

# SOME OBSERVATIONS ON TEACHING LEGAL BIBLIOGRAPHY AND THE USE OF LAW BOOKS

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## I

### INTRODUCTION

ALTHOUGH the recent appearance of several books<sup>1</sup> intended for the use of students in courses designed to provide training in legal bibliography and the use of law books apparently reflects the increasing emphasis that is being placed by the law schools on this part of their educational programs, there is a singular dearth of such information as would be helpful to those who are engaged in providing this instruction; for, however useful the student texts just mentioned (and such others as are available)<sup>2</sup> may be as teaching tools, they certainly leave wholly unanswered many questions with which the instructor is inevitably confronted. Happily, there have been some recent attempts to rectify this situation, the first being a round-table discussion on this subject held at the annual meeting of the Association of American Law Schools in December, 1947,<sup>3</sup> and the second a similar but more extended discussion held at the annual meeting of the American Association of Law Libraries in June, 1948.<sup>4</sup> Although such discussions have, of course, been helpful, it is believed that a further exchange of views is desirable. This article is accordingly submitted both in the hope that it may itself be of some interest and also in the hope that it may serve to prompt others to make more generally available the fruits of their own labors in this field. Certainly those who have been teaching these courses for a number of years have not in the past collaborated as much as would be desirable. In addition, there are today probably more persons who find themselves

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<sup>1</sup> ARTHUR S. BEARDSLEY AND OSCAR C. ORMAN, *LEGAL BIBLIOGRAPHY AND THE USE OF LAW BOOKS* (2d ed., The Foundation Press, Inc., 1947); MALCOLM R. DOUBLES AND FRANCES FARMER, *MANUAL OF LEGAL BIBLIOGRAPHY* (Michie Casebook Co., 1947); REBECCA L. L. NOTZ, *LEGAL BIBLIOGRAPHY AND LEGAL RESEARCH* (2d ed., 1947, National Law Book Co.).

<sup>2</sup> Among these are FREDERICK C. HICKS, *MATERIALS AND METHODS OF LEGAL RESEARCH* (3d rev. ed. 1942); GEORGE B. WEISIGER, *MANUAL FOR THE USE OF LAW BOOKS* (3d ed. 1940) and *HOW TO FIND THE LAW* (3d ed. 1940).

<sup>3</sup> No record of this discussion was made. However, as only one hour was assigned to this topic it was obviously impossible to cover it adequately.

<sup>4</sup> This discussion was reported in summary form only. See 41 *L.LIB.J.* 334 (1948). A paper by George Robert Ellegaard entitled "Technique of Group Education in Legal Research," presented at another session, appears in the proceedings of this meeting. See 41 *L.LIB.J.* 182 (1948).

charged with this responsibility without much prior experience than ever before.<sup>5</sup> Furthermore, swollen classes aggravate some of the problems involved for the experienced teacher as well as for the novice.

At the outset it should be stated that this paper does not purport to deal exhaustively with this subject. Rather it is confined to a description of the methods employed by the writer and to a few observations which are, for the most part, based upon his own experience. Furthermore, the availability of an adequate book collection (including such duplication as large enrollments require), appropriately housed and properly organized, cataloged, and serviced, is assumed. The library staff will be considered only to the extent that it participates directly in the educational program of the law school.

## II

### GENERAL CONSIDERATIONS

No doubt the first question that presents itself is that of the position that instruction in legal bibliography and the use of law books should occupy in the curriculum. As is the case with a number of other courses, a good deal can be said in favor of a position which will insure that the students will come to the course with at least some familiarity with the law—as, for example, in the second semester or perhaps later. Certainly a student who has some legal background can master the intricacies involved in the effective use of law books with more ease and with greater rapidity than can the beginner. Nevertheless, there appear to be compelling reasons why all law students should begin to acquire facility in the use of the basic legal publications at the beginning of their law-school training. In the first place, they should as promptly as possible be prepared to use with each first-year course such library books as will be involved in their preparation for such courses. In the second place, when such training parallels their preparation for other courses from the beginning it is much less likely that the student will become “casebook bound.” After all, the casebook, even with the modifications that it is now undergoing, is primarily a pedagogical device, the use of which is dictated by convenience and necessity. If used exclusively it may do a great deal of harm. Indeed, one of the criteria which may properly be applied in determining the quality of the training provided in any law school is that of the extent to which students are permitted to rely upon their casebooks as “the repositories” of the law, subject to modi-

