


1982

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### Recommended Citation

Thomas L. Shaffer, *David Hoffman's Law School Lectures, 1822-1833*, 32 *J. Legal Education* 127 (1982).

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# Annals of Pedagogy

## David Hoffman's Law School Lectures, 1822-1833

Thomas L. Shaffer

The Baltimore lawyer and teacher David Hoffman (1784–1854), the father of American legal ethics, was also the first of the systematic American legal educators. He held one of the first appointments in this country as a university law professor (at the University of Maryland, 1814–43) and wrote the first American outline of the study of law.<sup>1</sup> Joseph Story, in a contemporary review of the 1817 *Course*, called Hoffman's work "an honour to our country[,] . . . by far the most perfect system for the study of the law that has ever been offered to the public."<sup>2</sup> Chancellor James Kent said, "whoever follows its directions will be a well read and accomplished lawyer."<sup>3</sup>

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1. There are no extensive biographical sources. Significant discussions include Maxwell Bloomfield, David Hoffman and the Shaping of a Republican Legal Culture, 38 *Maryland L. Rev.* 673 (1979); 1 *Cyclopedia of American Literature* 758–60; 7 *The National Cyclopedia of American Biography* 129–30 (1897); 5 *Dictionary of American Biography* 111–12 (1932); *Who Was Who in America, Historical Volume, 1607–1896*, rev. ed., at 324 (1967); Wilbur S. Shepperson, Thomas Rawlings and David Hoffman: Promoters of Western Virginia Immigration, 15 *West Virginia History* 311 (1954); M. Silver, David Hoffman and the Rationalization of Legal Study (unpublished; University of Chicago Law School, 1979). Useful pieces of biography appear in Maxwell Bloomfield, *American Lawyers in a Changing Society, 1776–1876*, at 91, 138–39, 151 (Cambridge, Mass.: Harvard University Press, 1976); George Calcott, *A History of the University of Maryland 16–46* (1966); Anton H. Chroust, 2 *The Rise of the Legal Profession in America* 31, 51–56, 203–06, 218 (Norman, Oklahoma: University of Oklahoma Press, 1965); Eugene F. Cordell, 1 *University of Maryland, 1807–1907*, at 338–47 (New York: Lewis Publishing Co., 1907); Mary F. Lochemes, Robert Walsh: His Story, 26–30 (Washington, D.C.: Catholic University Press, 1941); John Neal, *Wandering Recollections of a Somewhat Busy Life: An Autobiography* (Boston: Roberts Brothers, 1869); and R. Roberdau, *Genealogy of the McKean Family of Pennsylvania* (1890) (Mrs. Hoffman was a McKean). Obituaries are in the *Baltimore Sun*, Nov. 15, 1854, and in the *New York Weekly Tribune*, Nov. 18, 1854. See also Thomas Shaffer, David Hoffman on the Bible as a Law Book, *Christian Legal Soc'y Q.* (1981); and Thomas Shaffer, *Negotiation Ethics: A Report to Cartaphila*, 7 *Litigation* 37 (Winter 1981) [hereinafter cited as *Negotiation Ethics*].
2. Joseph Story, Book Review, *The North American Review* 76 (November 1817).
3. This quotation from Kent's review is bound into David Hoffman, *Introductory Lectures and Syllabus of a Course of Lectures Delivered in the University of Maryland, Now Republished in Reference to the Recent Resignation of the Medical and Law Professorships in that Institution* (Baltimore: J.D. Toy, Printer, 1837) [hereinafter cited as *Introductory Lectures*]. An extensive review, probably written by Charles Hodge, appeared in 9 *Biblical Repertory and Princeton Review* 509 (1837).

