

ABA RESOLUTION 10B, PART 2: THE END OF THE WAR STORY SEMINAR?

This is Resolution 10B, which the House of Delegates of the American Bar Association adopted on August 9, 2011 during the ABA's annual meeting:

RESOLVED, That the American Bar Association, take steps to assure that law schools, law firms, law examiners, CLE providers and others concerned with continued professional development provide the knowledge, skills, values, habits and traits that make up the successful modern lawyer.

FURTHER RESOLVED, That the American Bar Association urges legal education providers to implement curricular programs intended to develop practice ready lawyers including, but not limited to enhanced capstone and clinical courses that include client meetings and court appearances.

FURTHER RESOLVED, That the constituent bodies of the American Bar Association, consider the requirements for the success of future lawyers as they carry out their responsibilities.

See Rachel M. Zahorsky, *ABA Urges Law Schools to Adopt More Practical Training for Students*, www.abajournal.com (vis. Aug. 9, 2011).

Perhaps the ABA will start putting some teeth in Resolution 10B at its 2012 annual meeting. Maybe something like this:

RESOLUTION 10B, PART 2: When teaching a course at an ABA-accredited law school, an ABA member who is a law firm partner – and therefore knows what law students really need to know before graduating from law school and entering practice – commits a fraud by awarding a passing grade to any student who is in the final year of law school but lacks the “knowledge, skills, values, habits and traits that make up the successful modern lawyer.” The partner shall be liable to an inadequate student’s future legal employers and clients for the fraud.

Such a rule could have many benefits. Two that seem especially appealing are: (1) everyone would be able to measure – albeit only

Ex Ante

roughly – the effectiveness of law schools by the rate at which law firm partners who are members of the ABA are found liable in tort for permitting unprepared lawyers to enter the field; and (2) legal educators of all sorts would be able to learn – by observing courses taught by law firm partners who are members of the ABA – what it takes to teach law students to manifest the “knowledge, skills, values, habits and traits that make up the successful modern lawyer.” Indeed, the ABA could secure those benefits for all law students and teachers by including in its accreditation standards a requirement that within the school year immediately before graduation every law student must take and pass a course taught by a law firm partner who is a member of the ABA.

Unfortunately, this might mean the end of the “war story seminars” taught with evident pleasure by some law firm partners who are members of the ABA, and enjoyed by their students. But that seems like a small price to pay for shaping up the law schools. On the other hand, it may be that law firm partners who teach war story seminars do so because that is the best way to instill in law students the “knowledge, skills, values, habits and traits that make up the successful modern lawyer.” If that is true, the ABA ought to amend its accreditation standards to require all law school teachers to give up teaching students directly about doctrine and reasoning and ethics and writing and such, and focus instead on letting all that stuff percolate indirectly through storytelling about interesting things the instructor has seen, done, read of, or heard about.

In addition, there is some danger that under Resolution 10B, Part 2, law firm partners who are members of the ABA would lose interest in teaching, although that is unlikely unless they are: (a) too wimpy to insist that their students demonstrate the “knowledge, skills, values, habits and traits that make up the successful modern lawyer,” and to flunk the ones who fail to do so; or (b) too busy or lazy or incompetent to do the work necessary to determine whether their students have the “knowledge, skills, values, habits and traits that make up the successful modern lawyer”; or (c) either do not know what the heck “knowledge, skills, values, habits and traits that make up the successful modern lawyer” actually means, or think

Ex Ante

they do know but are afraid that a judge or jury will disagree with them. But even those calamities would have a benefit: everyone would be able to measure the level of commitment law firm partners who are members of the ABA really have to the adequate preparation of law students for the practice of law.



Left to right: George Washington Parke Custis, George Washington, Eleanor (“Nelly”) Parke Custis, Martha Washington, and William Lee.

A FOUNDING TIGER MOTHER

“As to the story of Nelly Custis, my sister, practising very long and very unwillingly at the harpsichord, that . . . is true. The poor girl would play and cry, and cry and play, for long hours, under the immediate eye of her grandmother, a rigid disciplinarian in all things.” GEORGE WASHINGTON PARKE CUSTIS, *RECOLLECTIONS AND PRIVATE MEMOIRS OF WASHINGTON, BY HIS ADOPTED SON* 408 n.* (1860); *see also* RON CHERNOW, *WASHINGTON: A LIFE* 421, 615 (2010) (describing the “informal adoptions” of Eleanor (“Nelly”) Parke Custis and George Washington Parke Custis by Martha and George Washington, and Martha’s tigerish parenting).