

THE THEORY AND PRACTICE OF LEGAL EDUCATION

by Gerald E. LeDain*

An examination of the role of the law teacher involves a consideration of three things: the objectives of legal education; the limitations of the teaching process; and the methods and material that will enable the teacher, within such limitations, to pursue the objectives as effectively as possible. The recent literature on the subject indicates that these are still matters of deep concern on which there is a great variety of opinion.¹ The views that are set down here make no claim to general validity, and they certainly do not imply any judgment upon the results which other teachers are achieving by the methods found to be most congenial to them. They are offered as a modest contribution to the never-ending discussion in which teachers re-examine their objectives and techniques and try to learn from their own experience and from that of others.

THE OBJECTIVES OF LEGAL EDUCATION

The object of legal education and training is obviously the formation of lawyers, wherever they are to make their contribution, be it the university, the law office, the courts, the corporation, the government department and

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¹I wish to acknowledge the help I have received from Mr. Alan Z. Golden, one of my second year students, whose analysis of the following articles on legal education has enabled me to form some impression of the current state of opinion and experiment: Vaugh C. Ball, "Objective" Questions in Law Examinations, 12 J.L.E. 567; Brendan F. Brown, *Legal Education in the Americas* (1957) 9 J.L.E. 339; Edmond Cahn, *Some Reflections on the Aims of Legal Education*, 11 J.L.E. 1; Peter B. Carter, 8 J.L.E. 179; James J. Cavanaugh, *Some Thoughts on Legal Pedagogy*, 8 J.L.E. 195; Maxwell Cohen, *Objectives and Methods of Legal Education: An Outline*, (1954) 32 C.B.R. 762; Kenneth Culp Davis, *The Text—Problem Form of the Case Method as a Means of Mind Training for Advanced Law Students*, 12 J.L.E. 543; Paul Duke, *Rules for Success in Teaching and Examining*, 11 J.L.E. 386; Walter Gellhorn, *Impressions of Japanese Legal Training*, 58 Col. Law Rev. 1239; L.C.B. Gower, (1950) Mod. Law Rev. 137; Harry E. Groves, *Towards a More Effective Program in the Small Law School* (1959) 12 J.L.E. 52; Albert J. Harno, *American Legal Education* (1960) 46 A.B.A.J. 845; Albert E. Harum, *The Case for An Undergraduate Law Elective in Liberal Arts*, (1960) 12 J.L.E. 418; K. L. Knickerbocker, *Talents for the Study of Law* (1960) 12 J.L.E. 532; Frank E. Maloney, *Are Beginning Law Students Adequately Prepared for the Study of Law?* (1960) 46 A.B.A.J. 175; J. B. Milner, *One Canadian View of the Case Methods* (1955) 3 J. Soc. Pub. Teachers of Law 33; Israel Packel, *Legal Education — A Variation on an Old Theme*, (1960) 48 A.B.A.J. 72; Julius Paul, *Jerome Frank's Ideas on the Relation of Legal Education to the Judicial Process*, 9 J.L.E. 177; C. A. Peairs, *Essay on the Teaching of Law*, 12 J.L.E. 323; Allen M. Singer, *Harvard's New Course in the Legal Process — A Pattern for a More Comprehensive Legal Education*, 12 J.L.E. 251; Arthur T. Vanderbilt, *The Future of Legal Education: We Must Face the Realities of Modern Life* (1957) 43 A.B.A.J. 207; Bernard J. Ward, *The Problem Method at Notre Dame*, 11 J.L.E. 100; Hessel E. Yntema, *A Modern Perspective for Legal Education*, 7 J.L.E. 561.

tribunal, or the international organization. The intellectual heart and core of this process is the development of what we call the "legal mind". By that, I understand the acquisition of a certain amount of legal learning or fundamental knowledge and the mental habits, processes and skills which constitute, with the requisite knowledge, the power of the effective lawyer.