Hoffman's *Course* has not, however, been reissued since he asked the printer in Baltimore to bind remaining copies of the 1836 edition into a single volume. His outline for legal education was overshadowed, even in his lifetime, by the establishment of a number of new law schools. His chair at Maryland was left vacant after his resignation was accepted in 1843 and was not revived until 1869. In addition to strictly legal works, Hoffman wrote several books of social criticism in the 1840s and six volumes of religious history in the 1850s, none of which has been reprinted. His more popular literature—criticism of social innovations, the excesses of revival preachers, bad grammar, and the depredations of Andrew Jackson<sup>4</sup>—was, alas, not enthusiastically received.

Yet Hoffman was an important figure whose work has left its mark. The influence of his *Fifty Resolutions* on legal ethics, reprinted late in the nineteenth century and again in the twentieth, is found in both principal precursors of the American Bar Association's 1908 *Canons* (the 1854 essay of Judge George Sharswood of Pennsylvania, and the 1887 code of Judge Thomas G. Jones of Alabama).<sup>5</sup> His support of the practice court as a means of training students in the art of trial advocacy was influential in the design of later university law-school programs as was his developing view of the use of the lecture as an analytical tool in the training of lawyers.<sup>6</sup>

Most of his law lectures, as distinguished from his *Course*, were not written. A few of his introductory discourses do survive in printed form—probably transcribed after they had been delivered<sup>7</sup>—and there are newspaper reviews of two of them.<sup>8</sup> The best evidence of Hoffman's theory of the law lecture is to be found in his analyses of the strengths and weaknesses of his own work.

### Hoffman's Law School

Hoffman began to lecture in the fall of 1822 and continued each succeeding year through 1833. During the academic year 1825, enroll-

4. *Miscellaneous Thoughts on Men, Manners, and Things*, By Anthony Grumbler of Grumbleton Hall, Esquire [pseud.] (Baltimore: Plaskitt & Cugle, 1841) [hereinafter cited as *Miscellaneous Thoughts*]; *Viator; or A Peep into my Note Book* (Baltimore: Plaskitt & Cugle, 1841); *Chronicles Selected from the Originals of Cartaphilus, the Wandering Jew* (London: T. Bosworth, 1853-54), the first of a projected six-volume work, and apparently the only one that saw print. See 3 *Appleton's Encyclopedia of American Biography* 226-27 (1887).

5. Bloomfield, *American Lawyers in a Changing Society*, *supra* note 1; Bloomfield, *David Hoffman and the Shaping of a Republican Legal Culture*, *supra* note 1; Shaffer, *Negotiation Ethics*, *supra* note 1; Silver, *supra* note 1. See Walter P. Armstrong, Jr., *A Century of Legal Ethics*, 64 *A.B.A. J.* 1063 (1978).

6. David Hoffman, *A Lecture Being the Third of a Series of Lectures Now Delivering in the University of Maryland* (Baltimore: J.D. Toy, Printer, 1826), in Hoffman, *Introductory Lectures*, *supra* note 3 [hereinafter cited as *A Lecture, Third of a Series*]; *Hints on the Professional Department of Lawyers with Some Counsel to Law Students* (Philadelphia: Thomas, Cowperthwait, & Co., 1846) [hereinafter cited as *Professional Department of Lawyers*].

7. Hoffman, *Introductory Lectures*, *supra* note 3.

8. *American and Commercial Daily Advertiser*, Aug. 5, 1823; *American and Commercial Daily Advertiser*, June 5, 1827.

ment in his course numbered twenty-two students, probably down from a high of forty students in 1823. In 1831 he had thirty students, some of whom may have received Maryland's first law degrees that year. He published several syllabi for these lectures, and in four or five cases he also published the text of the first lecture delivered that term.<sup>9</sup>

Although Hoffman taught under the auspices of the regents of the University of Maryland, he advertised for his own students, calling the school where they would study an "Institute."<sup>10</sup> At that time the regents were the entire faculty and most of them taught medicine. Because Hoffman was egocentric and a poor collaborator, he did not cede control to the regents or to anyone else. His "Law Institute" was as independent as it sounds. His program was explained in some detail in a newspaper advertisement shortly before he began his lectures in 1822.<sup>11</sup>