<sup>5</sup>In this connection, it is interesting to note that of the ninety-four persons listed as teachers of Legal Bibliography in the *Teachers Directory* of the Association of American Law Schools for 1947-48 only twenty-four appear in the *Directory* for the year 1942-43. The only intervening *Directory*, issued for 1946-47, did not contain a list of teachers arranged by subjects taught.

fication only by the observations of the instructor. Unfortunately, instruction of this kind is not always confined to the so-called substandard schools,<sup>6</sup> although it would seem that every student should learn from the beginning that as a lawyer he may, and frequently must, range far and wide for the information that he needs. In the third place, only by introducing such training at the beginning may we take full advantage of further opportunities to increase the student's proficiency in the use of library materials during the remainder of his law-school experience. Finally, if properly utilized, this instruction can assist the student in the difficult orientation problem with which he is invariably confronted.

However, the reasons given above might be accepted as demonstrating the desirability of offering such instruction from the very beginning, and yet leave in doubt the question of the capacity of the entering student to use law books effectively. In reply, it may be stated that experience with a substantial number of students has convinced the writer that they are just as capable of undertaking such work as they are of commencing the study of Contracts or Torts or any of the other usual first-year courses, and that, under proper guidance, they may acquire a reasonable degree of facility even during the first semester. Obviously, the problems involved should not be too complex and the standards of performance should be adjusted to the experience and capacities of beginning students. On the other hand, this very lack of experience and capacity is one of the reasons why training in the use of law books should not be confined to an introductory course offered in the first semester or even later in the first year, but should in some manner be extended throughout the student's law-school experience. As his other training proceeds he will gain in capacity, and he should be provided with opportunities to deal with more complex research problems and with problems that require other kinds of library materials.

Another question concerns the manner in which this training shall be fitted into the program of the entering student. There are several possibilities. Among these is a separate course devoted exclusively to instruction in legal bibliography and the use of law books. Although this is probably the usual practice, in some schools such instruction has been made an integral part of a more comprehensive course, either by stressing such instruction at the beginning (whereupon the student proceeds to other work, which, however, also involves the use of library materials—such as legal writing or moot-court work) or by paralleling other work with training in the use of law books from the beginning because the

<sup>6</sup> A teacher in one of the leading law schools once told the writer, in a conversation which indicated that he regarded the library as of minor importance, that he always advised his students not to use the books in the library in connection with his courses, as this would only serve to confuse them.

use of library materials is involved in such other work. There need not be any material difference between the manner in which instruction is presented in a distinctly separate course and the procedure by which such instruction is stressed in the early part of a more extensive course. However, it is clear that where such training parallels other work the student must have adequate guidance and sufficient time to acquire the combined skills. If these are not provided the students may not secure a thorough grounding in the use of library materials.<sup>7</sup>

A further consideration relates to the amount of time that should be allowed for the instruction provided for entering students. A great deal depends upon how inclusive such training is expected to be. In the opinion of the writer, instruction at this stage can appropriately be limited to an introduction to the more commonly used legal publications, deferring the development of greater facility and practice in the use of some types of materials for consideration during the remainder of the law-school training—assuming, of course, that adequate provision is made for such subsequent training. Of course, if such provision is not made it is better to offer as much training as possible, even at this early stage of the student's legal education, than not to give it at all. In any event, students can hardly be expected to develop even a moderate degree of facility in the use of the more common research tools in a course of less than one hour a week for a full semester. Where the time provided is inadequate there is great danger that the faculty will assume that the matter is adequately provided for when such is not the case.

### III

#### METHODS OF INSTRUCTION

It is, of course, neither surprising nor undesirable that there are differences of opinion as to the relative merits of the various methods of instruction employed in the teaching of legal bibliography and the use of law books. No doubt few teachers confine themselves exclusively to a single method. Indeed, the preference for a given procedure is largely a matter of emphasis in many cases. Perhaps at one extreme is the lecture method, upon which considerable reliance is still placed in some schools, although by many it is regarded as singularly unsuited to achieve the desired results. The recent appearance of the several text-

<sup>7</sup> For example, difficulties encountered in the first experience may prejudice a student against a particular tool which, however imperfect and difficult it may be to use, may on occasion be indispensable. Students who have exhibited marked hostility to the *Index to Legal Periodicals* in the course in Legal Bibliography have often found it the most effective aid in some later law-school work and have then acknowledged the advisability of having been required to struggle with it at an early date.

