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**WHAT ARE LAW
SCHOOLS FOR?**

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1. Scholarly and Professional Objectives in Legal Education: American Trends and English Comparisons

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I have been asked to discuss for English law teachers the great changes that American legal education has been undergoing in recent years. The main theme I wish to sketch is that, over the past generation, the English and American legal academies have exchanged their leadership roles. In the mid-1960s when I first encountered both systems of legal education as a student at the two Cambridges, English legal education was in important respects more scholarly than American. American law schools devoted themselves almost exclusively to training for the legal profession. Today, the leading American law schools have transformed themselves into temples of scholarship, while English law schools have striven to become stronger as training centers for the profession. There is much that is benign in these developments, but also some strands that I find quite worrisome.

At the outset, a word of caution: American legal education is a sprawling enterprise. I have spent my career in one corner of it, at the schools attached to national research universities—in my case, at Harvard as a student, and at Chicago and Yale as a law teacher. Some of the trends that I shall be describing have been felt less intensely at American law schools that are less affected by the ethos of the research universities. Still, the case for focusing on my end of the American spectrum is strong. The national law schools influence the others in many ways, most importantly, by training the majority of American law teachers.

Undergraduate versus graduate education. I begin with the enduring contrast between American and English legal education. English law students are undergraduates, and many have no desire to enter the legal profession. Until lately, university legal study was not a prerequisite for either branch of the English legal profession. When I began reading the law tripos at Cambridge thirty years ago this fall, there were still leading figures on the English bench who had studied maths or greats or whatever, but who had not read any law at university.

American law students are intending professionals, university graduates for whom the study of law is an advanced degree. The Americans effectively forbid

the study of law as an undergraduate discipline, while requiring a university law degree for entry into the profession. American law schools thus are gatekeepers to the profession, a profession that has become enormously lucrative and influential. I would also remind you that American university legal education is terminal, in the sense that there is no American counterpart to the obligatory post-university courses that the Law Society and the bar operate in England.¹ Nor do American university law graduates undergo any organized apprenticeship such as the system of pupillage or solicitors' articles in England, although the early years of law practice operate for most of our graduates as a de facto apprenticeship. The American law student pursues a three-year degree, sits a bar exam a month or two later, and thereafter is licensed to practice.

England in the 1960s When I first encountered the two systems in the 1960s, the contrast between American legal education as professional training and English legal education as undergraduate study was starkly reflected in the curriculum.

At least in theory and to some extent in practice, the university study of law in England was thought to be a species of liberal arts education, fungible in a sense with classics, or history, or literature, or chemistry. This conception of university legal education naturally affected the curriculum. There was no study of civil procedure—a grievous shortcoming that still characterizes much of English university legal education. (The longer I study comparative law, the more deeply I am persuaded that legal procedure is the 'grand discriminant'² among legal systems. Differences in procedure, and in the legal institutions that operate the procedures, explain more about legal systems than anything else. If I were given the power to make one change in English legal education, it would be to have civil procedure taken seriously.)

In my day as an undergraduate at Cambridge, we studied the basics of tort, contract, property, equity, crime, and the constitution, but little in the way of advanced law—little or no company law, taxation, bankruptcy, evidence, criminal procedure, family law, employment law. English legal education was not meant to be closely practical.

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¹ In some states lawyers admitted to the bar are required to

attend a few hours per year of refresher courses, called "continuing legal education".

² The term appears in Benjamin Kaplan, *An American Lawyer in the Queen's Courts: Impressions of English Civil Procedure*, 69 Michigan L. Rev. 821, 841 (1971).

On the other hand, reflecting its location in the heart of the university, where undergraduates are taught, English legal education had an emphasis on certain scholarly fields, fields for which there was scant market among practising lawyers. Roman law, English legal history, the law of nations, and legal philosophy—these were the glory fields in which the English law schools³ were at their best, and in which they provided scholarly leadership for the common law world.

American legal education in the 1960s American law schools of the 1960s were relentlessly practical training academies for the profession. The introductory phase of the American curriculum resembled the English curriculum, although the American version was more demanding. As in England, the core was tort, contract, property, and crime, together with a large dose of civil procedure. But the American law school curriculum of my day had a second level of aspiration—in the upper curriculum—that did not have much counterpart in England.