After two successful seasons of lectures (1822–24), Hoffman prepared and circulated an *Address to Students of Law in the United States*,<sup>12</sup> a fifteen-page document resembling a modern law-school bulletin or catalog. In it he described both his existing program and his plans for its elaboration. (One factor encouraging him to seek a larger and more cosmopolitan clientele was the death in the summer of 1823 of his principal rival, the popular Judge Walter Dorsey, who had been running a program of legal education in Baltimore which was probably more successful than Hoffman's.)<sup>13</sup> The bulletin and his 1822 newspaper advertisement made advantageous use of favorable reviews and a national acceptance of his 1817 *Course*, as well as the publication of his first *Introductory Lecture*.<sup>14</sup>

His program was, he said, "already in more than partial operation." Unfortunately the time and effort he gave to his lectures was beginning to cost him clients and professional income; although it had been advanced "by the good wishes and encouragement of some of the most eminent persons that adorn the bench and bar of this country,"<sup>15</sup> the school received no outside support. The core of the program was a systematic series of lectures, which were to be supplemented by the independent "course" of readings he had proposed in 1817. This *Course*—most of it a sort of annotated bibliography—provided an ordered structure for

9. Hoffman, *Introductory Lectures*, *supra* note 3.

10. David Hoffman, *An Address to Students of Law in the United States* (Baltimore: J.D. Toy, Printer, 1824) [hereinafter cited as *An Address*].

11. *American and Commercial Daily Advertiser*, Sept. 12, 1822.

12. Hoffman, *An Address*, *supra* note 10.

13. Chroust, *supra* note 1, at 203–06.

14. David Hoffman, *A Lecture Introductory to a Course of Lectures, Now Delivering in the University of Maryland* (Baltimore: J.D. Toy, Printer, 1823), *in* Hoffman, *Introductory Lectures*, *supra* note 3 [hereinafter cited as *A Lecture Introductory to a Course*].

15. Hoffman, *Introductory Lectures*, *supra* note 3, at vii–viii (apparently a circular, first published in 1821). A note at the end of the first published lecture insists that he devotes only his "leisure hours" to legal education. Hoffman, *A Lecture Introductory to a Course*, *supra* note 14, after 76.

comprehensive legal study, “collecting under proper divisions the authoritative law on every branch of jurisprudence.”<sup>16</sup> (The *Course* was already being used, by 1824, in at least two law schools—Harvard and the University of Virginia—and was doubtless a model for legal apprentices in the more common forum for legal education—the law office.) Hoffman saw the lecture, in contrast to the *Course*, as a useful synthesis of material which saved students’ time. Although they were less exhaustive than his *Course* outlines, his lectures did not neglect analytical detail. He aimed to keep them consistent with his more general goal of “treat[ing] in order all the important topics of the law with a minuteness which will give students a knowledge of them that will leave few difficulties in their private studies.”<sup>17</sup> By 1824 he had substantially reduced the scope of his lectures. He advertised that “the *entire course*” of lectures would “require two years in its delivery, allowing a daily lecture for ten months in each year.”<sup>18</sup> Earlier he had proposed that lectures would extend to six or seven years to accomplish the coverage suggested in his *Course*. His 1821 syllabus had outlined 301 lectures. What is new in 1824 is streamlined legal education, designed to succeed in a competitive market. Hoffman’s 1824 advertisement mentioned new schools in Philadelphia and Northampton, Massachusetts, and professorships in Kentucky, Pennsylvania, Massachusetts, and New York. His lecture course was to be more practical than his competitors’ and more systematic than the prevailing practice of reading law in a law office.