books<sup>8</sup> already referred to indicates that in many schools the course is developed around the use of such a teaching tool. Nevertheless, it should be noted that these books reflect quite different attitudes, especially in respect to the amount of the student's time that should be devoted to the pages of a single book. Thus, while one is a relatively complete library manual,<sup>9</sup> the others are far less comprehensive texts. Presumably students using the latter can be required to give more time to work in the library. Another variation is instruction which so definitely places the emphasis upon actual work with the books in the library that no textbook is used, and reliance for guidance is placed upon streamlined mimeographed materials<sup>10</sup> and class discussions directly concerned with the problems with which the students are being confronted in the library, supplemented by personal consultation when necessary.

Even the assignments to be worked out in the library differ radically. For example, some require more or less mechanical operations, such as locating specific references by book and page, and filling in blanks in forms by completing citations, etc., while others require the solution of actual legal problems which, whether simple or complex, involve at least some legal research and often some form of writing. In some courses all students or large groups of students work on identical problems, while in others each student is required to work on a distinctly different problem.

While these and the other methods employed warrant further consideration, it is impossible adequately to discuss all of them within the limits imposed by a single article. Accordingly, it will be necessary to confine this discussion almost exclusively to the methods employed by the writer, leaving to others the task of describing their methods and of presenting their points of view.

To begin with, this discussion is concerned with a required one-hour, one-semester course of an introductory character offered in the first semester of the first year, for which credit is given. All instruction revolves around eight assignments, each of which requires work in the library. In fulfillment of the first assignment each student is required to indicate the locations of the more commonly used sets and classes of

<sup>8</sup> See note 1 *supra*.

<sup>9</sup> BEARDSLEY, *LEGAL BIBLIOGRAPHY AND THE USE OF LAW BOOKS* (2d ed. 1947). Although the instructor may of course limit such reading by assigning only certain portions of the book, this is likely to emphasize some books at the expense of others. It would seem that such a text can be used effectively only if sufficient time is allotted to the course to permit both considerable reading about law books and extended practice in their use.

<sup>10</sup> For example, the mimeographed materials used by the writer contain only about 20,000 words.

books on diagrams representing the portions of the library quarters involved. This method has been substituted for the more common personally conducted tours of the library not only because of the annoyance to other library users occasioned thereby, but also because of the conviction that in this assignment as well as in all subsequent work students learn and remember more when they do the work themselves than if they are told about it or shown how it is done. Even when the students are taken through the library in small groups, much that is said by the instructor "goes in one ear and out the other," just as is usually the case when the instructor lectures about law books in class.<sup>11</sup>

Along with this first assignment, which is distributed at the beginning of the course, the students also receive a brief introduction in mimeographed form, which indicates why the study of legal bibliography is important, describes the method of instruction that will be employed, indicates the nature and function of the library (including library rules), describes the general arrangement of the collection, and gives an outline of the principal classes of law books with particular emphasis upon those involved in the course. This introduction also includes some suggestions on how to conduct a piece of legal research systematically from the first step to a successful conclusion.

The first class hour is utilized to stress matters of special importance covered by the mimeographed materials the students have already received—namely, the Introduction and the instructions for Library Problem No. 1; to answer such questions as have invariably already arisen in the minds of the students; and to explain just what will be expected of the students in this course. The second class period and a part of the third are devoted to the questioning of students on the Introduction—a procedure which, among other things, reveals what matters require further stressing. Between classes the students have, of course, been occupied in studying the Introduction and in preparing their diagrams of the library.

Prior to the third class period mimeographed instructions for Library Problem No. 2 are distributed. Each student also receives an individual "statement of facts" which is the problem with which his research work will be concerned. As Library Problem No. 2 is primarily concerned with the use of legal encyclopedias in beginning a piece of legal research work and the two leading national encyclopedias are employed for this purpose, the mimeographed instructions briefly describe *Amer-*

<sup>11</sup> Even if students take notes and then apply what they have laboriously written, is not this method of communicating information which can be made available in printed or mimeographed form a waste of valuable class time?