American law schools expected to teach a great deal of advanced law, that is, to provide specialized training for law practice. At the Harvard Law School of the mid-1960s, students were *required* to study company law, taxation, commercial law, accounting, and of course, the law of the American constitution. Other practice specialties were encouraged, including securities regulation, business planning, corporate and international taxation, administrative law, bankruptcy, criminal procedure, labor law, trusts, estate planning, evidence, copyright and patent law, regulated industries, federal jurisdiction, and anti-monopoly (antitrust) law. No one student imbibed all of this, but most of us took most of it. The American law student expected to come out of law school knowing a lot of law, which was a good idea, since we would plunge into practice within weeks.

This conception of the curricular mission of the American law school naturally affected the work of American law teachers. There was in most law schools a strong emphasis on classroom teaching, typically a version of the so-called Socratic method. Our law teachers were bred for circus performer traits, suitable for holding the attention of 150 students in a lecture hall.

As late as the 1960s, I think it is fair to say, scholarship was a sideline and a relative rarity among American law professors, even at the elite schools. Law teachers who wrote anything tended to focus on the casebook or other teaching materials. In other

words, writing was directed back on the classroom. If the law teacher of that day published articles or books, the work was centered overwhelmingly on the needs of practising lawyers and judges. Most scholarship was doctrinal, and its highest expression, achieved by the ablest or most driven of the writers, was the practitioner treatise.

The American megatreatise The treatise tradition has an interesting transatlantic history, which has been brilliantly sketched by Brian Simpson.⁴ From English beginnings at the end of the eighteenth century, the treatise was extensively developed by Story and other Americans in the 1830s and 1840s. Leadership in the genre passed back to the English for the last two thirds of the nineteenth century, but in the early decades of the twentieth century, the Americans produced what Simpson calls the ultimate or megatreatises, typified by Wigmore on Evidence, Powell on Property, Scott on Trusts, and Corbin on Contract.

The size and ambition of the American megatreatises was, of course, deeply affected by the great structural difference between English and American law. The English operated a unitary legal system, whose single pyramid of courts usually produced authoritative outcomes even at the frontier of the law. The Americans, by contrast, had fifty-odd legal systems, and on close questions of decisional law, these jurisdictions were bound to split. Not only did the Americans produce a sheer quantity of case law and legislative and regulatory authorities that was without counterpart in England, the Americans also had to live with perpetual discordance in these primary legal materials. On close questions, the Pennsylvania rule would be X, the Illinois rule Y, the California rule Z.

In England it was usually possible for the treatise writer to expound the law as a body of coherent authority. Far more than in England, it fell to the American treatise writer not only to analyze and organize but also to probe and to criticize and to recommend, in order to respond to the discordance in the primary sources. Still in my day as a law student, treatise-writing—that is, guiding the work of the courts and the profession in some significant sphere of legal doctrine—was regarded as the highest form of American legal scholarship.

Another characteristic activity of the national law faculties, closely related to the systematizing work of the treatise writers, was law reform. The Restatements, those distinctive American forms of codified

³ Cambridge in my time was also a distinguished center for two other academic specialties, criminology and comparative law.

⁴ A.W.B. Simpson, *The Rise and Fall of the Legal Treatise*, 48 U. Chicago L. Rev. 632 (1981).

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noncodifications of the common law, emanated mainly from Harvard, but also from the University of Pennsylvania and Columbia. Scott's treatise on Trusts is so tightly organized around the Restatement of Trusts that it even employs common section numbering.

Professorial careers The career line of American legal academics—of the people who taught me in the 1960s—can be described quite straightforwardly. There were two patterns. Some joined the Harvard law faculty as novices—the bright youngsters with outstanding law school records who clerked for Holmes, Brandeis, Frankfurter, Hand, and Friendly, and who then came immediately back to the law school. The other track to the faculty lay through practice. Especially in the business curriculum, but also in litigation-driven fields, it was common to recruit experienced practitioners. It was, however, virtually unheard of for a Harvard law professor to have an advanced degree—a Ph.D. in some other branch of knowledge. If my professors brought advanced knowledge to the law school, they acquired it in the trenches, that is, at the bar in New York or Washington.

Thus, to sum up the transatlantic world of legal education as I experienced it in the 1960s, English law schools were distinctively scholarly, reflecting their mission for undergraduate education. American legal education was distinctively practical and rigorous, reflecting its orientation on training and writing for the needs of practicing lawyers and judges.

