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A GENERATION OF LAW TEACHING

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THIRTY-SIX years ago (September, 1903) as Dean Bates was taking up law teaching as Tappan Professor of Law at Michigan, I was delivering an inaugural lecture as Dean of the Law School of the University of Nebraska. In this generation of law teaching we have seen the academic law school rise to a commanding position in professional education, the law teacher gain a position among the leaders of the profession, the growth of co-operation between bar associations and the association of law teachers, the development of co-operation between bar examiners and the law schools, and general adoption by the profession of the views of law teachers as to the preliminary education to be required of those entering upon the study of law. Taking the country as a whole, much more progress was made in legal education in that generation than had been made in the two which preceded it.

For the country as a whole, the low-water mark as to admission to the profession had been reached about 1890, and a movement for a better system began to make itself felt in the last decade of the nineteenth century. At that time our jurisdictions were somewhat evenly divided in adherence to three systems. In one system admission to practice in all courts might be had through any of a number of local courts. This system sacrificed all other considerations to a desire to make the machinery of admission convenient of access to applicants. In consequence, the lowest local standard set the level and in many places the level had sunk very low under the conditions of the times, especially in our large cities. Another system sought a compromise between convenience of applicants and maintaining of standards. It was a system of local admission to the bar for all but the highest court of the jurisdiction, but of admission to the bar of that tribunal by the court itself. In most of the states where this system obtained, however, the centralized control was exercised only in form. In a third system there was a centralized authority in charge of all admissions. But in a majority of the states employing this system legislation required, or customary practice had established, delegation to local committees, and in others a loose practice of relying on such committees had reduced this third system, in its workings, to the low level of the first.

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Some examples of how things were done in those days are worth recalling. About 1890 a young man in the community in which I practiced was unable to pass the easy examination before three members of the local bar appointed by the local judge of the court of general jurisdiction of first instance. In fact, he had never read seriously or consecutively a single law book. His father was a close personal friend of a federal judge who sat in another city. He got the latter to appoint a committee of three busy lawyers during a busy trial term. The committee assumed the matter was a mere formality and without any examination recommended admission. He was admitted to the bar of the federal court accordingly, and on his certificate was admitted as of course in the state courts. In another case of which I have personal knowledge, three men who failed the easy local examination in the state court, directed only to ascertaining what they had read and their knowledge of a few definitions and elementary conceptions, went across the line to a local court in an adjoining state. As they did not intend to practice there, the court was not much concerned about their qualifications and admitted them. They then went back home and were admitted on their certificates.

Pennsylvania was much more careful than other states. The supreme court had retained the colonial rules and had done much to keep up a certain uniformity in local practice as to admission. What could happen even there is illustrated by *In re Splane*.[1] Splane had three times failed to pass the examination for admission to the bar of the supreme court, which, if passed, would entitle him to practice in the lower courts of the state. The facts were known in Alleghany county where he lived, so he went to Cambria county where, as he was an outsider and not to practice there, the matter was treated quite casually and he was admitted. The statute of 1887 provided that one who had been admitted in any court of common pleas, on producing the certificate of the presiding judge that he was of reputable professional standing and unobjectionable character, should be admitted in any common pleas court in the Commonwealth. Splane had no difficulty in obtaining a certificate. He took it back to Alleghany county and applied for admission there. His application having been denied, he applied to the supreme court for a writ of mandamus. The court denied the writ, holding, what has now become the settled doctrine, that it was not competent for the legislature to compel the courts to admit any one. Legislation could only

[1] 123 Pa. St. 527, 16 A. 481 (1888).

be in aid of the power of the courts to admit. But it took a long time for this doctrine to establish itself. A generation later one legislature undertook to make honorable discharge from military service with ten per cent or more of disability aquired in the World War a ground of admission without examination, and the legislature of another state enacted reinstatement of a lawyer whom the supreme court had disbarred for flagrant misconduct. I suspect that if Splane had not failed before and the fact been known locally but had only been afraid of the local examination and gone to another county to seek an easier one, he might have succeeded. It was only in flagrant cases that the local bar would intervene to stop such practices.

Law schools were held back for two generations by the conditions with which they had to compete. It was not until a few courageous leaders had demonstrated that they could maintain standards far in advance of those fixed by legislatures and courts and yet avoid bankruptcy, that general and thoroughgoing progress could be made. The pioneer's idea of a natural right to practice law has been dying slowly and shows some signs of life even today.