*ican Jurisprudence*<sup>12</sup> and *Corpus Juris-Corpus Juris Secundum*, give step-by-step guides to their use, contain a brief comment indicating the place of legal encyclopedias among the "tools of the profession," and describe their utility and their limitations. In addition, the instructions also point out that, while the encyclopedias are to be employed in commencing the search for authorities, the decisions and statutes to which they refer must be examined and the students must reflect the results of their work in a "memorandum of law."<sup>13</sup>

In the third class hour the instructions for Library Problem No. 2, just referred to, are taken as the point of departure. Questions asked by students are first answered and then matters of special importance embodied in the instructions are stressed. The class is then given some familiarity with the principal features of *Corpus Juris* and *American Jurisprudence*, utilizing for class discussion the specimen pages included in the explanatory pamphlets distributed by the publishers, copies of which are supplied to all students.<sup>14</sup> By the use of a hypothetical case, which is followed through the specimen pages, the class is introduced to the various features of these sets, such as indexes, analyses, running text, footnotes and pocket parts, etc., and their relationship to each other. Although attention is from time to time called to portions of these pamphlets, other than the specimen pages, which may be particularly helpful, the pamphlets as a whole are never placed in the category of required reading, because throughout the course the emphasis is on learning by doing, and, accordingly, reading one book on how to use another is suggested only to the extent that this cannot reasonably be avoided.

Finally, the students are told that in essence they will be using a trial-and-error method and that success depends in large part upon their own efforts. Emphasis is placed upon the fact that if they follow carefully the specific guidance with which they are provided they may keep the time required to complete their assignments to a minimum. And,

<sup>12</sup> *Ruling Case Law* has of course in the past been involved in this assignment, but, with the virtual completion of *American Jurisprudence*, it will soon be unsuitable and unnecessary for this purpose.

<sup>13</sup> The memorandum of law is described in class and students are referred to a booklet containing several examples, copies of which are kept on reserve in the library.

<sup>14</sup> These are: "How to Use American Jurisprudence," Bancroft-Whitney Company, The Lawyers Co-operative Publishing Company, and "Legal Research by the Use of Corpus Juris Secundum and Corpus Juris," the American Law Book Company. Additional pamphlets that can be used in subsequent assignments are: "Manual of National Reporter System and All Key-Number Digests," West Publishing Company; "How to Use American Law Reports, Annotated," Bancroft-Whitney Company, The Lawyers Co-operative Publishing Company; "How to Use Shepard's Citations," The Frank Shepard Company.

although they are encouraged to stand on their own feet, they are told that if, having made a determined effort to solve their problem alone, they are not meeting with success, they may seek assistance either from the reference librarian or from the instructor.

Thereafter throughout the course each succeeding library problem stresses a different initial approach and one involving the use of a particular group or class of books to which the student is specifically directed for the purpose of beginning his piece of legal research. For example, in Library Problem No. 3 he begins his search with the *American Digest System*, as representative of the digest approach; in Problem No. 4 he turns first to the annotated reports; in Problem No. 5 he commences with the *United States Code Annotated* and the *Federal Code Annotated*, as typical statutory compilations; in Problem No. 6 the periodical indexes are similarly involved, and in Problem No. 7 he turns first to the card catalogue<sup>15</sup> and commences his search in the texts, treatises, or other publications to which he is thereby referred. Problem No. 8 is concerned with English publications and emphasizes the initial use of the digests and encyclopedias as approaches to this material. However, in every instance the student must, of course, also examine the appropriate additional materials to which his attention is directed by the publications initially involved (decisions, statutes, treatises, articles, comments, notes, etc.) in order to prepare his memorandum of law.

It should be noted that lectures play no part in this instructional program. While no inflexible schedule is followed, class hours in part are devoted to a discussion of the forthcoming library problem, using specimen pages as already indicated, and the remaining time is utilized for a review of the ground already covered—largely by asking questions which, among other things, bring to light the points with which the students are having difficulty or as to which they are not clear. The information thus acquired and that revealed by the written work indicate what must be emphasized and reemphasized, something that unfortunately has to be done with persistence and vigor if the course is to equip the students with the knowledge and “know-how” that they should have in order to go forward effectively.

