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## Law-givers, Story-tellers, and Dubin's Legal Heroes: The Emerging Dichotomy in Legal Ethics (video review)

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# VIDEO REVIEW

## Law-givers, Story-tellers, and Dubin's *Legal Heroes: The Emerging Dichotomy in Legal Ethics*\* \*\*

VINCENT ROBERT JOHNSON\*\*\*

### I. THE ANCIENTS AND THE MODERNS

Although the civilizations of ancient Greece and Rome were shaped by many forces, two groups of actors stand out in sharp relief against the background of those times: the first is the law-givers, and the second, the story-tellers. Included within the former class are names such as Solon<sup>1</sup> and Lycurgus,<sup>2</sup> the Athenian and Spartan reformers; Ulpian, Papinian, and Gaius, the great Roman Jurisconsults;<sup>3</sup> and Justinian, the father of the *Corpus Juris Civilis*,<sup>4</sup> the work on which the modern civil law is built. Among the legen-

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\* *Legal Heroes* by Lawrence Dubin. University of Michigan Public Television Station WFUM-TV, Flint, Mich. 1988 (Twenty-eight minutes).

\*\* Copyright 1989 by Vincent R. Johnson.

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This review benefitted from the comments of two of the author's colleagues, Professors Geary Reamey and Michael Ariens.

1. See C. STARR, *THE ANCIENT GREEKS* 46 (1971) (Solon revised the Athenian legal code by reducing the severe penalties for criminal conduct contained in the earlier code ascribed to Draco); *SOURCES OF ANCIENT AND PRIMITIVE LAW* 79-87 (A. Kocourek & J. Wigmore eds. 1915) [herein-after Kocourek & Wigmore] (quoting discussion of Solon contained in *Plutarch's Lives*).

2. See H. KITTO, *THE GREEKS* 90-91, 95 (1964) (discussing the Laws of Lycurgus); Kocourek & Wigmore, *supra* note 1, at 63-74 (quoting discussion of Lycurgus in *Plutarch's Lives*, which notes that Lycurgus' laws were never reduced to writing).

3. See M. GLENDON, M. GORDON, & C. OSAKWE, *COMPARATIVE LEGAL TRADITIONS: TEXT, MATERIALS AND CASES* 40 (1985), which states:

[A]s early as the third century B.C., during the [Roman] Republic . . . there appeared a class of men known as Jurisconsults, who made the law their specialty. By the end of the Late Republic in the first century B.C., the Jurisconsults had acquired a monopoly of technical information and legal experience, and it can be said that they had become the first professional lawyers. In difficult cases, the lay judges began to turn to them for advice. . . . Eventually the principles . . . developed by the Jurisconsults were taught and expounded in treatises, all in a distinctive vocabulary and style.

See also W. HUNGER, *INTRODUCTION TO ROMAN LAW* 10 (9th ed. 1950) (the Jurisconsults "cast the law into general statements or rules of remarkable precision or clearness"); W. BUCKLAND, *A TEXT-BOOK OF ROMAN LAW FROM AUGUSTUS TO JUSTINIAN* 28, 31-32 (2d ed. 1950) (discussing Gaius, Papinian, Ulpian and others).

4. See M. GLENDON, M. GORDON, & C. OSAKWE, *supra* note 3, at 41-42 (discussing the *Corpus*

dary story-tellers number Homer, the epic poet;<sup>5</sup> Sophocles, Aristophanes, and Euripides, the Greek tragedians;<sup>6</sup> and Virgil, Ovid, and Lucretius, the great authors of ancient Rome.<sup>7</sup>

To be sure, such individuals account for only part of the achievements of the ancient civilizations. However, it is also beyond doubt that these law-givers and story-tellers made distinct contributions to the shaping of Greece and Rome. The law-givers furnished the ancient world with workable political structures and norms for human activity; the story-tellers, focusing on mortal virtues and flaws, enriched the individual spirit and nourished the collective soul. Together, these complementary agents defined a powerful framework for personal growth and social interaction. Today, they continue to exert a compelling influence on Western customs and thought.

