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Eugene F. Mooney

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# THE MEDIA IS THE MESSAGE\*

EUGENE F. MOONEY\*\*

I had hoped to be able to write and deliver a learned paper on curriculum planning or execution, but Quintin Johnstone, by the publication of his committee report, with a certain scandalous remark in the footnotes, virtually guaranteed that my speech would be a farce.

And so I decided to turn it wholesale into a farce.

I have entitled this approach, "The Media is the Message," or, "The Law is a Jealous Mistress, but the Hussy's Scandalous Behavior Is Due to the Poor Girl's Upbringing."

I hasten to add that another remark that was on the cover sheet goes thus: This is a political document and is neither advertised nor intended as a research publication, scholarly study, unbiased account, or empirical compilation.

I would like to begin with a parable.

Long before time began, the basic organizing principle for our law school curriculum existed. Freud's Oedipus Legend recites that the Primeval Father claimed the Primeval Mother as his personal property under contract, and taught his children that interference with this advantageous business relationship would be a crime. The Brother Clan being so instructed demanded to know why, and were told, "Because I say so,—and besides it has always been that way." There seemed to be no very good answer to that and so they killed the father and confiscated the mother. Things rocked along that way until Time did begin.

The Periclean Greeks established our first Academy in a grove of trees and there taught philosophy, mathematics and harmony—with a little politics thrown in as an elective. One teacher named Socrates was prone to ask questions there were no answers for, so the local Bar association had him arrested for treason and he was sentenced to drink a cup of hemlock. When Socrates asked how come, he was told, "Because we say so—and besides, it has always been that way." That little caper impressed everyone and it was a good long time before any law professor tried that form of teaching again.

When the Children of Israel received the Ten Commandments engraved in stone, they promptly created a judiciary and set up judges to rule over them. When the children of the Children of Israel asked why, they were told, "Because God said so—and besides, it has always been

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\*\* Professor of Law, University of Kentucky College of Law.

that way." That satisfied them, but their cheekiness displeased God so he flunked them out and they had to leave the Holy Land for two thousand years and finally had to shoot their way back in school.

Some time thereafter and prior to modern times, there was a famous comic-opera German Institut which had a terrible time with its curriculum, but recent scholarship has established that it only taught doctors geriatrics. Nothing else is known of professional schools during the Dark Ages of legal education.

The English knew all about this history of law school curriculae and when time came to set up their law schools they determined to make a clean break with the past and avoid the errors others had made. They established Inns of Court in certain public houses where law students hung around a courthouse all day wearing wigs, reading the Doomsday Book, and collecting fees in green bags. Lord Coke called their law the Common Law since it applied to everyone and was based on "the custome of the realme." When King Charles asked why, he was told, "Because I say so—and besides, it has always been that way." But, in order to discourage other deviationists, they executed Charles and everybody got the message.

So you see, when we all came over to America to set up our law schools, everything was settled. All we had to do was follow these simple rules:

(1) Find a grove of trees with a little stone around so the Commandments can be engraved on it;

(2) Cut down some of the trees, put a law student on one end of a log and Socrates on the other and set a cup of hemlock juice between them for the loser;

(3) Put together a curriculum that starts with property and crimes and torts and contracts and never, never mentions mother or sex or politics or sin; and, finally,

(4) If anybody asks why, you tell him, "Because we say so—and besides, it has always been that way," and you cut off his head so he will think straight.

My subject is almost as insane as my parable.

Our basic organizing principles for today's typical law school curriculum stem from a crude conceptualization of law in society, a rudimentary understanding of the learning process and a callous disregard for the social responsibilities the legal education institution should bear. Our "curriculum" consists of "courses" constructed from conceptually-related matters without conscious regard for the functional configurations in which these matters exist. These "courses" are arranged within the

three-year curriculum in order of the supposed primacy of the "legal concepts" involved in the courses, but in fact reflecting the halting intellectual development of our own thinking, thus forcing each law student to retrace our historical path with all its intellectual blind alleys, jurisprudential pitfalls and tawdry academic illusions. Our curriculum may be timeless, platonic, nonfunctional and therefore substantially irrelevant to modern life.