While examinations were perfunctory and certificates of office study easily obtained, many states, in order to induce students to go to law schools, provided for admission on law school diplomas. But this privilege came to be bestowed indiscriminately and, as bar examinations improved, became a means of evading those examinations by persons who ought to take them. It was opposed steadfastly by the best schools in the present century and has substantially disappeared. The objects of the school examinations and of the bar examinations are not entirely identical. It is not wise to leave professional training wholly to the teachers nor wholly to the bar. Here as everywhere else a balance is called for. The law schools must insist primarily on a scientific outlook upon the legal order and the technique of the law. The bar examination has the additional purpose of insuring knowledge of what the experience of the profession has led it to deem important. Co-operation of teachers and bar examiners will keep these purposes adjusted to each other.

Not the least of the progress which has been achieved in a generation is in the character of the bar examinations. The old examinations were of Mr. Gradgrind's girl number-twenty define-a-horse type. Definitions, maxims, and abstract propositions to be given in the words of some text writer were called for, without requiring any understanding of the concrete legal precepts behind them or of their application. I well remember conducting an examination at which the chairman was

a believer in this type. The candidate seemed to know the Blackstone quiz book by heart, and the chairman was rejoiced. Presently to the question "define an incorporeal hereditament" the answer came, "something issuing from the realty." As this was not quite Blackstone's formula, the chairman paused to indicate that an inaccuracy called for correction. This gave me my chance and I interposed, asking for an example. The prompt and confident response "a tree" showed the value of such an examination better than any argument. But this sort of question is still in use in some corners of the land.

When a better type of question came into vogue it was often and long sadly misused. Law teachers of the teens of the present century will remember a dogmatic veteran examiner in one of the most important states who put questions out of the reports of the state, not always giving the significant facts or stating them accurately. Indeed, on the basis of a case in which a body supposed to be that of the victim of a homicide was not satisfactorily identified, he believed that *corpus delicti* meant a dead body. His questions called for a short and positive answer—"judgment for A" read his model answers with a five or six line statement of some legal proposition. He held that there were "no degrees of error." An answer was one hundred per cent right, or it was wholly wrong. If the result given was that reached by the court in the case from which the question was drawn the answer was right. If not, it was wrong. If the course of decision in the state fluctuated, as it sometimes did, the right answer today might be wholly wrong tomorrow and vice versa.

It requires no great experience to teach that the art of examination is a difficult one. Where questions are taken from cases in the reports it takes care as well as practice to insure that all the facts relevant to the proposition announced by the court are set forth. It takes care as well as acquired skill to frame questions with due regard to the time alloted for answers. Permanent boards with accumulated experience and conferences of examiners have been delivering us from many crudities which characterized the beginnings of the system of central examinations.

In academic circles today it is fashionable to decry examinations, and a tendency to relax is not unlikely to spread from the arts college to the law schools and from the latter to the authorities in charge of admission. Whatever may be the sound view with reference to the quite different requirements of the college, for the purposes of the law school, relaxation and, even more, abandonment of the examination system would be a serious mistake. It is a most useful training for the

lawyer to acquire the power to write well under pressure. It is most useful for him to learn to utilize his knowledge and exercise his acquired skill under restrictions of time and even at high speed. The law school examinations should be thought of not as a test of work done but as a test of acquisition of technique and of ability to use acquired information. Nor should the bar examinations be relaxed, much less abandoned. There will always be need of the corrective of a test of the candidate's acquired knowledge of and power to apply what the profession feels that the newcomer to its ranks should know.

An especially significant and in its effects far-reaching feature of the progress made in the past three decades is the breaking down of the suspicion and distrust and development of understanding and cooperation between the law schools and the organized profession, and between the practitioner and the full-time law teacher. It is not so long ago that law teachers feared bad results from bar examiners prescribing subjects of examination, holding that this meant that they would or would seek to dictate law school curricula. It is not so long ago that when some bar examiners would ask law teachers for copies of the questions set in school examinations a cry would go up that the academic law schools were attempting to dictate bar examinations. For the bar to dictate curricula or the schools to dictate bar examinations would be equally mistaken. State bars and bar associations and bar examiners should demand high standards of the schools and leave details of courses and teaching method to them. Students should be held to prepare for bar examinations as for other examinations and not demand that their school examinations be repeated, to be examined only on what they were examined upon in law school, or even necessarily the same type of question to which they have become used. True, there is the perennial difficulty of the cram course or cram school or crammer, existing solely to fill the candidate with answers to be disgorged at the examination and thriving on the tendency of busy examiners to repeat their questions in a predictable cycle. There is the temptation to conduct law schools which prepare for the bar examinations but not for the bar. Law school teachers, however, have learned how by taking pains in framing papers to defeat the cram tutor or cram coach and make it obviously not worth the students' while to resort to him. Local procedure, upon which bar examiners obviously must insist much beyond what the national law schools can profitably teach, has been the chief reliance of the cram tutors. As procedure is coming to be simplified and unified so that the schools may do more for the subject and the amount of sheer memorizing of arbitrary details is minimized, the

