Research Note

The Professions Are Dead, Long Live the Professions: Legal Practice in a Postprofessional World

Herbert M. Kritzer

The American legal profession is facing challenges that are sending tremors through its institutional foundations. On the one hand, U.S. lawyers appear to be wielding ever increasing power as reflected in recent victories in litigation with cigarette manufacturers and in the now pending challenges to the firearms industry. At the same time, the profession finds its traditional prerogatives under increasing challenge with the push for multidisciplinary professional practices, direct encroachment by a variety of service providers (accountants, consultants, paralegals, etc.), and mounting political attacks on the profession for its apparent greed (e.g., huge fees from the tobacco litigation) and apparent arrogance (Glaberson 1999). Much as the businesses and governments who bear the bulk of health care expenses forced major restructuring of health care delivery, the large consumers of legal services (which are consuming an ever larger share of legal services; see Heinz, Nelson, & Laumann 1998) are seeking means of limiting and monitoring the costs of those services (ibid.; Kritzer 1994). Lawyers increasingly find themselves working not as independent professionals but as employees of bureaucratically organized law firms, corporations,

Earlier versions of this paper were prepared for presentation at the 1999 Law and Society Annual Meeting, May, Chicago; and for the 1999 Legal Aid Board Research Unit Conference, Legal Aid in a Changing World, November 4–5, London. I would like to thank Hilary Sommerlad, William L. F. Felstiner, Austin Sarat, Howard Erlanger, Neil W. Hamilton, Susan Silbey, Nancy Reichman, and two anonymous reviewers for comments on an earlier draft of this essay. I also benefited by comments and discussion at a faculty seminar at William Mitchell College of Law where the paper was presented. I would like to also acknowledge the series of grants from the Law and Social Science Program of the National Science Foundation (SES-8320129, SES-8511622, SES-9212756, and SBR-9510976) that have supported my research over the years and that, in turn, have greatly shaped my understanding of and thinking about the legal profession. Address correspondence to Herbert M. Kritzer, Department of Political Science, University of Wisconsin, 1050 Bascom Mall, Madison, WI 53706-1389 (e-mail: <kritzer@polisci.wisc.edu>).

Law & Society Review, Volume 33, Number 3 (1999)

and government. The dynamics of this change, combined with shifts in where legal effort is directed, have attracted the attention of scholars (Galanter & Palay 1991; Heinz et al. 1997; Heinz, Nelson, Laumann, & Michelson 1998; Seron 1996; Spangler 1986; Van Hoy 1997) in no small part because it has major implications for how we think about the legal profession, in its multiplicity of forms, as a profession.[1]

Although revolutionary changes are still nascent for the legal profession, change has been very dramatic in the American medical profession. In less than a decade, American doctors were brought into a structure of institutional and corporate medicine that contrasts sharply to the professional structure that had developed and thrived during most of the twentieth century (see Brame 1994; McKinlay & Stoekle 1988).[2] Services that were once the exclusive preserve of licensed professionals are being deliv-

[1] The number of lawyers in the United States increased 142% since 1975 (Carson 1999:1). This kind of growth has been a phenomenon throughout much of the developed world (Abel & Lewis 1989: 142–47); for example, in England and Wales, the number of practicing solicitors increased by 50% during the 11-year period of 1983–1984 through 1994–1995 (Wall & Johnstone 1997:99), the legal profession in West Germany increased by 158% between 1961 and 1990, and the legal profession in the Netherlands increased by 87% between 1970 and 1990 (Blankenberg 1998:9). Within the practice of law, an ever increasing portion of legal services is consumed by large corporate enterprises. Where in 1960 sole practitioners comprised 64% of private practice lawyers in the United States, by 1991 only 47% of lawyers practiced in this type of setting; this percentage is actually a slight increase from 1991, when the corresponding figure was 45%. At the other end of the spectrum, I estimate that in 1960, less than 2% of U.S. lawyers practiced in firms of 50 or more lawyers; by 1991, this percentage had grown to 18%, dropping slightly to 17% in 1995. Between 1988 and 1992, the total number of law (solicitor) practices in England was virtually unchanged; only the largest practices (those with 20 or more principals) increased, and that increase was more than 50%, although these firms still only comprised less than 2% of all practices (Bowles 1994, 25). Put another way, while the legal profession in the U.S. grew 58% between 1980 and 1995, the growth in "large" firms (51 or more lawyers) has been 287% compared with only 49% for groupings of five or fewer lawyers. Not surprisingly, the change in the large firms is even more stunning if we push the comparison point back to the 1960s. Galanter and Palay (1991:22) report that in the early 1960s there were only 38 firms with 50 or more lawyers. Assuming that the average size among these firms was 75 lawyers, a total of about 2,850 lawyers were in such firms. By 1981, this figure had grown to 27,200, and by 1991, to 105,236. The growth from circa 1960 to 1991 was an astounding 3,592%. Although "large" law firms in England are typically smaller than large law firms in the United States, the largest English firms exceed 1,000 lawyers (Brennan 1998b:A15), and there are substantial pressures toward such growth (see Lee 1992). Using data from their study of the Chicago bar in 1975, Heinz and his colleagues estimate that at that time, 53% of total legal effort served the corporate client sector and 40% served the personal/small business sector, a ratio of 1.33 to 1; in their 1995 replication of the earlier study, the corporate sector's consumption of legal effort had grown to 64%, whereas the personal/small business sector was down to 29%, a ratio of 2.21 to 1 (Heinz, Nelson, Laumann, & Michelson 1998:21).

[2] Between 1983 and 1994, the percentage of patient care physicians practicing as employees rose from 24.2% to 42.3%, whereas the percentage in solo practices fell from 40.5% to 29.3% (Kletke et al. 1996:555); by 1997, solo practitioners had fallen further to 26% (see Stolberg 1998). Between 1980 and 1996, the proportion of office-based, patient care physicians working in group practices rose from 27.9% to 46.4% (computed from Randolph 1998:43). By 1997, 92% of physicians had at least one contract with a managed care organization (Stolberg 1998:1). Although the rate of change has accelerated since the mid 1980s, the shift toward "bureaucratic medicine" and the issues this change raised were recognized as early as the mid 1970s (Mechanic 1976:49–57; see also Ritzer & Walczak 1988).

ered by specialized nonprofessionals who may or may not work under the nominal supervision of a professional (see also Beardwood 1999). Sellers of products such as pharmaceuticals pitch directly to consumers rather than limiting their marketing to the medical practitioners who must prescribe the product for the consumer to have access to it. Consumers turn to information sources unavailable in the mid 1990s to obtain information that once was the virtual preserve of the professional service provider, and they can access that information without having to first learn a complex system of categorization of the type customarily used to organize specialized information (but see Brody 1999; Davis & Miller 1999; Miller 1999). In addition, consumers can connect with other consumers to share experiences and information and to provide support to one another (Bly 1999a, 1999b).

We are moving into a period in which the role of professions such as law and medicine as they are known in the Anglo-American world is radically changing and may be in sharp decline (Abel 1986a). Although I hesitate to add another "post-xxx" to a lexicon now overflowing with "posts" (postmodernism, poststructuralism, postmaterialism, postindustrialism, post-Soviet, post-this, and post-that), a concept that begins to capture the full dimensions of these developments is *postprofessionalism*.[3] In the discussion that follows, I focus on this idea; I do not seek to provide a comprehensive review of either the concept of "profession" or of recent developments in legal professions around the world.[4] Rather, I describe what I see as key major developments, both within and outside the profession, that are driving changes in the way the lawyers practice and how consumers, broadly defined, access legal services in the Anglo-American world. My intention is to provoke reexamination of some of our assumptions about the legal profession as an institution. As suggested by the title of this piece, the changes wrought by postprofessionalism will not mean the extinction of professions, but rather a wholesale reshaping of this turn-of-the-millennium institution, hence my suggestion, "the professions are dead, long live the professions."

[3] My efforts to locate previous uses of this concept identified only two. The first is as the title of a chapter, "Useful Unemployment and Its Professional Enemies," in Ivan Illich's book (1977); Illich seems to use the term *postprofessionalism* to refer the deprofessionalized world he advocates (see Illich et al. 1977). The other is a book entitled *Post-Professionalism: Transforming the Information Heartland* (Cronin & Davenport 1988), which focuses on developments in the "information professions."

[4] For example, one important theoretical and practical the issue in the analysis of professions that I do not consider is that of gender. This issue has been very prominent in the literature on professions generally (see, for example, Hearn 1982; Witz 1992) and in the literature on the legal profession specifically (some notable examples include Dixon & Seron 1995; Hagan et al. 1991; Hull & Nelson 1998; Menkel-Meadow 1989; Pierce 1995; Seron & Ferris 1995; Sommerlad 1994; Sommerlad & Sanderson 1998).

Professionalism and Postprofessionalism

What specifically do I mean by postprofessionalism? The starting point to answer this is a definition of "profession."

Professions: Multiple Conceptions

One problem with thinking about professions is that the term *profession* can be defined and conceptualized in many different ways (Barker 1992), three of which I label the common parlance definition, the "historical" definition, and the sociological definition, with the first as the most inclusive and the last as the least. My focus is on the sociological, but it is important to recognize that there are a variety of meanings attributed to the concept.

Profession, according to the "lay definition," is almost synonymous with "occupation" and is distinguished primarily by means of its antonym, "amateur." As commonly used in lay parlance, a "professional" can refer to a firefighter, a plumber, an auto mechanic, a secretary, a teacher, a salesperson, a social worker, a lawyer, a doctor, or a member of the military as well as many other occupations. Members of all these occupations often choose to pride themselves on their "professionalism," and by referring to themselves as a "professional" (e.g., a "professional secretary" or a "professional firefighter"), they mean that they perform a particular line of work as a means of livelihood and are committed to what they view as a set of standards of performance. As this discussion makes clear, there is an important distinction to be made between the occupational category of "professional" and what might be described as an ideological commitment to "professionalism," referring to expectations of work performance. The term *professionalism* can also be used to refer to possessing the occupational status of a "profession" (in any of the senses of profession discussed here) without regard to what might be labeled as the ideology of professionalism.[5] In my concept of postprofessional*ism,* the "ism" is used in the latter sense (in the same sense as the "ism" in "postindustrialism").

Professions, according to the "historical" definition, include a broad class of occupations that are characterized by "trained expertise and selection by merit, a selection made not by the open market but by the judgment of similarly educated experts" (Perkin 1989:xiii; see also Bell 1973).[6] These professions are built on human capital, and typically involve some recognition of qualifications and some sort of career hierarchy (Perkin 1989:2). Some occupations are able to restrict entry by enforceable licens-

[5] A closely related term or concept is *professionalization,* which refers to *achieving* the status of a profession.

[6] A similar definition can be found in Lipartito and Miranti (1998:303): "Professionals [are] purveyors (and creators) of expertise."

ing rules based on recognized expertise (such restrictions can extend from physicians and lawyers to insurance agents and stock brokers, both of which are licensed through a testing procedure). Others may be able to achieve a recognition of a strong credentialing process outside a state-based enforcement structure (e.g., librarians, engineers, college professors). Still other occupations have no licensing process and at best a weak credentialing process, but nonetheless are associated with an expertise that has led to the appellation "professional" (e.g., managers, computer programmers).[7] The key elements to professionalism in this broad sense are the creation of and recognition of trained expertise and the structuring of occupations around this expertise. Within developed economies, professionalism of this type is endemic and is one of today's key features (Perkin 1996). I refer to professions defined in this sense as "general professions."

The sociological definition uses "professional" in a still more restrictive sense.[8] As with the historical definition, professional occupations are a feature of a particular stage of economic development. Professions are specific occupational groups that are at a minimum defined as "exclusive occupational groups applying somewhat abstract knowledge to particular cases" (Abbott 1988:8). Two key elements to this definition go beyond the historical definition: *exclusive* occupational groups and the application of *abstract* knowledge.[9] As noted above, many occupational groups enjoy exclusivity (through licensing or union structures), and abstract knowledge is today applied by many technical occupations (e.g., computer programmers, electronic repair technicians). It is the combination of recognized exclusivity with the application of abstract knowledge that defines what sociologists label as professions. Professions in the sociological sense have further distinguished themselves by adding notions of altruism, regulatory autonomy through peer review processes, and autonomy vis-à-vis the service recipient (i.e., the professional tends to control the relationship with and the service provided to the client/patient/customer). By combining these characteristics with their abstract knowledge-based expertise, these professions have regularly asserted claims of independence that other occupational groups have never successfully advanced (Larson 1977).[10]

[7] The role of formal credentialing varies from country to country. For example, Britain seems to rely more on training programs that produce credentials than does the United States, where employers are primarily concerned about experience.

[8] On the problem of, and importance of, definition, see Freidson (1983).

[9] Professionals are typically required to demonstrate their mastery of this abstract or "formal" knowledge to secure a license to practice their profession as an occupation.

[10] Alternatively, it might be asserted that "in return for access to their extraordinary knowledge in matters of great human importance, society has granted [professionals] a mandate for social control in their fields of specialization, a high degree of autonomy in their practice, and a license to determine who shall assume the mantle of professional authority" (Schön 1988:7).

And although there have always been issues of degree of autonomy, control, and expertise, it is the future of professionalism defined in these terms that is the focus of this essay. For purposes of clarity, I will refer to these as "formal professions." As should be obvious, formal professions are a subset of general professions. Also, formal professions tend to conflate the two different meanings of "professionalism"; that is, achieving the status of profession is equated with maintaining the ideology of professionalism as reflected in the definitional elements of formal professions.

Although general professions reflect a particular stage of economic development, formal professions as I am considering them are even more embedded in a particular social, economic, and political structure. The occupations that compose the formal professions in Anglo-American countries exist in some form in all developed societies, but the position of these occupations in English-speaking countries is not found in all other developed societies (Dezalay & Garth 1997). In particular, parallel occupations do not necessarily possess the kinds of prestige and autonomy possessed by the formal professions. For example, the formal professions of England and the United States tend to stand at the top of the occupational prestige hierarchy. In France, in contrast, the graduates of the *grande écoles* (e.g., Ecole Normale Supérior, Ecole Nationale d'Administration, or Ecole Polytechnique) stand at the top of the status hierarchy; these schools "do not prepare specifically for professional careers but offer a general education to a social elite" (Perkin 1996:79), and it is state employment in the *grand corps* (most of whose members are recruited from the *grande écoles*) that constitutes the top of the employment hierarchy. The members of the *grande corps* constitute general professionals, but are not necessarily formal professions as I am using the concept.