England in the 1990s Let me now jump forward to the 1990s. It will be obvious where I am heading. That contrast between English law schools as temples of scholarship and American law schools as training centers for the profession no longer bears the remotest relation to reality. For a variety of reasons English university law schools now occupy a more central role in the training of the professions than they did a few decades ago, and, in consequence, they do a better job than they used to do in the advanced curriculum.

I am struck by the quantity and quality of doctrinal writing in England. The treatise survives and thrives, and the work of the law courts is taken seriously in juristic writing. Among the factors that have stimulated doctrinal scholarship in England in recent decades, I would point to two. First, the profusion of specialized law journals has expanded the forum for scholarly writing. English legal academics are no longer as constrained by the relative shortage of uni-

versity-based journals. I suspect that the specialized character of the newer journals, many of them proprietary and hence driven by market acceptability, has provided some discipline of what gets written for them. The practitioner audience that the new journals cultivate will not tolerate the self-indulgent content and unbounded length that increasingly characterize law journal articles on my side of the Atlantic. There are, to be sure, dangers in having the practitioner market determine academic standards, but because the English practitioner journals supplement rather than supplant the academic journals, that danger is not at the moment very intense.

The most important force that has been energizing English doctrinal writing is European integration. The European Union has touched every field of English law, some quite profoundly. Every field has required rethinking, reorganizing, restating. I suspect that future generations looking back on this period in English law will compare it with the early decades of the nineteenth century, the last great epoch of fundamental reordering in English law, the period during which the atrophy of the writ system provoked the reformulation of English law into its modern categories—when assumpsit gave way to contract, ejectment became property, trespass on the case became negligence, and so forth. In that epoch as now, contact with European law provided important conceptual grounding for the task of ordering English law.

American legal education in the 1990s And now to the huge changes that have swept across American law schools over the past quarter century or so. If I were to try to encapsulate the development in just a sentence or two, I would say that the model that I sketched for you of American law schools in the 1960s as centers of professional training has been displaced. A contrary conception prevails today, at least at the national law schools and at those law schools most influenced by the currents emanating from the national schools. The modern American law school now styles itself a center of scholarship, at which the demands of professional training have been subordinated.⁵

My two themes, therefore, are the lurch to the scholarly and the concomitant decline in legal-professional training.

There have been two great scholarly growth industries in American law schools over the past quarter century. One is constitutional law and constitutional theory, the other is law-and-economics. There has also been a great countertrend, distinctly nonscholarly in

l Treatise, 48

⁵ For an early and instructive sighting of these trends see George L. Priest, *Social Science Theory and Legal Education: The Law School as University*, 33 *J. Legal Education* 437 (1983).

character, which is the rise of so-called clinical legal education. I need to say a word about each of these subjects.

Constitutional law In retrospect, the intense interest in constitutional law seems easy enough to understand. Constitutional law and theory are efforts to account for and to influence the awesome expansion of the regulatory state and the federal judicial power. The emphasis on vindicating the Bill of Rights is importantly connected to the tragedy of American race relations, and to the effort to eradicate deeply embedded patterns of racial injustice. In my day as a law student, Harvard offered a basic constitutional law course, devoted almost entirely to the Commerce Clause, and a seminar or two. The Harvard catalog for 1992-93 lists 19 different constitutional law offerings. Yale and Chicago—the other law schools that I know well—have experienced a similar growth.

A striking attribute of the vast profusion of scholarly writing about constitutional theory and constitutional law is that less and less of it seems directed to lawyers and judges. The audience for scholarly writing has changed importantly. Increasingly, the scholars are writing for other scholars, rather than for the legal profession. The new constitutional scholarship draws upon sources and literature quite remote from traditional case law, including philosophy and political science, but also schools of literary and even religious interpretation of texts. It has become ever more common for participants in the new constitutional scholarship to have advanced training in philosophy, political science, history, literary criticism, or whatever.

On the subject of history, I should add that the boom in constitutional law has contributed to a remarkable growth in curricular and scholarly interest in legal history, much of it directed to the history of race relations and gender issues, subjects deeply affected by constitutional law in the American scheme.

Law-and-Economics The other growth stock of American legal education has been law-and-economics. If there is one message that I could leave with an audience of English legal academics, it would be to emphasize the fundamental and revolutionary importance of law-and-economics, not only for American legal education, but for the shape and character of American law.

