Book Review

Bruce A. Kimball, *The Inception of Modern Professional Education: C.C. Langdell, 1826–1906*, Chapel Hill: University of North Carolina Press, 2009, pp. 488, $60.00.

Reviewed by Christopher Tomlins

Christopher Columbus Langdell in his lifetime did not lack for an occasional champion. Though his unusual approach to teaching at Harvard Law School bewildered many of his students at the outset, it was fiercely defended by a minority, who "proudly assumed the eponym of…'Kit's freshmen' and considered themselves the 'best men' in the school" even as they were mocked for it by the remainder.[1] Though faculty colleagues were antagonized by his obstinacy in pursuit of reform at the law school, he had the backing of the University's president, Charles Eliot, who had recruited him to the deanship, and he quickly gained a right-hand man in James Barr Ames, whom Langdell made American legal education's first (and for a long time only) professor selected according to criteria of academic merit.

Still, detraction has been Langdell's more usual fate, especially in the world of legal education he did so much to create. The leading epithets are known far and wide: Holmes' "greatest living legal theologian"; Grant Gilmore's "an essentially stupid man."[2] Paul Carrington offered a more considered disparagement in his 1995 "appreciation" of Langdell on the centennial of his retirement as Dean of Harvard Law School. Puckishly entitled, "Hail! Langdell!" Carrington's eulogy was a distinctly backhanded salute. Langdell "had devised a novel theory of American law, a new method of instruction, and a program of credentialing that made his school a paradigm for American legal education."[3] A notable trifecta. But Carrington deprecated the institutional innovations (the credentialing) that had created the amply funded ground on which he himself stood; nor could he detect a smidgen of intellectual worth

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1. Bruce A. Kimball, The Inception of Modern Professional Education: C.C. Langdell, 1826–1906, 145-6 (Univ. of North Carolina Press 2009). All subsequent page references to the book under review appear in the text in parentheses. Courtesy to the reader and to Professor Kimball requires I disclose that he thanks me in his acknowledgements for "encouragement and editorial guidance over several years."

2. Oliver Wendell Holmes, Jr., Book Notice Reviewing a Selection of Cases on the Law of contracts, with a Summary of the Topics Covered by the Cases. By C.C. Langdell," 14 Am. L. R. 233, 234 (1880); Grant Gilmore, The Ages of American Law 42 (Yale Univ. Press 1977).

3. Paul D. Carrington, Hail! Langdell!, 20 Law & Soc. Inquiry 691 (1995).

in the novel legal theory. The one leg of the tripod Carrington had time for was Langdell's new "case method" of instruction, but only because wiser men than Langdell, perceiving a moral subtext where he saw only the surface gloss of "legal science," had effected a separation of the method from its author's madness, and so freed posterity from "transcendental nonsense" to teach the enduring morality "of republican politics and law."[4] Once successfully detached from his single defensible achievement, Carrington's Langdell came across as mostly a failure and a fool—an unsuccessful lawyer, awkward bookish recluse, mulish and credulous intellectual, dredged from obscurity to do the bidding of an ambitious educational entrepreneur (Eliot) by creating a philistine's brand of legal education premised on the elevation of institutional status over service and sterile technique over politics.[5]

Though he denied any intent to patronize, Carrington's terse biography clearly achieved it in substance. Called upon to comment, two legal historians, John Henry Schlegel and Laura Kalman, did Langdell the greater courtesy of finding him important enough to damn in his own right.[6] However, a third, William LaPiana, did more. LaPiana invited readers to consider two unnerving possibilities: first, that Langdell might actually have been a scholar of some sophistication and learning; second, and more important, that the conception and method of legal education he had devised, though of course narrow by current standards, nevertheless had the cardinal virtue of creating a modern legal profession trained precisely to look elsewhere than politics for its sense of validity and relevance. "By making the mastery of legal science the hallmark of professional competency and prestige, case method education gave lawyers a claim to social position and power based less on the defense of certain ideas about society and government than on apparently apolitical expertise." From a late 20th century standpoint, LaPiana suggested, a legal profession whose measure of success was technical capacity to do what it did *well* might actually be preferable to one trained from this point of a twirling compass or that to do *good*. In Langdell as scholar and teacher, LaPiana espied a craftsman's modesty, wholesomely detached from an architect's ambition.[7]