The fundamental knowledge and understanding which the lawyer requires — that which he ought to carry around with him — is acquired gradually in bits and pieces, but the ultimate objective is perspective, realism and sophistication about the role of law, its relationship to life, the great and varied range of its impact, and its limitations. This feel for the way in which the legal order works involves a sense of its general architecture — the whole range of the law-making and adjudicative processes, as well as the variety of compulsions that assure subordination and obedience to law, and the relationship of the various parts to one another. Much of this can be imparted in courses on jurisprudence and legal method, but it has to be emphasized in every branch of the curriculum until it becomes a permanent breadth of view. A good deal of it can only be acquired after the student has left the university, but his formal legal education should give him the framework to which he can relate his practical experience afterwards. The law school must be prepared to accept some of the responsibility for the graduate who fails to look for a possible constitutional issue in a problem; forgets about the concepts of *ultra vires* and public order and good morals; overlooks the possibility that there may be a relevant statute or regulation; is unmindful of the various sources of legal liability; fails to perceive the application of a general rule of contract in some specialized field which he has come to think of as a water-tight compartment; is careless and indiscriminating in his evaluation of the results of the judicial process; thinks of the courts as the only places in which law and legal reasoning operate to influence decisions, and as a result misses many opportunities to resolve difficulties before they reach the pathological state of litigation; is naive about the relationship of law to policy, and the extent to which businessmen, public officials, arbitrators, and judges will allow themselves to be made fools of by legal reasoning; fails to realize that too much law can be as fatal as too little, and in a well-meaning attempt to serve a client, strains at a gnat and swallows a camel, fashioning for the parties a straight-jacket instead of something they can live, breath and move around in.

The student of law is first a student of society, reading in the law a record of its values, aspirations and the practical arrangements for achieving its many ends, collective and individual. But he is also a student of the law as instrument and technique, for the law is both a thing which mirrors and a thing which shapes. With law as instrument and technique we should also be concerned with the highest generalizations, for in the grasp of these lies true professional competence. Nor is this to be achieved by superficiality; to grasp the essence of general principles one must immerse oneself in detail, but such detail as reveals

the nature and application of essentials. Every teacher must determine what are to be the few broad notions of his subject that he would like the student to retain beyond the examination. These constitute the true outline of his course. The purpose of the detail is to illustrate and emphasize the general ideas, to stimulate interest and imagination, and to afford exercise for the mind by which the student may be encouraged and aided to acquire the mental habits and processes which characterize the intellectual discipline of the law. The broad notions of a subject are the personal distillation of each teacher's thought and experience — his imaginative grasp of the whole, its master ideas and concepts, the basic approach to it, the major philosophical and policy considerations underlying it, its general relationship to the rest of the law, how it works, the spirit which animates it and the conceptual and technical apparatus through which it is operative, the great points of departure in the subject, and how one goes about discovering its detail.

Fundamental knowledge, then, consists of a general grasp of the what, whence, why and how of law — its basic concepts and categories, its origin, purpose, techniques and operation. (Nor should we forget consideration of what the law should be, for no university can be satisfied unless it is turning out graduates capable of bearing their share of the profession's responsibility for law reform.) All legal education should be jurisprudential in its emphasis. This does not mean filling the student with glib generalizations or the monstrous jargon that is to be found in some works on jurisprudence and sociology, but helping him to perceive the underlying nature of legal abstractions — the concrete things and relationships for which they stand. The test of teaching is precisely whether the abstractions remain inert or come to life in the mind of the student. Further consideration will be given to this problem when we come to discuss teaching methods; for the moment, we are concerned only with objectives. Insofar as knowledge and understanding are concerned, the ideal is suggested in the following statement by Holmes: "One mark of the great lawyer is that he sees the application of the broadest rules."

Among the more important qualities that we associate with the legal mind and that we should therefore be trying to help the student to develop, as far as his own ability, the teacher's ability, and the limitations of the teaching process permit, are thoroughness, intellectual self-reliance and the critical faculty, imagination and foresight, resourcefulness, reasoning ability, judgment, the sense of relevance, the ability to perceive similarities, distinctions and relationships, the ability to do effective research, and skill in the use of words. The professional tasks which call upon these faculties, and therefore the exercises by which they are stimulated and strengthened, are determining the facts of a situation, perceiving the legal and policy issues in the fact situation, ascertaining the applicable law, applying the law to the facts, so as to arrive at conclusions, and giving effective expression to the action that is called for, whether it be in written or verbal form.

THE LIMITATIONS OF THE TEACHING PROCESS

Much dissatisfaction and frustration can proceed in legal education not merely from a mistaken or inadequate conception of its objectives but from an exaggerated idea of what can be accomplished in a three-year law course. With the limited time, material, techniques, and opportunities for direct and vicarious contact with reality and experience available to him, the law teacher cannot hope to accomplish the above objectives to his own or other people's satisfaction. If he is to be fair to himself and to make the most effective use of his contact with the students he must acknowledge the limited nature of his opportunity. At best he can hope to set the student's feet in the right general direction, take him some distance down the road, and leave him with some of the intellectual enthusiasm, self-confidence and poise that he will need to orient himself in the adventure of practical experience.