I need to establish my credentials for bringing you this message, and I am pleased to say that I have none. Although I have spent my career at dominant centers of law-and-economics scholarship in the US,

I have had relatively little to do with the workshops, journals, and other trappings of the law-and-economics movement. I tend to snooze off at the sight of higher mathematics disfiguring a law review page. I have been involved with the application of one set of law-and-economics insights, called modern portfolio theory, in the world of trust and pension investment law that I inhabit, but nobody should mistake me for a law-and-economics person. I speak as an outside observer, not a movement groupie.

There is a tendency among English academic lawyers to view the various 'law-and' adventures in the American law schools as rough equivalents. That is a serious mistake. Law-and-literature may be interesting, but if it disappeared tomorrow, only a handful of literati would notice. Law-and-economics, by contrast, is an alternative mode of legal conceptualism—a different way of doing law, of resolving legal problems. It has achieved enormous influence with American courts and policymakers as well as among scholars. I think that one simply must have some appreciation of law-and-economics in order to understand modern American law.

The point has been made, but bears repeating, that law and economics arose from the success of legal realism, the intellectual movement that inflicted such wreckage upon conventional doctrinal approaches to the law. The realist movement made American law vulnerable to law-and-economics. If legal rules are thought to be mere excuses, or worse, a pack of lies, it is hard to take the study of legal doctrine very seriously. A good place to sense the nexus between legal realism and law-and-economics is Richard Posner's gloating account of the failure of law as an autonomous discipline.⁶ The realists directed attention to the question of how law really works, but they were not able to give much of an answer. The law-and-economics scholars brandish a comprehensive account of what law does. If you ask the question of why the law-and-economics movement should have originated in the United States, as opposed to Germany, France, or England, part of the answer is that, for different reasons, the legal-doctrinal tradition survived in these other legal systems in so much better health. Many English law teachers will recall Hart & Honoré's critique of the American tort-law realists.⁷ Hart & Honoré is English doctrinal scholarship at its best, a counterrealist book, bent on showing that doctrine does indeed matter.

Law-and-economics has transformed the study of many central fields of American law. Since law-and-

⁶ Richard A. Posner, *The Decline of Law as an Autonomous Discipline*, 100 *Harvard L. Rev.* 761 (1987).

⁷ H.L.A. Hart & A. Honoré, *Causation in the Law* (1959).

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economics is centered in classical microeconomics, that is, in the study of markets, its influence has been greatest on legal fields that are market-dominated: corporations; bankruptcy; contract and commercial law; the various branches of competition law, including antitrust law and patent and copyright law; and regulated industries. Core common law fields have been deeply affected—especially torts, contract, and property. Law-and-economics has been less influential in those spheres—family law, criminal law, and much of constitutional law, for example—in which market forces are less pronounced.

The themes of law-and-economics that permeate the new scholarship, and increasingly, the language and the work of the American courts, are now familiar: concern with efficiency as both a norm and an instrument of evaluating competing legal rules; alertness to substitution effects in devising and applying legal rules; marginal cost analysis; the *ex ante/ex post* distinction; concern with externalities and market failure; and so-called public choice analysis, which identifies much legislation and regulatory activity as rent-seeking capture of public goods for private advantage.

The appointment of Stephen Breyer, a master practitioner of law-and-economics, to the US Supreme Court is a measure of how mainstream law-and-economics has become. Half the sitting federal judges in the US have undergone law-and-economics training courses. Judge Richard Cudahy complains that with Richard Posner and Frank Easterbrook holding forth on the Seventh Circuit Court of Appeals, that court has become a 'branch campus of the University of Chicago'.⁸ The law school deans of Yale, Harvard, and Chicago—Kronman (succeeding Calabresi), Clark, and Baird—are accomplished law-and-economics scholars. Law-and-economics is not just another law-and-

While law-and-economics has had an important influence on American law courts and regulatory agencies, other strands of the law-and-economics movement point away from the profession and towards the academic departments. Even in practical fields like contracts and corporations, ever more of the scholarly writing is high-tech mathematical modelling directed primarily to an audience of scholars.

The law-and-economics movement has affected American law school curricula deeply. The national law schools now routinely offer courses and seminars on the economic analysis of law, but the more striking development has been the reshaping of traditional courses, such as tort, contract, property, and

corporations. By comparison with what went on a couple of decades back in a torts or property course at a law-and-economics center such as Yale or Chicago, today's course will emphasize economic analysis and de-emphasize decisional law and legal doctrine.