A "good legal education" consists of a primitive form of brain-washing. This is known as teaching the law student to "think like a lawyer." The first step is the Socratic creation of confusion in the subject's mind, coupled with as much terror as can be institutionally induced. All he has previously learned is scorned and calumnified as useless, wrong and "not analytical," a strange form of nonliterature is held up as the only object worthy of intellectual emulation, and the appellate cadavers of yesterday's private lawsuits are dissected with the high seriousness normally reserved for backyard gossip.

The second step involves a highly prized teaching experience. To wit: The day the first-year class gestalts into our world of "law" by perceiving the conceptual wonders of "possession," "duty," "offer-acceptance-consideration," or "cause of action." Successive steps build a new intellectual personality for each student who survives the essay testing process by proving to our satisfaction he has learned how to think like a lawyer and put it down in writing under tremendous psychological pressure.

Common characteristics of these renovated intellectual landscapes include a personal jurisprudence, a set of social values and a process of thinking reflecting our typical law school curriculum. Thus "law" is seen forever after as Torts-Contracts-Property-Crimes and combinations, permutations and ramifications thereof.

At the outside, "law" is thought of as "what lawyers do," and nothing else. This jealous mistress is above and outside life and her practitioners owe her their prime loyalty; consequently, they bear no responsibility for the larger society in which the wench lives. Social events are perceived, analyzed and evaluated through mental telescopes made necessary because the lawyers' observational platform is intellectually outside the time-space continuum in which everybody else lives. The processes of living in society go unnoticed because the social process itself is refracted into the private rights-duties-privilege-immunities of Torts-Contracts-Property-Crimes. What wonder that the lawyer class in American society is more aptly characterized by John Satterfield than by the figure of Abraham Lincoln.

Reorganization of the present law school curriculum along more realistic lines should commence immediately despite the fact that the present scope of legal education appears utterly inadequate to such a venture. The future curriculum must of necessity reflect the institutional

commitments made. Should we choose to make a serious institutional move to a more centrist position in community decision-making as recommended here then in order effectively to implement that move, our facilities, systems and operations would be reconstructed and new curricular additions become inevitabilities. A curricular framework sufficient to accommodate this development might well appear to differ only slightly from the present one, but it would most assuredly be completely different in its underlying principles from the half-conceptual, half-fortuitous historical one used today.

A familiar literary figure of my beloved Southland is the maiden lady who, when young, looked under the bed for a man before retiring in apprehension, fear and trembling, and who now being old continues to look under the bed for a man. Only now, she does so hopefully and a little wistfully.

Let's look under the musty bed of our curriculum to inspect its foundations and, hopefully, there discover the figure of change.

There are several basal notions underlying our present curricular structure. Perhaps the most influential one is grounded in the historical notion that the foundation of all substantive law is property and crimes and that from these primal bodies of law sprang the more important conceptual first-year courses—from crimes came torts, and from property came contracts—or maybe vice versa.

Civil procedure is thus conceived as the procedural concomitant for the four substantive law courses. Second and third year courses are viewed as particularistic extensions of these basic courses: Contracts proliferates into sales, bills and notes, insurance along one line of development and into agency, corporations and their subdivisions along another track; property branches upwards as conveyances, future interests, trusts, et cetera; procedure—which begins with the common law writ system and often goes no farther—advances through equity to different and newer litigation procedure systems embellished by moot court programs, trial and appellate practice courses and tops out with esoterica like conflict of laws and federal jurisdiction. Crimes could have been the root of the "public law" curriculum, but had to fight for its life until the Supreme Court began reviving it a few years ago. Torts would have died but for the automobile accident and may yet die like industrial accidents practice under the impact of highway accident compensation fund schemes. Nevertheless, these curriculae flower into the wonderful profusion of third-year seminars in all their exotic inter-disciplinary splendor.

