To us at the Law School it seems important to speak to you from time to time about our courses and our teaching, for this is our central activity—it is what matters most to you and to your successors now at the Law School—and you are not likely to hear much about it in other ways. I would like to talk to you briefly about a writing seminar that I have been teaching for some years now—a few of you may even have taken it—using my book, The Legal Imagination.

I say that this is a writing course, but as you will shortly see, it is really about how to conceive of the activity of law, its practice and its education; how to conceive of it as a kind of writing.

I will not try to summarize the book, which contains a wide range of passages drawn from legal and other literature, interspersed with questions and writing assignments; what I will try to do instead is to identify the basic problem the course addresses and the kind of “solution” that it suggests its students may achieve.

We can begin with one of the items included in the book, a passage taken from Mark Twain’s autobiographical Life on the Mississippi.

Twain has been learning the pilot’s art from Mr. Bixby and is now at the wheel of a river boat. Mr. Bixby asks him why he changed course. Twain answers that he did so to avoid a “bluff reef” (a kind of sand-bar).

“No, it wasn’t a bluff reef; there isn’t one within three miles of where you were.”

“But I saw it. It was as bluff as that one yonder.”

“Just about. Run over it!”

“No, it wasn’t a bluff reef; there isn’t one within three miles of where you were.”

“Yes. Run over it!”

“If I don’t, I wish I may die.”

“All right; I am taking the responsibility.”

I was just as anxious to kill the boat, now, as I had been to save it before. I impressed my orders upon my memory, to be used at the inquest, and made a straight break for the reef. As it disappeared under our bows I held my breath; but we slid over it like oil.

“Now, don’t you see the difference? It wasn’t any thing but a wind reef. The wind does that.”

“So I see. But it is exactly like a bluff reef. How am I ever going to tell them apart?”

“I can’t tell you. It is an instinct. By and by you will just naturally know one from the other, but you never will be able to explain why or how you know them apart.”

It turned out to be true. The face of the water, in time, became a wonderful book—a book that was a dead language to the uneducated passenger, but which told its mind to me without reserve, delivering its most cherished secrets as clearly as if it uttered them with a voice. And it was not a book to be read once and thrown aside, for it had a new story to tell every day. Throughout the long twelve hundred miles there was never a page that was void of interest, never one that you could leave unread without loss, never one that you would want to skip, thinking you could find higher enjoyment in some other thing. There never was so wonderful a book written by man; never one whose interest was so absorbing, so unflagging, so sparkingly renewed with every reperusal. . . .

Now when I had mastered the language of this water, and had come to know every trifling feature that bordered the great river as familiarly as I knew the letters of the alphabet, I had made a valuable acquisition. But I had lost something, too. I had lost something which could never be restored to me while I lived. All the grace, the beauty, the poetry, had gone out of the majestic river! I still kept in mind a certain wonderful sunset which I witnessed when steamboating was new to me. A broad expanse of the river was turned to blood; in the middle distance the red hue brightened into gold, through which a solitary log.
came floating, black and conspicuous; one place a long, slanting mark lay sparkling upon the water; in another the surface was broken by boiling, tumbling rings, that were as many-tinted as an opal; where the ruddy flush was faintest, was a smooth spot that was covered with graceful circles and radiating lines, ever so delicately traced; the shore on our left was densely wooded, and the somber shadow that fell from this forest was broken in one place by a long, ruffled trail that shone like silver; and high above the forest wall a clean-stemmed dead tree waved a single leafy bough that glowed like a flame in the unobstructed splendor that was flowing from the sun. There were graceful curves, reflected images, woody heights, soft distances; and over the whole scene, far and near, the dissolving lights drifted steadily, enriching it every passing moment with new marvels of coloring.

I stood like one bewitched. I drank it in, in a speechless rapture. The world was new to me, and I had never seen anything like this at home. But as I have said, a day came when I began to cease from noting the glories and the charms which the moon and the sun and the twilight wrought upon the river's face; another day came when I ceased altogether to note them. Then, if that sunset scene had been repeated, I should have looked upon it without rapture, and should have commented upon it, inwardly, after this fashion: "This sun means that we are going to have wind to-morrow; that floating log means that the river is rising, small thanks to it; that slanting mark on the water refers to a bluff reef which is going to kill somebody's steamboat one of these days; this sun means that we are going to have wind to-morrow; that floating log means that the river is rising, small thanks to it; that slanting mark on the water refers to a bluff reef which is going to kill somebody's steamboat one of these days; that silver streak in the shadow of the forest is the 'break' from a new channel there; the lines and circles in the slick water over yonder are a warning that that troublesome place is shoaling up dangerously; that silver streak in the shadow of the forest is the 'break' from a new snag, and he has located himself in the very best place he could have found to fish for steamboats; that tall dead tree, with a single living branch, is not going to last long, and then how is a body ever going to get through this blind place at night without the friendly old landmark?"

No, the romance and the beauty were all gone from the river. All the value any feature of it had for me now was the amount of usefulness it could furnish toward compassing the safe piloting of a steamboat.

