

Path of the Law Reader Program

by Ivan Fehrenbach

The law is not a mystery; it is a “well-known profession,” to paraphrase Oliver Wendell Holmes Jr. in his famous essay, “The Path of the Law.” More than a century later, scholars, deans, and practitioners still debate what law study should entail. Yet the traditional path to the law in Virginia, the one followed by most lawyers until the last century (including, of course, the likes of George Wythe and Thomas Jefferson), has already solved the debate for some — at least for me.

I’ve seldom taken the traditional path to anything, and certainly not in my education. I graduated early from high school and promptly disappeared into the Rocky Mountains for a semester at the National Outdoor Leadership School, after which I had little intention of attending college at all. Fortunately, fate had other plans, and when my guide position was scuttled at a nascent white-water rafting company, I found myself at Brown University. There I took full advantage of the open curriculum and graduated with a Literary Translation honors degree in several languages, which undoubtedly prepared me well for my first post-college job: plumbing.

Next, I became a Class A contractor and alternated construction jobs with positions as a teacher, having ultimately returned to school to get an MFA in fiction (not at a typical school, of course — a low-residency program).

Yet when my frustration with the ethical contradictions of academia began to match my exasperation with the timeliness of sub-contractors — and when I found I preferred reviewing construction contracts over checking the progress in the field — I finally began to recognize the profession to which I’d been moving, unwittingly, all along.

Straight out of college, you wouldn’t have caught me dead in a suit. I would have gone to dust in boots and jeans, and my coffin, if one at all, would have been lined with flannel. Perhaps that was one (admittedly misguided) reason the law eluded me for nearly a decade after college: The small closet in the cottage I built myself in the Virginia woods didn’t have room for hunting supplies *and* suits.

Suddenly at thirty, however, I couldn’t dismiss the prodding revelation that law was the perfect synthesis of my love for words and my appreciation for finding creative solutions to practical problems. I visited local court hearings and mined a few legal briefs I found on the Internet. It felt as if I were learning my fifth language, one delightfully elegant if quirky. Why was “provided” used as a conjunctive adverb? Why “whereas”? And how could one not become immediately enamored of words such as “assumpsit” or “detinue”? At that point in my incipient study, even the legal definition of “remedy” seemed foreign to me; I had only ever used the term in the context of physical maladies.

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The thought of law *school*, though, was not particularly appealing. I knew from friends that a J.D. would not likely prepare me to hit the ground running, that I would need to intern at a new job before I had any idea what I was doing. Perhaps there was some way, I thought, that I could combine the practical expe-

rience of an internship with the academic instruction of school?

I was also wary of formal law school because I wanted to immerse myself in the material — not get entangled in the insular, impractical world that seemed often to characterize friends’ small, post-graduate programs, whether law, business, or otherwise; I wanted to read law and learn how to practice law. I also needed to work and pay my mortgage, modest as that was.

I already had a terminal degree (the MFA), and I was still paying for that and for part of my tenure at Brown. The prospect of thousands upon tens of thousands more in debt did not lift my spirits. It was a conundrum, but I didn’t see much of an alternative. My professional life was largely unfulfilling. From my research into the law, and because of an unfamiliar surge of optimism, I believed I had found a viable solution to that problem. I had to make the plunge.

I doubt you can imagine the sense of elation — excitement and weightlessness combined — that struck me when I discovered the existence of the Law Reader Program. Try to recall one of the

great serendipities of your life, and you will be close. A lawyer friend of mine was working on a political campaign in Richmond, and for a reason I don’t remember, I met him outside the brick warehouse where they were headquartered. Talk turned to my legal aspirations. “Did you know you can still read

law in Virginia?” he asked. No, I had no idea.

At that time, information about the Law Reader Program was not posted online. Those interested needed to send a missive by regular mail to the Board of Bar Examiners. Addressing the letter, I felt like a kid requesting information about an exclusive superhero club. I included the requested self-addressed and stamped envelope, which returned with a packet of materials essentially meaning to dissuade me from pursuing the program. The board was right for its

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skepticism and for sending such warnings. I was right not to heed them.

Unfortunately, the materials did not include a “How To” essay about getting started. The program rules were there, but no information about finding the required “supervising attorney,” or how the day-to-day of the program would work. Admittedly, it wouldn’t have made sense to include a discussion of routine, and as for finding the supervising attorney, I doubt two paths converge there, either. That search is probably one of the most difficult steps in the process. Few lawyers, or few people for that matter, could or would devote the time and effort necessary to take responsibility for someone’s education. I was not dispirited, however. I had found a thread within the labyrinth; I just hoped Ariadne was on the other end.

Soon I discovered a fair-sized coterie of these law readers. My mother knew someone who knew one. Friends who were lawyers knew of this one in Richmond, that one in Virginia Beach, this legislator, that judge. A number of former law readers were practicing in my hometown of Williamsburg. I spoke with one a few times and then met him

for a beer; that led to my finding D.R. Dansby.

If my first great fortune was the discovery that the Law Reader Program even existed, the second was certainly meeting the man who would become my supervising attorney and mentor, a man who had been a law reader himself in the 1970s and had been practicing successfully ever since.

My education began even as I was being vetted. Slated to meet Mr. Dansby at the Williamsburg/James City County court the following week, I asked another

lawyer whether I should wear a suit, or whether that would appear too formal or even obsequious. I had a lot to learn.

Mr. Dansby probably told me in which court he was appearing, i.e., General District, Circuit, or JDR, but maybe he didn’t — maybe that was the first test. In any case, a day before the meeting I realized I didn’t know where, in that imposing and bland brick building, I should find him. So before my law study even officially began, I had to learn how to locate the attorneys on the dockets, and how the dockets correlated with floors and doors.