He proposed to begin lecturing in early October 1824 and to prepare succeeding lectures as the students progressed and as response to his advertisement encouraged him. “Though a great part of the materials . . . are prepared,” he said, “the completion of a plan demanding so much labour, will not be hurried by me, until it is ascertained in what degree I am to depend on the support of those destined to the profession, especially in the southern and western states, to which my institution is more immediately contiguous [*sic*].” Perhaps as many as twenty-five to thirty students continued from the 1822 and 1823 terms. Apparently his new lectures did not repeat what he said in 1822–23.

One of the novel attractions of Hoffman’s school was that it provided a comfortable, residential setting for the students—a place where they could live together in comfort and from which they would not have to travel in order to study. “When the numerous days and nights, perhaps of many years, are to be spent in intellectual toils,” he said, “it is fit that some attention be paid even to physical comfort.”<sup>19</sup> His building on Market

16. Hoffman, A Lecture Introductory to a Course, *supra* note 14.

17. Hoffman, A Lecture Introductory to a Course, *supra* note 14; see Hoffman, An Address, *supra* note 10, at 6.

18. Hoffman, An Address, *supra* note 10, at 8.

19. *Id.* at 10.

Street in Baltimore was, he said, "handsomely fitted up, and arranged in every respect for the accommodation of students," with a good library, personal instruction in each student's local law, discussion methods of learning, and "colloquial examination."<sup>20</sup> If students were indeed reading the materials outlined in his *Course* as they talked, listened, and answered, a good library would have been essential for them, and Hoffman had one of the best law libraries in the country. (It became the subject of a lawsuit between him and the university in the 1830s.)

Apparently referring to his plans, not to the existing program, Hoffman's bulletin offered students "a tribunal for the argument of supposed cases, brought before it with a strict regard to all the forms of good pleading and the rules of evidence, and prosecuted with a rigid attention to all the forms of forensick disputation."<sup>21</sup> Although Hoffman called this proposed tribunal a "moot court," it was the first suggestion in the United States for what is today called a practice court, that is, a mock forum for the trial of hypothetical cases and not one primarily for argument of appeals. "Experience is decisive as to the practicability of suggesting by this plan even the subtleties of pleading, that logick of the law, and those niceties of practice, which seeming often arbitrary and trivial, involve however, true distinctions of things, and correspond to the just principles of the science."<sup>22</sup>

This program for providing experience-based training in trial advocacy did not reach, at least in Baltimore, the degree of sophistication that Hoffman had hoped for it. He devoted a later essay to a more detailed exposition of his ideas, and, when he advertised a second law school in Philadelphia in 1844-47, the practice court program was again described more thoroughly than it had been in the 1824 Baltimore advertisement. It is probable, in any case, that students in Baltimore in 1822-24 were required in relatively informal ways to work on real or suppositious litigation. A Hoffman advertisement in September 1822 stated that "the student will be required to argue points of law adapted to his progress, to prepare the pleadings requisite to present the subjects for discussion, and to note the minutiae of practice. . . through the progressive stages of a suit."<sup>23</sup> Hoffman had been working with students who had responded to this 1822 advertisement when he published his law-school catalog.

Hoffman offered each prospective student residence at the Market Street "Law Institute," together with use of the library, direction of studies, examinations, and lectures, for \$100 a year. If students wanted the "moot court" program alone, they could have it and the lectures for \$40 or both

20. *Id.*

21. *Id.*

22. *Id.*

23. American and Commercial Daily Advertiser, *supra* note 11.

the residential program and the moot court for \$120. "Professional gentlemen" could attend the lectures for \$15.

### Hoffman's Lectures

Hoffman saw the law-school lecture as a guide to private study. At the same time, however, he believed it offered a unique opportunity for training students in analytical thinking. In his program, private study meant reading from lists of books so extensive that at one point he said it would take seven years of a student's time to read what he recommended for a legal education.<sup>24</sup> His lectures would identify central principles. They would make the readings—even readings as elementary and diffuse as Blackstone's—fall into place. The lecture would integrate those worthwhile books he recommended in his *Course*; and it could even make profitable use of other "truly appalling" books—books in which points of law "are mingled with much matter that is either useless in itself, or darkly and barbarously set forth."<sup>25</sup> Similarly, the lectures would permit students to integrate the "alarmingly numerous" issues of case reports in both countries.<sup>26</sup> Hoffman estimated that English casebook publishers had produced 600 volumes of reports and several thousand treatises, and that Americans had produced, by 1821, 170 volumes of cases and many treatises. The first virtue of Hoffman's lecture method was that it made possible the digestion of legal principles from this great abundance of material.