Even the formal professions differ in important ways across national settings. Although mindful of its economic well-being, the English legal profession was strongly embedded in a status system that placed an emphasis on particular types of legal services (e.g., transfer and ownership of property, whether by sale [conveyancing] or inheritance [succession]) that was associated with both wealth and status (Abel-Smith & Stevens 1967; Sommerlad 1995:165; Sugarman 1996:108–12). This system led to the neglect of many areas of potential legal practice; for example, throughout much of the twentieth century, lawyers ceded areas such as taxes and much corporate work to accountants (Sugarman 1995). This ignoring of areas of potential practice has deep roots in the English legal professions; in fact, at times the professions have seemingly abandoned areas of practice that were not consistent with the status image they were seeking (Burrage 1996:46; see also White 1976). In contrast, the legal profes-

sion in the United States has been more entrepreneurial. Although some elements of the profession focused on status and prestige (see Powell 1988), these elements were never able to achieve a dominant role, and new entrants to the profession worked hard to expand the opportunities for income.

The medical profession is another example of differences. In the United States, a career in medicine is a path to substantial economic well-being. Even as the government became increasingly involved as a funder of medical services (through Medicare and Medicaid), the system of funding actually served to increase income of physicians because it was initially based on a fee-for-service model. In contrast, the socialization of the English medical system after World War II meant that medicine was not a route to high income (comfortable perhaps) except for a small group of physicians who worked largely outside the government-funded system. Medicine remains a prestigious occupation in England, but it lacks the economic opportunities that have been the case for American physicians since World War II. The economic constraints imposed by the English system significantly changed the nature and degree of autonomy enjoyed by physicians, while at the same time meaning that for many patients, options that were not affordable before socialized medicine are now available.

The sharp growth in the role of legal aid in England has had an impact on the legal profession not entirely unlike what happened previously to the medical profession. Legal aid funds a significant portion of legal services in England, but subjects the lawyers providing those services to a variety of kinds of controls that reduce their autonomy (Genn 1988; Sommerlad 1996). At the same time, the availability of legal aid (and increasingly private legal insurance) has meant that the potential client pool has grown. One result is increasing conflict between the legal profession and the government that must fund legal aid. Another result is radical changes in what is deemed to be acceptable forms of funding legal services; although the legal profession had long adamantly opposed contingency fees, even as recently as the late 1970s (Benson 1979), by the mid 1980s, the profession was looking seriously at this option (Law Society 1987a), and in the late 1990s, the government embraced contingency fees (calling them conditional fees) as a means of reducing legal aid expenses.[11]

In this essay, I seek to find some broad generalizations. Yet, even as I do so, I fully recognize the limitations of context, both geographical and chronological. The argument I advance must be considered within the reality of these limitations.

[11] England is embracing contingency fees at the same time that contingency fees are under unprecedented attack in the United States (see Brickman 1989; Brickman et al. 1994).

Postprofessionalism

Postprofessionalism refers to the combination of three elements:

1. the formal professions' loss of exclusivity (Abel 1986a; Commission on Nonlawyer Practice 1995; Kritzer 1998)
2. the increased segmentation in the application of abstract knowledge through increased specialization (Ariens 1994; LoPucki 1990; Podgers 1993)[12]
3. the growth of technology to access information resources (Calhoun & Copp 1988; Clark & Economides 1988; Katsh 1995:78–81; Susskind 1998; Wall & Johnstone 1997)

The end result is that services previously provided only by members of formal professions can now be delivered by specialized general professionals or nonprofessionals (see Clark 1992; Hartmann 1993). The type of political and economic power that members of the formal professions and their organizations were able to wield to secure their control through much of the twentieth century (Larson 1977; Johnson 1972) cannot withstand the pressures created by the combination of segmentation of tasks and improved access to information.[13] Equally important is that although at one time professions might have been able to control what information was available through the control of journals—sponsorship, editorial control, peer review processes, and the like (Freidson 1994:134)—the Internet and the World Wide Web have reduced much of that control.

Part of what us happening is that the formal professions are losing their uniqueness and are being eclipsed by professions in the much more general sense (hence, "the professions are dead, long live the professions"). If this were the extent of what was occurring, it would probably make sense to label the developments "new professionalism." An earlier literature spoke of "deprofessionalization," which Haug (1973:197; see also Toren 1975) defines as "a loss to professional occupations of their unique qualities, particularly their monopoly over knowledge, public belief in their service methods, and expectations of work

[12] Specialization, or perhaps more accurately, "hyperprofessionalization," can at the same time increase the role of those professionals who achieve particularly high levels of specificity in their knowledge so that they are able to deal with extremely complex situations that call for particularly high levels of judgement and experience.

[13] Since the 1970s, sociologists have debated the issue of whether professions are best understood as motivated by primarily power concerns (Freidson 1986; Johnson 1972) both vis-à-vis clients and markets (Larson 1977) or as occupations that combined a set of unique traits that required special treatment by the state and the market (Parsons 1954; Halliday 1987), what Parker nicely labels "communities of competence" (1997a:390–91). Although this debate is important, the core of my argument is that technological developments are effectively mooting its relevance. Moreover, the developments I project will also alter the terms of the debate over regulation of professions (ibid.).

autonomy and authority of the client"[14] (more recent literatures have considered "deskilling," which means that nonprofessionals are assuming increasing numbers of tasks that were the preserve of professionals). Neither "new professionalism" nor "deprofessionalization" fully captures the nature of current developments. I choose the label "postprofessionalism" because of the complexities of these developments and the multiplicity of ways in which they are being manifested: changing patterns of political influence, rationalization of knowledge,[15] and the growth of technology as a tool of accessing this knowledge (compare with Krause 1996:283–84).

How has postprofessionalism come about, and what are its implications for legal practice in the twenty-first century? The next section discusses in more detail the forces pushing generally toward postprofessionalism. A discussion of the specific forces operating on the legal profession follows. I then turn to the implications of postprofessionalism for the legal profession and legal practice.

Moving into the Postprofessional World

Today, a key driving force is a change in the role of knowledge. Although he sees the most apparent change in the shift from production of goods to production of services, Daniel Bell once argued that the growth in the professional and technical occupations was the "most startling change" (1973:17). The work of these occupations revolve around knowledge, and it is around knowledge that what Bell called the "postindustrial" society is organized. Bell observed that knowledge has been "necessary for the functioning of any society," but went on to argue that what distinguishes knowledge in the postindustrial society is the centrality of "theoretical knowledge—the primacy of theory over empiricism and the codification of knowledge into abstract systems of symbols" (ibid., p. 20).

Bell failed to see one implication of the codification of knowledge that is changing the role of occupations such as the formal professions today. The codification of knowledge makes possible the subdivision of expertise in ways that allow persons with much less than traditional professional training to deliver services that rely on sets of abstract knowledge previously the province of formal professionals. The codification and general systematization of knowledge and information also make it possible to develop new ways of imparting and accessing that knowledge. Furthermore, the more that knowledge can be converted

[14] For discussions of deprofessionalization as it relates specifically to the legal profession, see Rothman (1984); Anleu (1992).

[15] Wilensky (1964:149–50) anticipated the problem that increased rationalization of knowledge would have for the formal professions.

to or expressed in terms of information and decisionmaking rules, the more the tools of information technology can be brought to bear in accessing and using that knowledge.

As noted above, ideas of practitioner independence and autonomy lie at the core of the standard image of the formal professional. Over a 15-year period (1980 to 1995), the percentage of private practice lawyers working in firms of six or more went from 29% to 38%. Increasingly, we are coming to see formal professionals, not just lawyers, as working in institutional or bureaucratic settings that are designed to control workers rather than to foster autonomy (see Galanter & Palay 1991; Spangler 1986; Van Houtte 1999). This change does not necessarily come as a surprise, having been described in the 1970s as part of what some observers labeled deprofessionalization (Haug 1973; Toren 1975). This bureaucratization is closely connected to the rationalization and compartmentalization of knowledge.[16]

The traditional image of the formal professional as having substantial control over the substance and conditions of his or her work has increasingly come to be questioned (Abel 1989). Although some might argue that the degree of control was never as great as the professional image might suggest (Auerbach 1976:40–73; Carlin 1962; Heinz & Laumann 1982:360–65), the lament that the practice of law has become "just a business" has become common, and the struggle to recapture the supposed spirit of professionalism is a theme that has regularly recurred (American Bar Association 1998; Commission on Professionalism 1986; Glendon 1994; Gordon & Simon 1992; Kronman 1993; Linowitz 1994; Solomon 1992).[17] Abel has characterized the loss of control experienced by the legal profession as the "decline of professionalism." Drawing on the work of Larson (1977), Abel (and others) argues that professions are largely economic entities designed to limit entry ("control the production of producers") and limit competition from within and without ("control the production by producers"). In the late twentieth century, Abel argues, the legal profession in particular lost these kinds of

[16] At least in the United States, the implications of bureaucratization are beginning to be evidenced in such places as the Federal Rules of Civil Procedure. The 1993 revision of Rule 11, which deals with the obligations of attorneys and the potential of sanctions for certain types of behavior, includes the following provision (FRCP 11(c)(1)(A)): "Absent exceptional circumstances, a law firm shall be held responsible for violations committed by its partners, associates, and employees."

[17] Solomon (1992) argues that the crisis of legal professionalism is a recurring theme that goes back at least as far as the 1920s. In a discussion of the apparent longing for a lost "golden age" of professionalism, Galanter quotes condemnations of the commercialization and deprofessionalization of the big lawyers by such 1930s luminaries as Harlen Fiske Stone and Karl Llewellyn (Galanter 1996:556–58). In fact, the question of whether law is a business or a profession has been debated for most of the twentieth century, as indicated by a book published in 1916 entitled *The Law: Business or Profession?* (Cohen 1916).

controls (Abel 1986a).[18] As I discuss in detail elsewhere (Kritzer 1998, 6-14), the struggle for control over production has gone on throughout the twentieth century in the United States, and the profession has never had the level of control that it wanted; in other common-law countries such as England, the professions have typically had control over only a very narrow range of what in the United States is deemed to be the practice of law (Abel-Smith & Stevens 1967; Sugarman 1996).

A Historical Parallel

Of course, professions are not the only entities that served to limit competition, nor are they the only entities that have lost that control. One can see parallels in what happened to skilled craftspeople during the Industrial Revolution and what is happening to the professions (Krause 1996; Posner 1993:6–13). Prior to the modern factory, craftspeople produced most nonagricultural goods for sale. Becoming a craftsperson was typically a process that involved several years, usually achieved by serving an apprenticeship. The craftsperson usually possessed a number of interrelated skills that together were necessary to produce a type of product. Over time, the guild structure, which typically involved a master craftsperson with a group of apprentices and journeymen working in the master's workshop, developed. In addition, the craft guilds relied on their relationship with the state to maintain monopolistic control over the production of specific products (Kramer 1927), although the state's endorsement was probably most important for the monopolies held by the various merchant guilds; in addition, it is doubtful that the ending of state support was central to the eventual demise of the guilds (see Kramer 1905:145–47). In return for state protection, guilds served as a source of revenue and took on civic responsibilities that the rudimentary governmental apparatus could not handle.

Eventually, many crafts evolved increasing levels of differentiation within the production process, which in turn led to increasing differentiation between the masters and those in apprentice and journeymen roles. In some crafts, journeymen began creating their own organizations to meet workplace and social needs.[19] The rationalization of the production process, combined with the invention of machines, eventually led to the development of the factory. Industrialists were able to isolate the indi-

[18] Another element, more important in some countries than in others and for some professions than others, is the increasing role of the government as a source of access to and funding for professional services (Krause 1996:272). This element is most evident in systems of socialized medicine or large-scale government medical insurance (e.g., Medicare in the United States), but it is also true in other professions, such as law in Britain, where legal aid pays a significant portion of the country's legal bill.

[19] Many of these organizations evolved into the forerunners of today's craft unions (Howell 1878:73–105; Unwin [1904] 1963).

vidual tasks needed for production and then hire workers each with just enough skill to carry out one or several of those tasks. The result was cheaper production of goods, a shift from human capital in the form of skilled craftspeople to industrial capital, and the effective end of many crafts except for highly specialized or artistic applications (Ashley 1906:169, 218–22; Schneider 1969:34–46).

Much as today one function of formal professions is to insulate and protect their members, prior to industrialization the guilds provided the kind of protections for their members that Abel describes as the underlying rationale for the professions (Krause 1996; Posner 1993:6–11). Just as formal professions in the English-speaking world have enjoyed substantial autonomy,[20] craftspeople enjoyed considerable autonomy through the guild structure (Black 1984:12–26). The guilds lost power and control not just because previously independent, skilled workers were brought into situations of dependence, but because the nature of the work itself was fundamentally reorganized. The development of the factory model of production played an important role, serving to replace the dominance of commercial capital with industrial capital (Unwin 1963:70–102). By combining technology with a process of rationalization, industrialists were able to eliminate the kind of craft-based skills required for preindustrial production of goods. The resulting division of labor meant that industrial workers needed only very narrow skills to carry out their role in the production process (Posner 1993:12). Employers could impart the skills necessary with relatively little expense. A small number of persons with high levels of skill continued to be needed to design factories and production modalities, but the typical level of skill needed in the production process was greatly reduced.

At the same time, the political protections enjoyed by the guilds began to disappear, in part from developments in the structure of the state and in part from the growing role of trade beyond local communities and individual nations. The state came to depend less on the guilds for revenue as other forms of taxation developed, and the state evolved its own infrastructure to take on the civic functions that the guilds had handled.[21] At the same time, improved transportation made communities less dependent on local producers and made it more difficult for local guilds to enforce monopoly rights (Kramer 1927:185–210).

[20] Whether professions have really had as much autonomy from the clients as the image of the professional suggests is debatable (see Cain 1979; Heinz & Laumann 1982; Johnson 1972; Sarat & Felstiner 1995).

[21] My description here is clearly Eurocentric and is most applicable to England. The guild system appears to have endured much later in other countries, particularly Germany (Black 1984:123–25; Walker 1971:73–107).

Postprofessionalism involves a similar phenomenon, but rather than the production of specialized goods, it concerns the production of specialized services. Much as craftspeople were displaced by early technological developments and the division of tasks into relatively simple elements, formal professionals are being displaced by service providers organized around highly specialized tasks who may, when needed, draw upon modern technological tools to access information. Just as craftspeople viewed this new form of goods production as a threat to their livelihood, members of formal professions are having to deal with the economic threats posed by specialized service providers. Where industrialization help to shatter the then-current economic role of persons skilled in the use of their hands, equivalent developments for those skilled in the use of their heads are evident today. The changing nature of work combined with loss of state patronage and the globalization of economic activity constitute the conditions for postprofessionalism.

Why the Professions Are Losing Control

As Abel has observed, the legal profession has lost control over both the production of producers and the production by producers (Abel 1986a). Abel argues that the development, and now the decline, of the professions reflected a historical "trajectory of professionalism"; that is, professions are "historically specific institutions for organizing the production and distribution of services" (Abel 1986b:7; Crompton 1990; see also Sommerlad 1995). As suggested by the historical parallel discussed above, one can see the decline as arising from many of the same types of historical forces that characterized industrialization and the decline of the craft/guild system. Three primary forces lead to the loss of control: the changing nature of work, challenges to professional autonomy and control, and globalization of the professional services sector.