As the course proceeds there are ample opportunities to demonstrate that the initial approach is usually either a topical or a fact approach,

<sup>15</sup> As many students do not know how to use a card catalogue, some instruction at this point is imperative. Where small classes are involved, Library of Congress cards can be used effectively by distributing to each student a complete set of cards for a book which involves the more usual complications, *i.e.*, joint authors, distinctive title, several subject headings, etc., which may then be used as the basis for class discussion. Where the classes are too large to make this method practical, helpful illustrations can be included in the mimeographed instructions.



except that when a specific case or statute of probable relevance is known it is possible to commence with such case or statute—as, for example, through the use of a table of cases or statutes, etc. Attention is also called to the fact that in most legal research three fairly distinct steps, involving the use of the books, are involved: first, finding a single relevant case, statute, or statement in a text, article, or comment, etc.; second, expanding the search through the full utilization of this initial information to secure additional materials relating to the question or questions involved; and third, bringing the search up to date in order to locate additional authorities, if any, but primarily to make certain that the authorities relied upon are still good law. However, it is of course necessary to point out that in some instances the pattern may be more complex, as where success is attained only after several original approaches have been made and the combined results, so far as relevant, have been utilized to complete the project involved. As the work proceeds, emphasis is placed upon the use of the various short-cuts that are available, as, for example, the utilization of tables of cases or *Shepard's Citations* as soon as a single case or statute has been located instead of scanning column after column of digest paragraphs, which may thus in some instances be avoided altogether.

Mention has already been made of the fact that students are advised that they may seek assistance from either the reference librarian or the instructor if, after they have made a determined effort to solve their problem alone, they are not meeting with success. As personal consultation, when required, is regarded as an important instructional device, a brief explanation of how it is utilized is no doubt justified. An initial difficulty is that of conveying to the students a reasonably clear indication of the point at which such aid should be sought. The over-conscientious student is often inclined to struggle on alone too long, perhaps at the sacrifice of time which should be devoted to other courses. On the other hand, a few students give up the search at the first sign of difficulty. Fortunately, the character of the student in this respect can usually be quickly determined in the initial conference, and he can be advised accordingly. Where lack of application is indicated the student can be returned to his labors with the admonition that perseverance is the price of success and the reminder that the directions he has already been given, if followed, will go a long way in assisting him to succeed.

In any event, the student comes for guidance in a receptive mood because he is faced with a problem for which he must find a solution. In some instances he has not followed instructions, and it is only necessary to call his attention to the importance to the lawyer both of learning to

read with care and of accurately applying what he reads. In other instances he may not understand the problem at all because he is not familiar with some word appearing in the written statement of facts that has been assigned to him, or he is not clear as to the essential facts or the legal issue or issues involved. The first situation offers an opportunity to bring home to him something that has already been stressed in class, namely, the importance of a legal dictionary. Where he is not clear as to the essential facts or the legal issues involved, he is encouraged to think through his problem for himself with assistance from the instructor kept at a minimum. In no case is he assisted with the actual use of the books unless other methods have failed, and as a matter of fact relatively few students have thus to be led by the hand.

One practical problem that must frequently be dealt with is the concern of the student either because in his assignment he has found relatively little law bearing on the point involved or because he has found such a wealth of cases that he cannot make an appropriate selection. Although this problem has been discussed in class, it is now possible to deal with it in specific terms. Where the complaint is that the relevant material is meager, questioning may reveal that the search has overlooked certain aspects of the problem involved. On the other hand, where the student is overwhelmed with materials it is frequently possible to point out to him how he may and should be more selective in his treatment of the circumstances involved in his case. In addition, although the student is in most assignments permitted to assume that his problem arose in a particular state if he so chooses, it is pointed out that since the writing of a creditable memorandum of law is a part of his assignment it may be advisable to consider the law in several, and perhaps all, states, or to treat the matter historically, where the relevant materials are meager; while if the materials are abundant the memorandum may be confined to the law of a single state or only to recent cases. However, it is of course made perfectly clear that the quality of a memorandum is not determined by its length and that the test on this score is whether it adequately reflects the law on the point or points involved.<sup>16</sup>

Although one of the things the student learns is the "mechanics" of the use of law books, it should be noted that under this method even

<sup>16</sup> Due account must of course be taken of individual peculiarities. For example, one student's first memorandum consisted of a single sentence, as follows: "Under the circumstances set forth the plaintiff can recover." It was only with difficulty that he could be persuaded that the course offered him an opportunity to develop the capacity to reflect in writing the facts, issues, and law involved in such a legal problem in the manner that would be required in practice. On the other hand, there are students in every class whose terminal facilities are faulty.

this is not taught "mechanically," if indeed it can be effectively taught in such a manner.<sup>17</sup> This course, along with the others that the student is taking simultaneously, is training him to think and work as a lawyer, and even in solving his library problems he learns some law, for he cannot, in fact, solve them without doing so. Eventually he learns to stand on his own feet, but that the tasks involved are not by any means always superficial and that the process is sometimes rather rugged are attested to by many discussions in personal conferences with the instructor. Sometimes the difficulty the student is encountering in adjusting himself to the study of law generally will come to a head in connection with one of these problems, in which case the broader issue as well as the specific problem requires consideration. The student is, among other things, provided with an opportunity to objectify his problem which is often beneficial in itself. In addition, the information thus obtained may provide the instructor with an opportunity to make some appropriate observations that may be helpful.