While this passage is about learning to become a river pilot, it states real issues for any education, and especially for a professional education. What Twain says is true: learning the river, or the law, is technique. Whether this is what will happen is cer-

tainly a real question for many of our students, and it ought to be for all of them.

My course is meant in part to offer the student an opportunity to examine this question for himself, in an independent and intellectually disciplined way. We are fond of saying that a professional education worthy of the name must be a true education, not merely a training in technique and method; and a part of any true education, perhaps its central part, is an examination of the education itself, an assumption of responsibility for what one does and becomes. But how is it possible to bring into focus for thought and analysis those activities of lawyering we learn so completely that they become a part of ourselves?

There are no doubt many possibilities for doing this, but the basic method of The Legal Imagination is that of comparison. As you can probably surmise from what I have already said, in this text I juxtapose passages that show what Karl Llewellyn would have called "law people" thinking and speaking and acting in their characteristic ways, with other passages, which establish other possibilities for life and expression. The idea is to define, by contrast and comparison, the field of legal discourse and action, the set of intellectual and rhetorical practices that make up the world of the law. At the beginning of the book, at least, I structure this comparison to make a rhetorical point, to bring to the surface the question the student may already be asking himself: "How can I bear to talk this way? When there are so many rich and alive and wonderful ways to talk in the world, how can I contemplate a future defined by the dull and impersonal language of the law?" This is a version of Twain's question: how can you stand to make of yourself what a pilot, or a lawyer, makes of himself, to give yourself such an education as this? (Will not all the romance and beauty be gone from the river?) My course puts this question to the student and expects him to write his own way to a response, as he discovers what he can do with legal and other language, and what he cannot.

To help the students with this task I ask them to engage in another kind of comparison as well, in their own writing. They are required to write a paper each week, the typical form of which invites them first to function as a lawyer, speaking in legal ways, and then in some other fashion, congenial to some other aspect of themselves. They are asked, in the language of Mark Twain's passage, to speak both as pilot and as passenger and to compare the results.

My original idea was that the richness of the stu-
dents' nonlegal writing would sharpen their perception of the formality and imitativeness of their legal work, both intensifying their sense that maybe there was something wrong about the education they were engaged in and establishing a meaningful standard of excellence by which their legal writing could be judged. But in practice one finds that many students function rather weakly in both voices, that they have a "student" voice which is as little under their control as their "law" voice. When this is true, the seriousness of the difficulty deepens: the question is no longer how to give one's legal writing the kind of richness and life one's other writing has, but how to learn to write at all as a fully engaged and responsible mind.

That is enough of a problem for anyone, in life let alone in a course, and I count the seminar successful to the extent that the question becomes real for the student, and he or she gets a start on a genuine intellectual engagement with it. All this is not to leave professional education behind, for to assume responsibility for what one says and does, for what one becomes in one's writing, is to address a central deficiency of modern education, including legal education: its use of imitation as a method of learning, and of life. (Think, for example, of the associate who constantly seeks direction in all that he does, not yet understanding that to be a good lawyer he must learn to make his own judgments his own way, and be responsible for the consequences.)

The meetings of the seminar are meant to deepen understanding of writing by engagement in the practice of criticism. One group of passages we criticize are those collected in The Legal Imagination itself, where my questions are meant to provide a kind of preliminary training in criticism. The other group of passages we criticize are from the students' own papers, portions of which are distributed anonymously before class. The hope is that the critical capacity developed by each student with respect to the writings of others, in the book and in the class, will ultimately become internalized; if so, when the student writes he or she will start to hear another voice, critical of the writing as it is composed, and this can be the beginning of writing of a new kind.

How we criticize the passages we read—what we come to mean by good writing, in the law and elsewhere—are complicated questions which must await another day. But I can say that I do not have a theoretical system of criticism, beyond the premise that collective attention to the significance of words and sentences, to the social and intellectual meaning of what one says, leads to fuller understanding and wider capacities.

To talk about what one hopes for from a class is always difficult—the ideal student does not exist, nor does the ideal teacher—but I can say that my hope is that through this process the student comes to see his or her legal writing not as the arcane manipulation of a specialized vocabulary nor as a kind of clothing that disguises policy preferences, but as real writing, subject to his control and under his responsibility. As for the law, I hope the student comes to see it as an inheritance of great value, a cultural resource that makes certain kinds of writing, certain kinds of argument, possible; a field of activity as rich and full of meaning as any other; and that it greatly expands the possibilities for collective and individual life. By the end of my book, that is, and by the end of my course, the rhetorical stance is reversed: law is seen not as the life of restriction but—at least for the student who can make it so—as a life of expansion.

To return now to Twain. I have been speaking as if the lawyer were like a pilot, but there is an important difference between them: the lawyer is a writer as well as an actor, and in some sense can therefore unite what Twain presents as separate. In fact, the resolution suggested for the law student—if he can do it—is like the resolution achieved by Twain himself: he is to be neither pilot nor passenger, but a writer, able to incorporate and respond to the views of both of the others, and able to make something new of his own. This is part of what it means to reconceive of the lawyer as a writer.