The "public law" curriculum has been rudely thrust into this tidy conceptualistic arrangement since the second New Deal. It now begins at the second-year level but has never quite fully "arrived" except for an

occasional constitutional law course with a foot in the first-year curriculum door.

The underlying notion is that all "law" is essentially extensions, permutations and ramifications of the good old common law concepts and the basic pedagogy reflects this by introducing the student to these basic "ideas" and "principles" and guiding him gradually upward through more complex manifestations of these common law concepts.

Implicit in this pedagogic is a firmly grounded faith in the appellate opinion as the only "real" source of "law." Statutory courses are regarded as anomalies taught only because there is obvious economic significance in such sizeable sounding things as antitrust, the uniform commercial code, labor law and income tax. In this Alice-in-Wonderland of legal pedagogy, the Bar examination courses are "bread and butter," "meat and potatoes" or "realistic" courses for students to take despite the well-known fact that but for a few spectacular individual specialists no lawyer today can make office rent from the first-year courses.

#### REPREHENSIO

The shape and direction of curriculum growth and development during the past two decades has indicated to me the inadequacy of the organizing principle we now use. The facts of modern legal life seem to me to indict the whole underlying concept insofar as it purports to relate to the actual practice of law. And more importantly, what we know about the society we live in and are likely to have in the future, the learning process itself and the interests and values of our law students seems to me to belie any claim to rationality which could be advanced on behalf of the traditional curriculum organization principles. Needless to say, the principle cannot accommodate the extensive reshaping of the law school curriculum which would be required in order to incorporate courses relevant to all human values, lawyer skills required in all stages of the community decision-making business and teaching techniques adapted to this expanded concept of enlightenment.

#### CONFIRMATION

There are a number of other organizing principles which could appropriately be used for a law school curriculum. Thus, the present emphasis on educating advocates could be escalated into organizing principle and courses devised in terms of the typical lawyer's actual physical, mental and verbal activities: for example, interviewing, investigating, pleading, fact production, arguing doctrine; organizing, financing, merging, and administering corporations; drafting contract forms, negotiating over problems of performance and breach, compromising, arbitrating or litigating contract disputes, et cetera.

This approach would put highest value on technical lawyer skills and might produce a race of virtuoso technicians. Some things we now teach might be sacrificed under this scheme, but we now sacrifice some things we could and should teach under our present arrangement. Other possibilities stem from such subthemes in contemporary legal education as the casserole movement—law and medicine, law and psychiatry, law and fish—which could be seized upon as an organizing principle; the school-of-jurisprudence controversy—positivism, natural law, sociology of law—and a curriculum could be organized in those terms; and, of course, a purely Marxist, Veblenist or Weberian approach could be converted into organizing principle.

The problem with these only slightly facetious suggestions is that they suffer from many of the same vices as our present principle, and, in addition, carry some unique disadvantages of their own. Specifically, all of the principles mentioned—including the one we now use—are fatally deficient because they are neither realistic, comprehensive nor socially relevant.

The report of the curriculum committee chairman separates for analytical purposes three main themes in today's typical curriculum: the first-year curriculum is overwhelmingly doctrinal; the second-year curriculum makes a pass at amplification of doctrine with some lawyer skills thrown in; the third-year curriculum is basically doctrinal with lawyer skills and a tiny sprinkling of policy-oriented courses. The extent to which the latter appears in a given curriculum varies with the status of the particular school—state university law schools almost not at all, regional law schools a little more, and national law schools most of all, with less emphasis on lawyer skills. But the more significant point is that all use the basic traditional law school doctrinal organizing principle.

Taking only the most superficial look at a more adequate law school curriculum in order to attempt derivation of a better organizing principle, the point of beginning is rigorous clarification of the goals of legal education.

