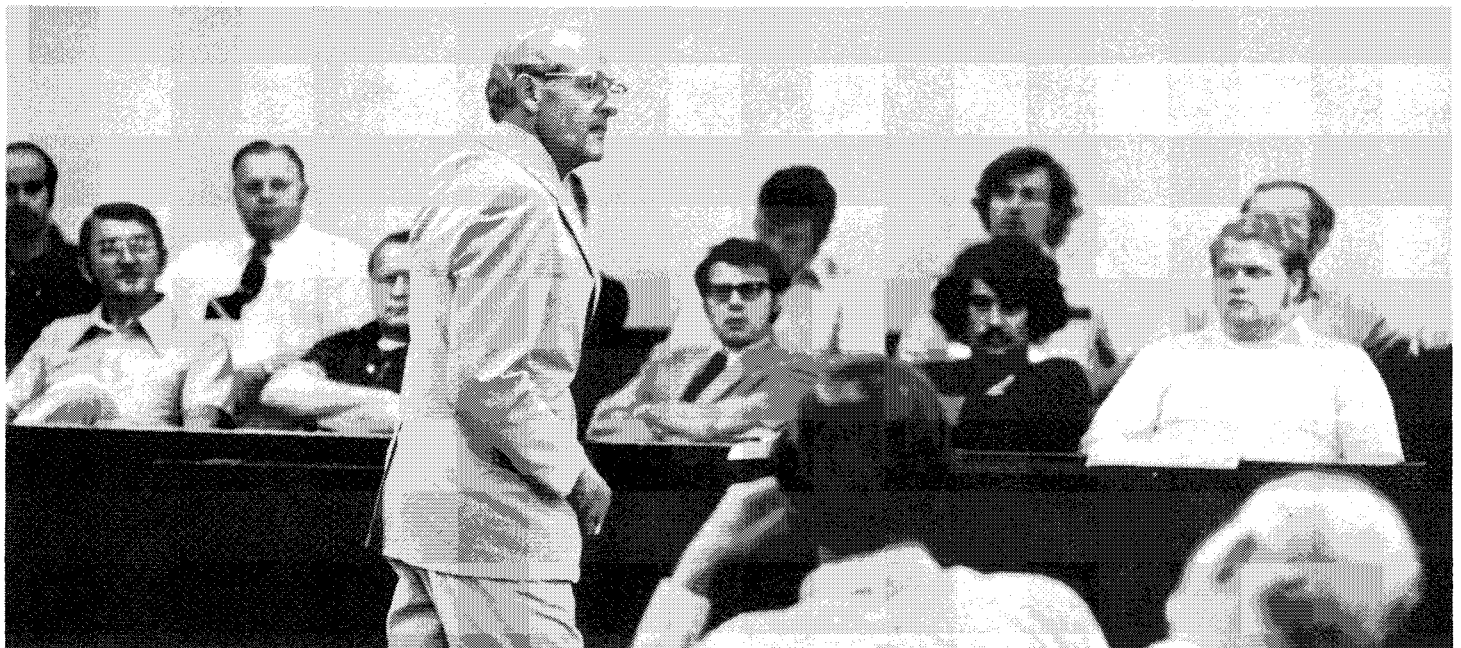
In the United States, we took a different path. The format of a six-month, 900-hour, in-depth course has never taken hold here, though the ALI-ABA Committee on Professional Education has done an admirable job of keeping the need before us. In 1981, under the leadership of this meeting's keynote speaker, Dean Mike Kelly, it presented the Houston Conference on Enhancing the Competency of Lawyers and devoted half of that

Their course has special significance to us in the United States for another reason: It is funded exclusively from tuition and law society dues.

meeting's agenda, and a number of background papers, to extensive transition courses. Then in 1983-84, it surveyed the status of bridge-the-gap training in this country. It learned that the average length of 31 programs was three days; the longest one ran only the equivalent of one week; 90% of the instruction was by lectures and panels; and none of the courses taught skills.

For CLE audiences, in contrast to law student ones, the forerunner in skills instruction in our country was the National Institute for Trial Advocacy (NITA). In 1969 it began presenting 150-hour trial skills courses featuring low teacher-student ratios and using role playing as the principal teaching method. NITA's work led to similar offerings by the Court Practise Institute, American Trial Lawyers Association, and the Practising Law Institute. Then NITA and the ABA formed a consortium to make the NITA model available to lawyers through the state CLE organizations. In the late 1970's, the ABA also developed a series of small group offerings in negotiations.

Essentially, it seems to me, CLE in this country packages task and skills offerings separately, in relatively brief courses,



and organizes them by subject matter designed to serve discreet segments of the CLE market. I believe the reason we follow a different route from our colleagues in other countries is primarily, if not exclusively, financial. Here, like in Ireland, we have no government funding for post-university legal education. Full scale practical training courses would have to be self-supporting—meaning funded almost entirely through tuition and bar association dues. Students would have to pay tuition, furnish their living expenses, and forego six months of earnings to take the courses. The tuition would be substantial because of the relatively high cost of small group teaching methods. Also, legal education here already takes seven years, and I think we are reluctant to add any program which would lengthen it. Finally, we would have to train over 30,000 new lawyers every year. The cost of space to educate that many is a significant deterrent when one remembers that Sydney uses a five story building, which occupies a city block, for only 1% of that number.

In the United States, we are struggling with the proposition of using interest from lawyers trust accounts (IOLTA) as a funding vehicle. The fertile minds of Ontario's lawyers first conceived the idea that these funds might serve practical training. They prevailed upon their parliament to legislate that about one-third of trust account interest income should support their bar admission course. Now,

most of the practical training courses around the world are funded, in part, in that fashion. In this country, we have encountered thoughtful opposition to doing anything with interest on trust accounts other than paying it to clients. Only a few states have allocated such interest to public purposes. I believe that none of those set aside any for skills instruction or for practical training programs.

Even though the United States has not chosen to present skill courses of the same kind as those in other countries, we have made several contributions to the skills training movement.

Even though the United States has not chosen to present skill courses of the same kind as those in other countries, we have made several contributions to the skills training movement. First, in 1976, ALI-ABA published a book on the Wisconsin course which helped some countries plan their models. Second, in the 1980's, Joel Henning in the United States, and Paul Cooper and Christopher Roper in Australia, designed in-house courses for large law firms in which the members of a firm teach practical training to one

another. Many of us applaud their work not only because of its educational value but also because it dramatically dispels the notion that only solo practitioners need practical training instruction. Third, California added a skills component to its bar examination on an experimental basis. Fourth, some law schools offer an educational program that combines a classroom course teaching skills through simulation with a clinical experience applying them in the courts in real cases; the same instructors teach both segments. You will recognize that approach as being somewhat akin to the sandwich mode.

The most recent international development may, in time, prove to be one of the most important contributions of all. In 1983, the College of Law at Sydney began publishing a journal for readers involved in continuing education and practical legal training. That journal gives an international profession an inexpensive way to learn of new developments. I trust, however, it will not become such an effective communication vehicle that it replaces these conferences.

That brings us up to date, at least from my perception of the elephant. But looking back, I doubt the members of the Law Society of Upper Canada ever imagined in 1957 that their decision to inaugurate an in-depth training course would spawn 27 more of them throughout the world.