Reminiscent of this hoary dichotomy of law-giving and story-telling, two camps have begun to emerge from the rich ferment in legal ethics teaching and scholarship of the last score years. The first group, whose members might be termed "law-givers," consists of those who view legal ethics as chiefly concerned with the identification, transmission, and enforcement of uniform standards governing the conduct of lawyers. The emphasis here is on legal ethics as a field of *law*, with primacy accorded to the use of traditional skills of legal analysis. Falling within this camp, arguably, are the drafters of the legal ethics codes (the 1969 *Model Code*,<sup>8</sup> the 1983 *Model Rules*,<sup>9</sup> and local variations),<sup>10</sup> the writers of the treatises (*Modern Legal Ethics*<sup>11</sup> and *The Law of Lawyering*<sup>12</sup>), the compilers of the digests (the *ABA/BNA Lawyers' Manual on Professional Conduct*<sup>13</sup> and its predecessor<sup>14</sup>), the exponents of standardized ethics testing (*The Multistate Professional Responsibility Examination*),<sup>15</sup> the authors of review materials for such exams (e.g., BAR/BRI writers<sup>16</sup> and others<sup>17</sup>), and those who presently

*Juris Civilis*); W. KUNKEL, AN INTRODUCTION TO ROMAN LEGAL AND CONSTITUTIONAL HISTORY 163-76 (J. Kelly trans. 2d ed. 1972) (discussing "Justinianic Codifications"); H. WOLFF, ROMAN LAW: AN HISTORICAL INTRODUCTION 162-74 (1951).

5. See H. KITTO, *supra* note 2, at 44-64 (discussing Homer); C. STARR, *supra* note 1, at 95.

6. See C. STARR, *supra* note 1, at 63-65.

7. See C. STARR, THE ANCIENT ROMANS 103-08 (1971).

8. MODEL CODE OF PROFESSIONAL RESPONSIBILITY (1981).

9. MODEL RULES OF PROFESSIONAL CONDUCT (1989).

10. See, e.g., 1 NAT'L REP. ON LEGAL ETHICS AND PROF. RESP. (1988) (ethics codes set forth by state).

11. C. WOLFRAM, MODERN LEGAL ETHICS (1986).

12. G. HAZARD AND W. HODES, THE LAW OF LAWYERING (1988).

13. THE LAWYERS MANUAL ON PROFESSIONAL CONDUCT (ABA/BNA) (1989 ed.).

14. O. MARU & R. CLOUGH, DIGEST OF BAR ASSOCIATION ETHICS OPINIONS (1970 & Supp. 1975 & 1980).

15. NATIONAL CONFERENCE OF BAR EXAMINERS, MPRE SAMPLE QUESTIONS I: MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION (1984).

16. R. WYDICK, PROFESSIONAL RESPONSIBILITY: BAR/BRI BAR REVIEW (1984).

strive to “restate” the principles of the common law applicable to the legal profession (in the form of a *Restatement of the Law Governing Lawyers*<sup>18</sup>). Among the law-givers, a premium is placed upon comprehensive articulation of basic norms which, if followed and enforced, theoretically can ensure predictability and consistency in the rendition of legal services.

The second group of legal ethicists—considerably smaller, but increasingly well-defined—might be called the “story-tellers.” More of a dedicated circle of spiritually kindred academics than an opposing intellectual “camp,” their teaching and scholarship is less concerned than that of the law-givers with identification of and adherence to uniform professional principles. As Tom Shaffer writes of conventional (i.e., rule-oriented) legal ethics in *Faith and the Professions*: “[S]o much of what is said in professional societies and taught in professional schools is manifestly aimless. There must be more to it than that.”<sup>19</sup> The story-tellers place a higher value on persons and context than on principles and procedures, and on the cultivation of a deeper, less mechanical sense of professionalism than detailed rules can provide. If the result of these endeavors is to produce less certainty and greater subjectivity in the handling of ethical problems, the cost, they believe, is worth bearing.<sup>20</sup> Among the story-tellers are those who teach or write about real or fictional lawyers<sup>21</sup> (often referring to lawyer biographies or lawyers depicted in litera-

17. See, e.g., M. JOSEPHSON, *ESSENTIAL PRINCIPLES OF PROFESSIONAL RESPONSIBILITY* (2d ed. 1987).

18. See generally Wolfram, *The Concept of a Restatement of a Law Governing Lawyers*, 1 *GEO. J. LEGAL ETHICS* 195 (1987).