relation of school examinations to bar examinations will be much simplified. Moreover, the rapid improvement in bar examination technique which has gone on largely in consequence of conferences of bar examiners is enabling the examiners to circumvent the cramming agencies as the law schools have been able to do. The better understanding of each other by practitioners and teachers, which has grown up in a generation in bar associations, in the Conference of Commissioners on Uniform State Laws, and in the American Law Institute will have increasingly good effects.

An important feature of the development of understanding between the academic law schools and the bar is the increasing employment of law teachers upon practical problems of improving the law and the administration of justice. It has done much for the law and much also for legal education. The work of law teachers in the framing of uniform state laws, in the *Restatements* under the auspices of the American Law Institute, in the framing of rules of court to govern procedure, and in or in connection with the judicial councils in many of the states, speaks for itself. But these things have been well for the schools no less than for the law. They have led teachers to study subjects as a whole instead of keeping to the confines of the parts of subjects which can be taught. No part of the law can be neglected in preparing to teach or in teaching any other part. The teacher's great problem is what to leave out. He must leave it out of his classroom presentation, but not out of his knowledge of the subject he is to present.

Improvement in teaching method in the schools in the present century, taking the country as a whole, has been equally radical and significant. Although better methods had been worked out and had proved themselves a generation before, in 1900 a great majority of the law schools were still teaching by the definition, crisp phrase, maxim and abstract formula method of the text book era. In able hands it was better than the teaching of Latin in the days when one learned the Latin grammar by heart—when the teacher said "give section 302" and the pupil rose and recited "the supine in *um* is used after verbs of motion to express the purpose of the motion," without the least idea what kind of a motion, whether physical or parliamentary, was meant. It was better than that when well done, but it was too much of that type. And it was not always in good hands. The retired judge or broken down practitioner, from whom the faculties of law schools a generation ago were frequently recruited, could find a line of comfortable least resistance in the postulated finality of a text. I remember visiting a law school about the time I went into law teaching and listening to a

teacher who had some reputation as a successful drill master. A well known student's text book on real property was being recited section by section with clear expositions from time to time of particular words or phrases. One of the students, after a statement in the text had been recited, called attention to a recent decision of the supreme court of the state which apparently ran counter to the proposition laid down in the book. But such a possibility could not be admitted. The student was promptly suppressed by the teacher with an emphatic "our author says" and a reading aloud of the text.

Improved teaching methods have done much for the law also. The work of law teachers upon case books in the two generations since Langdell's pioneer *Cases on Contracts* prepared the way for the *Restatements* under the auspices of the American Law Institute and for the great text books which have been brought out by Wigmore and Williston and Beale and Scott.

When I delivered my inaugural lecture in 1903, I had to argue against the then current idea of an inherent natural right to practice law, against consequent legislative prescribing of low standards, and legislative interference with endeavors of the courts to impose even a reasonable minimum of necessary qualifications. I had to urge the bar to action and point out the ill effects on legal education and consequently on the administration of justice which grew out of indifference on the part of the legal profession. The American Bar Association had been urging better things for twenty-five years. But in 1903 it still had a small membership and relatively little influence. Also I had to speak of the schools which kept up the apprentice type of training for the profession and of the money-making schools whose chief end was to pay dividends to their incorporators or yield an income to their managers. Such things are with us still to some extent here and there. But in those days there was a complete absence of proper supervision of them by any agency of the profession, or by those who passed on the training of candidates applying for examination, and unrestricted power of granting degrees. Study by correspondence was generally accepted as a compliance with the statutory requirement of reading in the office of a practitioner, and one aggressive correspondence school came very near persuading a state legislature to require acceptance of its certificates in lieu of the bar examination. But by this time the state bar associations were beginning to resist such propositions. The bulk of those who came to the bar came from so-called office study. But much of this was perfunctory, if not pretence. Easygoing giving of certificates of office study was generally the rule. Substantially all these things which it was

necessary to speak of in any treatment of American legal education a generation ago are matters of the past.