The formation and cultivation of the lawyer — that is, his legal education — is a life-long process. From the leaders of the Bar to the first year student, we are all at various stages of growth. The fact that at any particular stage a man must talk and act as if he knows what he is doing cannot conceal from him the awareness that he is still learning and growing. Some will tell you that it takes a certain minimum of time, such as twenty-five years, to make a lawyer. In the absence of clients we may confess the hope that even this much time may prove sufficient. Even if a man can be satisfied with his general technical competence after a certain time, he may be prepared to admit with Felix Frankfurter that "No one can be a truly competent lawyer unless he is a cultivated man", and a life-time is bound to seem all too short for one's general cultivation.

While it is unfair to tax a law school with failure to turn out a finished product, it is reasonable to ask it to consider how it may make the most of its opportunity. What are some of the more important things that it can hope to do, at least in some respectable measure? It can hope to lay the foundations for an attitude towards law and the legal profession, an attitude towards work and standards, and an appreciation of how to approach the solution of legal problems. It may also, of course, be expected to impart a certain amount of information, but since this is the easiest task of all, it is also the most seductive and dangerous, for an excessive preoccupation with it can defeat the other purposes.

The limitations of time can be easily overlooked in an assessment of what a law school should be able to do. At McGill, for example, the three year course affords a total time for instruction of about eighteen months, at most. Proposals to lengthen the academic year significantly encounter serious objections which it is unnecessary to enlarge upon here.

A good deal could be done by a new approach to the problem of curriculum to increase the available time for more systematic, thorough and correlated

work in the important fields. If the present Bar curriculum exhibits any educational philosophy at all, it is a false one. One can understand the concern that the students should at least be made aware of the existence of the various subject-matters which make up the contemporary body of law, but the notion that one must somehow distribute the available time for instruction over this vast area is inconsistent with serious educational purpose. In *The Aims of Education*, Whitehead has left us in no doubt about his convictions on this point: "We enunciate two educational commandments, 'Do not teach too many subjects', and again, 'What you teach, teach thoroughly'." We do not acquire a feel for the way in which the legal order works and the ability to orient ourselves to an unfamiliar problem or subject-matter, by passing superficially over all the important statute law which one is likely to encounter at some time or another in practice. Nor do we guarantee educational results by fixing the total number of hours of instruction which must be devoted to each subject. Education simply cannot be regulated in this way. The problem will not be resolved until it is left to the universities, in consultation with the Bar, to determine the means by which the objectives of legal education may best be pursued. It may be presumed that the Bar knows the kind of intellectual product it wants — that it is capable of judging results — but its approach to the regulation of curriculum does not suggest that it understands how that product is produced. And why should it be expected to? Education is not its specialty but that of the universities.

There are, however, other limitations besides time and weight of subject-matter to which critics of legal education must reconcile themselves. We must face the fact that we cannot reproduce in the classroom many of the conditions of professional life which test and strengthen the mental qualities that we seek to foster. All the agonizing about teaching methods will not change that fact. At best we can simulate or provide satisfactory substitutes for some of the conditions. One situation that is conspicuously absent in the classroom is the encounter with the anxious and bewildered client who has not the faintest inkling of the legal nature of his problem and whose impression of the facts must be patiently elicited, sifted and verified. The best suggestion that has been offered for this problem is the legal aid clinic — an idea that is fine in theory but beyond the realm of possibility for the average law school. The law teacher cannot present as a regular challenge to the student the various practical issues in the typically complex life situation which must be evaluated by the lawyer who is trying to give wise counsel and to decide upon the best tactics. Nor is the classroom a place in which the student can acquire experience in the arts of negotiation and settlement. As for the conditions of the courtroom, it has been suggested by those familiar with the moot-court that it may not repay the time and effort that must be spent on it. The teacher may talk about legislation, by-laws, contracts, wills and pleadings, but he cannot hope to give the student any significant degree of experience with the problems

of expression and legal judgment involved in the drafting of these documents in concrete situations. Even in courses of so-called "practical" instruction which follow the academic program I suspect that in many cases little is accomplished beyond providing the student with a set of forms or legal stereotypes which, if he is intelligent, he will treat as suggestive examples rather than models to be slavishly followed.