One possible goal to be pursued is inculcation of technical lawyer skills. Another is enlightenment. They are not necessarily the same, although I believe we now suppose they are and claim that enlightenment automatically results from purveying higher levels of technical lawyer skills. Neither are they necessarily incompatible. Definitive clarification and postulation of the primary goals of legal education presumably would have to accommodate both of these values. My intuitive judgment is that we unduly pursue the skill value through the goals presently postulated, frankly projecting lawyer skill as a base for our students to use as a manipulative device aimed at producing wealth, power and social status for themselves. A better strategy might be emphasizing enlightenment

rather than skill and recommending (overtly if possible—covertly if necessary) the pursuit of rectitude, well-being (psychic and social) and even affection at the expense of the power and wealth values, not only for themselves but also for their “clients.” The actual world in which they now live will doubtless counter any overcompensation on our part.

At this point, you will have to forgive my dropping into the argot of policy-science. There is in my judgment simply no better way to describe what I want to talk about.

One possible organizing principle for a law school curriculum becomes the multivalue projection—in its baldest form a first-year curriculum composed of “courses” representing the primary social values of our society:

- (1) Family Law—affection;
- (2) Public Health Regulation—well-being;
- (3) Law and the Western Moral Code—rectitude;
- (4) Minority Social and Economic Group Rights—respect;
- (5) Property Ownership, Use and Regulation—wealth;
- (6) Federal-State Relationships—power;
- (7) The Law of Public Education—enlightenment; and,
- (8) Litigation Skills—skill.

The courses in the second and third years would maintain this overall balance with slightly increasing emphasis on lawyer skills, wealth processes and power relationships to reflect the realities of today. Perhaps this suggestion is not as wide as a gate nor as deep as a well, but 'tis enough, 'twill serve for openers.

American law schools as social institutions purport to relate primarily to only four of these eight social values mentioned. Located in social context as enlightenment and skill mechanisms, the law school's actual participation in these processes is indisputable. But the effectiveness with which they act and the shape their efforts lend to the larger process of American enlightenment seems more a function of their preoccupation with other values around which their curriculum revolves.

Utilizing enlightenment as a base for interacting with the larger society, law schools expend their time, efforts, energy and ambition toward the wealth, skill and power values of American society. Advertising enlightenment, American law schools actually peddle a product more accurately described as a tool designed to serve the wealth processes and minimally suitable for use in the realm of the community process of power. The lawyers skills are normally inculcated by means of curricular offerings and teaching techniques which concentrate on public decisions concerning wealth. Our institutional point of view normally reflects the position of the private client in the wealth process viewing the public decision process antagonistically from the outside.

The most graphic illustration of this emphasis is revealed by studying the 80-some-odd typical courses taught by our law schools today. This list of courses can be arranged in nine so-called "fields" which most of us would agree upon. The AALS committee on curriculum undertook such a study and discovered some distressing facts.

Three of these fields of law containing thirty-three typical law school courses deal almost altogether with the so-called wealth processes of our society (Business Organization, Commercial Law, Property and Estates), one field concerns the power process (Public Law) and another relates predominantly to the power process (International Problems), while the field containing the largest collection of courses (19) is concerned with various aspects of lawyer skills (Procedure and Advocacy). This leaves only three "fields" concerned with all other human values and one of these is aptly entitled Miscellaneous Student Activities. Sixty-three of the total courses taught in our law schools relate primarily to wealth, power and lawyer skills, while only eighteen are primarily concerned with anything else. This configuration becomes more explicit when this pattern of emphasis is supplemented by examining the human values substantially neglected by our law schools.

Neither the human values relating to enlightenment, well-being, respect, rectitude nor affection are treated in more than peripheral fashion by American law schools. Implicit in many courses such as torts, workmen's compensation and medico-legal problems, the well-being of the victim is not central to these courses, instead, his economic condition is the focus of attention. Respect for social, ethnic, racial or religious minority groups is currently the focus of attention in civil rights oriented courses, but this fad, too, will doubtless pass leaving behind the same old courses in Constitutional Law II, and perhaps an occasional seminar for the white tennis shoe crowd.