What may the student reasonably be expected to know by the end of the first semester? He should not only have become familiar with the usual approaches to the vast body of legal literature, so that he can take what is usually the first step in any piece of legal research—namely, that of finding a relevant case, statute, or statement in a treatise or periodical, etc.—but he should be able to take two additional steps that are usually also involved: that is, he should know how quickly to expand his search so as to find all relevant information that should be examined, and he should know how to bring his search up to date in order to make certain that his memorandum reflects any recent changes in the law. In addition, and in spite of the fact that the limited time involved prevents adequate emphasis upon it, he should have developed some facility in reflecting his work in a memorandum of law, one type of writing characteristic of the work of the legal profession.<sup>18</sup>

Finally, because the course in Legal Bibliography has introduced him to the vast body of legal literature and taught him to find the law for

<sup>17</sup> In the opinion of the writer it is a mistake to create the impression that any part of legal research is purely mechanical. Even the use of *Shepard's Citations* involves an understanding of the problem or problems involved if this tool is to be used with discrimination and effectiveness. It is quite a different matter to admit that some drudgery is involved.

<sup>18</sup> It should of course be pointed out that the limited amount of student time allotted to the course precludes the possibility of placing much emphasis upon the memorandum as a piece of finished legal writing. If the student is to secure adequate practice in the use of the books he must pass on to the next assignment, and revising cannot be required. However, this factor is considered in determining his grade for each assignment and he can be encouraged and given some guidance in the improvement of his writing as he proceeds.

himself, it is believed that it has aided him substantially in making the almost universally difficult adjustment to the study of law, and that it, therefore, has assisted him in his orientation to this new phase of his life.

In the foregoing discussion nothing has been said about the special problems created by large classes. Fortunately, these can at least in part be met in several ways. In the first place, the course can be offered in two sections in order that one section may work on Problem No. 2, which stresses the use of the encyclopedias, while the other section works on Problem No. 3, which stresses the use of the digests, an arrangement which is perfectly practical, as it makes very little difference with which the students have their initial experience. For the next assignment the section which has worked with Problem No. 2 can work on Problem No. 3, and the section which has worked with Problem No. 3 can work on Problem No. 2. Thereafter, the problems can be thus alternated until Problem No. 8, which, because it is the only one remaining, must be assigned to the entire class. Concentration on particular books can be further reduced by dividing each section into two or more groups and assigning different dates on which the assignments are due. Under this method the peak loads on the use of library materials can be more or less controlled, as most students do their intensive work as their own deadlines approach. Even with Problem No. 8, upon which the entire class is working at the same time, the use can be considerably distributed by assigning four or more due dates toward the end of the semester when reviewing for the examination is also in progress.

While we are considering the problems occasioned by the heavy demand for certain groups of books, it may be well to touch upon another matter which bears upon this problem, although it is of greater importance for another reason. Although in some law schools the students in such courses work only on problems in the fields they are then studying in other courses, *i.e.*, Contracts, Torts, etc., this practice concentrates the use on certain library materials, so that the entire group will necessarily be using the volumes embracing these topics in such sets as the encyclopedias and digests and will probably, in addition, be competing for specific volumes of statutes and decisions. Although this fact alone lends strong support to the practice of selecting problems from numerous fields, the writer believes that there is merit in exposing students to problems concerned with fields about which they know nothing, provided, of course, that the questions involved are not too difficult. After all, such an experience is not an uncommon one in the life of the practitioner, except where he specializes in a particular field, and exposure to it at an early date would seem to have some merit. Furthermore, students

frequently exhibit a genuine interest in finding an answer to a question in a field with which they are not familiar. There is another practice which greatly spreads the use of the books and, in addition, insures as far as possible that each student will do his own work. This is the practice of assigning a different problem to each student, for if a number of students work on the same problem at the same time there can be no doubt that often the students who need the training most will rely at least in part upon others for assistance.<sup>19</sup>

There remains the question of a final examination. As the written work involved in the eight library assignments provides ample data upon which to base grades, there is no need of an examination for this purpose. Nevertheless, it is believed that an examination is desirable, not only because it provides the student with an incentive to review and to draw a good deal of information together and thus perhaps fix it more firmly in his mind, but because the course does involve more at some points than will necessarily be reflected in the memoranda of law. By including this broader coverage, the examination questions can provide one more useful test of the student's performance. While the grade on the examination should not be the sole determinant it should be given sufficient weight to provide an incentive for adequate review.