Changing Nature of Work

The decline of the crafts arose from two key workplace developments (which were at the core of industrialization): rationalization of work and technological developments. Similar changes are today evident in the professional's workplace.

Rationalization

Rationalization of the professional workplace involves three elements: the formalization and systematization of the distribution of knowledge, the development of standardized procedures, and the segmentation of professional practice. The impact of ra-

tionalization is evident both with regard to the production of producers of professional services and the production of those services by producers.

The rationalization of entry processes for the professions has radically altered the production of producers of professional services (see Kritzer 1991:547–50). Historically, professions such as medicine and law (at least in the common-law world[22]) controlled entry through a process akin to apprenticeship. The apprenticeship model was highly personalistic and particularistic, with decisionmaking resting largely in the hands of individuals who had incentives to limit entry, both in terms of who was permitted entry and how many were permitted entry. Over the course of the twentieth century, however, entry moved to a system of formal education (see Dhavan et al. 1989), and at the same time access to educational opportunities was no longer limited to members of the social and economic elite (Fulton 1989; Sommerlad 1995:166). Control over entry has shifted from the professionals themselves to educational authorities whose incentives are to increase, not control, enrollments; thus, although few people in the United States would contend that the country is experiencing a shortage of lawyers, the number of law schools continue to increase as new units within existing universities (e.g., the new law school at the University of St. Thomas, in St. Paul, Minnesota), as free-standing institutions (Ave Maria School of Law in Ann Arbor, Michigan, funded by conservative pizza baron Tom Monaghan), and the online law school, Concord University School of Law (see <www.concord.kaplan.edu>), created as a division of Washington Post–owned Kaplan Educational Centers. The overall effects of these developments is to rationalize the process around "objective" criteria (grades, examinations, etc.) as opposed to the more personalized criteria of the apprentice system and to increase the opportunities to enter the profession radically.

Rationalization is also evident in the production of services. Traditional controls such as limits on advertising, mandatory fee schedules, and the like have either disappeared or have been greatly relaxed. Professional practice is increasingly marked by a combination of specialization and delegation. In significant part, specialization is attributable to the codification of knowledge that underlies the work of the formal professions. Where we once thought of doctors or lawyers, we now have doctors who describe themselves as allergists, cardiologists, dermatologists, endocrinologists, nephrologists, neurologists, pediatricians, obstetricians, oncologists, ophthalmologists, orthopedists, radiologists, rheumatologists, urologists, and a whole host of surgeons and

[22] The university was much more important in training professions n Europe than in other parts of the world (see Krause 1996:1–13, 127–28, 175, 226).

legal specialists in the fields of criminal defense, divorce and family, elder law, insurance defense, labor law, litigation, patents and trademarks, personal injury, real estate, environmental law, mergers and acquisitions, workers compensation, and wills and estates. Although the American legal profession (unlike the medical profession) has resisted formalizing specializations, the reality is that all but the small town lawyer and the most marginal of urban practitioners have come to specialize in the services that they offer.[23] These specializations are evident in both the corporate services and the personal services sectors. In the former, specialization (and stratification related to specialization) has long been the norm (see Nelson 1988; Slovak 1980; Smigel 1964). In the latter, successful practitioners have come to see their work as revolving around some type of either substantive (real estate) or process (court-oriented) specialization (see Seron 1996).[24]

As professionals have recognized the quality and efficiency gains of specialization, they have built on the identification of tasks within their specialized areas of work to delegate to nonprofessionals or general professionals. Many of these tasks are extremely routine, but not always. In some areas of practice, professionals are able to design their practices so that relatively little of the client or patient contact is directly with the professional. As clients and patients increase in sophistication (through education, access to information, etc.),[25] they begin to demand direct access to lower-cost, nonprofessional providers of specific services previously the domain of professions. Some of these nonprofessional specialties were effectively created by professionals as means of increasing efficiency. The result is that professionals have themselves created many of the conditions for postprofessionalism to take hold.

[23] Many countries have formalized certain types of specialization among legal practitioners through the formation of multiple legal professions. To the English-speaking world, the best known of these is the division of the English legal profession into barristers and solicitors (Abel 1988), which is more of a functional than a substantive division; this division is under sharp attack from solicitors who seek the right to appear as advocates in the higher courts (Zander 1997). In the civil law world, the separate profession of notaries has long provided many services provided by lawyers in the common-law world (Arruñada 1996; Closen & Dixon 1992; Malavet 1996; Olgiati 1994; Suleiman 1987), and remnants of this separation can be found in some common-law jurisdictions (Brockman 1997).

[24] A 1998 issue of the *Wisconsin Lawyer* (vol. 61, no. 6, p. 18) ran an in-house ad for the State Bar's organized sections. The ad was headlined, "Burger law? Generally, we're all specialists."

[25] In *Disabling Professions,* Illich et al. base much of their critique of the professions on the assumption that clients lack the sophistication to use professional services in a fashion that does not create a relationship of dependence (see Illich et al. 1977, particularly McKnight's essay). At no point do they deal with (1) the situation of sophisticated, corporate consumers of professional services or (2) the increasing educational level of the general population. Their failure to see the revolution in access to information is not surprising, however, given that they were writing in the 1970s.

Information Technology

The second major force is information technology and the resulting changes in how knowledge is accumulated and then distributed in society. Whereas industrialization grew as a result of the invention of machines to carry out repetitive tasks that previously required skilled craftspeople, today it is the rise of information technologies that can be readily employed to access codified forms of knowledge. Given the very close linkage between information and knowledge, the rapidly improving tools for accessing information reduce the need to rely on highly trained individuals who have acquired extensive information as part of their training. Whereas over the first half century of the information age the developments revolved around *information* processing, the next half century will see developments in *knowledge* processing (Susskind 1998:56–59).

Take, for example, the ways of delivering support for complex technological tools such as computer hardware and software. At one time, most sellers of these tools hired experienced professionals to provide user consulting; support staff needed to have a thorough understanding of the software (and frequently the hardware it ran on) to be able to diagnose and solve user problems. Over time, information tools have emerged that allow technology companies to build sophisticated databases of information that persons with small amounts of training and experience can access to deal with many, if not most, user questions and problems.

Among providers of legal services, the traditional tools for accessing legal information (i.e., case law) was a sophisticated set of categories closely tied to a variety of legal concepts. These categories, developed by West Publishing Company, form the West "Key Number" system, which in turn is integrated into the West Digests. To access case law effectively, one needed training in the central concepts that lie at the core of the category system. Modern information technology has led to an alternative system for accessing case law: free text searches using massive electronic databases (most prominently Westlaw and LEXIS). The result is to make it possible for persons with a much less sophisticated understanding of legal categories and principles to perform at least rudimentary legal research. As a result of these developments, lawyers regularly delegate research tasks to paralegals and legal assistants.[26]

[26] I do not want to overstate either the former complexity or the current simplicity. Even without electronic tools, it was possible to teach law students fairly quickly how to use the paper-based tools. And, even with the electronic tools, good legal research still requires substantive knowledge as well as knowledge of how to do a computer-based search.

Challenges to Professional Autonomy and Control

Modern formal professions in the English-speaking world have often enjoyed the protection of the state. These protections (e.g., licensing laws, unauthorized practice laws) have been the primary device used to exclude potential competitors from domains considered to belong to members of a profession. Whereas in the guild system, the state granted protections in return for money and services, the protections enjoyed by the professions have been justified primarily in terms of the "public interest" or "public protection." As evidence mounts that nonprofessionals can deliver quality services at lower cost (see, for example, Commission on Nonlawyer Practice 1994; Kritzer 1998; Parker 1997a), it is becoming more difficult to maintain those protections.

As tasks become specialized and it becomes possible for persons to acquire the limited set of knowledge necessary to deliver highly specific services traditionally the domain of a member of a formal profession, it becomes increasingly difficult for the profession to maintain any exclusivity over those tasks. A common claim by formal professionals seeking to protect their domain is that someone without the level of training required to be a full member of the profession will not be able to recognize the complex interrelationships and subtle issues raised in a specific case. This argument is used by lawyers seeking to ban nonlawyers from handling real estate closings and by ophthalmologists seeking to limit the tasks that can be carried out by optometrists. Yet whenever previously restricted tasks have been opened to new providers, the problems predicted by the profession opposing relaxation of restrictions have failed to materialize in significant numbers (if at all).

To date, the medical profession, at least in the United States, has succeeded in maintaining control over most nonprofessionals who might be potential competitors for routine service delivery. Health maintenance organizations and other organizational providers of medical care use specialized paraprofessionals for an increasing number of tasks.[27] Although it still at least appears that the professional physician is formally in control, that control is shifting from the physician to the organization and even directly to the paraprofessional (see Freudenheim 1997). As part of this shift, the paraprofessional providers may be achieving elements of autonomy (from physicians if not from organizational employers) that they had not previously enjoyed. Whereas before the paraprofessional was limited to roles that supplemented physicians, they are today increasingly supplanting physicians, which in turn reduces the number of physicians needed (see Kilborn

[27] Accountancy is another profession that has recognized the usefulness of delegation to paraprofessionals (see Compton 1993; Hicks & Rymer 1990).

1997). These changes reflect the health care providers' needs to obtain economies. As physicians lose jobs within these organizational medical providers, they will have to deal with the pressures of postprofessionalism.[28]

Globalization of the Professional Services Sector

The last development has been the globalization of the professional services sector (Aharoni 1993; Dezalay & Sugarman 1995; Flood 1995; Flood 1996; OECD Workshop on Liberalisation of Trade Services 1997). Here I use the term *globalization* very broadly to encompass the widening geographic horizons of how professional services are provided. At one time, professional services were delivered almost exclusively on a local basis: doctors, lawyers, and accountants practiced locally, drew clients locally, and relied on local institutions (courts, hospitals, etc.). Accountants were the first of the professions to develop nationally (and then internationally), primarily because they serviced large corporations with operations in many locales and many countries. The corporate sector of the legal profession was next, as it too devised new ways to meet the needs of large corporate clients; developments such as the European Union have spurred these developments along (Whelan & McBarnet 1992).[29] In recent years, elements of the personal services sector of the bar have also begun to reach out beyond their local communities (e.g., statewide law firms advertising for personal injury clients, securities specialists seeking clients around the country, and mass tort specialists flying off to sign up clients at the most recent international disaster). The development of large hospital corporations has begun to move medical practice into a wider geographic base, although the idea of regional speciality-center hospitals has been around for some time.

The geographic widening of the market for professional services reflects the combination of improvement in transportation, communication technology, and information technology. Today, a physician in Istanbul can consult with a specialist in Rochester, Minnesota, almost as easily as with someone in Istanbul. Commu-

[28] The accountancy profession continues to have certain elements of protection (created by statutes requiring audits for certain entities); the institutional structure of accounting, however, has long been built on large-scale entities (see Subcommittee on Reports, Accounting, and Management 1977), and the large accounting firms have been relatively quick to seize opportunities beyond the traditional accounting role. Another of the classic "professions," the clergy, has been forced to come to grips with elements of postprofessionalism for radically different reasons: the inability to recruit sufficient numbers of individuals to join the profession. This issue has led to two developments: the opening of the clergy of many religions to persons previously excluded (i.e., women) and an increased reliance on laypersons to carry out duties previously the responsibility of members of the clergy.

[29] The European Union also presents an interesting example of globalization forcing the creation of a profession that previously had been subsumed within another profession: dentistry in Italy (see Orzack 1981).

nication technology allows the local physician to fax test results, medical histories,and so on, and that same technology can allow instantaneous transmission of electronic data (EKG, digital imaging, etc.) that at one time would have necessitated the patient traveling 10,000 miles. Similarly, information technology allows lawyers in New York, London, and Singapore to work simultaneously on documents needed for a complex financial transaction in Hong Kong. A personal injury lawyer in Charleston, South Carolina, can obtain copies of previous depositions by an opposing expert witness via overnight courier (or even within the hour using facsimile transmission) from an attorney in Portland, Oregon. Or, a solicitor in England working on tobacco-related cases can access key documents obtained from American tobacco companies via the Internet.

Once it becomes difficult to control competition from players beyond a professional group's area of political influence, the ability to maintain the group's professional monopoly is doomed. It is only a matter of time before competition from within the local community (i.e., nonprofessionals) will join the competition from without.

Lawyers Confront Postprofessionalism

For the lawyers, postprofessionalism is real and immediate:

- Although corporate lawyers have for many years been very attentive to the demands of their fee-paying clients, corporations have become increasingly sophisticated in their use of legal services (Banks 1983; Brennan 1998a; Morrison 1998; Wessel 1976).[30] In the 1970s, corporations might have automatically turned to "their" outside law firm, but today corporations put work out for bid, inviting interested firms to participate in a "beauty contest." Furthermore, corporations regularly demand that their outside law firms consider alternatives to hourly billing in pricing their services (but see Barrett 1996; Leibowitz 1998; Richert 1994). More generally, lawyers are having to recognize and deal with growing consumer consciousness, particularly in the United States but increasingly elsewhere as well (Flood 1991; Goriely 1994; Hanlon 1997:813; Henning 1992; Jones 1988:686; Sherr et al. 1994; Sommerlad 1995).
- Until recently, a lawyer who achieved partner status in a large corporate law firm could look forward to a secure position and many years of a substantial income, but today corporate legal practice has become a world of change and turmoil. Employment structures have radically changed to include a variety of types of positions, and firms regularly

[30] Concerns about billing by corporate law firms can only be heightened by research showing large-scale billing frauds by lawyers (including managing partners) in such firms (Lerman 1999).

shed partners,[31] dissolve (see, for example, Kumble & Lahart 1990), and merge (Galanter & Palay 1992:50–61). Life in a large corporate law firm increasingly resembles life in the management sector of any large business.

- In the 1980s and 1990s, a number of bar-related groups and commissions have been appointed to examine the issue of whether it is time for the legal profession to come to grips with the reality of nonlawyers providing a wide range of legal services; typically, the resulting report has recommended finding a way to accommodate (and regulate) the competing providers (Commission on Nonlawyer Practice 1994, 1995; Ianni 1990; Public Protection Committee 1989).
- We are beginning to see the development of computer-based "expert systems" that can be employed to handle routine cases such as valuing personal injury claims or uncontested divorces (Archer 1996; Wall & Johnstone 1997:109–11; Webster 1994).

The response by the legal profession to these and other developments has been to try to hold onto an outmoded image of professionalism. Compared with other professions, the legal profession may have had a stronger ally in the state because of its close connection to state functions (Krause 1996:253; Rueschemeyer 1989). Nonetheless, although lawyers have avoided coming to grips with the "brave new world" of postprofessionalism, that avoidance has not prevented that new world from emerging.

