4-1938

The Law School Plan in Action

Ernest Kirschten

Follow this and additional works at: https://chicagounbound.uchicago.edu/harry_bigelow_documents

Recommended Citation

This Media is brought to you for free and open access by the Harry A. Bigelow at Chicago Unbound. It has been accepted for inclusion in Harry A. Bigelow Documents by an authorized administrator of Chicago Unbound. For more information, please contact unbound@law.uchicago.edu.
THE LAW SCHOOL PLAN

in Action

By ERNEST KIRSCHTEN

In March, 1937, the Magazine published an article by Dean Harry A. Bigelow describing the new program which the Law School had recently adopted. The program, though it was not radical, was so unique that its adoption was noted generally not only in legal journals, but also in the papers and periodicals of a year ago. Interest in the School and its program has continued. Last month Mr. Ernest Kirschten, reporter from the St. Louis Post-Dispatch, visited the School. After his visit a special article describing the Law School appeared in the Sunday, February 27, issue. This was followed in the Tuesday, March 1, issue by a short editorial comment. The substance of the article and the editorial are republished here because it is believed that they will be of interest to the alumni generally.—Ed.

The most radical of recent innovations in American professional education was inaugurated last October by the law school of the University of Chicago. . . . It undertook to train better lawyers by teaching them less law and a great deal about matters non-legal.

The new plan, which may now be subjected to a tentative, preliminary appraisal, was the rankest kind of heresy to orthodox law professors. For years these men had paid lip service to the theory that the lawyer should be well grounded in economics and the social sciences. But they left those courses to other faculties that offered pre-legal work without the slightest regard for the needs of a lawyer.

The three years that a man spent in the law school were short enough for the reading of the interminable number of decisions required by the so-called Harvard case method, they contended. And Professor Langdell, who devised this way of learning law by sifting it bit by precious bit out of a mass of opinions, long ago had been placed in the highest niche of the law teachers' pantheon. His system had become as sacrosanct as the doctrine of "stare decisis."

Then suddenly the brash young men of the Midway announced that a man to be a really good lawyer must be drilled in psychology and sociology, in economics and history. They even said that he ought to be a profound student of ethics, since, in their belief, a lawyer was concerned with the fundamental problems of right and wrong.

And they went on to say that these things must be taught in the law school itself and not in some pre-legal course to which a student might settle down with the phlegmatic announcement that, since it was required, he would "work off his culture." It could be done, they said, in time now wasted by the sacred case method.

The Chicago men went still farther to say that these subjects must not be kept in neat little pigeon-holes, but that they must be thoroughly stirred into the legal courses of the curriculum—courses that for years the men of the law had been carefully separating, refining and tagging almost with a surgeon's scalpel.

The Chicago men even proposed to break down the divisions between the legal subjects. There is no need for a fence between "Contracts" and "Sales," they said, or for a grim wall between "Property" and "Wills." There were to be no more course examinations, they went on, but only one comprehensive examination at the end of each year. And a third or fourth year student would be expected to answer questions about matters that had been brought to his attention as a freshman.

In fact, he was to be confronted by the same waster of unassorted facts that might be thrust across his desk by a client, the same complex social-economic-legal situations that might be presented for his unraveling as a legislator. Law was to be taught with a regard for the realities that produce it—the conditions which it seeks to control. It was to be taken out of its isolated little hot-houses.

With the first year of this new course now being taught, the men of the Midway have high expectations for the plan. Even opponents conceded that it will produce better legal philosophers, better statesmen, judges and legislators. And if it will do that, says Dean Harry Bigelow, a product of the Harvard system but an enthusiastic participant in the formulation of the new course, it will produce better lawyers, too. To him the changing social structure and the changing political attitudes of the day made the new approach mandatory. Too many judges, he said, now decided economic rather than legal questions without any real economic knowledge.

President Hutchins, who was dean of the Yale law school when he was called to his Chicago post at the age of 28, sees in the plan the salvation of both the American university and the legal profession. American educational trends have led more and more to the vocationalizing of institutions of higher learning, he believes. Professors are expected to give practical advice, to teach the tricks of a trade and not to confuse their students with thoughts about the basic philosophy of a profession. The university is expected to tell its students how to do a thing, he complains, but it must not raise the question of whether a thing should be done or not.