At the time he wrote in rebuttal of Carrington, LaPiana's own published research had already established a firmer basis for—dare-one-say—judicious assessment of the origins of modern American legal education and C.C. Langdell's role at its inception than could be found anywhere else in

4. *Id.* at 692-94, 708-09, 711-12, 716. "Transcendental nonsense" is Felix Cohen's term for the doctrinaire legal formalism which Langdellian "legal science" is generally taken to embrace. *See* Felix S. Cohen, Transcendental Nonsense and the Functional Approach, 35 Colum. L. Rev. 809 (1935).

5. Carrington, *supra* note 3, at 704-10.

6. John Henry Schlegel, Damn! Langdell!, 20 Law & Soc. Inquiry 765 (1995); Laura Kalman, To Hell with Langdell!, 20 Law & Soc. Inquiry 771 (1995).

7. William P. LaPiana, Honor Langdell, 20 Law & Soc. Inquiry 761 (1995).

contemporary legal-historical scholarship.[8] Since the late 1990s, however, the baton has been carried by Bruce Kimball. Coming from a background in the history of education and of the professions rather than legal history, Kimball's principal interest was in Langdell the educator. But in the course of nearly fifteen years of research he has successfully broadened that interest to Langdell the lawyer and legal scholar. Kimball's research has already been widely enough disseminated to attract the attention of anyone with an interest in Langdell or the history of legal education; over the last ten years he has published some dozen articles on both, clustered principally in three journals—the *Journal of Legal Education*,[9] the *Law and History Review*,[10] and *Law and Social Inquiry*.[11] From the outset, however, Kimball's intention was always to write a biography that would situate Langdell at a specific crossroads—Harvard's invention of the modern American law school, Langdell's role in that invention, and the relationship of that invention to the inception of modern professional education. That biography is now before us. How successful has Kimball been?

A successful biography generally demands a subject whose recorded life is rich enough to sustain a reader's curiosity about how this person came to think and act in a particular way—or in the absence of record, an author willing to imagine enough of the web of relations between a formed self (body and intellect) and formative circumstance to fill in the blanks. Kimball's *Langdell* makes it across this particular threshold—but only just. Langdell is born in 1826 to a New Hampshire farm household, the third of five children, three boys and two girls. It is a hard place, and for a good thirty years, his will be a hard life. By the time he is seven, his mother and both brothers are dead, his father is in penury, he and two sisters have been dispersed to relatives and beyond.

8. William P. LaPiana, Logic and Experience: The Origin of Modern American Legal Education (Oxford Univ. Press 1994).

9. Bruce A. Kimball, Young Christopher Langdell, 1826-1854: The Formation of an Educational Reformer, 52 J. Legal Educ. 189 (2002); Bruce A. Kimball, Students' Choices and Experience During the Transition to Competitive Academic Achievement at Harvard Law School, 1876-1882, 55 J. Legal Educ. 163 (2005); Bruce A. Kimball & Brian S. Shull, The Ironical Exclusion of Women from Harvard Law School, 1870-1900, 58 J. Legal Educ. 3 (2008).

10. Bruce A. Kimball, "Warn Students That I Entertain Heretical Opinions, Which They Are Not to Take as Law": The Inception of Case Method Teaching in the Classrooms of the Early C. C. Langdell, 1870-1883, 17 Law & Hist. Rev. 57 (1999); Bruce A. Kimball, The Langdell Problem: Historicizing the Century of Historiography, 1906-2000s, 22 Law & Hist. Rev. 277 (2004); Bruce A. Kimball, Langdell on Contracts and Legal Reasoning: Correcting the Holmesian Caricature, 25 Law & Hist. Rev. 345 (2007).