A second reason for use of the lecture as a teaching device was that law is "unsusceptible . . . of the experimental demonstrations of physicks."<sup>27</sup> It is a moral science. Its lessons should be discussed, not discovered or demonstrated. It was for this reason that the great European universities had offered lectures and degrees in law since the Middle Ages. If the spoken word was important to the teaching of this moral science in monarchical countries, it is "of yet greater weight in a nation whose fundamental principles of government invite all, without distinction of rank, to the participation of political power, and to the administration of its laws."<sup>28</sup> That is to say—and this was a third justification for the method—lectures are a *democratic* method for giving instruction in moral science. Whether from the same democratic spirit or something more imperious, he also argued that lectures should be the exclusive method of instruction in the liberal arts—and even that the university's charter forbade any other method of instruction.

24. David Hoffman, *A Course of Legal Study* (Baltimore: Coale & Maxwell, 1817)(2d rev. ed., 2 vols., Baltimore: J. Neal, 1836); see Story, *supra* note 2; Hoffman, *supra* note 3.

25. Hoffman, *Introductory Lectures*, *supra* note 3, at iv.

26. *Id.* at v.

27. *Id.* at vi.

28. *Id.* at vii.

A fourth reason was personal. Hoffman admitted that he liked to lecture, that he found lectures a logical extension of his curiosity and scholarship. "As he is prompted to it by no pecuniary necessity, and by no want extensive practice," Hoffman says, referring to himself, "his chief motive is to be found in a fondness for these subjects, and his reward must be the consciousness of being useful."<sup>29</sup> He prefaced his explanation with a mild complaint about the small number of paying students he had attracted and followed it with the assurance that he would continue to maintain his law practice: "he has always looked to its abundant compensation, should any accident defeat his proposed scheme of lecturing, that every hour expended in preparation for it, has disciplined him more strictly in the learning of his profession."<sup>30</sup>

Hoffman included these justifications of the lecture method in a preface to the syllabus for lectures he proposed to deliver in the fall of 1821. He did not begin then, however, apparently because there were insufficient paying customers and university support was unavailable. By the fall of 1822 he was ready to commence; he had then less than ten students, although several auditors from the practicing bar swelled their number. An 1823 newspaper review of his lectures says that they had attracted some public notice but were still given privately, that is, in closed sessions.

After one year of experience, in his introductory lecture in 1823, he had more to say about his choice of method and about the difference between it and other law lectures. It was, he explained, important to understand the lecture as supplementary to study of the works cited in the *Course*. His lectures assumed that each of his students already had a liberal education: "It is for such as . . . have been disciplined by a preparatory course of classical studies, that this institution is designed," he said in the newspaper advertisement in September 1822.<sup>31</sup> "The use of an extensive and select library, the delivery of lectures, which condense the learning of a subject from various sources, and the illustration of both by the minute study of Pleading and Practice, seem to comprise all the necessary external aids to this object of daily augmenting importance." The lecture is an alternative to memorizing law. Memory is not an important intellectual function; it is inconsistent with "higher mental endowments . . . the power of philosophical arrangements, of analysis, and synthesis. . . . [W]e find that the most able and learned philosophers have not relied on this species of knowledge, or on the arduous cultivation of this faculty." Sir Isaac Newton, for example, had a remarkably poor memory. Hoffman also mentioned Francis Bacon, Voltaire, Franklin, and Montaigne.<sup>32</sup> The lecture

29. *Id.* at vii-viii; see note 15, *supra*.