Resisting Competitors

The legal profession's continued resistance to the tides of postprofessionalism is nowhere more evident today than in their efforts to retain control over the market for legal services (Baker 1999). Segments of the bar have strenuously opposed any opening of what they deem to be legal practice to nonlawyers (see France 1995a), even though nonlawyer practice is already common in many areas (Commission on Nonlawyer Practice 1995; Kritzer 1998); to date, they have largely succeeded, at least in terms of formal rules. Whether the bar can successfully resist significantly increased intrusion of nonlawyers into areas previously claimed by lawyers much longer is doubtful.[32] The strategies (see

[31] Although news reports in specialized periodicals (e.g., *National Law Journal*) of partners being dismissed are quite common, I know of no hard data on the actual frequency of these events.

[32] One might ask whether there was ever any validity to the arguments used by the legal profession in support of limits on who could provide legal services, or did the success of the profession in asserting a broad monopoly simply reflect the political power of the profession? Studies of complaints about "unauthorized practice" show that the source of complaints is not predominantly dissatisfied consumers, but lawyers concerned about competition (see Johnstone 1955:3–4; Rhode 1981:29–38). Furthermore, what systematic empirical research there is consistently provides little or no support for the arguments of the professionals seeking to protect their turf (see Bogart & Vidmar 1989; Genn & Genn

Brockman 1997; Witz 1992) previously pursued by lawyers and other professions simply are ceasing to be as effective as they once were, and the number (and vigor) of actual and potential competitors is sharply increasing.

On the political side, observers have pointed out that U.S. legislatures are relatively unique in the high proportion of lawyers among their members. One might argue that lawyers have only maintained their control over delivery of legal services because of their political strength. This argument, however, neglects that professional monopolies have involved fields other than law (Krause 1996; Larson 1977). Furthermore, the conflicts within the legal profession, both in the United States and elsewhere, are deep and longstanding (see Auerbach 1976; Krause 1996:191), and given the depth of the conflicts, there is no reason to expect that the profession itself would be united over the issue of what constitutes legal practice.

What else besides politics might be holding back the post-professional tide in the legal services market? It might be that clients value the professional/client relationship in ways that will make moving toward paraprofessionals difficult. Seron argues that the solo and small-firm lawyers she studied perceived that the relationship they had with a client was very important from the client's perspective (Seron 1996:106–26). Interestingly, in the cases where this relationship is probably the most true—divorce cases—many of the practitioners are uncomfortable with the nature of client expectations for the lawyer/client relationship. They see the client as expecting a relationship that the lawyer either cannot guarantee to deliver, the knight in shining armor advocate, or is not trained to deliver, the social worker/therapist (but see Cotts 1998; Sarat & Felstiner 1986).

Although many clients do want a "relationship" with the provider of "professional" services, others see the professional simply as a service provider from whom they want an efficiently delivered service. Expectations vary among clients and patients in the same way that expectations vary among consumers generally. Just as some consumers value the product of the craftsperson and will choose that over the more standard industrial product despite the increased cost, some consumers may prefer a relationship with a professional and be willing to pay for it. This pattern exists in today's medical marketplace. There is a lot of discussion of the breaking of the traditional doctor-patient relationship.[33] Although many people are forced by employers or others to obtain medical services through one of the new types of organizations, others have a choice. Typically, that choice involves paying

1989; Kritzer 1998), in no small part reflecting that much of legal practice does not draw upon technical legal knowledge (Kritzer 1990:90–105; Rueschemeyer 1973:23, 194).

[33] What most people are actually referring to is the general practitioner-patient relationship; few people have a long-standing relationships with their surgeon!

a premium for the traditional fee-for-service medical service; just as some fraction of consumers of products pay for the "handmade" or "custom" item produced by a craftsperson, some people are willing to pay a premium to maintain a traditional doctor-patient relationship and to increase their flexibility of choice among medical service providers. In 100 years, it will be interesting to look back and see if the expectations associated with the doctor-patient relationship have disappeared as those who remember, probably in somewhat idealized terms, "the way it used to be" pass from the scene.

At the other end of the spectrum, the corporate hemisphere continues to resist moving toward multidisciplinary practices (Lee 1992:39–42; Van Duch 1999a), even as pressures to do so mount (Van Duch 1999b). This resistance is at the same time that large accounting firms are moving into areas previously the preserve of lawyers (see Dezalay 1992:165–201; Dezalay & Sugarman 1995). To some degree, recent patterns reflect global developments; that the definition of formal professional domains varies sharply from one country to another means that nonlawyers in some countries have handled tasks that in other countries are the preserve of the legal profession (Abbott 1988:275–78; Abel-Smith & Stevens 1967:401–2). The big accounting firms have the resources and muscle to chart new directions in methods of delivering professional services to the corporate community. Leaders of the legal profession raise alarms about these developments (see Fox 1998), pointing to professional standards (e.g., conflict of interest rules) that differentiate lawyers from accountants. Even while bar leaders raise such alarms, however, some of the traditional "advantages" of the legal profession erode. In the 1998 legislation reforming the U.S. Internal Revenue Service (IRS), accountants and others authorized to practice before the IRS were granted the equivalent of attorney-client privilege in noncriminal tax matters (Johnston 1998). Previously, lawyers could use their privilege, which was not held by accountants, as a means of attracting tax clients. Although lawyers still have a privilege advantage in criminal cases, for large corporations it is seldom an issue.

Whereas previously the legal profession lost control over the production of producers to the legal academy, the near future is likely to see substantial erosion in the profession's control over the production by producers. This erosion will come from challenges by potential competitors (other professions such as accounting and paraprofessionals), from economic pressures to reduce the cost of legal services, and from politicians seeking to capitalize on the apparent public disaffection with lawyers (Ballard 1999). What specific changes might we see in the legal profession? Let us now turn to that question.

The Next Round of Changes in Legal Practice

Specialization

The issue of specialization, which is by no means new,[34] continues to be extremely controversial (see Rosen 1990). Anglo-American legal professions cling to the image of the general practitioner, and there are many such practitioners at work across the country, particularly in smaller cities and towns (Economides 1992; Landon 1985, 1990), but they are increasingly the exception. In addition to the general structure of corporate legal firms, some substantive areas (e.g., tax and intellectual property) have long been the province of specialists.

Only since the 1970s has the issue of specialization begun to produce any formal developments, with the California bar adopting the first state-level system for certifying some specialists in 1973 (LoPucki 1990:53) and private groups such as the National Board of Trial Advocacy creating their own specialist certification systems. In the United States, the specialization issue has been closely tied up with the question of lawyer advertising: under what circumstances should a lawyer be permitted to hold himself or herself out as a specialist in a particular area (see Podgers 1993)? The ABA Model Rules of Professional Conduct prohibit lawyers from claiming specialization except in officially recognized categories (ibid., p. 2). In the wake of the U.S. Supreme Court's 1977 decision striking down absolute bans on lawyer advertising, *Bates v. State Bar of Arizona* (1977), the ABA moved to create model standards for specialty areas, adopting a plan developed by the Standing Committee on Specialization in 1979 (see Rosen 1990:3).

Only a minority of states have actually adopted systems for certifying specialists (ABA Standing Committee on Specialization 1993; LoPucki 1990:53), and proposals for such systems have often been controversial (see also Gherty & Dietrich 1991; LoPucki 1990:1–2):

> Would recognizing specialties give some lawyers an advantage over others in getting clients?
>
> Would uncertified lawyers who actually practice in an area be more at risk for claims of malpractice in the event of a negative outcome?
>
> Would specialization drive up fees?

Added to the controversy over the impact of recognizing specialization is the dilemma of which *dimensions* of specialization to recognize. In addition to substantive areas of law (tax, admiralty, real estate), there is the question of task-oriented specialties (liti-

[34] Ariens (1994) recounts the history of the debate over specialization, which dates from at least the 1920s.

gation, administrative process, etc.) or venue-oriented specialties (IRS, Securities and Exchange Commission, federal court, U.S. Supreme Court, etc.).[35]

Generally, the developments with regard to specialization have been experience related rather than training related.[36] Unlike the medical profession,[37] where one enters a formal training program (a residency) to become a specialist, a lawyer works in the field to become certified as a specialist. Only after a number of years of experience can the lawyer seek such certification. One can argue that training for a specialization today is where legal training was at the beginning of the twentieth century: it is essentially an apprentice system (but often without the guidance of an experienced mentor). Just as legal training moved from the law office to the law school, it may be time that specialized training made a similar move.

Yet even absent either formal training programs or much in the way of formal certification programs, specialization is a reality within the practice of law. The range of legal issues that a client may bring, whether that client is a corporation or a college professor, is beyond the competence of a single lawyer. A lawyer whose practice focuses on residential real estate transactions may be able to prepare a simple will for a client whom the lawyer represented on a home purchase or sale, but that lawyer may be well beyond his or her competence in preparing a will that anticipates the complexities of a six- or seven-figure estate. It would take a specialist in trusts and estates, whether a lawyer or an accountant or possibly an estate planner, to deal with the issues involved. The profession has to confront the realities of specialization in practice, and the legal academy needs to incorporate that reality into formal legal education.[38]

Dissolving Disciplinary Boundaries: The Coming Rise of Multidisciplinary Practices

Although specialization will increasingly define the nature of legal practice, pressures also work in the opposite direction. One is the development of multidisciplinary practices and partnerships. Until very recently, the American (and English) legal professions staunchly maintained the position that lawyers must not

[35] England has long recognized forum-based specialization (barristers held a monopoly in the higher courts), but this specialization has begun to break down with the certification of solicitor advocates (Barnard et al. 1999; Zander 1997). Yet although the traditional structure of specialization is under attack, the certification process shows that the recognition of specialization is not.

[36] This approach to specialization, either certified or informal, seems to be the norm within common-law systems (see, for example, Stager 1990:199–201).

[37] On the development of specialization within the medical profession, see Stevens (1971:74–289)

[38] See Kritzer (1998:209–16) or Van Alstyne et al. (1990:112–25) for discussions of how specialized training might be incorporated into the legal academy.

work in private practice situations where they are under the supervision or control of nonlawyers. Among other things, this position means that all partners in a private practice that provides legal services must be lawyers. The stated rationale for these restrictions turns on the types of ethical obligations lawyers have that do not apply to nonlawyers: the attorney-client privilege, conflict of interest rules, the lawyer's role as an officer of the court, and so on (see Law Society 1987b).

Among formal professions, only lawyers have succeeded in maintaining these types of distinctions.[39] Large medical practices today involve a variety of professions and paraprofessions (medicine, optometry, podiatry, midwifery, physical therapy, social work, etc.). Similarly, the large accounting firms include, in addition to CPAs, information professionals and non-CPA tax specialists. Some American law firms have gotten around restrictions on multidisciplinary practices by spinning off as separate firms units providing services that require the expertise of professionals other than lawyers (see Gibbons 1989; Van Duch 1998). Pressure to deal more systematically with the multidisciplinary needs of clients has grown sharply in the last few years (Van Duch 1999b), in part as a response to other professions, such as accounting, which increasingly are recognized as providing services previously thought of as in the domain of the legal profession (Hayes 1998). On the corporate side, this pressure will be particularly intense as legal practice globalizes (Brennan 1998b), with the necessity of dealing with national differences in the boundaries among professions. Legal professions have come to recognize the necessity of confronting this issue:

- At its 1999 summer meeting, the American Bar Association considered proposals from a commission created to consider the issues raised by multidisciplinary practices (Commission on Multidisciplinary Practice 1999; Gibeaut & Podgers 1998; Molvig 1999; Van Duch 1999a).
- The prior year, leaders of the Law Society of Upper Canada (Ontario) debated relaxing existing bans on such practices (Rose 1998a), and in 1999, several committees for the Canadian Bar Association and the Federation of Law Societies of Canada came down in favor of rules to permit fee sharing arrangements (Rose 1999a).
- In 1998, the Paris bar voted to accept a form of multidisciplinary partnership (Rose 1998d).
- The Law Council of Australia voted on a draft policy statement concerning multidisciplinary practices in December 1998 (Rose 1998b).

[39] Some forms of multidisciplinary practice by lawyers—for example, lawyers who themselves offer a variety of both legal and nonlegal (e.g., insurance, real estate sales, title, accounting) services—have long been accepted (Wolfram 1999).

- The English Law Society (the organization of solicitors) is involved in a consultation to try to find some workable arrangement for multidisciplinary partnerships (Rose 1998e).
- The Dutch bar has been engaged in negotiations with international accounting firms over permitting multidisciplinary practices in the Netherlands (Rose 1998c).
- The International Bar Association, at its 27th biennial conference in 1998, passed a resolution concerning the regulation of multidisciplinary practices (Rose 1998f, 1998g).

Thus, long-standing barriers against lawyers working in partnerships with other professionals appear to be on the verge of collapse (but see Rose 1999b). The apparent suddenness of recent developments might go so far as to provoke images of the tumbling of the Berlin Wall, which had the same seeming permanence as the long-standing prohibitions on lawyers forming multidisciplinary practices (see Law Society 1987b).

In the years to come, the lines among professions, both formal and general, as they were known throughout the twentieth century will become much less distinct and will perhaps begin to disappear. The groupings of services will probably be less along the lines of professions as defined today and much more along substantive or client lines. Thus, for a corporation, rather than turning to (1) a law firm to handle labor negotiations, (2) a specialized service firm to handle unemployment compensation issues, and (3) an insurance company to handle workers' compensation, one might see a generalized employee services firm that serviced all those areas with a combination of lawyers, mediators, accountants, risk managers, and so on. Similarly, where today a residential property purchase might involve a real estate broker, an attorney, a title insurer, an engineering firm to inspect a property, an insurance broker to provide casualty insurance and a home buyer's warranty, and a mortgage company to provide a mortgage, in the future all these services might be grouped into a single "home buyers' service corporation" (one already sees effective combinations of many of these services, both in the United States and other common-law countries). How far these kinds of combinations will extend is the unanswered question.

Changing Structures of Firms

For those law firms that remain focused solely on law, the structure of the firms will almost certainly change. In the large corporate arena, this issue has been discussed extensively, particularly in terms of the dynamics promoting increasing size (see particularly Galanter & Palay 1992). The changes, however, will not be limited to the big corporate firm. Two changes are already obvious.

The first is the changing status of lawyers within firms. The modern American law firm developed along the distinction be-

tween lawyers who were partners (owners) and those who were associates (employees). The corporate firm today has myriad categories: equity partner, nonequity partner, of counsel, associate (partner track and nonpartner track), contract lawyer, and so on. These categories have developed in significant part to allow firms to be more responsive to client needs. The traditional partner/associate model effectively locked firms into particular patterns of staff and services. The much more diverse set of categories allows firms to be much more responsive to the needs of clients and the flow of work.

Outside the corporate firm, it is increasingly common for lawyers to speak about positions in terms of "owners" and "employees." Most often, these terms reflect the reality that in small firms, the expectation is often that a lawyer-employee (a nonowner) will work in the firm for a period of time to gain experience and then move on; the labels avoid any suggestion of an expectation of partnership. In other situations, a law practice may be built around the reputation of the "owner," which is probably most common in more entrepreneurial areas of practice such as plaintiffs' personal injury. Often, these practices stay relatively small, in part because of the owner's dominance and in part because the work does not itself require large groupings of lawyers. In either case, the "owner"/"employee" distinction sees the law practice in a more clearly business-oriented mode. Despite the frequent cries of members of the legal profession that the practice of law is becoming "too much like a business," this trend will in fact only increase in the future.