11. Bruce A. Kimball & R. Blake Brown, "The Highest Legal Ability in the Nation": Langdell on Wall Street, 1855-1870, 29 Law & Soc. Inquiry 39 (2004); Bruce A. Kimball & R. Blake Brown, The Principle, Politics, and Finances of Introducing Academic Merit as the Standard of Hiring for "the teaching of law as a career," 1870-1900, 31 Law & Soc. Inquiry 617 (2006). *See also* Bruce A. Kimball & Pedro Reyes, The First Modern Civil Procedure Course as Taught by C.C. Langdell, 1870-78, 47 Am. J. Legal Hist. 257 (2005); Bruce A. Kimball, The Proliferation of Case Method Teaching in American Law Schools: Mr. Langdell's Emblematic "Abomination," 1890-1915, 46 Hist. Educ. Q. 192 (2006).

The younger sister will die in 1847, leaving him an effective family of one elder and supportive sister who in 1850 will move far away to Kansas. It is unclear whether brother and sister ever meet again. He is a virtual pauper throughout his adolescence and early adulthood, attends local schools and then Phillips Exeter Academy on scholarship, supports himself– and his father–by millwork and teaching. He moves on in his early twenties to Harvard, where after a year he can no longer make ends meet, returns to Exeter and obtains a law office apprenticeship. On completion of his apprenticeship, he returns once more to Harvard to enroll in the law school, again on scholarship, and by 1853 has a law degree and a reputation amongst his peers not only for fanatical devotion to his studies but also "genius." He becomes acquainted with the young Charles Eliot, then an undergraduate in the College, researches thousands of cases on contracts for Theophilus Parsons, and in 1854, leaves for New York, where contacts with law school classmates help him establish himself in practice and begin to earn a decent living. Kimball describes well the formative privation of Langdell's early life and stresses the thread of education and study that runs through it as emotional solace. One can see why. Still, the man who emerges from Kimball's account of his youth remains elusive–not morose nor self-pitying, but still introverted, perhaps taciturn, certainly lonely.[12] Eventually he will marry, though quite late in life (1880), to a woman thirty years his junior. They enjoy a tender and intimate relationship until he dies. She dies a year later. Perhaps one signature of a deep emotional privacy is the virtual absence of his marriage from his life story. Or perhaps his biographer was not interested in the marriage. Kimball tells us of an extensive correspondence between Langdell and his elder sister, but not what they wrote about.

Whatever the absence of record or perspective that leaves one guessing about the man, Kimball makes up for it in his careful reconstruction of the man's professional career, first as lawyer, subsequently as law professor and Harvard law dean. Kimball's Langdell is not Carrington's cartoon. By 1860, six years after leaving Harvard, he has become a successful and innovative lawyer in New York City with a "flourishing practice" (42), a sterling reputation as a shrewd and effective attorney, and a technician's mastery of the era's increasingly complex litigation, particularly in the realms of wills and estates, equity procedure, and commercial law. Work in Langdell's Wall Street office acquaints him with a tendency that will only become more pronounced in big city practice–the relatively lessened importance of "grand style" court room combat compared with exacting preparation of extended written briefs (65-6). Thus, Langdell's personal trajectory serves as an example of the significant shift in litigation from trials based on principles to briefs based on cases, and of a split between trial and paper lawyers in the practice of litigation that reproduces in the American case something of the explicitly bifurcated

12. Langdell refers to his loneliness in an 1883 letter to a law school classmate and friend who has recently visited him and his wife. "Nothing has happened since [your visit]…that so stirred me up. For days after you left, we felt more than the loneliness of Sunday. (You know that the idea which a New England boy associated with Sunday was chiefly that of loneliness.)" Kimball, *supra* note 1, at 314.