In my day as a law student, English and American law schools shared their curriculum in the fields of torts and contract. The structure was the same, the rules were similar, and many leading cases were English. Today, because English law schools have been so little touched by the law-and-economics movement, we are experiencing in scholarship and curriculum a marked separation in the once-common culture of the common law. American legal academics tend to view the English literature as excessively preoccupied with parsing tedious House of Lords decisions, while English academic lawyers find the American literature ever less lawyerly and ever more given over to the seemingly esoteric agenda and repulsive argot of law-and-economics.

The decline of law Mine is a rise and fall story, and I need to turn now to what has been lost in the United States as a result of the developments I have described. Recall the distinguishing traits of the national law school into the 1960s: (1) the law school was centered on teaching rather than scholarship; (2) it emphasized advanced fields of legal practice; (3) it was staffed by a professoriate laden with experienced former practitioners; (4) outside the classroom law professors served the organized profession through law reform work; and (5) treatise-writing was the highest expression of legal scholarship.

This vision of the mission of the national law school has largely vanished.

Scholarship Treatise writing has practically disappeared from the national law schools. I can think of no treatise writer at Yale or Chicago, and only a couple of surviving graybeards at Columbia and Harvard. Legal doctrinal writing apart from the treatises has also declined precipitously. A good way to see what has happened is simply to compare the law reviews for then and now. I recently had occasion to check something in the 1967-1968 Yale Law Journal, where I noticed a three-part article on federal tax liens.⁹ I think you'd probably have to establish your own law review today in order to publish a three part article on tax liens. The current diet in the leading journals is mostly high falutin' constitutional law and theory, gender and racial issues, and law-and-economics. Doctrinal analysis is disfavored, and a good rule of thumb is that the 'better' the journal the less

⁸ Robert E. Norton, *Reagan's Imprint on the Courts*, *Fortune*, Nov. 24, 1986, at 121 (quoting Cudahy).

⁹ William T. Plumb, Jr., *Federal Liens and Priorities—Agenda for the Next Decade*, 77 *Yale L.J.* 228, 605, 1104 (1967-68).

doctrinal scholarship it will publish. The presumptive audience for the leading law reviews has changed. Whereas they used to be addressed to the courts and the profession, today they aim mainly for a readership in legal academia.

Coursebooks and teaching materials continue to be published by faculty at the national law schools, but the leadership in this work has been shifting to authors located at the state law schools. An attitude of derision now attaches to teaching books at the national law schools. What 'counts' in hiring, promotion, and esteem is the scholarly monograph.

The last quarter century has been a golden age for American legal scholarship. We have seen a profusion of scholarly publication whose range, ambition, and quality is without compare in the history of American law schools. Yet ever less of our scholarship engages the inner life of the law at a level accessible to judges and practicing lawyers.¹⁰ More and more, the scholars write for other scholars.

Career paths As American law teachers have become more scholarly and less oriented to the legal profession, the training patterns that produce them have changed. Just a generation back, I have said, young law professors who did not come directly from judicial clerkships were recruited mostly from the bar, and virtually never from other academic departments. Today it is common for law teachers to have advanced degrees. Yale's experience, while hardly typical, is worth mentioning. Four younger professors have recently joined us with tenure, all holding or completing Ph.Ds (in economics, history, philosophy); we have offers outstanding to two others, both holders of Ph.Ds in economics. Doctoral degrees have not yet become union cards at the national law schools as in the arts and sciences faculties, but the trend is unmistakable.

Law reform Law reform work in the service of the organized bar has faded from the elite law schools. Restatement reporters no longer come from Harvard, and the Harvard seat on the Massachusetts delegation to the Uniform Law Commission simply lapsed in the mid-1980s from disinterest. A broadly comparable disdain for the work of superintending and updating the close details of the law can be traced at Chicago, Columbia, Yale, and the rest. Today's Restatement and Uniform Law Commission reporters come prevaillingly from the state law schools.

Curriculum The most worrisome decline, in my view, has been curricular. The faculty of the national law schools seem ever less interested in law. Across

the past three decades American law exploded in its scope and complexity. Whole fields such as environmental law and pension law have appeared, and traditional fields have expanded to take account of new waves of regulatory activity and case law. The paradox is that as the law expands so relentlessly, the national law schools are teaching less and less of it. In our teaching as in our scholarship, we have become more theoretical, but less attentive to the grist of the professional mill.