One way the "business" pressures will be evident will be in increasing pressure to find cost-efficient ways to deliver legal services. For both corporate and personal services firms, one route will be in the increasing use of nonlawyer staff, whether called paralegals, legal assistants, legal secretaries, or something else. These staff members will handle relatively routinized aspects of the legal work, including basic computerized legal research, review of documents, drafting of relatively standard documents, interaction with outside parties (experts, service firms, etc.), and anything else the lawyers believe that a particular paralegal is capable of handling. The pressures for efficiencies will break down many of the traditional barriers. As noted earlier, in England it is already common for "legal executives" (roughly equivalent to paralegals) to handle many aspects of criminal court work (see McConville et al. 1994), which has been a result of pressures to reduce the cost of providing criminal defense services. These types of patterns will become more widespread.

A second way that business, or "commercial," pressures on corporate law firms is already evident is in the shift from departmental structures based largely on substantive areas of law (e.g., property, finance, contracts, tax, trusts and estates, litigation) to

structures based on the industries of the targeted clients. Today large law firms commonly have groups organized around major client groups such as the computer industry, healthcare, pharmaceuticals, transportation. Although such organization is not entirely new (it has long been common for some large firms to have large departments focused on banking), there does appear to be something of a shifting emphasis toward defining practices based along commercial lines rather than along legal-professional lines (Hanlon 1997:809–10).

Changing Demands on (Corporate) Firms

Increasingly, the concern of legal practitioners is one of efficiently delivering their product in a way that ensures quality. Previously, large firms viewed the partner/associate system as a vehicle for achieving these ends, but firms today are confronting corporate clients who demand efficiencies and accountability that are the anathema of the "Cravath" system. These clients no longer rely on strong ongoing relations with a single (or primary) outside law firm; rather corporations today look to outside lawyers for "specialized services on a case-by-case, transaction-by-transaction basis" (Nelson & Nielson 1997:1). Thus, the corporate client might once have seen a value to subsidizing "their" outside law firm's development of new legal talent, but that is no longer the case.

One impact of this change is that the organizational language of a large firm practice today looks very much like the language of other large organizational providers of services: teams, accountability, total quality management, information technology, and so on (see Henning 1992, 1997; Landis 1997; Sommerlad 1995). Another impact is that where previously firms recruited at only the entry level and promoted from within, firms today seek legal talent across the experience spectrum; this type of staff recruitment is also an important means of securing clients (experienced lawyers bring their existing clients with them to their new firm). The emphasis within the firms is no longer on professional development and professional autonomy, but on marketing (Galanter & Palay 1992:53) and delivering the kind of service for which wealthy clients are prepared to pay.[40]

The result of these developments is that large corporate firms seek out ways to deliver services that provide flexibility and reduce costs. The former is accomplished by creating new forms of employment of lawyers that avoid the commitments of the associ-

[40] There is a danger here that I am overstating the degree of change (but see Galanter & Palay 1991:20–30). Whether there was ever some golden age when the big firms did not keep a very close eye on the bottom line is doubtful. The emphasis, however, has almost certainly changed, perhaps best reflected in the concern about generating billable hours (Galanter & Palay 1991; Landers et al. 1996).

ate/partner system; the use of paralegals and legal assistants to perform routine tasks previously assigned to entry-level lawyers and sometimes nonroutine tasks of the type one would expect to be handled by more senior lawyers[41] is a key approach to the latter. Where once the cost of training new attorneys was typically shifted directly onto clients, today firms have to find other ways of providing experience and training (see France 1995b).[42]

Subcontracting Elements of Legal Services

One way that industrial production has been rationalized is through subcontracting. Rather than producing every element of a product, manufacturers turn to subcontractors to produce major elements that can be incorporated into their products. This case is particularly true when the product has highly specialized elements that must be produced in a manner that is tangential to the primary manufacturer's production process. In the health arena, one sees this in a number of areas. At one time, individual dentists produced "appliances" such as dentures and crowns for their patients. Today, most dentists (at least in the United States), rely on specialized suppliers to produce the individualized products (these suppliers have highly skilled technicians and equipment that permit much more efficient production that can be done by the individual dentist).

Although it is common today for lawyers to refer cases and clients to other lawyers, either because a case is outside a lawyer's areas of expertise or because of the resources needed to handle a case, it is unusual for lawyers to subcontract elements of a case to other law firms (although tasks such as litigation management are already being subcontracted). As the demands for efficiencies increase, one might expect to see specialized service providers develop that concentrated on very specific aspects of a case. Legal research or legal writing are possible examples. If a lawyer needed a brief on a particular issue, a specialized legal research firm employing skilled paralegals, legal writers, and editors might be employed to produce the brief.

[41] Recently, I attended a meeting where the major law firm involved in the case was represented not by one of the firm's partners, or even by an associate, but by a senior paralegal. A recent study of criminal representation in England reported that it was common for nonlawyers to appear in court on behalf of criminal clients (McConville et al. 1994), and 1998 legislation allows nonlawyers to handle certain in-court functions for the Crown Prosecution Service (Verkaik 1999; White 1998); both internal and external evaluations of the use of "lay presenters" have been very positive (Crown Prosecution Service Inspectorate 1999; Ernst & Young 1999).

[42] One method of training litigation associates used by some large firms is to assign young trial attorneys to work at the district attorney's office (or some similar agency) for a time so that they quickly obtain substantial courtroom experience while simultaneously fulfilling the firm's pro bono obligations (see Williams 1994).

Connecting Lawyers and Clients

One side effect of the technology that is pushing change in legal practice will affect the "marketing" of legal services. Large corporations have long had the ability to seek legal counsel in a national market. Clients on the "personal services" side (Heinz & Laumann 1982; Heinz, Nelson, & Laumann 1998), however, have relied almost exclusively on the local market. In turn, although some lawyers have used modern advertising techniques to attract clients, most have continued to rely on traditional word-of-mouth referrals from prior clients, repeat clients, and referrals from other local lawyers (see Daniels & Martin 1999; Kritzer & Krishnan 1999; Van Hoy 1999). The Internet provides a vehicle for potential clients to locate lawyers in a wholly new way, particularly if the potential client has some sort of fairly esoteric legal problem (e.g., an injury arising from the use of a particular machine or tool). By using a site that searches lawyer directories (e.g., Martindale-Hubbell's Lawyer.com) or an online lawyer referral service, potential users of lawyers' services can find lawyers purporting to work in the area of the person's needs. More general searches of the Internet allow the potential client to find others outside his or her own community with similar problems and to get information on and recommendations regarding lawyers. Lawyers, in turn, are provided with a new advertising medium. Carefully designed Web sites can provide "hits" on searches made by potential clients. Legal referral services increasingly have a presence on the Internet (Leibowitz 1999a), and they may be another new vehicle for connecting lawyers and clients.

Although there are still major issues concerning who may practice law where (and what constitutes the location where law is being practiced), information technology is radically changing markets from local to national and even international. Particularly where practice does not require a physical presence (or where "appearance" may be made over an electronic hookup, which is increasingly practical with improvements in interactive television), lawyers will no longer be bound to a relatively small geographic area and potential clients will have a wider range of lawyers from which to choose.

Increased Role of Electronic Tools in Legal Research and Practice

Information tools such as Westlaw and LEXIS have radically altered how lawyers can carry out legal research. Until recently, however, the cost of using these tools was quite high and was often prohibitive for the provider of services to clients without the resources of a large corporation. The cost of accessing electronic research resources has been plummeting in recent years,

both through free or low-cost services on the Internet and through competitors to Westlaw and LEXIS that provide CD-ROM–based services at much lower cost.

In the United States, one nagging problem for many such alternatives has been the control over citations exercised by West Publishing. The pressures arising from demands by alternative producers have begun to crack this control. A number of states have adopted "vendor neutral" citation systems (typically involving a combination of year, state name, case number, paragraph number). More important, West Publishing has effectively lost its copyright over pagination (and its system of "star pagination" in electronic versions of decisions) as a result of several 1998 court decisions (Ebbinghouse 1999). These developments will serve to reduce the cost of electronic research tools further and thus increase their use by lawyers (and others doing legal research).

These types of research tools are familiar to all practitioners and researchers. What will lead to more change are the new types of services that are becoming available. Take CyberSettle.com, for example. This service was initially marketed as a tool to assist in settlement processes by allowing parties to make a series of settlement offers confidentially and then letting the service provider determine whether there is a settlement based on a set of matching rules.[43] More important, however, is that over time, the provider of the service will develop a large database of cases with the kind of information that will allow the valuing of claims; this information could then be marketed both to lawyers and to claimants themselves. Another example of an online service that is breaking new ground is VirtualJury.com; this site is designed to provide an online focus group type of review of cases similar to what jury consultants do on a face-to-face basis.

Access to Legal Services

Legal services is a broad concept, encompassing a wide range of activities. The legal professions of various countries differ significantly in the range of activities over which they have tried and succeeded in asserting control (e.g., there are no legal limits in England and Wales on who may provide legal advice, in contrast to the very stringent limits in the United States). In those areas of legal services where lawyers have obtained control, access to services depends on a combination of fee structures, client resources, and availability of legal aid. Opening previously controlled legal services for delivery by those who do not possess the full credentials of a legal professional has the potential of greatly widening access to legal services. This access will come in a variety of different ways.

[43] A similar service is offered at www.settleonline.com, which is part of a larger alternative dispute resolution–oriented company, Resolute Systems.

The first will be a greatly expanded structure of standardized legal services offered through firms headed by lawyers but with services actually provided by specialized nonlawyers. Storefront, franchise law firms have existed in the United States for some years (Van Hoy 1997), but their growth has probably been constrained by the need to maintain the fiction that services are being delivered directly by lawyers. One can imagine a "legal services" firm (as distinct from a "law firm") that used staff with varying levels of training to handle routinized matters; the staff would rely heavily on information-based tools to produce "products" for the firm's clients. These firms would be able to deliver standardized services at relatively low costs. Central to the success of such legal services firms would be the acceptance of the idea of "standardized services" by the potential client population (franchise firms have often tried to maintain the fiction of individualized services; see Van Hoy 1995). In some areas, nonlawyers routinely deliver such standardized services (e.g., standardized home purchase contracts completed by real estate agents) already. As the standardized services become increasingly accepted, legal services firms would not necessarily require the employment of any lawyers.

The second way by which access to legal services would be increased is through delivery of legal services by nonlawyers working for social service or similar agencies. This situation is already happening in many areas (Kritzer 1998), most often in fields that private practice lawyers do not now find lucrative (e.g., unemployment compensation appeals, welfare benefit appeals). For example, the Legal Aid Society of San Francisco has a program to provide representatives for claimants in unemployment compensation appeals. The representatives include "law students, recent graduates, practicing attorneys, union representatives, and legal workers," and the program has a very high success rate, 84% compared with the 35% to 40% success rates of claimants statewide (Employment Law Center n.d.). In several states, advocates working through organizations such as parent information centers assist parents of disabled children in conflicts with educational authorities (Baker 1999). In England, the single largest providers of legal advice are probably the Citizen Advice Bureaux, which are actually staffed primarily by lay volunteers (Baldwin 1989; Goriely 1996:231–32; Richards 1989). Thus, in the future, one will find nonlawyers increasingly employed in various settings filling significant gaps in the provision of legal services.

Nonlawyers, however, will not work only in those areas neglected by lawyers, but will move into various specialized areas in direct competition with lawyers. The impact of this competition will be to reduce the costs of fee-based legal services. In the 1980s in England, the Thatcher government moved to open conveyanc-

ing work to specialized nonlawyers; one impact of this change was a rapid decrease in the fees charged for conveyancing work (Domberger & Sherr 1989). In Ontario, nonlawyers routinely provide representation in traffic court, charging fees below those charged by lawyers (Bogart & Vidmar 1988). Estate planning is often done by financial planners. One can image a variety of other areas where nonlawyers could effectively provide services: routine wills, uncontested divorces, routine auto accident claims, domestic violence injunction hearings, benefit claim hearings, and so on. Assuming that the current barriers can be overcome, the key to success of such alternative service providers will be the recognition by the public that sources of effective, affordable assistance are available. Information sources such as the Internet may play an important role in spreading the word about such services.

As my own research has shown, high-quality specialist nonlawyers can acquire the same types of reputational advantages that lawyers possess today, along with the same types of informal "system" (i.e., people) knowledge (Kritzer 1998). Thus, although at one time one might have argued that lawyers do more than just give legal advice and that it is the combination of skills and knowledge that set them apart from nonlawyers (e.g., a lawyer can get phone calls returned when a nonlawyer might not be so lucky), those advantages disappear as other types of service providers are recognized as effective players.

Increased Reliance on Self-Help

As discussed previously, one important implication of information technologies is the relatively easy access to information that was previously the exclusive domain of the professional. The amount of information readily available from a computer keyboard is staggering. In years past, it took significant training to learn how to access technical (including legal) information, but today, any junior high school student with access to the Internet can find much of that information. Specialized presses, such as Nolo Press, combined with software vendors and specialized Web sites that provide automated legal forms represent resources that are designed for self-help users, and lawyers in some states view such materials as a clear threat to their monopoly on legal practice (see Carvajal 1998; Leibowitz 1999a, 1999b). Groups such as the American Pro Se Association (www.legalhelp.org) are proliferating (providing what they label as "legal help" rather than "legal advice"). Web sites such as Lawyers.com and FindLaw.com provide links to many legal self-help sites and publications.

Finding information and knowing how to use it are two different things. I would not expect the hypothetical junior high school student to know how to put the information together to

answer a significant legal question, but an intelligent nonlawyer will be able to use these tools (e.g., Findlaw.com) to answer quickly many questions that previously required the services of a lawyer. As people recognize this capability, there will be an increase in the availability of simple training regimes that give nonlawyers (or laypersons vis-à-vis other professions) the basic knowledge to assimilate the information they can access. Already one can find such courses in areas such as family law, auto insurance, consumer rights, and workers' compensation (see Stein 1998). In addition, people who find information on the Internet may also turn to the Internet to seek out individualized legal advice, either through lawyer referral services or through some sort of online legal consultation; for example, one lawyer, disbarred in 1998 by the Arizona Supreme Court, has set up an online service that will, among other things, answer "legal questions for $24.95 and up, payable by credit card" (Van Voris 1999).[44]

I use the "self-help" phrase broadly to encompass any activity that customarily has been the province of the professional service provider. In the legal area, the model being pursued by previously described CyberSettle.com should eventually provide the capability for injured persons to determine what types of settlements others with similar injuries have received; a sophisticated site could rely on a database similar to that being developed at CyberSettle.com to provide an "expert system" for estimating the settlement or verdict value range within which an injury falls. Claimants could use information of this type to assess a settlement offer made either through an attorney or directly by an insurance adjuster. I-Courthouse.com is another Web-based service; the goal of this system is to provide a kind of online trial (probably closer to arbitration), with "jurors" recruited from among Web users; the creators of this site appear to have the goal that people will eventually have predispute contractual agreements to use their service if a dispute arises (much like today's arbitration clauses in contracts).[45] More generally, individuals might access "legal guidance systems" (Susskind 1998:xxiv) that lead them through the tasks involved in making basic deci-

[44] These types of services are still in the formative stage. When I tried to access one site (legaladviceonline.com), featured in an article in *The Internet Lawyer* (Neser 1999), I received the reply, **"This site has been removed due to non-payment"** [bold in original]; when I tried to access another site off the firm page of FindLaw (<www.legaladvice.com>), it too was unavailable.