19. T. SHAFFER, *FAITH AND THE PROFESSIONS* 2 (1987).

20. For example, Tom Shaffer of Notre Dame Law School writes:

I think it is a good idea not to try too hard to nail down a position on the question of relativism . . . .

. . . If story ethics is relativistic, it is so because it insists on taking culture (Wachbroit says tradition) into account. It cannot talk about character without talking about culture (or tradition) . . . .

And we *want* to talk about character . . . .

*Id.* at 19-20 (emphasis in original).

21. See T. SHAFFER, *AMERICAN LEGAL ETHICS: TEXT, READINGS, AND DISCUSSION TOPICS* (1985) (teaching materials based in part on the study of lawyers from real life (e.g., Louis D. Brandeis, Charles Houston, and Frances Holtzman) and fiction (e.g., Atticus Finch, Ephraim Tutt, and Henry Knox)); T. SHAFFER, *ON BEING A CHRISTIAN AND A LAWYER* (1981) (discussing Thomas Moore, Franz Jagerstatter, and others); Turner, *Teaching Law Through Literature*, 14 *U. QUEENSLAND L.J.* 61, 65-66 (1985) (discussing the use of literature in law school to raise questions about ethics in law practice); see also J. NOONAN, *PERSONS AND MASKS OF THE LAW* (1976); Ariens, *The Politics of Law (Teaching)*, 13 *LAW & SOC. INQ.* 173 (1988) (stating, in a critique of a novel about law school life, “fiction often reaches the heart of the matter more piercingly than any other method of communication”).

Discussing “story ethics,” Shaffer writes:

The truth about who we are, which explains our morality, including such things as what our communities are and what our families have been, is . . . more a matter of character, of

ture), and perhaps also those who endeavor to focus on the interpersonal, humanistic dimensions of law practice, and on the larger question of "What is just?" through the use of classroom simulations,<sup>22</sup> videotapes which bring lawyers and clients into the classroom,<sup>23</sup> and other, less traditional teaching

life as we live it, of story, than it is of principles. This is not a matter of saying what is desirable . . . but of saying instead that a story explains and displays such things as principles, and that one is closer to the truth of one's own moral life when he studies other lives by going to the sources of morals in those lives—when he looks in that way (with the help of storytellers) at the influences that are lined up waiting for us . . . .

Our stories are the sources of our moral notions and our moral notions are prior, in time and in logic, to our classifications, our categories, and our principles. . . . Stories bring moral notions to light; and moral notions are prior to moral problems. To put that another way, a moral notion becomes something we see and can talk about because of a story. A moral notion is displayed and understood in a narrative context better than it is displayed and understood in the context of issues, quandaries, decisions, acts, and principles.

Shaffer, *supra* note 19, at 14.

Reliance on fiction in legal ethics pedagogy is one aspect of the larger law and literature movement. See generally Smith and Laughlin, *Law, Literature and Ethics*, 4 MISS. C.L. REV. 327 (1984) (discussing maturation of the law and literature movement and citing relevant law review symposia); Posner, *Law and Literature: A Relation Reargued*, 72 VA. L. REV. 1351, 1353-54 (1986) (noting broad areas in which law and literature overlap); see also Domnarski, *Law-Literature Criticism: Charting a Desirable Course for Billy Budd*, 34 J. LEGAL EDUC. 702, 703 (1984) ("Appellate opinions give us principles, conflicts, and some background of the participants, but with fiction . . . we get to experience the human drama and to see the law from a participatory perspective. . . . [The novelist gives us] a more complete look at the way people are, with all their ambiguities and contradictions"); White, *Law and Literature: No Manifesto*, 39 MERCER L. REV. 739, 741 (1988) ("[Literature] teaches in a different way: it expands one's sympathy, it complicates one's sense of oneself and the world, it humiliates the instrumentally calculating forms of reason so dominant in our culture.").

22. See, e.g., Lubet, *Teaching Legal Ethics (Or Up From the Wasteland)*, Ass'n of Amer. L. Schs. Teaching Methods Section Newsletter, Nov. 1987, at 3. Discussing the use of simulation pedagogy in which students take on the roles of clients, opponents, lawyers, judges, or the public in conferences, office meetings, and disciplinary proceedings, Professor Steven Lubet states:

We discuss "the Law" (to the extent that it can be identified), and also the deeper issues concerning the profession. What should the law be? How will your lawyering relate to justice and the public good? Can a lawyer be a good person? How? Where do client responsibilities end and public responsibilities begin?