Criminal Procedure received a shot in the arm from *Gideon*, *Escobedo*, *Miranda*, and *Massiah*—but it is primarily a skills and power course, although it has strong overtones of respect values. Affection is represented by the dying course in Domestic Relations which is more aptly described as a lack-of-affection course, since its stock in trade is divorce, property settlement, and custody battles. The only mention of rectitude values in most law schools comes in the disappearing Equity course in cases exemplifying the rule that the law will not intervene in church disputes unless creditors are threatened. Of course, the professional responsibility course is concerned with a brand of lawyer guild rectitude, but more in terms of the narrow economic perspectives of bar associations. Student legal aid courses relate to some of these neglected values and may in fact be the only courses which do so explicitly for the reason that the poor have neither power nor wealth to litigate about.

True it is that many cases presented in the contracts, labor law, agency and other courses may embody controversies related to these other human values. Also true it may be that many law teachers in presenting materials relating primarily to wealth and power values find occasion to advert to enlightenment, well-being, affection, respect or rectitude. Somewhat more speculative, however, is the assertion that some of these values themselves are communicated, shaped or shared by reason of the law teacher's own personality, status and social interaction with students. But it seems obvious that few of these values—including enlightenment—are given more than lip-service in the classroom and demonstrably are minimally represented in the typical law school curriculum. It seems to me that most pointedly here the media is the message and our curriculum substance and shape transmits a clear message to our students.

Compared with the large number of courses concerned with the complexities of the wealth and power processes and the courses concerned principally with developing the litigation-oriented skills, the curricular offerings relating to all other human values of our society do not even rise to the level of low-visibility. The quasi-curricular aspects of our law school activities (law review and moot court) and non-curricular processes (student bar associations, continuing legal education projects, alumni programs) conform to this curriculum emphasis on some few values to the almost complete exclusion of the others.

Also conducing to this distorted pattern of values are some well-settled internal processes not normally perceived in terms of their outcomes and effects on students and faculty. Teaching techniques which import ad terrorem psychics into the classroom, socratic questioning to the point of public humiliation, and the frequent use of heavy-handed sarcasm utterly devoid of humor are part of the every day practices of legal pedagogy sanctified by our guild mythology. Rigorous testing rituals, subjective quantification of student performance as if it were objectively derived, and status-rating of students by crude averaging devices—in short the grading system—contributes to the creation of authoritarian personalities, both students and faculty, and conforms with the *weltanschauung* of power and wealth projected by the formal curriculum. Respect, rectitude and even affection values are occasionally covertly imported into the authoritarian internal processes of law schools by means of flexible admission standards, vague criteria for readmission and occasional grade changing or rule bending in behalf of a particular hapless student. But these deviations are kept as secret as possible and are publicly denied or rationalized and are certainly not projected as academic policy.

This configurational word picture, overdrawn and intuitively derived, provides the descriptive base for observations on what American law schools should be accomplishing. The most obvious recommendation relates to their role in the enlightenment process. Law schools should

enlighten and promote lawyer skills concerning all social values. Our industrial society is a power-wealth force field in which skill is an important aspect—but there would seem to be no dispute that other human values are not only worthwhile but may be even more important in treating the apparently intractable problems of our society—war, crime, maldistribution of wealth, uninhabitable cities, pulverized families, and the other familiar pathologies of a power-wealth oriented industrialized world.

This recommendation incorporates multivalue education purveyed in such a way as not to be self-defeating by reason of poor choice of teaching techniques and procedures.

A second and closely related recommendation deals with extension of our law school enlightenment and skill apparatus more deeply into the actual processes of public decision-making at all levels of our culture.