[45] In a period of about 15 minutes, I was able to locate three sites offering some sort of online arbitration system, typically in somewhat specialized areas. These include the World Intellectual Property Organization Arbitration and Mediation Center, which originally focused on domain name disputes but has moved into other types of commercial issues (<http://arbiter.wipo.int/arbitration/online/index.html>); CyberArbitration, which focuses on cyberspace-related disputes including domain name issues (<http://www.cyberarbitration.com/arbitration.htm>); and CyberTribunal, a project based at the Centre de recherche en droit public, which also focuses on "cyber-conflicts" (<http://www.cybertribunal.org/english/html/project.asp>).

sions and presenting their claim to the insurance adjuster. In the medical arena, pharmaceutical companies rely on something of a self-help ethic in their advertising of prescription drugs directly to consumers, who then ask their physicians about the potential of the drugs. Although there is nothing directly analogous in the legal field, such advertising is just one more indication of what may be a rising self-help ethic.

Self-help will not eliminate the need for legal professionals or other legal practitioners, except perhaps in the simplest, most routinized of legal tasks (see Carvajal 1998). My own research (Kritzer 1998) makes it clear that specific experience is extremely important in dealing with certain types of legal matters and that experience cannot normally be acquired through self-help. The impact of self-help activities is going to be less in terms of eliminating the service provider and more in changing the types of services provided and modifying the relationship between the service providers and the recipients of the providers' services. With better information available, someone who previously sought professional-level services might feel more comfortable using a nonprofessional (in the formal sense) service provider. The user of that provider's services would be in a better position to make some judgments about the quality of the services being provided.

Better information will also change the relationship between formal professionals and the users of their services. The kinds of "information asymmetries" (Paterson 1996:156–58) that have been crucial for defining the professional/client relationship are undergoing drastic changes. The customary image of the professional-client/patient relationship clearly puts the professional in the superior position. Part of the autonomy of the formal professional is in deciding what is best for the client and then proceeding benevolently (or paternalistically) to do what the professional has identified as best.[46] Heinz and Laumann (1982:360–65) have shown that autonomy of this type is lacking in the corporate services sector of the legal profession. To the degree that the personal services lawyer has enjoyed the autonomy described by writers on the professions such as Heinz and Laumann, the growing self-help movement, and the information it makes available, will shift the balance more in the direction of the client.

Reduced Regulatory Autonomy

One aspect of the traditional claims for professions is regulatory autonomy. The lessening of information asymmetries between professionals and their clients (and possibly other inter-

[46] Although the image of the "paternalistic" professional persists, a variety of research raises challenges to this view (see, for example, Cain 1979; Flemming 1986; Rosenthal 1974; Sarat & Felstiner 1995).

ested persons) also serves to reduce the validity of the claim, central to regulatory autonomy, that only another professional can evaluate a professional's performance. Although professional disciplinary bodies have often included at least token laypersons, those bodies have almost always been under the control of members of the profession. This arrangement contrasts with licensing and regulatory bodies for many "nonprofessional" occupations. It will become increasingly difficult for professionals to maintain control over regulation of their members as the claims to exclusive knowledge become increasingly untenable.

The beginnings of these developments can already be seen. In Australia, where the state-level law societies traditionally exercised self-regulatory authority of practitioners, one state (Victoria) has moved that authority to governmental agencies (Legal Practice Act 1996), and the issue has been raised in at least one other state (Campbell 1997; see also Parker 1997b). In England, an official of the Lord Chancellor's Department raised the specter of this type of change in England in a 1999 speech to the annual conference of the Law Society, citing significant problems at the Law Society's Office for the Supervision of Solicitors (Lock 1999).

Another example of decreased regulatory autonomy has to do with changes in the administration of government-funded legal aid. In Britain, legal aid was administered for many years by the profession itself through the Law Society. In the late 1980s, this responsibility was moved to the independent Legal Aid Board (to be replaced in 2000 by the Legal Services Commission). Ontario has followed a similar pattern, starting with a legal aid plan administered by the Law Society of Upper Canada, but moving in 1997 to a system administered by an independent agency, Legal Aid Ontario/Aide Juridique Ontario. These independent agencies have seen their role as providing legal services rather than as providing lawyers' services and have been very active in seeking out ways of employing service providers outside the legal profession to meet the needs of their constituencies (Steele & Bull 1996; Steele & Seargeant 1999; Zemans 1999).

Conclusion

I am sure that the types of developments described only scrape the surface of what postprofessionalism will mean for the legal profession, the practice of law, and the provision of legal services. To the degree that current changes result from the combination of increased rationalization in knowledge and the growing power of information technology, the shape of the world with which today's formal professionals will have to cope will depend

on yet unseen developments in that rationalization process and the information technologies that have exploded recently.

In this new world, "professionals" will continue to be central, but the special place of the traditional professions will wither. Although I have called this development postprofessionalism, others might choose to label it professionalism, referring not to the withering of the formal professions but to the growth in what I referred to as general professions (Perkin 1996). Whatever the label, professionalism as Anglo-American societies have known it is fading. The new professionalism will be much more dynamic, reflecting the rapidity of change in the workplace and the accompanying demands of the market.

The professions are dead. Long live the professions.

Epilogue: Looking Forward to the Twenty-Second Century

Although I may be overstating the changes that are occurring, it is also very possible that I have grossly underestimated the changes that will be coming in the organization of work as applied to service providers. The origin of the rise of professions lies in some significant part in the nature of the knowledge base that existed at the time the professions came into prominence. My image of postprofessionalism revolves largely around the way that service providers segment and deliver services that draw on that knowledge base. It may well be, however, that the nature of knowledge is much more fluid than I have imagined and that the future organization of occupations will not turn on the kinds of expertise we see today. If knowledge becomes increasingly accessible in ways that require less and less specialized training and experience, we may see forms of organization delivering services that we cannot at this time readily imagine. Such a development would radically alter the way that work is organized, particularly in what we call the service sector of the economy. Perhaps there will be a postservice economy in the year 2100, and doctors, lawyers, and other professionals that we know today will have largely disappeared from our social and occupational structure.

References

ABA Standing Committee on Specialization (1993) *Specialization State Plan Book.* Chicago: American Bar Association.

Abbott, Andrew (1988) *The System of Professions: An Essay on the Division of Expert Labor.* Chicago: Univ. of Chicago Press.

Abel, Richard L. (1986a) "The Decline of Professionalism," 49 *Modern Law Rev.* 1–41.

——— (1986b) "The Transformation of the American Legal Profession," 20 *Law & Society Rev.* 7–17.

——— (1988) *The Legal Profession in England and Wales.* Oxford: Basil Blackwell.

——— (1989) "Between Market and State: The Legal Profession in Turmoil," 52 *Modern Law Rev.* 285–325.

Abel, Richard L, & Philip S. C. Lewis, eds. (1989) *Lawyers in Society: Comparative Theories.* Berkeley: Univ. of California Press.

Abel-Smith, Brian, & Robert Stevens (1967) *Lawyers and the Courts: A Sociological Study of the English Legal System, 1750–1965.* Cambridge: Harvard Univ. Press.

Aharoni, Yair, ed. (1993) *Coalitions and Competition: The Globalization of Professional Business Services.* New York: Routledge.

American Bar Association (1998) *Promoting Professionalism: ABA Programs, Plans, and Strategies.* Chicago: American Bar Association.

Anleu, Sharyn L. Roach (1992) "The Legal Profession in the United States and Australia: Deprofessionalization or Reorganization?" 19 *Work & Occupations* 184–204.

Archer, Ray (1996) "Do-It-Yourself Center Lets People Do Legal Legwork," *Arizona Republic,* 20 Oct., p. H1.

Ariens, Michael (1994) "Know the Law: A History of Legal Specialization," 45 *South Carolina Law Rev.* 1003–61.

Arruñada, Benito (1996) "The Economics of Notaries," 3 *European J. of Law & Economics* 5–37.

Ashley, William (1906) *An Introduction to English Economic History and Theory: Part II, The End of the Middle Ages.* New York: Longmans, Green.

Auerbach, Jerold S. (1976) *Unequal Justice: Lawyers and Social Change in Modern America.* New York: Oxford Univ. Press.

Baker, Debra (1999) "Is This Woman a Threat to Lawyers?" *ABA J.*, June, pp. 54–57.

Baldwin, John (1989) "The Role of Citizens Advice Bureaux and Law Centres in the Provision of Legal Advice and Assistance," 8 *Civil Justice Q.* 24–44.

Ballard, Mark (1999) "'Lawyer' Label Hurts at Polls," *National Law J.*, 22 Nov., pp. A1, A7.

Banks, Robert S. (1983) "Companies Struggle to Control Legal Costs," 61 *Harvard Business Rev.* 168–70.

Barker, Stephen F. (1992) "What Is a Profession?" 1 *Professional Ethics* 73–99.

Barnard, Matt, Linda Tsang, & Veronica Cowan (1999) "All Bar None—With the Access to Justice Bill Sweeping Away the Last Obstacles, the Stage Is Set for Solicitor Advocates to Shine," *Law Society's Gazette,* 30 June, pp. 20–24.

Barrett, Paul M. (1996) "Companies Make Little Headway Curbing Lawyers' Billable Hours," *Wall Street J.*, 2 Dec., p. B11.

Beardwood, Barbara (1999) "The Loosening of Professional Boundaries and Restructuring: The Implications for Nursing and Medicine in Ontario, Canada," 21 *Law & Policy* 315–43.

Bell, Daniel (1973) *The Coming of the Post-Industrial Society: A Venture in Social Forecasting.* New York: Basic Books.

Benson, Henry (1979) *The Royal Commission on Legal Services: Final Report.* London: HMSO.

Black, Anthony H. (1984) *Guilds and Civil Society in European Political Thought from the Twelfth Century to the Present.* Ithaca, NY: Cornell Univ. Press.

Blankenburg, Erhard (1998) "Patterns of Legal Culture: The Netherlands Compared to Neighboring Germany," 46 *American J. of Comparative Law* 1–41.

Bly, Laura (1999a) "A Network of Support: Patients Find Emotion, Practical Advice—and Each Other," *USA Today,* 14 July, p. 1D.

——— (1999b) "Personal Hunt for Help Finds Advice, Rants, Friends," *USA Today,* 14 July, p. 4D.

Bogart, W. A., & Neil Vidmar (1988) "Problems and Experiences with the Ontario Civil Justice System: An Empirical Assessment," in A. Hutchinson, ed., *Problems and Experiences with the Ontario Civil Justice System: An Empirical Assessment.* Toronto: Carswell.

——— (1989) *Empirical Profile of Independent Paralegals in the Province of Ontario.* Windsor: Univ. of Windsor Law School.

Bowles, Roger (1994) "The Structure of the Legal Profession in England and Wales," 10 *Oxford Rev. of Economic Policy* 18–33.

Brame, R.G. (1994) "Professionalism, Physician Autonomy, and the New Economics of Medicine," 171 *American J. of Obstetrics & Gynecology* 293–97.

Brennan, Lisa (1998a) "How Should Companies Pick Firms?" *National Law J.*, 24 Aug., pp. B1–2.

——— (1998b) "Linklaters Merger Is Just a Start," *National Law J.*, 10 Aug. pp. A1, 15.

Brickman, Lester (1989) "Contingent Fees without Contingencies: Hamlet without the Prince of Denmark?" 37 *UCLA Law Rev.* 29–137.

Brickman, Lester, Michael Horowitz, & Jeffrey O'Connell (1994) *Rethinking Contingency Fees.* New York: Manhattan Institute.

Brockman, John (1997) "'Better to Enlist Their Support Than to Suffer Their Antagonism': The Game of Monopoly between Lawyers and Notaries in British Columbia, 1930–81," 4 *International J. of the Legal Profession* 197–234.

Brody, Jaen E. (1999) "The Health Hazards of Point-and-Click Medicine," *New York Times*, 31 Aug., pp. D1, 6.

Burrage, Michael (1996) "From a Gentlemen's to a Public Profession: Status and Politics in the History of English Solicitors," 3 *International J. of the Legal Profession* 45–80.

Cain, Maureen (1979) "The General Practice Lawyer and the Client: Towards a Radical Conception," 7 *International J. of the Sociology of Law* 331–54.

Calhoun, Craig, & Martha Copp (1988) "Computerization in Legal Work: How Much Does New Technology Change Professional Practice," in R. L. Simpson & I. H. Simpson, eds., *Computerization in Legal Work: How Much Does New Technology Change Professional Practice.* Greenwich, CT: JAI Press.

Campbell, Roderick (1997) "Disciplinary Plan for Lawyers; Will Incident Prompts MLA's Move," *Canberra Times*, 30 Aug., p. A6.

Carlin, Jerome E. (1962) *Lawyers on Their Own: A Study of Individual Practitioners in Chicago.* New Brunswick. NJ: Rutgers Univ. Press.

Carson, Clara (1999) *The 1995 Lawyer Statistical Report.* Chicago: American Bar Foundation.

Carvajal, Doreen (1998) "Lawyers Are Not Amused by Feisty Legal Publisher," *New York Times*, 24 Aug., pp. D1, 4.

Clark, Andrew (1992) "Information Technology in Legal Services," 19 *J. of Law & Society* 13–30.

Clark, Andrew, & Kim Economides (1988) "Technics and Praxis: Technological Innovation and Legal Practice in Modern Society," 15 *Sociolgia del diritto* 41–67.

Closen, Michael L., & G. Grant Dixon III (1992) "Notaries Public from the Time of the Roman Empire to the United States Today," 68 *North Dakota Law Rev.* 873–96.

Cohen, Julius Henry (1916) *The Law: Business or Profession?* New York: Banks Law Publishing.

Commission on Multidisciplinary Practice (1999) *Report to the House of Delegates.* Chicago: American Bar Association.

Commission on Nonlawyer Practice (1994) *Nonlawyer Practice in the United States: Summary of the Factual Record before the American Bar Association Commission on Nonlawyer Practice.* Chicago: American Bar Association.

——— (1995) *Nonlawyer Activity in Law-Related Situations: A Report with Recommendations.* Chicago: American Bar Association.