"But every profession requires for its continuous development the existence of centers of creative thought," he writes in his provocative The Higher Learning in America, adding: "To the extent to which universities and professional schools abandon creative thought and degenerate into trade schools the profession must degenerate into a trade."
Only general principles and fundamental propositions may be learned in a university, he argues. "The practices of the profession change so rapidly that an attempt to inculcate them may merely succeed in teaching the student habits that will be a disservice to him when he graduates. Efforts to keep up with the current events usually result in keeping up with the event before last, so that I should not be surprised to learn that law schools are just beginning to teach their students how to proceed under the NRA." . . .

President Hutchins insists that a lawyer should have an adequate notion of the purpose of the state, some views about the nature and objects of law, of political society, of justice and morals, and of truth and rectitude which he holds to be the same for all men. However, he complained to the last convention of the American Bar Association in Kansas City that bar examinations, which require a student to spend 1,200 hours learning "everything which the courts have done about everything from 'Agency' to 'Wills,'" may allow a school to give him nothing but a cook book drill.

President Hutchins' theories may be a little in advance of the new curriculum. As a matter of fact, he takes no credit for the innovation, insisting that this should go to Dean Bigelow and the law faculty. . . . They certainly propose to continue to train men who will head the lists of those passing the bar examinations.

The plan as announced by Dean Bigelow last spring is simple enough. It lengthens the law course from three to four years, but reduces the pre-legal requirement from three to two years to avoid saddling the student with an additional year on the campus.

With this extra year available, non-legal subjects, such as psychology, ethics, logic, constitutional history, government, economic theory, accounting, sociology and comparative law, are taught by the law faculty. Separate courses are devoted to some subjects like psychology, but these are taught from the legal point of view. Most of the non-legal matter, however, is introduced directly into the law courses.

The method of doing this may be best explained by example. The course in Family Relations now begins with a study of the origins of the family, reasons for the desirability of monogamy, family problems—all sociology; how these problems are approached in other countries—comparative law; the American rules—the legal core of the course, and a critical appraisal of these. Instead of reading hundreds and hundreds of cases, students must do field work in social settlements, report on comprehensive non-legal works and even read novels such as those of Galsworthy and Stendahl for their detailed pictures of family relations.

The study of Corporation Law, scheduled for the third year, also demonstrates the realism of the new method. It will be preceded in the second year by an elementary accounting course—not the usual business school course containing much bookkeeping practice that a lawyer does not need, but a condensed study enabling the student to read a balance sheet or a statement of profit and loss with some comprehension of the process by which these are prepared. In the Corporate Law course itself advanced topics will be introduced, such as accounting for treasury stock, types of surplus and their availability for dividends, and holding company accounts.

In the fourth year all required work is to be focused on the problem of economic organization—the division of national income and the business cycle. Advanced economic theory and methods of statistical analysis will be studied. Legal aspects of the problem, such as restraint of trade, unfair competition, rate regulation and price fixing, some branches of labor law, corporation law and taxation, will be developed in close relation to the economic and business material. Much of this year

(Continued on Page 21)
Iowa and Illinois, teams which previously had beaten the Maroon quintet.

Dick Lounsbury, playing his first year of varsity basketball, proved the stand-out of the team. He played a consistently rugged game in the pivot position and at the end of the season was among the first 10 high scorers in the conference. The team as a whole, however, played an interesting brand of ball despite its losses. Along with Iowa and Illinois, two other major teams, Marquette and Loyola, were defeated by Chicago.

From the squad Coach Norgren will lose Captain Kenda Petersen, John Eggemeyer, Morris Rossin, and Paul Amundsen by graduation. As a nucleus for next year's aggregation he will have Robert Cassels and Jack Mullins, speedy forwards; Lounsbury and Robert Meyer, sharp-shooting centers, and Howard Isaacson, Lyman Paine and Carl Stanley, reserves. The squad will be bolstered by at least two outstanding freshmen, Joe Stampf, center, and Bill Georgen, forward.