*Id.* at 5.

23. See Johnson, *The Video-Essay Question: An Experiment in Teaching Professional Responsibility*, 50 MO. L. REV. 591 (1985):

[T]he videotaped essay question better permits the professor to focus in the examination process on the interpersonal facets of lawyering. . . . If one . . . believes that it is an important course objective to encourage students to be humane and compassionate as well as professionally competent, then it makes pedagogical sense to give some scope to the same considerations in the evaluation of student performance. . . . A simulated law office transaction inevitably raises questions of whether, from an extra-legal, interpersonal standpoint, the attorney dealt with the clients well or poorly . . . .

. . . [A] video final enables the tester to focus on the lawyer's role in the decisionmaking process. Was the lawyer paternalistic? Or did he unquestioningly agree to give the client what she wanted? Did he find it appropriate to raise moral questions bearing upon the

techniques.

Of course, the terms "law-giver" and "story-teller" are rough descriptions. Other categories would be necessary to accurately reflect the composition of the legal ethics field, and some ethicists defy neat characterization. Some scholars and teachers are interested neither in constructing a comprehensive matrix of professional norms nor in exploring the subjective, interpersonal dimensions of law practice; and some have an interest in both. A review of law journal articles would suggest that one additional category might include the legal ethics "metaphysicians," those interested in thinking about the concept or idea of legal ethics. Another class might encompass the "micro-scholars" who delve into narrow questions of professional conduct largely isolated from the broader ethical context.

Few, if any, academics could be termed exclusively law-givers or story-tellers. Rule-writers have their poetic moments, and those who focus on persons, rather than on process or principles, normally acknowledge the utility of rules defining the level of minimally acceptable conduct in a profession now approaching three-quarters of a million members.<sup>24</sup> Nor are the terms "law-giver" and "story-teller" pejorative appellations. Each group has a role to play in the education of lawyers and the shaping of the legal profession, and the best academics probably combine the influences of both. Absent the rule-givers' clear and certain standards to guide the rendition of legal services, clients are robbed of the comfort of a reasonable expectation that their attorneys will conform to at least a minimal level of professional performance, and attorneys are forced to make often difficult ethical judgments without the benefit of standards representing the consensus of their peers. Absent the story-tellers' sensitive appreciation of the human dimension of law practice, otherwise competent lawyering degenerates into mere legalism.

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client's proposed course of conduct? Or if the client was uncertain, how did he endeavor to move the client from a position of confusion and indecision to one of intelligent choice . . . ? [E]ven a relatively short video segment can capture these important factors.

*Id.* at 593-94. See also Johnson, *Conversations with Disciplined Attorneys: A Candid Assessment*, 1 GEO. J. LEGAL ETHICS 645 (1988) [hereinafter "Candid Assessment"] (discussing classroom use of a videotape about disciplined attorneys to humanize the disciplinary process); Johnson, *Audio-Visual Enhancement of Classroom Teaching: A Primer for Law Professors*, 37 J. LEGAL. EDUC. 97, 102-03 (1987) (asserting that audio-visual aids are a more effective means of pursuing teaching objectives relating to the affective (as opposed to the cognitive) domain of learning).

To be sure, not all videotapes used in law school classes focus on the interpersonal dimensions of law practice. For example, some tapes present little more than a round-table discussion of legal doctrine. See, e.g., ABA/ALI COMM. ON CONTINUING PROFESSIONAL EDUC., *Nix v. Whiteside: So Your Client Wants to Commit Perjury* (1986) (videotape).

24. In 1988, 724,000 persons were employed primarily as lawyers. This figure represents an increase from 672,000 persons in 1987 and 618,000 in 1986, and does not include judges nor necessarily reflect all those who hold law degrees or are members of a bar association. Telephone conversation with Sharon Cohany, Department of Labor, Bureau of Labor Statistics, Office of Employment and Unemployment, Feb. 7, 1989.

To employ the terms "law-giver" and "story-teller," though crude and inexact, is to identify two important world views in legal ethics, teaching and scholarship. It is also to raise important questions as to why scholars write what they write, and why teachers teach what they teach. The terms, properly affixed, tell something about an academic's predisposition, and like so many other broad, imprecise terms (e.g., liberal and conservative; Republican and Democrat; left-wing and right-wing; analytic and poetic), they spring from, and bear witness to, a basic kernel of truth.