Most of the impetus behind the great and rapid improvement which has taken place in a generation came from the American Bar Association (founded in 1878) and state bar associations following its lead. Next to these the Association of American Law Schools (organized in 1904) has been an effective agency. For a time, it threatened that the two would not work together. But with the development of better understanding between practitioners and teachers the suspicions of sinister designs entertained by each with respect to the other have dissipated and for many years they have co-operated with increasing effectiveness. The foundation of improvement was in substituting boards of examiners or standing committees as examining bodies for the judges in the local courts or committees of the local bar named for each case. In Pennsylvania, Delaware and Vermont this practice had been continuous from the end of the eighteenth century. But their boards or committees served without compensation or even allowance for expenses and no great things could be expected of busy lawyers, competent to be examiners, under such an arrangement. In 1880, New Hampshire provided that the permanent board which it had set up should be allowed its expenses out of the fees paid by the applicants for examination. By 1890 six states had such a system. It is now substantially universal. Following better examinations came better requirements of legal education, then better requirements of preliminary education, and later better means of assuring the character of those examined. As one looks back, it is hard to realize what things were from which we have reached the system of today. If much remains to be done here and there, the profession is well aware of it and the organized bars and bar associations are zealous and active to urge it. The apathy of the bar in the last century is only a memory.

Along with progress in the machinery of admission and its operation has gone rapid but solid progress in the law schools—progress in requirements for admission, in standards of work, in organization of study, in building up of the teaching force, in graduate study, and in training of teachers and research. To speak only of one of the latest developments, the institutes conducted by teachers under the auspices of bar associations, or even, as in Virginia last spring, conducted jointly by bar associations and law schools, have manifest possibilities for the law, for the profession, and for the student. Return to the common-law institution of an organized profession, responsible for standards of training, qualifications, conduct and discipline, and with powers correspond-

ing to the responsibility, is making for continuance and increase of such team work between the law schools and the bar.

But while the law teachers of today may look back with pride on what has been achieved in a generation, there are many things confronting them with which they must wrestle as their own problems with which the organized profession cannot help them. The common law is a law of the courts, and the teaching of the common law began and evolved as a teaching by practitioners in the courts. As things had come to be in the United States, especially in view of the deprofessionalizing process that went on in the last century, the passing of legal education from the law office to the academic law school was inevitable. Yet there are possibilities in the intimate contact of law faculties with faculties of arts that we must consider. The expansion of the arts curriculum, the idea of equivalence of subjects and minute subdivision into courses, so that a college teacher may teach what seems good to him without disturbing any general scheme, has not given law teachers a good model for the work of a professional school where the general scheme of what must be taught cannot be ignored. If, with a necessarily limited number of teachers any one of them puts the stress in the wrong place and omits what the general plan calls for in order to do something it does not call for, the balance of the student's training is disturbed. This may not matter in a general cultural education. It may matter very much in training for a practical profession. In recent years there have been some signs of a tendency in law teachers to give instruction in what interests them personally for the moment at the expense of what, on a consideration of the whole field of law teaching, students with the limited time afforded by a reasonable period of study should be mastering.

Again, the preliminary training of the law student, before he comes to the study of law, must be left to the colleges. But their purpose is not primarily to prepare for the professional schools, and college authorities may justly object to shaping of their curricula by law schools as the high schools object to shaping of theirs by the colleges. The law schools must make the best of what has been done for its graduates by the college, being assured that it will be infinitely better than to take immature and not fully trained students from the secondary schools. Yet looking back over forty years of teaching (for I began law teaching in 1899), I seem to see certain effects of college teaching of the social sciences to students with no training in logic or in languages requiring accurate attention to accidence, grammar and context. I seem to feel an increasing difficulty in teaching the technique of legal reasoning to students with a predominantly literary training, satisfied

with plausible speculation and clever writing, with no sound basis in exact information, no clear philosophical background and no habits of consecutive thought. Certainly the contrast between the feeling of students today and those of yesterday about a course in the law of real property is significant. It did not seem hard to the student of my generation, although it took up more of the curriculum than it does now. The first year course in property in 1889–90 covered more ground than has generally been attempted in recent years, and covered it thoroughly. Today, the subject seems to bewilder students. The things which are simply so and must be learned as such, and the exact logical development of propositions to reach assuredly predictable results are not congenial to the habits of thinking and study of a generation not raised on the Latin grammar, the Greek verb, and compulsory mathematics.