The University of Chicago was host, March 11 and 12, to the Big Ten at the conference indoor track and field championships. While Michigan romped to its fifth straight indoor title, and new records were established by Fenske of Wisconsin in the mile, Mehl of Wisconsin in the two mile, and Albritton of Ohio State in the high jump, the meet provided an acid test for John Davenport, sophomore Maroon sprinter.

Davenport won his trial heat in the 60-yards dash and then went on to take the championship race in the fairly fast time of :06.3. Davenport, a member of last year's football team, will be valuable to Track Coach Ned Merriam this spring. Because of his fast-finishing ability he will be at his best in the 100 and 220-yards dashes. He also may be a surprise in the low hurdles.

But for Davenport's performance, Chicago's showing in the meet would have been almost tragic. Captain George Halcrow, holder of the conference outdoor 440-yards championship, failed to qualify. His long stride makes it difficult for him to negotiate the sharp turns on the indoor oval. Bob Cassels, who holds the University of Chicago outdoor pole vault record of 13 feet ½ inches, managed to take a slice of fifth place in the indoor event. Cassels, participating in basketball, had but a few days practice before competing.

The Maroon mile relay team, composed of Chester Powell, Kenath Sponsel, Jack Webster, and Halcrow, won fifth place for Chicago's final point, in one of the fastest relay fields in the history of the conference. Powell and Sponsel, both sophomores, have been showing steady improvement and will be in top shape for the outdoor season.

Although the Maroon wrestling team did not fulfill expectations in the conference tournament, it qualified six mat men for the semi-finals and won five points for a fourth place tie with Wisconsin. Some idea of the strength of conference wrestling this year can be gleaned from the fact that of six defending champions, only one retained his title.

Bob Finwall, winner of the 145-pound championship two years ago, placed second in the same division this year. He accounted for four of Chicago's five points. Captain Ed Valorz, powerful 175-pounder, failed to reach the championship bout but was considered by conference officials to be one of the outstanding wrestlers in that class. Coach Spyros Vorres will enter both Valorz and Finwall in the national intercollegiate matches.

Spring will usher in three new sports: baseball, tennis and outdoor track. Coach J. Kyle Anderson has nine veterans from last year with which to build this season's diamond team.

Tennis Coach Wally Hebert, with the Murphy twins, Bill and Chester, Captain John Shostrom, John Kreitenstein, Art Jorgenson and Charles Shostrom at his disposal, expects to guide the Maroon six-man team to another conference championship.

The Law School Plan in Action (Continued from Page 15)

is also to be devoted to original work—something that is stressed throughout the new course.

The extent of this program demands the elimination of the case method to a considerable degree. It is not being dropped altogether because it provides the lawyer with an important tool of his trade. It is felt, however, that it can be mastered in a year, and there are members of the Chicago faculty who feel that it is subject to the law of diminishing returns even before the end of the first year.

This entirely new approach to the teaching of law, of course, has demanded not only the preparation of new kinds of case and text books, but it also has made it necessary to find a new kind of teacher... .

Just now a special seminar in economics is being conducted for faculty members. Also, law men are attending non-legal courses so that they may formulate suggestions that will bring the subject matter into closer relationship with their courses. And, naturally, the experts in things non-legal are attending the law classes. The whole plan is still far from crystallizing. It is hoped that it will never become altogether hard and fast. While older law teachers, if not openly hostile, are skeptical about the program, some of the younger men at other schools are taking a keen interest in it. The University of Indiana has already announced that it is adopting the whole plan, and Louisiana State University even anticipated it in some measure.

Students at Chicago are enthusiastic about it, and so are many practicing lawyers. One of these, John Wright of Kansas City, expressed his enthusiasm in the form of a scholarship... .

"So far we have little more than an experiment," said President Hutchins, "but I shall be sorely disappointed if this new kind of legal training does not in the end have a profound impact on our law. It must change it, make it more realistic and more intelligent—otherwise our plan will be a failure."