Our existing legal education mechanism purports to engage in the intellectual processes of describing trends in case decisions and analyzing some social conditions relating to some public decisions thereby acting as the intelligence arm of the judiciary. To a considerably lesser extent, we sporadically and ineptly engage in clarifying goals, projecting future developments, formulating alternatives and otherwise acting as its R&D division. Even these intellectual activities are not conducted scientifically or systematically, nor are they effectively implemented by communication to decision-makers in society.

Law schools do not participate in any effective way in the intelligence, recommending and appraising functions to which their apparatus and mythology supposedly commits them. We most pointedly do not even purport to participate as institutions in the prescribing, invoking, applying or terminating functions which are implicit in all official decisions—federal, state, or local. It is part of our institutional rhetoric that we eschew any meaningful participation in these matters. A given individual may do so in a limited way if he does not become too noticeable in the process, take too much time off to do it, or make very much money doing it. Another part of this rhetoric, contrarily, places inordinate high value on the teaching services of individuals who have participated in these social functions as lawyer, judge or public official.

Our law schools should participate more extensively in the social process of public decision-making in whatever roles are available to them. Peculiarly adapted to engage in the intellectual tasks decision-makers must perform, and admirable suited to engage in several of the constituent decision-making functions, our law schools should extend their participation far beyond the present configuration and commit themselves as institutions to this fuller participation. They thus would reap the double benefits of greater competence level reached through actual participation

and partial satisfaction of a social responsibility they do not now even acknowledge.

The traditional law school curriculum and intellectual matrix from which it derives stands as an obstacle to this sort of an institutional move. There is simply no basis for justifying an institutional commitment to serve more directly in community decision-making as long as the parameters of law school operation are set by overemphasis on nonfunctionally arranged "courses" concentrating on the partisan position of the private "client" in the wealth process to the almost total exclusion of all other values.

Where teaching techniques are grounded on appellate opinions collated into casebooks organized on conceptual lines, there is no justification for a large scale institutional move into the decision processes of society in the name of "research" or "teaching." For as long as the law school curriculum is oriented to train people solely or primarily for the role of "advocate" in the formal litigation process, it will remain difficult to justify an institutional move toward fuller participation in community decision-making in administrative, legislative and executive arenas. These rigidities of the typical law school curriculum are modified only slightly by the few seminars, individual teachers, and occasional publications which do not conform to the overall pattern of noninvolvement. Far and away the most significant communication to the student is official non-participation by the institution, not even in its so-called "research" activities. Law schools have an institutional social duty to teach enlightenment and inculcate skills relating primarily—by their own choice—to the public decision-making process and can do so effectively only by actually engaging in the process in the many ways they are peculiarly equipped and adapted to do so.

Implicit in these recommendations also is the suggestion that the law school "research" and "service" functions be reconstructed in order more effectively to broaden our traditional concerns and extend our participation in the community. New courses projecting the neglected values must be devised, new techniques for engaging in scientific and comprehensive research must be utilized, and new organizational forms must be discovered in order to insert our law schools into the decision-making business to play a meaningful and effective role. Even more important is the necessity that curriculum-shaping reflect the new stance of our law schools in society. By undertaking to provide enlightenment and skill relating to all important human values and by moving more deeply into the public decision-making process, we commit our institutional selves to formulation of a curriculum and set of educational practices which will reflect this commitment. The implications of this reconstitution of legal education extend beyond merely making up a few courses embodying affection or rectitude values under the rubric, "the legal rights of the poor," in order

to get some government money. All the existing courses now being taught relating to power and wealth may need to be re-examined, revised or re-constructed along different organizing principles, and the very materials themselves evaluated in light of a more elevated goal for legal education.

I realize this jeremiad sounds like more professional bombast—the overstated imprecations of an aging *enfant terrible* of law teaching. But think for a moment of the current sizable problems besetting us, reflected in the committee reports for this year and which we all acknowledge are our responsibility:

(1) How to attract, hold, educate and graduate students we call culturally deprived or from minority groups—without lowering our so-called high academic standards.