## II. DUBIN, AS STORY-TELLER

Larry Dubin's most recent educational videotape, *Legal Heroes*,<sup>25</sup> brings him more firmly into the ranks of the legal ethics master story-tellers. In his earlier works, Professor Dubin has brought to the screen other participants in the legal process: anxious law students,<sup>26</sup> defrauded clients,<sup>27</sup> embittered divorcees,<sup>28</sup> and errant attorneys.<sup>29</sup> *Legal Heroes* takes the progression one step further. It focuses on three lawyers who elected to chart altruistic courses and in the process secured not only important results but the admiration of their peers.

In contrast to two of his earlier works, *Conversations with Victims*<sup>30</sup> and *Conversations with Disciplined Attorneys*,<sup>31</sup> each of which documented the human wreckage that results from attorney malfeasance, *Legal Heroes* is a very positive film. It is designed to make lawyers and, more importantly, law students feel comfortable, even proud, of their choice of career, and to inspire them to "accomplish things that ordinary mortals only dream of."<sup>32</sup>

As to the import of these pedagogical objectives, there should be little doubt. "Lawyer-bashing" is now a favorite past-time.<sup>33</sup> Ultimately, that

25. L. Dubin, *Legal Heroes* (Univ. of Mich. Public Television Station WFUM-TV, Flint, Mich. 1988) [hereinafter *Legal Heroes*] (Copies of the videotape are distributed by Weil Productions, 380 Wembleton, Birmingham, MI 48009).

26. L. Dubin, *The Law School Experience: Conversations with Law Students (Before and After)* (Weil Productions, Birmingham, MI 1984).

27. L. Dubin, *Professional Misconduct: Conversations with Victims* (Centerpoint Productions, Arlington Heights, Mass. 1977).

28. L. Dubin, *Family Law From the Client's Perspective: Conversations with Divorced People* (Weil Productions, Birmingham, Mich. 1986).

29. L. Dubin, *What Went Wrong? Conversations with Disciplined Attorneys* (Weil Productions, Birmingham, Mich. 1985), reviewed in Johnson, *Candid Assessment*, *supra* note 23.

30. Dubin, *supra* note 27.

31. Dubin, *supra* note 29.

32. *Legal Heroes*, *supra* note 25 (comments of Larry Dubin).

33. See, e.g., M. Vlasic, *To Kill or Not to Kill All the Lawyers, That is the Question*, Wash. Times, June 29, 1988, at F5 (letter to the editor supporting charge that there are "too many lawyers"); see also R.T. Hall, *Lawyer-Bashing, Again*, Wash. Post, Mar. 14, 1987, at A21 (letter responding to editorial about "ambulance-chasers and quick-buck lawyers"). To be sure, some of the criticism is warranted. See Jost, *What Image Do We Deserve?*, 74 A.B.A. J., Nov. 1, 1988, at 47.

game takes a heavy psychological toll on innocent bystanders, including those attorneys and aspirants to the legal profession who are honest, competent, and responsible. The attacks also predispose clients to be dissatisfied with lawyers and the quality of legal services. As a result of all the sniping, students enter law school apprehensive as to the social worth of the endeavor.<sup>34</sup> Attorneys in practice—especially those pursuing the *ignis fatuus* of partnership in highly pressured mega-firms which demand long hours and offer little client contact—reach professional “burnout” faster than otherwise would be the case.<sup>35</sup>

The trouble with attempting to reinforce positive professional images is that good news does not sell easily; idealism is passe. Professor Dubin nonetheless produces an effective and useful<sup>36</sup> product. Reasonably short (28 minutes) and fast-moving, the videotape is exceptionally well planned. The three attorneys on whom the tape focuses are themselves good story-tellers. They represent a broad cross-section of the legal profession in terms of sex (two males, one female), race (two whites, one black), age (middle-age to mid-80s), geography (Massachusetts, Alabama, and Arizona), practice (one large firm, two smaller firms), and point in time when they decided to do the things which made them lawyer-heroes (prior to law school; six years into practice; late in career). In *Legal Heroes*, these three attorneys “who are not famous, but whose accomplishments are much heralded,”<sup>37</sup> speak in personal terms about what they did. In the process, they reveal not only themselves, but something about their own legal heroes.<sup>38</sup>

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34. Cf. T. SHAFFER & R. REDMOUNT, *LAWYERS, LAW STUDENTS AND PEOPLE* 2-3 (1977) (“Law students are uneasy about the law school process because they feel manipulated and because the priesthood does not seem to be benign. . . . Students come to law school with aspirations to be humanely influential, but they find that lawyering is insensitive.”); S. TUROW, *ONE* L 18 (1977) (“Doubt—about themselves, about what they are doing—is a malady familiar to first-year law students.”).