30. *Id.* at viii.

31. American and Commercial Daily Advertiser, *supra* note 11.

32. Hoffman, A Lecture Introductory to a Course, *supra* note 14, at 13-14.



method invites the student to struggle, to figure things out for himself. Scholars whose only strength is a prodigious memory are soon forgotten, except by those who remember them as freaks. Law teachers who recommend memorizing Blackstone—Hoffman was referring to a specific competitor, although he did not name him—depend too much “on a faculty which ranks so low among the intellectual powers”:

I would urge you, on the contrary, to study the general and pervading principles of the science. Treasure up its maxims, their meaning, and application. Cultivate it in all its bearings and analogies. Search into its philosophy with care, and be sure you understand what you read. Study much but all with *method*. Let your inquiries be censorial, as well as expository; and trust to your knowledge of the reasons and grounds of law . . . rather than to the vain hope of treasuring up its particulars. Should these rules be regarded, the entire science may be open to your view. . . . If your mind be deeply imbued with its philosophy, your acquaintance with the paths and sources of knowledge will soon enable you to obtain, with certainty, the special information you desire.<sup>33</sup>

Hoffman claimed for his method what later American legal education would claim for the case method and the Socratic dialogue. He asserted, and to some extent demonstrated, that the law-school lecture is less sterile a device than most post-Langdellian law teachers suppose it to be.

The second thing Hoffman learned from his first year’s experience was that there is a difference between a lecture which synthesizes and a treatise which sketches out the rudiments. He was thinking of Blackstone, of course, who provided at best what lawyers would later call “black-letter law.” He quoted Sir William Jones in criticism of those who found Blackstone adequate: “These beautiful commentaries will no more form a lawyer, than a general map of the world, how accurately and elegantly soever it may be delineated, will make a geographer.”<sup>34</sup>

Hoffman’s effort, in the 1822–24 series of lectures, to create a practical and succinct course of study was partially successful. By the opening of the 1823 term he had attracted more students (perhaps as many as forty), and he maintained this respectable enrollment through at least the 1826–27 term. An August 1823 review of his lectures found them characterized by “scientific arrangement and learned research.” Hoffman was, this reviewer said, eminent among Baltimore lawyers (who were themselves prominent among American lawyers), but he was an even better lecturer than he was a practitioner:

Mr. Hoffman’s style is admirably adapted to his subject. . . . Intent upon the main end of his discourse—he has a just though subordinate regard to his language—avoiding alike the pedantry and quaintness of the earlier writers, and the culpable diffuseness of the later—neither involving his sense in technical obscurity, nor impairing its

33. *Id.* at 16–17.

34. *Id.* at 27.

energy by the value of knowledge, to the vanity of learning—His method is as free from the affectation of nicety, as from the reproach of generality.<sup>35</sup>

The review noted that some of the lectures which were to begin in October 1823 would be addressed to the public and would take up a range of subjects not covered in 1822–23. “Thus his students will have the double advantage of private lectures throughout the year, and of the publick course, which will occupy him several hours, three or four times a week, during as many months.”<sup>36</sup>

In the midst of a quarrel with the medical faculty in 1826, Hoffman once again described, in a series of letters, his view of the lecture method. His motives in this case were complicated by a need to demonstrate to his physician-colleagues that university training in law was as important as that in medicine, and as deserving of facilities which combined library, lecture hall, and residence:

It is a subject which, no doubt, the Legislature contemplated with a most favourable eye and which, in a country of *free* institutions, whose only government is the *law*, is of much greater importance than in those whose institutions are less liberal. Yet even in these countries the *law* is taught from the chairs of Universities; and, indeed [the lecture] forms a very *prominent* part of their course of instruction. A very large portion of the well educated youth of *this country* are bred to the *bar*; and whether we consider them as ministering in the temples of *justice*, or fulfilling a still higher duty, in *framing* the laws of their country, the importance of a liberal scheme of Law education of so large and important a class of the people, is too manifest to be insisted on.<sup>37</sup>