English profession.[13] He is an honest and ethical man in a corrupt city, high-minded, but not a prig. In building a legal career, he shows himself capable of the occasional dubious decision (55), even the occasional sharp practice (77-82); nor does he avoid association with those willing to practice sharper (61-6, 70-1). Still, Langdell's law is technique not influence; his careerism extols merit and application, ability and learning, not connection and clout. In his view, "scientific expertise, academic merit, professional success, and equal opportunity" should coincide. When confronted by evidence they do not, as proves to be the case in Tweed's New York, he is outraged. In May, 1868, one former classmate tells another that he has encountered Langdell "breathing out slaughter against the New York judicial system and judiciary" (69). The Augean Stables of the Tweed Ring and of Tammany Hall, and in particular the wholesale connivance of the bar on exhibition in the Erie Wars of the late 1860s, cool his enthusiasm for practice. Disenchantment coincides with an invitation from young Eliot, newly risen to Harvard's presidency (October, 1869), to return to Cambridge, become the law school's first dean, and join Eliot's efforts to flip the University "like a flapjack" (86)—a more manageable task, Langdell may have thought, than flipping New York. In January, 1870, Langdell accepts an appointment as Dane Professor of Law, succeeding Parsons. In February, he returns to Cambridge. Upon installation as dean the following September, he immediately sets about the innovations that will implement his ideal. They will mean a revolution in American professional education.

The chapters that follow, on Langdell's Harvard Law revolution, are the heart of this book and the most rewarding. Until we get to them, it's fair to say, Kimball's research is assiduous but his exposition no more than serviceable. His reconstruction of Langdell's accomplished Wall Street career is extraordinarily repetitive. We first meet Langdell "breathing out slaughter," for example, on page 69, then again on 71, again on 73 and again— after a short break—on 82 (and again, after a long break, lest we forget, on 271). It is a quirky phrase, and it serves to underline a point that Kimball makes over and over—that a century before the neologism was coined, Langdell was a devout meritocrat who "scorn[ed] to win, or to struggle for, any success which was not the legitimate reward of merit."[14] The observation is important—a key to the man, to our understanding of the philosophy of professional education he would set in motion, and also to what Kimball terms his tragedy (1). Whether Langdell was, indeed, a tragic figure we can determine in due course. For the present, perhaps it's worth pausing a moment to sympathize with his biographer: the very recurrence of observations like the "breathing" fragment might suggest artless writing, or it might indicate how seldom pithy moments of commentary or insight turned up in the materials Kimball was able to amass. Tragic or not, Langdell is a strangely shadowed presence in this book. "[C]haracteristic insularity" (201) is not an easy nut for a biographer to crack.

13. This observation owes much to correspondence with John Henry Schlegel.

14. *Id.* at 69. James Coolidge Carter to Charles Eliot (Dec. 20, 1869).

Though repetition—of observations, points of argument, phrases, anecdotes—remains a mark of his book throughout, Kimball's exposition nevertheless improves as he turns to Langdell as scholar, teacher and dean, to the state of Harvard Law as his (and Eliot's) great experiment unfolds, and to the detail of the innovations Langdell unleashed there. In his twenty-five years as dean, Langdell: elevated the standard of faculty scholarship; introduced enduring changes in classroom pedagogy; fought for the recruitment of academically qualified faculty and the creation of an academic career track; established meritocratic structures and policies in academic administration and curriculum; and reversed the prevailing "commercial" logic of professional education—maintain low standards and low tuition to attract sufficient students and revenue to turn a profit—by instituting a high standard, high cost regime that represented a liberal professional education as an inherently valuable credential that also would prove economically valuable to prospective employers.

Langdell's innovations are already well known in outline. Kimball's achievement in analyzing them is two-fold. First, he underscores the animating philosophy that rendered each element part of a larger system—the "new set of legitimating relationships among a profession, its domain within society, the expertise of the professionals, and their education" (2). He leaves us in no doubt that this was Langdell's own personal philosophy. "Langdell maintained that the just working of the legal system relies on the effectiveness of the legal profession, which depends on lawyers' expertise derived, in turn, from their academic achievement in law school. Academic merit determines the effectiveness and the integrity of the members of 'a learned and liberal profession of the highest grade,' who will then 'render to the public the highest and best service in the administration of justice.'" Education must teach expertise, for only expertise could result in practice of the highest standard; but education also must inculcate the single standard of merit, for only meritorious reward was virtuous and only virtuous practice could ensure professional legitimacy (2, also 342-3). Though clearly Langdell and Eliot were in close accord in their conception of professional education, Langdell was no hired cipher of Harvard's president. Rather, ideas developed in the light of his own education and life experience that Langdell first put in place in the domain of legal education became a model for professional education at large. Hence Kimball's title, tying Langdell's name not just to the inception of modern legal education but also to modern professional education in general. Kimball's Langdell is the driving force, and on a wide front.