35. See Ciotti, *Unhappy Lawyers*, L.A. Times, Aug. 25, 1988, at 1 (discussing public criticism of lawyers as an aspect of attorney job dissatisfaction); see also Harper, *The Best and Brightest, Bored and Burned Out*, 73 A.B.A. J., May 15, 1987, at 28.

36. Some videotapes are too long for convenient classroom use. See Johnson, *Candid Assessment*, *supra* note 23, at 645, 650-51. *Legal Heroes*, only 28 minutes in length, bears no objection on that account.

37. *Legal Heroes*, *supra* note 25 (comments of Larry Dubin). The narrator on the tape reveals that one of the attorneys received the 1987 American Bar Association Juvenile Justice Award, another was recognized with the 1987 *Pro Bono Publico* Award, and the third was elected President of the National Bar Association in 1985 and 1986.

38. The tape opens with each of the three attorneys talking about a person who, to him or her, is a lawyer-hero: Abraham Lincoln, Clarence Darrow, Thurgood Marshall. As the action progresses, it soon becomes obvious that the program is not about such Olympian figures, but about lawyer-heroes who are “ordinary people.” My three judicial interns at the Supreme Court—Steve Gripkey, Jill Goldberger, and Todd Turner, college graduates *en route* to law school, each of whom commented favorably on the tape and provided useful comments on a draft of this article—found this misdirection distracting. In contrast, I thought the misdirection was an effective, subtle way to make the point that average persons can be heroes, that heroes have heroes, and that it is important



Amelia Lewis, 85 years of age when filmed, is a woman who almost 40 years after being admitted to the bar, decided it was time to help children less fortunate than her own. It fell to her to represent Gerald Gault, a 14-year-old boy who was charged with making obscene phone calls, adjudicated a ward of the state, and sent to a reform school as a result of proceedings lacking any of the due process rights afforded to adults under the Constitution. Lewis litigated the case to the Supreme Court of the United States. In the end, she secured a landmark judgment which changed the face of the entire American juvenile justice system.

Vincent McCarthy, a real estate attorney and senior partner in Boston's largest firm, tells of 17 years of involvement with a shelter for the homeless. It began, he says, six years after graduating from law school when he overcame alcoholism and realized that "but for the grace of God" he would be one of those in need of assistance. He talks about the endeavor in human terms ("rich people, generally speaking, don't see poor people"<sup>39</sup>) and of the shelter's growth into the most successful facility of its kind in Boston.

Fred Gray, a black lawyer, entered law school wanting to change the racial *status quo*. A product of the segregated South,<sup>40</sup> he says that he knew as a student that he intended to use his law degree to "destroy everything segregated . . . [he] could find."<sup>41</sup> At the age of 25, he was the lawyer for Rosa Parks, whose arrest launched the Montgomery bus boycott and started the civil rights career of Dr. Martin Luther King, Jr. Later, he litigated the cases which integrated Alabama schools at the elementary, secondary, and college levels.

The action in *Legal Heroes* cuts back-and-forth among the three lawyers, with interspersed vignettes of Gerald Gault (shown on the tape as a U.S. Army sergeant), Rosa Parks, and scenes from the Pine Street Inn for the homeless. What emerges is a story about lawyers who are proud of their

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for each attorney to personally identify and critically consider those who might serve as role models. The interns, however, probably have a better sense of how the tape would be received by law students.

One of the interns commented in writing: "Interestingly enough, the opening of this review—with its attention to Lycergus and Homer—parallels that same distracting effect as created by the beginning of the *Legal Heroes* tape."

39. *Legal Heroes*, *supra* note 25 (comments of Vincent McCarthy).