With four terms of lecturing behind him, Hoffman made three arguments for this method: (1) it condenses a voluminous amount of material; (2) it attracts bright students who, when they work together, “greatly stimulate each other in their common pursuit”; and (3) it brings to the university, and to Baltimore, the best minds of the country, who “add greatly to the stock of our *learning, intelligence, and usefulness*.” He also alluded vaguely to “various *auxiliary* means for the more speedy and certain acquisition of solid legal learning” and to the fact that his lecture method remained experimental. “Its success must, for some time, remain problematical.”

In 1826 Hoffman had also begun to fashion a clearer idea of the function he thought a lecture could perform when given to students who had read relevant, preparatory material and who were not sharing their lecture room with practicing lawyers or members of the public. It is only the

35. American and Commercial Daily Advertiser, 1823, *supra* note 8.

36. *Id.*

37. David Hoffman, Memorial of the Faculty of Law to the Regents of the University of Maryland, in October, 1825 [hereinafter cited as Memorial], in David Hoffman, To the Trustees of the University of Maryland in Relation to the Law Chair (Baltimore: J.D. Toy, Printer, 1826), bound and paginated separately in Hoffman, Introductory Lectures, *supra* note 3, at 20.

narrower, more private species of lecture which “adds most of the learning and practical details of the science.”<sup>38</sup> Popular lecturers in legal education (he mentioned English teachers of law and Chancellor James Kent at Columbia, among others) had failed to educate professionals:

Students require minute and continued instruction, in the science and practice, otherwise they gradually fall off, and the Professor lectures to empty benches. . . . On the other hand, the *Inns of Court*, and of *Chancery*, were of a practical nature; they endured for centuries, because young men were brought together permanently under one roof; they were exercised in various solid legal pursuits; they attended lectures and readings, examinations, meetings, &c., and were carried much beyond the rudiments of the science.<sup>39</sup>

Now, after four years of experience, Hoffman was arguing for a *system* which went beyond lectures, although he still insisted that focused, analytical lecturing would succeed where popular lecturing would not. Years later, in his “Miscellaneous Thoughts,”<sup>40</sup> Hoffman wrote about merely popular lectures as “oratory run mad.” He called those who gave them “voluble, pretentious lecturers who capture the public fancy . . . while popular teachers . . . however meritorious, are doomed to encounter the most mortifying and total failure.”<sup>41</sup>

In speaking of a system, Hoffman no doubt meant to include his cherished plan for a practice court. This plan, mentioned in his 1824 bulletin and described in elaborate detail in his introductory lecture in 1826, involved no less than thirty specific principles of organization. It would have included the preparation of pleadings, preliminary arguments by students on points of law, collaboration with practicing lawyers, trials before members of the bar and judges, and appeals on the now more standard “moot court” model. It was a carefully designed system of sequential and experiential education, which showed impressive insight into the morals of law practice and what is today called learning theory. Although Hoffman complained in 1826 that his practice-court system had not attracted enough support from students to justify its institution, students in residence at the “Law Institute” in the period 1823–33 were nonetheless offered opportunities to test their skill, in conjunction with Hoffman’s lectures and the readings prescribed in his *Course*. In his 1826 report he noted that:

The Moot Court, on the extensive plan delineated in the foregoing lecture, has not gone into operation, and probably will not unless a more ample zeal and encouragement on the part of those to whom it was tendered should be manifested. But a

38. David Hoffman, Letter addressed by D. Hoffman to the Trustees, September 27, 1826, *in* Hoffman, Memorial *supra* note 37, at 24.

39. *Id.* at 25.