Although on several occasions reference has been made to the amount of student time available for the course, nothing has as yet been said about the work-load of the instructor. A course offered in the manner outlined above makes heavy demands upon the time of the instructor—far heavier per teaching hour than most law-school courses, at least when the classes are large. Accordingly, if the instructor has other significant duties, either administrative or teaching, he should be relieved of some of the burden involved. Among the ways in which this may be done are, first, assignment of the reading of the papers to another person and, second, reliance in part upon the reference librarian or another person to handle some of the personal consultations. Where someone is employed to read the papers it is not too difficult to work out a general policy not only as to grading but also as to marginal notations and comments on the papers as a whole. In addition, especially where the classes are large, the reference librarian or some other qualified person can be very effectively brought into the picture. Participation by

<sup>19</sup> Obviously, the larger the classes the more difficult it is to adhere to this ideal. The writer's collection of problems was adequate for this purpose prior to the post-war influx of students, but some duplication of problems is now unavoidable. The preparation of new problems is too arduous a task to permit a substantial increase on short notice and in the face of other obligations. Perhaps this is a matter on which a number of instructors might cooperate.

the reference librarian usually, but not necessarily, results in a screening of the requests for personal guidance, even when this is not formally attempted, so that for the most part the simpler problems are disposed of in the library and only the more difficult ones reach the instructor. If thus relieved, the instructor can concentrate upon preparation for classes and upon the more important personal consultations which so often provide an opportunity to give effective guidance on an individual basis, something that is so frequently lacking in the law school's treatment of the first year students.

#### IV

##### SUPPLEMENTATION OF TRAINING PROVIDED IN INTRODUCTORY COURSE

Even at best, such a course in Legal Bibliography as has been described is merely an introduction. The student not only needs further practice with the books with which he is now familiar; he must also master the use of additional materials—materials with which he can deal more effectively when he has a broader substantive background. This further training can be provided in a number of ways, and uniformity among schools is neither necessary nor desirable. However, every student should work with library materials more or less continuously throughout his law school training, although after the introductory course the emphasis can and should be on some other aspect of his education, provided only that facility in the use of library materials (other than merely reading materials cited to him by book and page) is indispensable to achieve the primary purpose involved. Such work includes moot court (involving the preparation of written briefs and oral arguments), courses requiring some form of legal writing, and seminars and other courses requiring research work in the library. Among other things, the students should learn to use such tools of the specialist as the loose-leaf services. In all this work the instructor in the course in question should be able to assume that the student either knows how to use the books involved or that he can acquire the necessary additional skill alone or with the guidance that the library staff should be competent to provide. Students who participate in law-review work of course receive excellent additional training in the use of library materials, but because only a few share this opportunity every school should make ample provision for the remainder of the student body.

It should be noted that in the foregoing plan the training in the use of library materials is but one strand in the broad educational program of the law school. Only in the beginning is it dealt with in a separate course, and even at this stage it is made clear that it is only a means to an end, or, better still, an integral part of a particular aspect of the

regular work of the lawyer—in this case the preparation of a memorandum of law. Flexibility is an important characteristic, and adjustments can readily be made whenever it seems advisable, for other reasons, to alter the manner in which particular courses are offered. The specific objective is achieved if the student has more or less continuous training in the use of library materials, but it is not at all necessary that this be in connection with certain courses nor that it take a disproportionate amount of his time. Over-emphasis in this direction is as unjustified as in any other.