Second, Kimball systematically creates a thorough, detailed narrative of Langdell's activities in each of his five realms of innovation. Cumulatively, the result is a Langdell ably rescued from posterity's condescension. As scholar, Langdell invented and refined the case book, made substantive contributions, successively, to contracts jurisprudence and equity jurisdiction, and—late in life—entered debate on contemporary issues in constitutional law and antitrust policy. Throughout, he employed a far more complex form of legal

reasoning—"a comprehensive yet contradictory integration of induction from authority, deduction from principle, and analysis of justice and policy" (6, 124–29)—than the rude "formalist" label is capable of conveying. A highlight of Kimball's discussion of Langdell's scholarship is his careful tracking of the cotillion it danced in response and reaction to Oliver Wendell Holmes, Jr., an interlocution from which Langdell emerges—at least during his lifetime—far more the innovator than Holmes, whom we encounter, in turn, as admiring and dismissive depending on the state of his own ambitions, consistent only in his predilection to a certain peevishness. As teacher, Langdell, of course, created the case method of instruction, the roots of which Kimball traces to Langdell's youthful interest in education, to his own activities as a law student, and to his experience as practitioner. Kimball's own skills as a researcher are shown to particular effect here in his resourceful and imaginative use of students' annotated casebooks to reconstruct Langdell in Socratic classroom action. This chapter draws on one of Kimball's finest and earliest articles on Langdell, published in the *Law and History Review*; a separate chapter adds new detail and depth to our knowledge of student life and instruction at Harvard Law in the early years of Langdell's deanship by drawing on Kimball's reconstruction of the paths of four representative students through the school and its classrooms, first published in the *Journal of Legal Education*.[15]

As law school dean, meanwhile, we encounter Langdell determinedly and tenaciously pressing for the application of academic merit to the hiring of faculty, the design of the curriculum, and the admission, examination and advancement of students, and attempting to institutionalize meritocracy as a formal system of academic administration—"rational, impersonal policies and rules guiding incremental progress that could be measured objectively" (193)—to take the place of informal, gentlemanly consensus in governing the school and its activities. Interestingly, Kimball observes, Langdell proved to be much more an educational than a legal formalist. A practitioner's experience had taught Langdell the limits of the legal formalism to which he was instinctively attracted, as the triangular reasoning on display in his legal scholarship attests. In educational matters, where his experience was more limited, his formalism ran unrestrained.

So completely would Langdell's model reshape professional education in America, that it is salutary to be reminded how long the dean had to feud with his colleagues and how uncertain his success actually was. Much of Kimball's account of Langdell's deanship is a narrative of conflict and deadlock. The little club of Brahmin practitioners that was the law school's faculty remained, well into the 1880s, completely unpersuaded of the merits of any of Langdell's innovations. They were discomfited initially by Eliot's very interference in their gentlemanly management of the school. Before his retirement (essentially forced by Eliot), Theophilus Parsons had been the most senior professor and, as such, acted as "head" of school. Emory Washburn expected to succeed him. "In 1870 no one knew exactly what a dean did" (167). Some sort of secretarial