That interview concluded at his office, which was not the sterile and uncreative space I feared — quite the contrary. In addition to the expected, extensive library, the various diplomas and certificates, and the requisite office equipment, there were, among many other curiosities, Sherlock Holmes books, archaeology magazines, Seurat and Renoir on the colorful walls, live plants being propagated in different jars, a picture of Rumpole of the Bailey.

I heaped my resume, recommendations, transcripts, publications and the like on Mr. Dansby’s desk, but he seemed

much less interested in my academic accolades than in the person I was off the paper, how I handled myself, and the kinds of questions I asked, which I’m sure were far from insightful given my limited knowledge both of the program and the profession.

I must have passed the first interrogation because I was invited to meet the “Board of Inquiry” a week or so later, which was composed, that day, of two of Mr. Dansby’s former students, Thomas Turbeville and John Williams, and a retired lawyer, Jack Baker. For nearly four hours over an extended lunch (of which I ate little), they peppered me with questions and comments, which at one time included making fun of my tie, though they seemed pleased I wore a suit. What had I been doing for the last thirty years? Did I have a record? Why hadn’t I eaten the roast beef? What had I observed about each of them so far? Why did I want to study law?

I blubbered something about helping people, an answer that plagued me the next couple of years. I like to think that the response was not exactly that vague and inarticulate, but perhaps it was. The board delved further. How did I think I had done so far?

I had no idea. Fortunately, in some manner, Mr. Dansby’s appointed board approved my matriculation into the “Virginia Law Reader Program under the auspices of Dwight R. Dansby,” as was announced at the Supreme Court of Virginia’s admission ceremony a little over three years later.

We completed the application, by no means a quick process, and next traveled for questioning before a member of the Board of Bar Examiners in Norfolk. Carl Hall, who had served on Turbeville’s Board of Inquiry years earlier, joined us for the trip and now joined the group that would test my progress. At any point, my progress — or lack thereof — could disqualify me from the program.

My study began in earnest. Reading the casebooks was the easy part; they resembled collections of short stories

with all the characters to boot, such as Mrs. Palsgraf standing on the train platform before an unexpected fireworks display, or the aptly named Gideon, who was toiling at letters in a Florida prison cell. Even the less colorful Marbury was compelling in the context, and it took me a while to realize that Learned Hand was a judge's real name.

I couldn't help but share my enthusiasm. My hunting friends likely grew tired of my ruminations about the point at which the prey became your property, or what might happen were we to find ourselves in the predicament of Tice and his less famous companion, Simonson, sending ill-advised shotgun blasts after a covey of quail. My English students were certainly astounded that the second amendment contained all those words about a militia (and then perplexed by Justice Scalia's interpretation of those words in *DC v. Heller*). I even found the tax law textbook somewhat interesting, like a collection of Sudoku puzzles albeit with practical applications.

The stories and the new vocabulary, however, did not make me think like a lawyer, nor did they teach me how to practice law. That task fell to Mr. Dansby, who reveled in the Socratic Method. I didn't receive simple answers from him, just more queries. Sometimes he'd call me to his car and not even tell me where we were going. I had to be ready for anything, any question, at any point. This uncertainty did not sit well initially, but soon, I began to ask better questions. Soon, I could respond to a surprise inquiry about child custody without an elaborate and largely irrelevant introduction, or without some other form of rhetorical hedging or delay.

This ability to adapt under the pressure of time became an important skill to have when I began handling trials under the Third Year Student Practice Rule. Even so, Mr. Dansby would stand behind me and later reveal where I had strayed, in argument, strategy, or

demeanor. Apparently I like to stick my hands in my pockets.

Education came in a variety of other venues, too. We talked about contracts over a mulching project, riparian rights during a hike through the neighborhood woods. Studying Property and Wills, Trusts and Estates, I met with Baker weekly and learned much more than the language of conveyances or the course of descents. I sat in on parts of a Constitutional Law class, which I found riveting when the students weren't bickering with the professor about the grading procedure (perhaps justifiably, but that wasn't my concern). I discovered a wealth of lectures and materials on the web, a luxury Jefferson certainly didn't enjoy, while like Jefferson I could also read Sir Edward Coke — but now on my iPad anytime I wanted.

I had found what I sought but which I feared might be a fantasy — an internship combined with study. I spent much more than the forty required weeks a year to learn not only the theories behind the law (moralism, legalism, and such), but also to learn the law, Justice Holmes's "well-known profession." At one point, I worked with three former law readers on a murder trial. Such excursions to court, field trips to the jail, or attendance at a divorce mediation did not count towards my weekly requirement of in-office reading, but they played a crucial role in my real education.

Not everything was easy, of course. Juggling teaching, construction jobs, and study didn't always prove painless, but certain moments made the long days worth it, such as sitting beside Mr. Dansby in Colonial Williamsburg, within the bower of George Wythe's backyard, smoking a cigar.

Turbeville, Dansby and I had just finished listening to a speech by the Dalai Lama when I refreshed my computer screen and discovered I had passed the bar exam on the first try. Both they and Hall joined me in Richmond for the swearing-in cere-

mony. Sadly, Baker was no longer alive to see what I had accomplished with his help, but I am indebted to all four of them, especially Mr. Dansby, as well as to a number of other friends and members of the bar. Apart from being an ideal path for learning law, the Law Reader Program also creates a sense of community within the profession in a way that law schools, with their more confined and transient population, do not.

Some time ago, upon learning that I was a law student, a local lawyer immediately fumbled through his wallet and pulled out his bar card. It was a stunning expression of pride, coupled with a brimming respect for the profession, and now I understand the action that seemed almost quaint at the time. Never has a piece of plastic felt more valuable. I hope that when I'm able to qualify as a supervising attorney and give someone else the opportunity to discover that feeling, the program will not only still be here, but even be thriving.



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