While those who are critical of legal education must remember that the classroom cannot offer the full range of challenge that is thrown up by professional life, the teacher himself must not forget that his essential task is nonetheless to challenge the student mind by all the resources at his command, and to give that mind an opportunity to respond and express itself. It is in the light of these two objectives that he can do something constructive to enlarge the scope and possibilities of the educational process. He will not get too far off the track if he bears in mind that the most serious educational crime is to kill the imagination.

METHODS AND MATERIAL

All teaching basically takes one of two forms: in the first, the teacher tells the student; in the second, he induces the student to tell him. In legal education today the first approach is typified by the formal lecture, the second approach by the case and problem methods. Most educational theorists agree that the second, or Socratic method, is the most thorough and effective means of stimulating intellectual development. Indeed, among many critics of legal education the formal lecture is a somewhat despised technique, though it is easier to disparage this method than to break the habit of resorting to it. I do not think, however, that the objectives of legal education are best pursued by an exclusive use of any one of the three principal techniques in use today — the lecture, case and problem methods — but by a judicious combination of all three. Obviously there can be no hard and fast rules about their effective use; the relative utility and importance of each will vary from course to course. But in the light of what has been said about the objectives of legal education, I venture to offer a few observations about the use of these methods in my own course on Bills of Exchange.²

The great utility of the lecture method is to put the subject in perspective. It is easier to stimulate the mental energies of the student if he has an idea of where he is going, what the subject is generally about, and the kind of problem he is going to encounter. I usually devote the first hour or two in my course on Bills of Exchange to imparting a "bird's eye view" of the course, introducing

²The views that are expressed here would require some qualification if I were addressing myself to the particular problems of teaching a civil law rather than a commercial law course. An appreciation of the characteristics of the civil law system that have fostered a distinctive teaching approach with a traditional emphasis on the lecture method may be found in my article, *Teaching Methods in the Civil Law Schools*, (1957) 17 R. du B. 499.

the students to its subject-matter, objectives, and basic themes; the form and terminology of the instruments; illustrations of their use in practice; their contractual and property aspects; the distinction between assignment and negotiation; the concept of good faith; the classification of holders and defences; the reasons for the development of this field of law and the policy considerations which underly its approach to specific problems; its relationship to the general law of contract and the special character of the subject which gives it its particular interest and justification as a separate object of study. These introductory lectures are frankly designed to lay the foundations for an imaginative consideration of the detail of the subject.

Then, and then only, do I say a few words about the history of the subject and the modern sources of the law. With respect to history, I am chiefly concerned to utilize the special contribution which this subject can make to an understanding of the origins and evolution of law through custom, judicial decision and legislation. With respect to sources, my purpose is twofold: it is my intention that the students should do most of the work of ferreting out the law of the subject, and it is only fair that I should give them some orientation towards the sources; and secondly, it is my desire to impress them with my own conviction that one of the special fascinations of this subject in Quebec is that it illustrates the comparative legal method in action.

Thereafter it is my intention — insofar as alertness, energy and foresight permit (and I am frequently aware of failure in all three) — to reduce substantially the emphasis on lecturing. Such further lecturing as I may do at the beginning of each hour is for the purpose of setting the stage for classroom discussion and analysis. To me this means suggesting the underlying nature of the new problem and its issues and linking it up with what has gone before. The kinds of question I am concerned about are: What are the things we have been talking about so far? What is their relationship to one another, and how do they fit in the general context of the subject? What is the concrete nature and the importance of the problem that we are going to investigate during this hour? The students have been provided with a detailed outline of the course. I leave to them the task of pre-class preparation and the building up of a relatively complete and systematic set of notes.

I am firmly convinced that the worst thing a teacher can do is to give the students a neat set of notes, and that nothing is more futile than the examination which tests the student's knowledge of the teacher's notes. The teacher should force the student to work up his own notes, that is, to learn by experience to read widely and rapidly and to extract the essence of what he reads. The teacher who sums up everything for the students is developing intellectual cripples instead of minds capable of doing what he has done. One thing about education that is often overlooked is that the student derives his chief benefit from the work he does himself. He learns from immersion in the materials. Style, idiom, a sense of structure and conceptual range rub off on him only from constant reading and analysis. The principal burden of putting the flesh on the

skeleton must be left to him. He should not only be asked to read ahead of the teacher but be forced to do so by the very discursive quality of the teacher's method. The more difficult it is for the student to take notes in the classroom the better the teaching may be presumed to be. (Of course there may be other more obvious explanations of the difficulty.) The bulk of the student's notes should be made before and after each classroom session. He should be too busy thinking and participating in the classroom give and take to have much time for notetaking. The notes that a student ought to make in the classroom are the briefest jottings required to record an important question, a new approach to a problem, an illustration or explanation that has made clearer something he did not fully appreciate in the course of his pre-class preparation. In other words, classroom notetaking should be reserved for anything which adds to the knowledge and understanding of the problem that he has been able to acquire on his own. For the diligent student the classroom discussion and analysis should be a test of his understanding of and ability to use the knowledge he has gained by his own pre-class efforts; for the lazy student it should be a bewildering and thoroughly unsatisfactory source of information.