(2) How to revise or supplement our substantive law courses with rights of the newly discovered poor and participate in affording legal services to them—all 34 million of them—without dropping our built-in bias for “lawyers’ law” for profitable law for the “bread and butter courses” our curriculum is built on.

(3) How to reflect in our curriculum the social sciences data, skills and theories which claim more scientific bases than do our concepts and whose research rests on a firmer basis of fact than our doctrine—without losing sight of the fact that in the final analysis the law makes value judgments while the social sciences may observe them, quantify them and second-guess them, but never makes them.

(4) How to stay on top of the explosion in rules, rulings, regulations, statutes, cases, et cetera.

Yes, Virginia, it does make some difference what is taught as the curriculum of our law schools. It makes all the difference in our world. For one difference, it either perpetrates the mock-academic sophomorphism which we prize so highly as “scholarly,” or it fosters a spirit of pragmatic inquiry in the law.

Our commercially-oriented and conceptualistic curriculum taught by means of the artifacts of appellant opinions either breeds a lawyer class blind to the realities of our society, dumb to the outraged cries of the unrepresented and insensitive even to the simple ethics of everyday life, or, it creates a race of social leaders, responsible and responsive.

Our pencil-pointing schoolmasterishness either brainwashes our students and puffs us up with stuff-shirted pride at our otherworldliness or it puts us at the heart of what is happening, baby. Many of our somewhat harmless self-delusions could be ignored but for the damage they wreak on the great outside. It may be they select, reinforce and strategically place authoritarian personalities throughout our society. We may

project a "Law" of the Old Testament, an "Economics" of Adam Smith and a Social Darwinist political philosophy. Our students may tend to be less a race of Olympians and more a breed of nit-pickers, quibblers and specious thinkers. They often proudly eschew any knowledge but ours, any Truth except that "revealed" in judicial opinions, any obligation other than the social duty to pass the bar, make money, and not get caught by the grievance committee. They may be a prostitute class sold by us into intellectual bondage while going through our curriculum and without even knowing things could be otherwise.

Our typical law school curriculum is the mechanical core of an inbreeding syndrome which produces law teachers who assiduously guard the legal education mechanism from change. Our postulated "ideals" are pridefully anachronistic. What do we pose to ourselves and our students as desirable values? Where the medical education institution ties its curriculum to empirical research in order to cure the sick, we advocate looking ever further into the doctrinal past to cash in on someone's errors. Where the architects postulate social configurational consistency, we build the same old Carpetbagger houses. Where the engineers feature functional utility, we advocate procedural purity. We reward those of us in the law teaching trade conforming most closely to the idealized law professor type who knows all the appellate cases in his field of specialty and none of the facts, is most uncommunicative about their relevance to today's problems, and who is intellectually arrogant and authoritarian in the classroom. We institutionally impede or affirmatively discourage those of us who dare to stray from the intellectual fold and conduct field researches, reorient materials into different course forms or who simply do not believe in the supposed sterling virtues of the present curriculum on the ground they are not scholarly.

An unexamined religious faith is not worth having—and neither is an unexamined law school curriculum. Closely scrutinized it might well be found that in order to produce a different kind of human product we need a different kind of human manufacturer. A law school seeking to revamp its very heart and soul might well find its plant managers unequal to the task and thus have to look elsewhere for the necessary ideas, talent and drive. The social scientists would love to take over our functions. The normal processes of law school change proceed with leaden-footed evolutionary zeal. Each new generation of law teachers engrafts its superficial alterations on an intellectual infrastructure constructed in the finest tradition of 18th century Langdellian baroque and which has never been critically inspected for signs of aging. For as long as we adamantly ignore the blondined hair, wrinkled face, shambling walk and shabby Victorian clothes, for precisely that long will we richly deserve the title, "The Queen of Professions—Blanche DuBois."