A generation ago, the figure who dominated the law teaching profession was the charismatic classroom teacher. Today, the commanding figure is the scholar whose work governs academic discourse. Teaching and scholarship need not stand in opposition, and I certainly adhere to that article of faith of the research university that scholarship informs teaching. But a professoriate that is ever more theoretically inclined is in tension with the instructional needs of novice lawyers. As the national law schools have become ever more research-driven, their commitment to teaching has been subordinated.

Upper level course requirements have been abolished everywhere. The expectation that governed the thinking of curriculum planners a generation ago was that law schools should teach a great deal of law, that they should produce graduates who were in some sense quasi-specialists. I think that the national law schools have largely abandoned that aspiration. They feel obliged to offer no more than introductory courses in the main specialties, and they remit advanced training to whatever on-the-job and do-it-yourself education their graduates can assemble in law practice.

In fields of law that have an intensely practical component, the national law schools find it difficult to recruit permanent faculty who work at levels of theoretical ambition appropriate to the new norms. Thus, as the seasoned specialists of the passing generation retire in fields like taxation, securities, commercial law, banking, employment law, and so forth, they are often not replaced. Increasingly in such fields, the curriculum is taught by practicing lawyers—so-called adjunct professors. If your historical vision is long enough, you can see in this development an eerie turn of the circle back to the apprenticeship patterns of legal education that prevailed in the nineteenth century. Before there were law schools, practicing lawyers trained law students in law offices. Today we have practicing lawyers training law students in university law schools. Not

¹⁰ Judge Edwards sounded this theme in an important paper, Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 *Michigan L. Rev.* 34

(1992). For responses see *Symposium, Legal Education*, 91 *Michigan L. Rev.* 1921 (1993).

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only do we have practitioners serving episodically as adjuncts, we also have practitioners serving under regular appointments as so-called clinical professors.

Clinical legal education As the orientation of the regular academic faculty has become ever more scholarly, the national law schools have experienced a countertrend of sorts, in the rise of clinical legal education. The clinics originated as public service undertakings, to provide legal assistance to the poor while giving law students some exposure to the legal system in operation. The clinical faculty who oversee the clinics are not expected to be scholars. They are litigators. Their job is to supervise students in the conduct of litigation, agency work, and other forms of law practice. At most schools, the clinics have grown immensely in prominence over the last quarter century. This is not the place for me to air my misgivings about the boom in clinical legal education, but it is worth mentioning that one factor in the rise of the clinics has been the decline of professional legal training in the academic curriculum. Our students, intending professionals that they are, want and need more training in the skills that will help them become practicing lawyers than we now seem disposed to teach them in the academic curriculum. As the academic faculty increasingly defaults on what it used to do so well—providing intellectually demanding training in advanced fields of law—we should not be surprised to see our students gravitating to the clinics. In truth, dabbling with litigation in a law school clinic is a frail substitute for the intellectual rigor and breadth of coverage that used to distinguish the upper level curriculum of a great

national law school. To speak in the jargon of American course numbering, I worry that the law schools are offering Stratosphere 101 in the classroom and Xeroxing 101 in the clinic. We are neglecting ever more just that level of intermediate aspiration that was our comparative advantage, the rigorous exploration of legal doctrine and legal procedure.

Concluding comparisons English and American legal education have so often influenced each other that I remain optimistic that comparison continues to have the power to instruct. I have pointed to the American law-and-economics movement as a fundamental change in the nature of legal conceptualism. I am not calling on English law teachers to take up slide rules and burn their treatises, but I do caution that English law teachers cannot remain at the forefront even of classical common law fields if they remain as ignorant of law-and-economics as most are. The techniques and the findings of modern law-and-economics are simply too powerful to ignore.

As for my colleagues in the national law schools in the US, I would wish for them to reacquaint themselves with the doctrinal life of the law in some of the depth that it is still studied in England. Guenter Treitel spoke to me not long ago of the 'intellectual feast' that he finds in the English law reports. Like their Continental counterparts, English legal academics still take legal doctrine seriously. I should like to think that the pendulum will swing back in that direction in the United States, not to suppress the new strands of academic law, but to achieve a better accommodation between the scholarly and the professional.