Some teachers feel that until there is a suitable text in the field which can be purchased by the students, the major part of the time in the classroom must be given over to dictating to the students a good set of notes. I cannot agree. Good texts are very useful reference works, particularly for the practising lawyer, but they are poor teaching tools.³ They do the student's work for him. The student needs the practice and discipline of digesting and co-ordinating the material in the primary sources of statute and case. Insofar as a textbook is analytical and critical, it is better that the student should come to it after he has himself wrestled with the primary sources. The great vice of too much exposition is that it does the student's thinking for him and ends up by producing a passive intelligence that is over-awed by authority. I think that the longer the student has to postpone reading the texts, the better. I am, therefore, against putting a text or mimeographed set of lecture notes in the hands of every student. Let the student develop the confidence that comes with having made his own digest of and commentary on the primary materials and perceived by his own intellectual effort some of the issues, arguments and theories that are developed by the text-writer.

If he is to be expected to do this work the student must be provided with a detailed outline of the course including precise references to be consulted on each point, and he must have his own set of primary sources, that is, the applicable statute law and selections from the leading cases. These are the materials he should study in pre-class preparation. He should pose his own questions and form his judgments about them. The teacher's role then is to stimulate and direct discussion of the primary materials, to draw out the student's ideas, to find out where the intellectual difficulties lie, to see that

³See, however, Davis, *The Text-Problem Form of the Case Method as a Means of Mind Training for Advanced Law Students*, 12 J.L.E. 543.

someone in the classroom, preferably a student, comes to grips with the issues, puts the problem in perspective, points up its complexities and subtleties, challenges intellectual complacency. The teacher is the stage manager of an intellectual performance — patient, encouraging, tough, provocative by turn — depending on what the situation calls for as the discussion and analysis develop. He must question, prod, challenge, keep the discussion progressing along relevant and constructive lines. He must at all times be an intellectual irritant. The students must be made to feel responsible for the success of the "lecture." This is a much less showy but more difficult art than the delivery of a well prepared discourse. It is a creative process that cannot be shaped and determined in advance. Every hour in the classroom should be to the teacher an unknown and unforeseen adventure. Some days the results will seem to justify the effort, other days they will not. He must be impervious to the judgment of those who do not perceive his purpose and are baffled by the apparently spontaneous and disorganized nature of his method. Without a deep sense of conviction about the worth of this method he may find it difficult to sustain his courage and confidence through the alternating experience of achievement and defeat, and he may be tempted to revert to formal and systematic lecturing. If he is to pursue his method he must obviously be prepared to sacrifice coverage to concentration, at least in the classroom; the burden of filling in the gaps in the outline he should cheerfully cast upon the students. Needless to say, time will outrun his fondest hopes, and as the end of the year approaches he will probably have a sickly apprehension of the gap between theory and practice and an oppressive sense of having mismanaged his time. He will try to learn from his mistakes and to do better next year.

The two basic techniques for stimulating classroom discussion and analysis directed to the development of the legal mind are the case method and the problem method. Since both have their utility the teacher is obliged to divide his time between them.

In the case method the student sees the judicial mind in action. Since, as Holmes suggested, his task when he gets out will be to make predictions or prophecies about what the courts will do in particular situations, the more familiar he is with the judicial mind, the better. In the case method the student is familiarizing himself with the kind of fact situation to which the legal abstractions apply, with the processes of legal reasoning, and with the language of the law. He observes the approach to facts, the approach to sources and the determination of the applicable principle or rule, the processes of inductive and deductive reasoning by which the court arrives at a solution of a problem, the techniques of legal expression and ordered analysis. The object of the classroom discussion and analysis of a case is to determine the grounds of the decision in fact and law and to make a critical evaluation of the reasoning that has gone into the conclusion. The method is calculated to encourage the habit of thoroughness and close attention, to develop the faculty of discrimination and the sense of relevance, to make the student aware of the problems

of conceptual and verbal precision, and to give him practice in self-expression. But the process is rather more critical than creative.