More intimate contact of our universities with English universities and the increasing number of English-trained teachers in our institutions have had many good results. Undoubtedly the insistence on a more reasonable ratio of teacher to student and closer personal relations between teacher and taught which has come to us from England has led to improvement of the conditions of some years ago when teachers often lectured to impossibly large classes and could give little or no attention to individuals. Here, however, as in other cases of which I have spoken, what is needed is a reasoned balance between conflicting demands. Where in college and professional school the stress is on limitation of numbers, as an end in itself, the demand for legal training as opening a path to political activity and as a foundation for public administration or even for business is lost sight of. If the best colleges carry limitation too far, important groups in the community, ambitious of finding a place in public life, are cut off from the professions or forced to seek to enter them with inferior preparation. If the best law schools carry limitation too far, many ambitious men will have to turn to a lower type of school and perhaps agitate for reducing the hard won standards we were able to set up while the doors were open to all who could attain them. To do the best that can be done for the most who call for education and can meet its requirements should be the policy of our institutions in what we hope to preserve as a democratic land.

Another group of problems face the law teacher today in an era of educational experimentation. All education is affected by the modes of thought which have come into fashion since the World War. From insisting on continuity we have come to see only discontinuity. From

insisting on principles we have come to doubt their reality and to see only details. From a fashion of reducing all things to systematic simplicity we have come to insist on unrelieved complexity. From faith in generalization we have come to see only single cases and single rules. From an ideal of law as a body of logically interdependent precepts, we have come to reject logical interdependence and many would reject logic also. The rising importance of administration in our polity, the effect of increasing delegation of the applications of legal standards to administrative agencies, the preponderance of negligence cases in the law reports of today, the difficulties of applying the standard of due process of law in the urban industrial society of today in view of traditional ideals shaped for a rural, pioneer, agricultural society—all these things, with their tendency to emphasize public law in our picture of the legal order, make law teachers restless under the curricula of the past and eager to work out new ones by a process of trial and error. The trial is going on and it cannot go on without its due proportion of error. Yet only in this way, very likely, can we work out a curriculum for the future as effective as the one worked out in its day for the past. One thing, however, should be borne in mind. The law teacher must remember that law is a practical subject and that it cannot be judged wholly from the books. The full-time teacher is necessary for the scientific teaching and writing and research that are called for by the social problems of the legal order of the time. But he must be careful not to form general ideas from case books in which anomalous cases and difficult cases of application, admitting of stimulating discussion, brilliant development of analogies, and argument as to the choice of starting points for reasoning are most significant, without the check of experience in practice to make him aware of the extent to which the general course of judicial action for the overwhelming bulk of the cases which come to the lawyer is entirely predictable. At the other extreme is the practitioner part-time teacher, who sees things, as he sees them in the office and the forum, that is, as single cases calling for solution as such and not connected in any systematic whole. How to impart something of each into the other is a real problem of the law school administration of today.

Close contact of law teachers with the other faculties in a university, highly desirable as it is in a time of unification of the social sciences and necessary bringing to bear of all knowledge upon the questions of each special field, to some extent hinders the effective understanding between practitioner and professor. The give-it-up philosophies which are in

vogue in academic circles for the moment are no help to either, but may easily lead the latter to ideas at which the experienced common sense of the former draws the line. Again, it must be said, law is a practical subject. Even if no absolute measure of values can be proved, the law has found a practical one through experience developed by reason. It does not follow that all judicial and administrative action must be at large as some teachers, full of the new wine of relativist philosophy and up-to-date psychology, have been assuming. In a university, where one must not be out of date in his ideas, law teachers may be led too easily to give over the quest for an order of reason into which judicial decisions may be put, and to take the easy path of an economic interpretation of each case—something very different from an economic interpretation of the development of legal institutions and doctrines looked at in their whole course.

One of the specific problems of law teaching, an old one but perennial and ever recurring, is maintaining a balance between information and technique, between training with an eye chiefly to practice and training for the higher tasks of the lawyer; for legislation, juristic writing, creative juristic thinking, and wise participation in affairs. The apprentice-type law school of the last century stressed the one exclusively. Many thought that the academic law school of the beginning of the present century by way of reaction put too much emphasis on the other. In the whole history of legal education the two have tended continually to get out of balance. The university teachers of law on the Continent two generations ago, who were so engrossed in systematic development of the principles found by analytical study of the Roman law that they refused to look at the sections of the codes under which they lived, have been succeeded by a type of teacher who can see nothing but those sections and bounds his teaching by the covers of the codes. The historical jurists whose case books a generation ago developed doctrines from obscure fragmentary reports in the Year Books have been succeeded by a generation to which historical continuity is an illusion and each case is a phenomenon sufficiently grounded in its own phenomenality.