## V

### ACTIVE PARTICIPATION BY FACULTY AND LIBRARY STAFF

A full measure of success in achieving the objectives of such a program cannot be expected unless the efforts of the instructor in the specific introductory course are supplemented by cooperation on the part of the faculty in providing the students with a more or less continuous opportunity to broaden their training in this respect along with the other work they are taking. The responsibility of the faculty is of course primarily that of seeing to it that the curriculum requires a reasonable use of library materials. On its part the library staff should perform an educational function, a function which is distinguishable from and should supplement the traditional reference service, which is of course also necessary. This does not involve the adequacy of the collection alone. An easily comprehensible arrangement is extremely important. To the fullest practicable extent all books should be available to the students without the interposition of any formality. But this is not enough. The role of the faculty should be supplemented by affirmative guidance on the part of the library staff<sup>20</sup>—guidance of a character not to be confused with the function of handing out books specifically requested or of answering simple questions. On the other hand, the temptation to do the work for the student, which is sometimes the easiest way out, must be resisted and these opportunities must be utilized to increase the student's proficiency. That the opportunity substantially to improve the law school's educational program at this point is frequently overlooked is evidenced by the fact that in many schools service to the students is still largely provided by fellow students or by full-time staff members with inadequate background and training. In law schools with small student bodies and collections a competent librarian may perhaps perform this function alone, but in the larger schools

<sup>20</sup> Not only are faculty members often so preoccupied and hard pressed in keeping up with their special fields of interest that they have no time to provide such guidance, but they are sometimes unaware of the existence of materials that may be very useful to their students.

his responsibilities for other aspects of the library's program are such that he should be aided by one or more qualified persons attached to the reference service.<sup>21</sup>

## VI

### CONCLUSION

In closing, it may be worth while to set down a few general conclusions. These are as follows:

1. It is vitally important that all law students be trained to use the ever-increasing mass of library materials effectively in legal research, not because this is an end in itself but because this skill is an integral part of the equipment that every lawyer should possess. Contrary to the quite commonly held view, this is not a skill that is acquired incidentally and as a matter of course. In addition, it is a training that every law school is, or should be, peculiarly well equipped to provide.

2. Such training should commence at the beginning of the law-school experience and should be more or less continuous until graduation. Although it is better to offer extended instruction in a single course designed exclusively for this purpose than not to provide adequate instruction at all, this is a skill which is peculiarly an integral part of the lawyer's broader training, and proficiency is by no means assured merely because the student has had a course in it.

3. The primary objective is the development of skill in the use of library materials in the manner required in the work of the legal profession. Although such training may obviously be provided in courses with other objectives, in such courses great care should be taken that its fundamental importance is not overlooked. Among other things, the usual Introduction to the Study of Law or a course emphasizing legal history and the development of law books is no substitute for training in the effective use of law books in legal research.

4. This is conspicuously a case in which learning by doing is the best method, and preferably the learning should be necessary in order to achieve some other desired end, such as the preparation of a memorandum, brief, comment, or note, concerned with a legal question of genuine

<sup>21</sup> Law-school teachers and administrators who are still laboring under the illusion that the library problem (if, indeed, there is any) will for the most part take care of itself will hardly believe that, although in some schools the need for a specially trained head librarian is still being debated, in the law schools with a dynamic library program the issue now relates to the minimum number of specially qualified professional staff members that is required to deal adequately with the ever broadening subject matter and the numerous technical complexities involved. Obviously, in such libraries the head librarian has broad and absorbing responsibilities, and one of the specialists urgently required is a person in the reference service who is also qualified to play an educational role in respect to the student body.



interest and based upon an actual occurrence. Teaching merely the "mechanics" by requiring the completion of citations, filling in blanks in a form, etc., should be avoided. Classroom time should be devoted to necessary explanations and to discussions directly connected with the work under way, and should involve as much student participation as possible. Lectures are conspicuously ineffective. Basic information should be communicated in printed or mimeographed form, but this should be kept at a minimum so as to permit students to devote most of their time to the use of the books in the library in their wide variety.

5. Some guidance is indispensable if satisfactory results are to be expected. The better students will for the most part require little more than is provided in writing and in classroom discussion. But occasionally such students, and more frequently the remainder of the class, will require assistance. Such aid can most effectively be provided by personal consultation and when the student is face to face with a difficult problem.

6. Complete success cannot be expected if the instructor is the only person who assumes responsibility in this matter. He must be supported by a faculty that will see to it that further training is provided more or less continuously throughout the law-school experience. If the student body is large, the instructor will also need assistance in reading papers and in handling personal consultations.

7. Instruction in legal bibliography and the use of law books should be required of all students and it should be given for credit. Where such is not the case the students (usually correctly) conclude that the faculty regards such instruction as relatively unimportant, and react to it accordingly.