Commission on Professionalism (1986) *". . . in the Spirit of Public Service:" A Blueprint for the Rekindling of Lawyer Professionalism.* Chicago: American Bar Association.

Compton, Ted R. (1993) "The Emerging Role of the Paraprofessional," 63 *CPA J.* 71–72.

Cotts, Cynthia (1998) "They're Psych Ph.D.s and J.D.s," *National Law J.*, 31 Aug., pp. A1, 17.

Crompton, Rosemary (1990) "Professions in the Current Context," [Special Issue] *Work, Employment, & Society* 147–66.

Cronin, Blaise, & Elisabeth Davenport (1988) *Post-Professionalism: Transforming the Information Heartland.* London: Taylor Graham.

Crown Prosecution Service Inspectorate (1999) "Report on the Evaluation of Lay Review and Lay Presentation." London: Home Office (<http://www.homeoffice.uk/cpd/pvu/lay123.htm>).

Daniels, Stephen, & Joanne Martin (1999) "'That's 95% of the Game, Just Getting the Case': Markets, Norms, and How Texas Plaintiffs' Lawyers Get Clients," 20 *Law & Policy* 377–99.

Davis, Robert, & Leslie Miller (1999) "Millions Scour the Web to Find Medical Information," *USA Today*, 14 July , pp. 1A, 2A.

Dezalay, Yves (1992) *Marchands de droit.* Paris: Fayard.

Dezalay, Yves, & Bryant Garth (1997) "Law, Lawyers and Social Capital: 'Rule of Law' versus Relational Capital," 6 *Social & Legal Studies* 109–41.

Dezalay, Yves, & David Sugarman, eds. (1995) *Professional Competition and Professional Power: Lawyers, Accountants, and the Social Construction of Markets.* London: Routledge.

Dhavan, Rajeez, Neil Kibble, & William Twining, eds. (1989) *Access to Legal Education and the Legal Profession.* London: Butterworths.

Dixon, Jo, & Carroll Seron (1995) "Stratification in the Legal Profession: Sex, Sector, and Salary," 29 *Law & Society Rev.* 381–412.

Domberger, Simon, & Avrom Sherr (1989) "The Impact of Competition on Pricing and Quality of Legal Services," 9 *International Rev. of Economics* 41–56.

Ebbinghouse, Carol (1999) "West Loses Copyright Claim over Page Numbers." *Information Today*, 1 July, p 20.

Economides, Kim (1992) "The Country Lawyer: Iconography, Iconoclasm, and the Restoration of the Professional Image," 19 *J. of Law & Society* 115–23.

Employment Law Center (n.d.) *The Claims Project.* San Francisco: Legal Aid Society of San Francisco.

Ernst & Young (1999) "Reducing Delay in the Criminal Justice System: Evaluation of the Pilot Schemes." London: Home Office (<http://www.homeoffice.gov.uk/cpd/pvu/delay1.htm>).

Flemming, Roy B. (1986) "The Client Game: Defense Attorney Perspectives on Their Relations with Criminal Clients," 1986 *American Bar Foundation Research J.* 253–77.

Flood, John (1991) "Doing Business: The Management of Uncertainty in Lawyers' Work," 25 *Law & Society Rev.* 41–72.

——— (1995) "The Cultures of Globalization: Professional Restructuring for the International Market," in Y. Dezalay & D. Sugarman, eds., *The Cultures of Globalization: Professional Restructuring for the International Market.* London: Routledge.

——— (1996) "Megalawyering in the Global Order: The Cultural, Social and Economic Transformation of Global Legal Practice," 3 *International J. of the Legal Profession* 169–214.

Fox, Lawrence J. (1998) "Fee Fie Foe Firm: Big Four Gobble Up Lawyers," *National Law J.*, 27 July, p. A22.

France, Mike (1995a) "Bar Chiefs Protect the Guild." *National Law J.*, 7 Aug., p. A28.

——— (1995b) "Dilemma: Who Will Teach Associates?" *National Law J.*, 20 Nov., pp. A1, 22.

Freidson, Eliot (1983) "The Theory of Professions: State of the Art," in R. Dingwall & P. S. C. Lewis, eds., *The Theory of Professions: State of the Art*. London: Macmillan.

——— (1986) *Professional Powers: A Study of the Institutionalization of Formal Knowledge*. Chicago: Univ. of Chicago Press.

——— (1994) *Professionalism Reborn: Theory, Prophecy, and Policy*. Chicago: Univ. of Chicago Press.

Freudenheim, Milt (1997) "As Nurses Take on Primary Care, Physicians Are Sounding Alarms," *New York Times*, 30 May, p. A1.

Fulton, Oliver (1989) "Access to Higher Education: A Review of Alternative Policies," in R. Dhavan, N. Kibble, & W. Twining, eds., *Access to Higher Education: A Review of Alternative Policies*. London: Butterworths.

Galanter, Marc (1996) "Lawyers in the Mist: The Golden Age of Legal Nostalgia," 100 *Dickinson Law Rev.* 549–62.

Galanter, Marc, & Thomas M. Palay (1991) *Tournament of Lawyers: The Transformation of the Big Law Firm*. Chicago: Univ. of Chicago Press.

Galanter, Marc, & Thomas Palay (1992) "The Transformation of the Big Law Firm," in R. L. Nelson, D. M. Trubek, & R. L. Solomon, eds., *The Transformation of the Big Law Firm*. Ithaca, NY: Cornell Univ. Press.

Genn, Hazel (1988) *Hard Bargaining: Out of Court Settlement in Personal Injury Actions*. Oxford: Oxford Univ. Press.

Genn, Hazel, & Yvette Genn (1989) *The Effectiveness of Representation at Tribunals: Report to the Lord Chancellor*. London: Queen Mary College, Faculty of Laws.

Gherty, Terrence M., & Dean R. Dietrich (1991) "Specialization: Pro and Con," *Wisconsin Lawyer*, Nov., pp. 10–13.

Gibeaut, John, & James Podgers (1998) "Feeling the Squeeze: Commission Appointed to Assess Threat from Accountants," 84 *ABA J.* 88.

Gibbons, Thomas F. (1989) "Branching Out: At Least 45 Law Firms Have Opened Non-Law Business," 75 *ABA J.* (Nov.) 70–75.

Glaberson, William (1999) "Lawyers Contend with State and Federal Efforts to Restrict Their Rising Powers," *New York Times*, 5 Aug., p. A15.

Glendon, Mary Ann (1994) *A Nation under Lawyers: How the Crisis in the Legal Profession Is Transforming American Society*. New York: Farrar, Straus and Giroux.

Gordon, Robert W., & William H. Simon (1992) "The Redemption of Professionalism?" in R. L. Nelson, D. M. Trubek, & R. L. Solomon, eds., *The Redemption of Professionalism?* Ithaca, NY: Cornell Univ. Press.

Goriely, Tamara (1994) "Debating the Quality of Legal Services: Differing Models of the Good Lawyer," 1 *International J. of the Legal Profession* 159–72.

——— (1996) "Law for the Poor: The Relationship between Advice Agencies and Solicitors in the Development of Poverty Law," 3 *International J. of the Legal Profession* 215.

Hagan, John, Marjorie Zatz, Bruce Arnold, & Fiona Kay (1991) "Cultural Capital, Gender, and the Structural Transformation of Legal Practice," 25 *Law & Society Rev.* 239–62.

Halliday, Terence C. (1987) *Beyond Monopoly: Lawyers, State Crises, and Professional Empowerment*. Chicago: Univ. of Chicago Press.

Hanlon, Gerard (1997) "A Profession in Transition? Lawyers, the Market, and Significant Others," 60 *Modern Law Rev.* 798–822.

Hartmann, Michael (1993) "Legal Data Banks, the Glut of Lawyers, and the German Legal Profession," 27 *Law & Society Rev.* 421–41.

Haug, Marie R. (1973) "Deprofessionalization: An Alternative Hypothesis for the Future," 20 *Sociological Rev. Monograph* 195–212.

Hayes, Arthur S. (1998) "Bean Counters Win," *National Law J.*, 10 Aug., p. A4.

Hearn, Jeff (1982) "Notes on Patriarchy, Professionalization and the Semi-professions," 16 *Sociology* 184–98.

Heinz, John P., & Edward O. Laumann (1982) *Chicago Lawyers: The Social Structure of the Bar.* New York: Russell Sage Foundation.

Heinz, John P., Edward O. Laumann, Robert L. Nelson, & Paul S. Schnorr (1997) "The Constituencies of Elite Urban Lawyers," 31 *Law & Society Rev.* 441–72.

Heinz, John P., Robert L. Nelson, & Edward O. Laumann (1998) "The Changing Character of Lawyers' Work: Chicago in 1975 and 1995," 32 *Law & Society Rev.* 751–75.

Heinz, John P., Robert L. Nelson, Edward O. Laumann, & Ethan Michelson (1998) "The Organization of Lawyers' Work: 'Two Hemispheres' Re-examined." American Bar Foundation Working Paper #9706 (revised 20 Feb.).

Henning, Joel F., ed. (1992) *Total Quality Management for Law Firms.* New York: Practising Law Institute.

——— (1997) *Maximizing Law Firm Profitability: Hiring, Training, and Developing Productive Lawyers.* New York: Law Journal Seminars-Press.

Hicks, Margaret, & Victoria S. Rymer (1990) "Paraprofessionals in Public Accounting—Current State of Use," 60 *CPA J.* 84–86.

Howell, George (1878) *The Conflicts of Capital and Labour Historically and Economically Considered.* London: Chatto and Windus.

Hull, Kathleen E., & Robert L. Nelson (1998) "Gender Inequality in Law: Problems of Structure and Agency in Recent Studies of Gender in Anglo-American Legal Professions," 23 *Law & Social Inquiry* 681–705.

Ianni, Ron W. (1990) *Report of the Task Force on Paralegals in Ontario.* Toronto: Ontario Ministry of the Attorney General.

Illich, Ivan (1977) *Towards A History of Needs.* New York: Pantheon Books.

Illich, Ivan, Irving Zola, John McKnight, & Harley Shaiken (1977) *Disabling Professions.* London: Marion Boyars.

Johnson, Terence J. (1972) *Professions and Power.* London: Macmillan.

Johnston, David Cay (1998) "New I.R.S. Law: A Guide to Shifting Burdens," *New York Times,* 26 July, p. B10.

Johnstone, Quintin (1955) "The Unauthorized Practice Controversy: A Struggle among Power Groups," 4 *Univ. of Kansas Law Rev.* 1–57.

Jones, James W. (1988) "The Challenge of Change: The Practice of Law in the Year 2000," 41 *Vanderbilt Law Rev.* 683–95.

Katsh, M. Ehtan (1995) *Law in a Digital World.* New York: Oxford Univ. Press.

Kilborn, Peter T. (1997) "Doctors Organize to Fight Corporate Intrusion," *New York Times,* 1 July, p. A12.

Kletke, Phillip R., David W. Emmons, & Kurt D. Gillis (1996) "Current Trends in Physicians' Practice Arrangements: From Owners to Employees," 276 *J. of the American Medical Association* 555–60.

Kramer, Stella (1905) "The English Craft Gilds and the Government: An Examination of the Accepted Theory Regarding the Decay of the Craft Gilds," 23 *Studies in History, Economics, & Public Law.*

——— (1927) *The English Craft Gilds: Studies in Their Progress and Decline.* New York: Columbia Univ. Press.

Krause, Elliott A. (1996) *Death of the Guilds: Professions, States, and the Advance of Capitalism, 1930 to the Present.* New Haven, CT: Yale Univ. Press.

Kritzer, Herbert M. (1990) *The Justice Broker: Lawyers and Ordinary Litigation.* New York: Oxford Univ. Press.

——— (1991) "Abel and the Professional Project: The Institutional Analysis of the Legal Profession," 16 *Law & Social Inquiry* 529–52.

——— (1994) "Lawyer's Fees and the Holy Grail: Where Should Clients Search for Value?" 77 *Judicature* 186–90.

——— (1998) *Legal Advocacy: Lawyers and Nonlawyers at Work.* Ann Arbor: Univ. of Michigan Press.

Kritzer, Herbert M., & Jayanth Krishnan (1999) "Lawyers Seeking Clients, Clients Seeking Lawyers: Sources of Contingency Fee Cases and Their Implications for Case Handling," 20 *Law & Policy* 347–75.

Kronman, Anthony T. (1993) *The Lost Lawyer: Failing Ideals of the Legal Profession*. Cambridge: Belknap Press of Harvard Univ. Press.

Kumble, Steven J., & Kevin J. Lahart (1990) *Conduct Unbecoming: The Rise and Ruin of Finley, Kumble*. New York: Carroll and Graf.

Landers, Renée M., James B. Rebitzer, & Lowell J. Taylor (1996) "Rat Race Redux: Adverse Selection in the Determination of Work Hours in Law Firms," 86 *American Economic Rev.* 329–48.

Landis, Benjamin (1997) *The Governance of Law Firms*. Littleton, CO: Big Bison Press.

Landon, Donald D. (1985) "Clients, Colleagues, and Community: The Shaping of Zealous Advocacy in Country Law Practice," 1985 *American Bar Foundation Research J.* 81–112.

Landon, Donald L. (1990) *Country Lawyers: The Impact of Context on Professional Practice*. Westport, CT: Praeger Publishers.

Larson, M. S. (1977) *The Rise of Professionalism: A Sociological Analysis*. Berkeley: Univ. of California Press.

Law Society (1987a) *Improving Access to Civil Justice: The Report of the Law Society's Working Party on the Funding of Litigation*. London: Law Society.

——— (1987b) *Multidisciplinary Partnerships and Allied Topics*. London: The Law Society.

Lee, R. G. (1992) "From Profession to Business: The Rise and Rise of the City Law Firm," 19 *J. of Law & Society* 31–48.

Leibowitz, Wendy R. (1998) "Not Snow, Nor Sleet, Nor Gadget Boom Will Kill the Billable Hour," *National Law J.*, 31 Aug., p. B13.

——— (1999a) "Lawyers, $15.95 a Box," *National Law J.*, 22 Feb,. p. A18.

——— (1999b) "Regulators Crack Down on 'Cyberlawyers,'" *National Law J.*, 22 Feb., p. A5.

Lerman, Lisa (1999) "Blue-Chip Bilking: Regulation of Billing Expense Fraud by Lawyers," 12 *Georgetown J. of Legal Ethics* 205–365.

Linowitz, Sol M. (1994) *The Betrayed Profession: Lawyering at the End of the Twentieth Century*. New York: Charles Scribner's Sons.

Lipartito, Kenneth J., & Paul J. Miranti (1998) "Professions and Organizations in Twentieth-Century America," 79 *Social Science Q.* 301–20.

Lock, David (1999) "Speech to the Annual Conference of the Law Society." Speech to meeting of Annual Conference of the Law Society, Paris (29 Oct.) (<http://www.open.gov.uk/lcd/speeches/1999/29-10-99.htm>).