From the standpoint of training for practice, information must be stressed. The practitioner must know certain things as Kipling says the sailor must know his ropes, awake or asleep, drunk or sober. From the juristic standpoint there is a tendency to neglect the information which after all should be at the foundation of all attempts by the student at research and creative juristic thought. From either standpoint there is

a tendency to over-stuff curricula which a wise law school administration must always resist. It cannot be too mindful of Coke's motto—*non multa sed multum.*

In the last century, as, in a period of maturity of law, text writers sought to organize and systematize the confused mass of concrete legal precepts in Anglo-American law, they turned for systematic ideas to the Continental writers on the Pandects. More than one department in our law was for a time held back in its development by having been forced into a systematic pigeon hole of the modern Roman law. Some parts of our law are still embarrassed by having been subjected to this process for two generations. In this case we cannot put the blame on contact of law writers with an academic faculty. They turned for ready made system to the only systematic books available instead of working out one from our own materials. But an analogous phenomenon about which the law school world must be thinking is becoming manifest and is clearly in large part attributable to academic environment. The long separation of teaching of the law of the land from the universities in England and America led the academic teachers of politics and government to turn to Continental treatises on public law for systematic ideas with a consequence that much has been imported into the books which is fundamentally out of line with our legal polity. With the rise of administrative bureaus and agencies of every sort and development of administrative law, the close contact of law faculties and arts faculties, which ought to be a good thing for each, is stimulating the development of an imported public law with its postulate of absolutism to replace the common-law postulate that government is carried on under the law.

Many other problems for law faculties remain, each of which could of itself be the subject of a whole paper. Are we wise in letting the German doctorate of philosophy, as adapted in our faculties of arts and sciences, dictate the form of graduate legal education? The general science of law, Roman law, and comparative law cannot well be given a place in the undergraduate curriculum. But those who are in training to teach law should be well grounded in these subjects which are fundamental for the jurist. Research in ignorance of them is no substitute for them and the Ph.D. model should not compel our law faculties to give them over in order to conform to an academic fashion. Again, reaction from the teaching of Blackstone and of books on "elementary law" founded on Blackstone led the law schools generally to give up the idea of a general introductory course. It may be that our law is not yet so systematized that such a course is practicable. Through

case books and now through the *Restatements* and treatises our law teachers are putting system into particular subjects. As the commentators put system into particular subjects of the modern Roman law and the Pandectists followed after a long interval with system of the law as a whole, perhaps when system in each department of the common law is thoroughly worked out, system of the whole will come. Whether the history and system of the common law can be taught profitably in our law schools is a question worthy of study. The increasing need of different types of lawyer and hence of adaptation of legal education to these types upon a common basis suggests that some such general survey of the law may have to be provided.

One thinks, too, of the question of a prescribed pre-legal course in college and what its content should be and the constant pressure to inject more subjects so that the pre-legal course and the professional course shall between them include "everything a lawyer ought to know." No course can ever do this and the lawyer of the future, like the lawyer of the past, will have to be content with learning how to get up subjects for the time being and where to go for sound instruction and information. So, too, as to the question of the length of the course and apportionment of it between college and law school. In our zeal to include a maximum of what it would be desirable for the lawyer to know we must not forget that law ought to be a learned profession, and so must not push general culture out of the program. We must not forget that there is such a thing as keeping young men in school too long. They ought not to come to the bar later than twenty-five and it might be better if students could be out of secondary school and college at nineteen and come to the bar at twenty-three. Well rounded, cultivated men, qualified to be leaders such as our American polity demands, who at the same time have mastered the technique of our law, know enough of its history to understand its possibilities for the social order of today and enough of its principles in the fundamental branches to become effective advisers and advocates and later sound judges—such should be the ideal.

"Taught law," says Maitland, "is tough law." A taught legal tradition, molded through the traditional technique of the lawyer to the ever changing circumstances of time and place, is one of the most enduring of human institutions. Law schools are our best guarantee of vitality in the law, losing sight neither of experience nor of reason but keeping them in balance and working along with the courts in preserving and handing down that frame of mind which has been the strength of the Anglo-American legal polity.