The problem method takes the process a step further. The first object of the hypothetical problem is to make the student fact-conscious by directing his unaided attention to the stated facts in an effort to determine their completeness and relevance. It does not train the capacity to elicit the facts but something can be done along these lines by calling on the student to state what further questions he would put in an attempt to determine all the possibilities in the situation. In other words he may be asked to indicate what else he would like to know and why, and what would be the answer depending upon certain assumptions of fact. Among the most difficult qualities to stimulate with the methods and materials that are at hand in the classroom are comprehensiveness and foresight — the ability to see all around a problem and to anticipate weaknesses and difficulties.

What the problem method chiefly tests and develops are three things: the student's ability to perceive the legal issues in the fact situation; his general grasp of the applicable principles and rules, including any doctrinal issues which may make their determination a matter of some uncertainty; and his ability to apply the law to the facts. Ideally, the problem should present the student with a "new twist", that is, a fact situation that calls for what is to him a new application or extension of the principle. The general effect of this, besides stimulating his imagination and resourcefulness, should be to accustom him to living with legal uncertainty, and to make him face up to the fact that there is often more than one reasonable solution to a problem. What he must then do is what any lawyer must do in a similar situation and that is to weigh the probabilities. A student who cannot get used to the idea of assuming responsibility in the face of this kind of uncertainty had better realize it early and get out of the law before he makes himself miserable.

So much for the theory. The practice, of course, falls far short of the theory. One can only do one's best in a course of some twenty-five hours to utilize the lecture, case and problem methods in a highly compressed form. In my course I feel obliged to direct and control the discussion of the leading cases in such a way as to try to come to grips with their essentials as quickly as possible. I am sure that if any experienced and skillful practitioner of the case method were even prepared to concede that I use some recognizable form of that method from time to time, he would have to admit that it is a highly abbreviated, truncated and therefore necessarily superficial form. The process by which students are allowed to grope and stumble and make mistakes and to perceive their errors in the free play of the dialectic process is a long and arduous one requiring an expenditure of time that I have always considered a luxury I could not afford if I was to maintain interest, pace and reasonable coverage. My particular difficulty with the problem method arises from the fact that the problems I have furnished in my book of class materials are those which have been set on previous examinations. In order to be a sufficiently

comprehensive test of student knowledge and ability they have had to be artificially complex, raising several substantive issues of law. This generally means that it is not until the course is well advanced that the students have the necessary background knowledge to deal with all the issues in a problem. In the early stages of the course I am, therefore, often obliged to direct the student's attention to a single issue in a problem, and since the examination problem which raises several issues must be reasonably concise, I frequently find that the facts touching a particular issue are not sufficiently complex or detailed to present a serious challenge for classroom purposes. In setting a problem for the examination the teacher must be conscious not only of the limitations of time and space, but the degree to which he is prepared to put a premium on memory. In the classroom he can pose the "open-book" type of problem. The solution, therefore, seems to be one set of relatively complex problems which may be usefully employed towards the end of the course and another set, concentrating on a more detailed exploration of the specific issues that are encountered at its various stages. The latter type of problem can also be used more effectively to test the sense of relevance.

While I believe the problem to be the best form of examination question in the courses which are adapted to it, I do not think too much of the "open book" examination. Unless it can be conducted in a library without the time pressures of the usual examination, it can only be a partial and unsatisfactory test of the ability it is purporting to examine. If one is going to put a time pressure on students it is better not to contrive means by which they are almost inevitably going to be led to waste time. I believe that research ability, if it is to be tested at all, must be tested in the course of the year. This can also be done very effectively by means of the problem method, but because of the labour which must be put into the correction of the results, it is a difficult program to implement with a relatively small staff.

CONCLUSION

It is essential that from time to time we re-examine our teaching methods in the light of our objectives. While teachers may be in broad agreement on objectives, much can often be done by a change in emphasis to help to bridge the gap between the theory and practice of legal education. The path of progress is one of constant experimentation and critical evaluation. At the moment I am of the opinion that we should try to get the best out of the lecture, case and problem methods, but I reckon with the possibility that experience may lead us eventually, in the courses that are adapted to it, to reorganize our entire teaching program around the problem method, as they apparently have done at Notre Dame.⁴ The question that we must regularly ask ourselves is: How effectively are we pursuing the main objectives of legal education?

⁴See Ward, *The Problem Method at Notre Dame*, 11 J.L.E. 100.