15. Kimball, *supra* note 9; Kimball, *supra* note 10.

work, perhaps. They were discomfited further by their discovery not only that the dean was no secretary, but that the new incumbent, Langdell, was—at least by their lights—no gentleman. He was not a boor; in 1881, Holmes (fifteen years his junior) pronounced him "a noble old swell" (104, 195). But certainly, in his dogged pursuit of change, he did not behave as a gentleman should. As Kimball observes, this, of course, was the point of his appointment. Had Langdell been "a gentleman," there would have been no change: the very reason he was appointed was to initiate a transformation that no gentleman would have willingly countenanced—the transformation of the profession's existing gentry culture by inculcation of an ethos of professional*ism*. Early on, Langdell gained a needed ally in Ames, whose appointment in 1872 to replace Nathaniel Holmes (whose resignation Eliot had requested) conformed to Langdell's unorthodox idea of renewing the school by hiring young faculty on the (ungentlemanly) basis of academic achievement. Four more appointments made in the ten years after Ames, however, were all "from the ranks of the active profession" (175)—first James B. Thayer, then John Chipman Gray, then Charles S. Bradley (at which point a disgusted Ames offered his resignation), then Oliver Wendell Holmes, Jr. Holmes replaced the incompetent Bradley, but his own appointment quickly turned into a charade when Holmes' ambition took him, instead, off to the Massachusetts Supreme Judicial Court. William Keener filled the gap—the first appointment in a decade to conform to the Ames model. But Thayer and Gray were horrified and complained bitterly. Not until the early 1890s was there any further implementation of meritorious academic hiring of young faculty, and then only on a quid pro quo basis balancing the appointment of senior established "scholarly" practitioners. "[R]ecent graduates like Ames became the norm for new faculty appointees" only after 1900 (190).

Langdell was frustrated in the matter of appointments because, for all his vocal support, Eliot trimmed, in part for financial reasons, in part in response to pressures from the faculty and from the University's Corporation and Board of Overseers. Langdell enjoyed greater success, comparatively, in curricular and admissions reform during his first decade, where his objectives were an organized, sequenced curriculum spread first over two and then three years; written examinations; the admission requirement of a college degree or entrance examination; and the addition of an honors track. All were designed to create a professional education characterized by academic distinction. Eliot's support in curricular matters was consistent, notwithstanding fluctuations in enrollments attending implementation of Langdell's "very restrictive measures," and all of the desired reforms had been effected by the end of the 1870s (221, 222). Even so, conflict was fierce, particularly over Langdell's ungentlemanly insistence that his own courses be given the key role in defining academic distinction within the school.

Overall, the transformation of Harvard Law required at least fifteen years in curricular matters, more than twenty-five years in appointments policy. Bitter struggles—a 19th century Beirut—were its watchword. Yet for all the contention,

Langdell eventually emerged triumphant. Declines in enrollment following each major curriculum reform proved temporary, although the decline that followed the introduction of the three-year curriculum and entrance restrictions was prolonged by the early 1880s recession. By the mid-1880s, the school was prospering; by the end of the decade, it was a runaway success, its graduates finding ready employers in the big city corporate firms whose genesis Langdell had been able to observe twenty years before on Wall Street. By 1895, when Langdell retired from the deanship, his model was spreading fast.

Kimball, then, has shown us that C.C. Langdell overcame a deprived youth to become a highly regarded law student, a lawyer of consequence, a scholar of greater consequence—good enough for his lead to be followed on more than one occasion (without attribution) by the revered Holmes—and a pioneer of professional education. Though reserved, he was by no means friendless; though he had known poverty, he was unfailingly generous; though an introvert, he married and enjoyed a loving relationship with his wife. Those with whom he disagreed called him arrogant, relentless, and autocratic, but these are not unusual terms in academic fights (or those in the outside world); and in his relations with his wife and adult friends, he displayed "a 'tender, almost feminine nature'" (13). Throughout his life, he found it very difficult to come to terms with the death of those close to him; given his early life, this is unsurprising.