LoPucki, Lynn M. (1990) "The De Facto Pattern of Lawyer Specialization." University of Wisconsin, Institute for Legal Studies, DPRP Working Papers, Series 9.

Malavet, Pedro A. (1996) "Counsel for the Situation: The Latin American Notary, a Historical and Comparative Model," 19 *Hastings International & Comparative Law Rev.* 389–488.

McConville, Mike, Jacqueline Hodgson, Lee Bridges, & Anita Pavlovic (1994) *Standing Accused: The Organisation and Practices of Criminal Defence Lawyers in Britain*. Oxford: Clarendon Press.

McKinlay, John, & John Stoekle (1988) "Corporatization and the Social Transformation of Doctoring," 18 *International J. of Health Services* 191–205.

Mechanic, David (1976) *The Growth of Bureaucratic Medicine: An Inquiry into the Dynamics of Patient Behavior and the Organization of Medical Care*. New York: John Wiley & Sons.

Menkel-Meadow, Carrie (1989) "Exploring a Research Agenda of the Feminization of the Legal Profession: Theories of Gender and Social Change," 14 *Law & Social Inquiry* 289–319.

Miller, Leslie (1999) "Guidelines, Libraries Offer Cures for Web Confusion," *USA Today,* 14 July, p. 5D.
Molvig, Dianne (1999) "Multidisciplinary Practices: Service Package of the Future?" 72(4) *Wisconsin Lawyer* 10–13, 44–45.
Morrison, Rees W. (1998) *Law Department Benchmarks: Myths, Metrics, and Management.* Little Falls, NJ: Glasser Legal Works.
Nelson, Robert, & Laura Beth Nielson (1997) "The Ideologies of Corporate Lawyers: Cops, Counsel or Entrepreneur?" Presented at Annual Meeting of Law & Society Association, St. Louis, MO (29 May–1 June).
Nelson, Robert L. (1988) *Partners with Power: Social Transformation of the Large Law Firm.* Berkeley: Univ. of California Press.
Neser, Arlin P. (1999) "Legal Advice for Consumers Online," *The Internet Lawyer,* 1 Oct., p. 10.
OECD Workshop on Liberalisation of Trade Services (1997) *International Trade in Professional Services: Advancing Liberalisation through Regulatory Reform.* Paris: Organisation for Economic Co-operation and Development.
Olgiati, Vittorio (1994) "The Latin-Type Notary and the Process of European Unification," 1 *International J. of the Legal Profession* 253–68.
Orzack, Louis (1981) "New Profession by Fiat: Italian Dentistry and the European Common Market," 15A *Social Science & Medicine* 807–16.
Parker, Christine (1997a) "Competing Images of the Legal Profession: Competing Regulatory Strategies," 25 *International J. of the Sociology of Law* 385–409.
——— (1997b) "Converting the Lawyers: The Dynamics of Competition and Accountability Reform," 33 *Australia–New Zealand J. of Sociology* 39–55.
Parsons, Talcott (1954) "A Sociologist's Look at the Legal Profession," in *A Sociologist's Look at the Legal Profession.* New York: New York Free Press.
Paterson, Alan A. (1996) "Professionalism and the Legal Services Market," 3 *International J. of the Legal Profession* 137–68.
Perkin, Harold (1989) *The Rise of the Professional Society: England since 1880.* London: Routledge.
——— (1996) *The Third Revolution: Professional Elites in the Modern World.* London: Routledge.
Pierce, Jennifer L. (1995) *Gender Trials: Emotional Lives in Contemporary Law Firms.* Berkeley: Univ. of California Press.
Podgers, James (1993) "Recent Developments in Specialization: The Relationship between Specialization and Advertising," in American Bar Association Standing Committee on Specialization, ed., *Recent Developments in Specialization: The Relationship between Specialization and Advertising.* Chicago: American Bar Association.
Posner, Richard A. (1993) "The Material Basis of Jurisprudence," 69 *Indiana Law J.* 1–37.
Powell, Michael J. (1988) *From Patrician to Professional Elite: The Transformation of the New York City Bar Association.* New York: Russell Sage Foundation.
Public Protection Committee (1989) *Report of the Public Protection Committee.* San Francisco: State Bar of California.
Randolph, Lillian (1998) *Physician Characteristics and Distribution in the U.S., 1997–1998 Edition.* Chicago: American Medical Association.
Rhode, Deborah L. (1981) "Policing the Professional Monopoly: A Constitutional and Empirical Analysis of Unauthorized Practice Prohibitions," 34 *Stanford Law Rev.* 1.
Richards, J. (1989) *Inform, Advise, and Support: The Story of Fifty Years of the CAB.* London: Lutterworth Press.
Richert, David, ed. (1994) "Legal Billing: Seeking Alternatives to the Hourly Rate [Symposium]," 77 *Judicature* 186–202.
Ritzer, George, & David Walczak (1988) "Rationalization and the Deprofessionalization of Physicians," 67 *Social Forces* 1–22.
Rose, Neil (1998a) "Americans Launch MDP Probe," *Gazette,* 12 Aug., p. 1.

——— (1998b) "Australian Lawyers Head for MDP Freedom," *Gazette,* 28 Oct., p. 10.
——— (1998c) "Dutch Crisis over MDP Dispute with Andersen," *Gazette,* 30 Sept., p. 6.
——— (1998d) "French Lay Down MDP Guidelines," *Gazette,* 15 July, p. 6.
——— (1998e) "Society in Bid to Find MDP Formula," *Gazette,* 21 Oct., pp. 1, 5.
——— (1998f) "Trade Official Clears MDP Path," *Gazette,* 23 Sept., p. 6.
——— (1998g) "World Lawyers in MDP Change of Heart," *Gazette,* 16 Sept., p. 1.
——— (1999) "Canada Joins Clamour for MDP's," *Gazette,* 25 Aug., p. 6.
Rosen, Nathan Aaron (1990) *Lawyer Specialization: A Comprehensive Annotated Bibliography of Articles, Books, Court Decisions, and Ethics Opinions.* Chicago: American Bar Association, Standing Committee on Specialization.
Rosenthal, Douglas E. (1974) *Lawyer and Client: Who's in Charge.* New York: Russell Sage Foundation.
Rothman, Robert A. (1984) "Deprofessionalization: The Case of Law In America," 11 *Work & Occupations* 183–206.
Rueschemeyer, Dietrich (1973) *Lawyers and Their Society: A Comparative Study of the Legal Profession in Germany and the United States.* Cambridge: Harvard Univ. Press.
——— (1989) "Comparing Legal Professions: A State-Centered Approach," in R. L. Abel & P. S. C. Lewis, eds., *Comparing Legal Professions: A State-Centered Approach.* Berkeley: Univ. of California Press.
Sarat, Austin, & William L. F. Felstiner (1986) "Law and Strategy in the Divorce Lawyer's Office," 20 *Law & Society Rev.* 93–134.
——— (1995) *Divorce Lawyers and Their Clients: Power and Meaning in the Legal Process.* New York: Oxford Univ. Press.
Schneider, Eugene V. (1969) *Industrial Sociology: The Social Relations of Industry and the Community.* New York: McGraw-Hill.
Schön, Donald A. (1988) *Educating the Reflective Practitioner.* San Francisco: Jossey-Bass.
Seron, Caroll (1996) *The Business of Practicing Law: The Work Lives of Solo and Small-Firm Attorneys.* Philadelphia: Temple Univ. Press.
Seron, Caroll, & Kerry Ferris (1995) "Negotiating Professionalism: The Gendered Social Capital of Flexible Time," 22 *Work & Occupations* 22–47.
Sherr, Avrom, Richard Moorhead, & Alan Paterson (1994) "Assessing the Quality of Legal Work: Measuring Process," 1 *International J. of the Legal Profession* 135–58.
Slovak, Jeffrey S. (1980) "Giving and Getting Respect: Prestige and Stratification in a Legal Elite," 1980 *American Bar Foundation Research J.* 31–68.
Smigel, Erwin O. (1964) *The Wall Street Lawyer: Professional Organization Man?* Bloomington: Indiana Univ. Press.
Solomon, Rayman L. (1992) "Five Crises or One: The Concept of Legal Professionalism, 1925–1960," in R. L. Nelson, D. M. Trubek, & R. L. Solomon, eds., *Five Crises or One: The Concept of Legal Professionalism, 1925–1960.* Ithaca, NY: Cornell Univ. Press.
Sommerlad, Hilary (1994) "The Myth of Feminisation: Women and Cultural Change in the Legal Profession," 1 *International J. of the Legal Profession* 31–54.
——— (1995) "Managerialism and the Legal Profession: A New Professional Paradigm," 2 *International J. of the Legal Profession* 159–85.
——— (1996) "Criminal Legal Aid Reforms and the Restructuring of Legal Professionalism," in R. Young & D. Wall, eds., *Criminal Legal Aid Reforms and the Restructuring of Legal Professionalism.* London: William Gaunt and Sons.

Sommerlad, Hilary, & Peter Sanderson (1998) *Gender, Choice, and Commitment: Women Solicitors in England and Wales and the Struggle for Equal Status.* Aldershot, Hampshire: Ashgate Publishing.

Spangler, Eve (1986) *Lawyers for Hire: Salaried Professionals at Work.* New Haven, CT: Yale Univ. Press.

Stager, David A. A., in collaboration with Harry W. Arthurs (1990) *Lawyers in Canada.* Toronto: Univ. of Toronto Press.

Steele, Jane, & Gillian Bull (1996) *Fast, Friendly, and Expert? Legal Aid Franchising in Advice Agencies without Solicitors.* London: Policy Studies Institute.

Steele, Jane, & John Seargeant (1999) *Access to Legal Services: The Contribution of Alternative Approaches.* London: Policy Studies Institute.

Stein, Lisa (1998) "Law School for Nonlawyers Is Expanding Nationwide," *National Law J.*, 3 Aug., p. A9.

Stevens, Rosemary (1971) *American Medicine and the Public Interest.* New Haven, CT: Yale Univ. Press.

Stolberg, Sheryl Gay (1998) "As Doctors Trade Shingle for Marquee, Cries of Woe," *New York Times*, 3 Aug., pp. A1, 14.

Subcommittee on Reports, Accounting, and Management (1977) *The Accounting Establishment: A Staff Study.* Washington, DC: Committee on Government Operations, U.S. Senate.

Sugarman, David (1995) "Who Colonized Whom? Historical Reflections on the Intersection between Law, Lawyers, and Accountants in England," in Y. Dezalay & D. Sugarman, eds., *Who Colonized Whom? Historical Reflections on the Intersection between Law, Lawyers and Accountants in England.* London: Routledge.

——— (1996) "Bourgeois Collectivism, Professional Power and the Boundaries of the State. The Private and Public Life of the Law Society, 1825–1914," 3 *International J. of the Legal Profession* 81–136.

Suleiman, Ezra N. (1987) *Private Power and Centralization in France: The Notaires and the State.* Princeton, NJ: Princeton Univ. Press.

Susskind, Richard (1998) *The Future of Law: Facing the Challenges of Information Technology.* Oxford: Clarendon Press.

Toren, Nina A. (1975) "Deprofessionalization and Its Sources," 2 *Sociology of Work & Occupations* 323–37.

Unwin, George ([1904] 1963) *Industrial Organization in the Sixteenth and Seventeenth Centuries.* Reprint, London: Frank Cass.

Van Alstyne, W. Scott, Joseph R. Julin, & Larry D. Barnett (1990) *The Goals and Missions of Law Schools.* New York: Peter Lang.

Van Duch, Darryl (1998) "Bullish on Spinoffs," *National Law J.*, 10 Aug., pp. A1, 14.

——— (1999a) "ABA Honchos Differ over MDP Vote," *National Law J.*, 23 Aug., p. A6.

——— (1999b) "MDPs Get International Support," *National Law J.*, 12 July, p. A4.

Van Houtte, Jean (1999) "Law in the World of Business: Lawyers in Large Industrial Enterprises," 6 *International J. of the Legal Profession* 7–25.

Van Hoy, Jerry (1995) "Selling and Processing Law: Legal Work at Franchise Law Firms," 29 *Law & Society Rev.* 703–29.

——— (1997) *Franchise Law Firms and the Transformation of Personal Legal Services.* Westport, CT: Quorum Books.

——— (1999) "Markets and Contingency: How Client Markets Influence the Work of Plaintiffs' Personal Injury Lawyers," 6 *International J. of the Legal Profession* 345–66.

Van Voris, Bob (1999) "Disbarred, Unbowed," *National Law J.*, 15 Nov., pp. A1, 11.

Verkaik, Robert (1999) "Anger over 'Lay prosecutors' Plans," *The Independent*, 20 Aug., p. 9.

Walker, Mack (1971) *German Home Towns: Community, State, and General Estage 1648–1871*. Ithaca, NY: Cornell Univ. Press.
Wall, David S., & Jennifer Johnstone (1997) "The Industrialization of Legal Practice and the Rise of the New Electric Lawyer: The Impact of Information Technology on Legal Practice in the U.K. [1]," 25 *International J. of Sociology of Law* 95–116.
Webster, Guy (1994) "Quickcourt Kiosks Earn Praise from Users, Court System," *Arizona Republic,* 21 Aug., p. H4.
Wessel, Milton R. (1976) *The Rule of Reason: A New Approach to Corporate Litigation*. New York: Addison-Wesley.
Whelan, Christopher, & Doreen McBarnet (1992) "Lawyers in the Market: Delivering Legal Services in Europe," 19 *J. of Law & Society* 49–68.
White, Edward (1998) "Crime, Disorder—and Suitable Case Workers," *Solicitors' J.*, 3 Apr., p. 297.
White, R. H. H. (1976) "The Distasteful Character of Litigation for Poor Persons," in D. N. MacCormick, ed., *The Distasteful Character of Litigation for Poor Persons*. Edinburgh: W. Green & Son.
Wilensky, Harold L. (1964) "The Professionalization of Everyone," 70 *American J. of Sociology* 137–58.
Williams, Lois G. (1994) "Professional Development for Litigators," in *Professional Development for Litigators*. Philadelphia: American Law Institute.
Witz, Anne (1992) *Professions and Patriarchy*. London: Routledge.
Wolfram, Charles W. (1999) "Multidisciplinary Practice of Law: The Dawn of a New Age," Speech at William Mitchell College of Law, St. Paul, MN (9 Nov.).
Zander, Michael (1997) "Rights of Audience in the Higher Courts in England and Wales since the 1990 Act: What Happened?" 4 *International J. of the Legal Profession* 167–95.
Zemans, Fred (1999) "The Community Legal Clinic QAP: An Innovative Experience in Quality Assurance in Legal Aid," Legal Aid in a Changing World Conference sponsored by Legal Aid Board Research Unit, London (4–5 Nov.).

Case Cited

Bates v. State Bar of Arizona, 433 U.S. 350 (1977).

Statute Cited

Legal Practice Act (1996) (Victoria) <http://www.dms.dpc.vic.gov.au//2d/L/ACT00997/1-1.html>.