40. In poignant terms, Gray recalls:

[During 1947 to 1951, in Montgomery,] segregation was the order of the day. Everything was segregated. . . . [Y]ou were born in a segregated hospital; you grew up in a segregated community; you attended a segregated school; if you became ill, you went to a segregated hospital; your whole educational system was segregated; the transportation system was segregated; all of your recreational facilities were segregated; when you died, you were buried in a segregated cemetery.

41. *Legal Heroes*, *supra* note 25 (comments of Fred Gray).

profession, clients who believe they have been well treated,<sup>42</sup> and proof that the law can be used successfully to bring about social change. The message on the tape is so positive that it would sound contrived and unpersuasive if the story were not told by attorneys who had personally “fought the good fight”—and had won. The impact is substantial when an articulate octogenarian practitioner, who revolutionized the juvenile justice system, says with conviction:

If we don't help each other with . . . [our woes], what good is our existence? . . . [J]ust having a fancier car or a boat or more rooms in a mansion . . . they don't give a great deal of pleasure in the end anyway.

. . . .

[There] are those who revile the profession. And when that happens, you do what you can to overcome it, so that the people around you are prepared to believe that that idea of a lawyer, as being a self-seeking money-grabber, is untrue.<sup>43</sup>

The same impact is felt when a senior partner of a major law firm, who personally has served the poor for almost two decades, states:

Being a lawyer is a very valuable skill. It is also very valuable in terms of . . . access. When a lawyer calls a public figure or a public official, and makes it clear why he is calling and that there is a problem that has to be addressed, he or she is going to be listened to.

. . . . All of us, especially lawyers, have . . . [an] obligation to look at injustice and to try in some way to make the world less unjust.

. . . .

The purpose of life is not the accumulation of wealth and power. The purpose of life is to reach out to people who are in need.<sup>44</sup>

For those uncomfortable with the idea of high-profile social action, it may be comforting to hear a celebrated civil rights lawyer confess:

I have never perceived myself to be an activist, in the sense of demonstrating in the streets. Now, if you will notice all the [news] footage, you will see me very seldom as a marcher. I did march on the tail-end of the Selma to Montgomery march, but I had gotten the court order so that others could march. . . . I perceive my role as that of the legal technician, . . . to take the law, to use it effectively, and to get the court decisions to bring about change.<sup>45</sup>

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42. On the tape, Gerald Gault, years after his case was fought to the Supreme Court, comments:

[Back] then, I had no rights. But now, my children, the children of the community, the children of the world, have rights. They have rights—to an attorney, to question their accuser—that kids, when I was a kid, didn't have. I feel that it was well worth the fight.

43. *Legal Heroes*, *supra* note 25 (comments of Amelia Lewis).

44. *Id.* (comments of Vincent McCarthy).

45. *Id.* (comments of Fred Gray).

Law professors could say the words of these attorneys, and some could even deliver them convincingly. But, on average, the impact surely must be greater when the message comes from successful practitioners.

### III. IS THE GAME WORTH THE CANDLE?

Time in law school is precious, and professional responsibility classes are generally allowed no more than about 28 hours to cover the entire subject. Would the use of this tape be an intelligent use of classroom time? If one is interested in conveying a knowledge of rules, the answer clearly is no. No substantive principle of legal ethics will be found in *Legal Heroes*, not even a lowly "practice pointer." If, however, one is concerned about the quality of professional life and the health of professional altruism, the investment may be sound. This is particularly so if the video is used at a juncture when law students have progressed through legal education sufficiently far to have misplaced their sense of idealism. While the tape will naturally appeal to those professors who are story-tellers at heart, it may prove to be more valuable to the law-givers, because of its ability to bring to the classroom a dimension which may otherwise be lacking. And if classroom time is too scarce, there is no reason not to place the tape on reserve and make watching it an out-of-class assignment.

*Legal Heroes* is a videotape which refreshes the spirit and nourishes the soul in the best tradition of story-telling. It reminds lawyers and law students that there is more to law practice than law. Its message, as one of the lawyer-heroes admonishes, is a professionally essential but too often unexpressed truth: "There . . . is so much more that *needs* to be done . . . [and] *can* be done."<sup>46</sup> In a world where this message is often lost in the shuffle to address other needs, *Legal Heroes* provides a welcome reminder.

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46. *Id.* (comments of Fred Gray) (emphasis added).