Though one might hesitate to call Langdell an extraordinary man, one can properly acknowledge a life of no little achievement against the odds. Why then call the story of this life "a tragedy both in form and content" (1)? This smacks a little of reaching. To be sure, Kimball discovers sadness—poverty and loneliness early in life, blindness in later life. Sadness is not tragedy. He also discovers hypocrisy. Langdell the meritocrat fails his own meritocratic test. In the 1870s he insists "that his own academic specialty of equity should be the *sine qua non* of the honor degree at HLS" (273, also 226). Langdell had reason to doubt the rigor of his colleagues' teaching—all but Ames—but "he still violated the most fundamental principle of his own system: that evaluation should proceed by disinterested, formal standards of academic merit" (273). The violation reappears more ominously in the 1890s, when Langdell makes explicit his opposition to the admission to the law school of women and graduates of Catholic colleges. Once more, the ideology of meritocracy seems exposed as a sham by its advocate's own "limitations of self-interest, cultural background, and inherent subjectivity" (273). Meritocrats, of course, did not see it that way themselves: Langdell thought that as a matter of aptitude "the law is entirely unfit for the feminine mind—more so than any other subject" (289). The basis of his antagonism toward Catholic colleges is not openly stated, but he certainly acted on it without any apparent second thought.

In form, a tragic hero is cast down by his flaw or error. We are offered no evidence that Langdell's prejudices had any measurable adverse effect on his own life: no shame, no disgrace. He was, says Kimball, sure enough in his opinion of the feminine mind to voice it in meetings where gentlemen

preferred to dissemble. Nor, without greater willingness than Kimball has shown to explore and interpret those aspects of his life that Kimball finds Langdell's prejudices contradicting—"personal relationships with educated women" (291), namely, his mother, his sisters, particularly his elder sister Hannah, and his wife—could one begin to find the content of Langdell's life tragic. Kimball dances around the edges: he alludes to the higher priority Langdell appeared to place, personally, on educating men than women. The young son of a deceased law school custodian had, Langdell thought, more claim than the boy's elder sister on a fund set aside to educate the custodian's children. Himself, the orphaned younger son of a poor farm family, Langdell feared for the boy's future—and so he asked Eliot to allow the law school to pay for the sister's education instead of drawing on the fund (291). Kimball also alludes, tantalizingly, to the "scholarly manliness" of late 19th century professional education, to law school as its most intense expression, and to case method as the epitome (Ames thought it "virile" compared to recitation) of manly struggle (293). What did this man, "tender, almost feminine" with his intimates, gain psychologically from manly struggle with his students, such that he could not countenance the presence of women? If his life is to be judged tragic, his biographer should make more attempt to answer questions like this. Kimball chooses, instead, to assimilate Langdell's clearly held prejudices to the dissimulations of turn-of-the-century meritocratic discourse: "Employing the 'categorical thinking' of educational formalism, the meritocrats classified women and graduates of Catholic colleges apart from the other applicants, and then declared the former an exception to the standard of academic merit and applied special scrutiny to the latter. Mediated by these policies, the invidious discrimination seemed invisible to the meritocrats, who continued to believe in their commitment to academic meritocracy, even as the 'just' system discriminated against these categories of people during the triumphal inception of the system that should have, in principle, opened doors to admit them" (308). As explanation, this is unexceptionable enough, but it is sociology, not tragedy.

In the absence of tragedy, we are left with a biographer's regret at the failings of a subject he has come to admire. Kimball himself believes deeply in the possibility of professional meritocracy. The last sentence of his last chapter enjoins us to consider that academic meritocracy may "like democracy in political life…still be the best of the worst ways of organizing professional life" (346). He wishes that, at the inception of modern professional education, Langdell's own commitment had not proven, in certain grave respects, insincere.

Kimball's own eulogy of Langdell, nevertheless, credits both life and works. Neither legal theologian nor in essence a stupid man, neither failure nor fool, Christopher Columbus Langdell has proven capable of inspiring a biography that plainly describes the lawyering of which he was justifiably proud, the scholarship that wasted no words on fripperies, and above all the dogged creation of a system of professional education characterized by methods and

ideas still plainly recognizable 140 years after its inception. *Lector, si monumentum requiris, circumspice*. Paul Carrington described Langdell as a practical man, and though that is clearly not all he was, practical is at least part of what he was, the part he was willing to let show. A practical man has inspired a largely practical biography. No doubt this particular man would have been upset had his biographer attempted to see more.