40. Hoffman, *Miscellaneous Thoughts*, *supra* note 4.

41. *Id.* at 181.

court of less pretension is in operation, and, when time and circumstances will justify it, that one may probably mature into the one originally contemplated, tho' it is not very probable, as students of law (as far as we can perceive) have not generally that zeal for availing themselves of facilities in study which seems to mark the students of medicine and theology.<sup>42</sup>

A newspaper reporter reviewed Hoffman's law school again in 1827. Hoffman's "moot court" was operational that year. The day the writer visited this "fictitious tribunal[,] . . . framed on the model of the various State and U.S. Courts,"

the learned Professor, as Chief Justice, pronounced an opinion in the case of *Buchanan's Lessee v. Steward*—a case of much nicety, which had been discussed in some of the State Courts, and had been intended to be brought before the Supreme Court. It had been argued by the students of the Law Institute on a previous day. The opinion of the Professor was comprehensive and able, and the case was examined with as much amplitude and learning, as if it had been discussed in a real tribunal. We cannot but think that, with serious cooperation on the part of students, this institution may be made extremely advantageous to them, under the superintendence of so much care, combined with so much judicious zeal and legal knowledge.<sup>43</sup>

Hoffman's plan for a practice court had been modified since 1824, to reduce dependence on a large student body and too many practicing lawyers and judges ("a moot court of fifty or sixty members, a third of whom should be junior lawyers"), and to rely instead on lengthy disquisition from the lecturer sitting as chief justice. Students were nevertheless arguing cases, and they were supervised as well as talked to.

### Hoffman's Experience as a Lecturer

Hoffman's ten years as a lecturer apparently taught him that legal study can be more experimental than he at first thought. As he learned to live with law students, he began to understand how they acquire knowledge. He came to realize that law students are able to learn, at the beginning of their careers, in the same manner that he continued to learn as a seasoned practitioner—from doing what lawyers do. He devoted more attention, more strident argument, and more of his effort as a teacher to helping them act rather than listen. He also seems to have gathered more respect for the specific in the way he taught, as evidenced by his eventual distaste for the more generalized public lecture. After only one year of private lectures, however, perhaps for financial rather than pedagogical reasons, he decided that public lectures were preferable to those addressed to a private audience. One newspaper reported his suggestion that it would be beneficial for his students to sit in the lecture hall with young lawyers and other citizens. After two more years of lectures—some of them public—he

42. David Hoffman, A Lecture, Third of a Series, *supra* note 6, at 61–62.

43. American and Commercial Daily Advertiser, 1823, *supra* note 8.

saw increased value in having students work on pleadings. In 1823 he still thought he could instruct students on pleadings in a lecture, but by 1826 he recognized that it was more efficient to have the students draft and argue pleadings and then for him to criticize what they did. Finally, and again as he got to know law students better, he appreciated the educational value of their working together. Whereas he first saw this student-to-student learning as incidental to the focused, “practical,” private lecture, he later came to realize that students teach one another more effectively when they collaborate on professional tasks than when they just listen and react to a lecture.

Hoffman did not decide that his concept of the lecture as an analytical device would not work in legal education. He gave up his university chair, his first law school, and his law practice in Baltimore in 1836–37 and spent most of the next seven years traveling and writing in Europe. When he returned for more or less permanent residence in this country, he settled in his wife’s city, Philadelphia. He was admitted to the bar there in 1843 and, in 1844–47, advertised a new “Law Institution.” The school had the written endorsement of Roger Brooke Taney, Chief Justice of the United States; it claimed a library of 4,000 volumes (formidable in those days); and it offered flexible scheduling, training in each student’s local law, “familiar *Conversations* on most points of Law,” attention to the preparation of pleadings, and opportunities to write with supervision. The centerpiece of the enterprise was still the lecture, the focused, law-school lecture—private, exacting, analytical. Hoffman was still trying:

Lectures on Law, and also on its cognate topics, nearly throughout the year—the practice of all the courts especially attended to, and in a mode of greater *certainty* and *rapidity* than can possibly be obtained in any counsellor’s office. [I am] thus voluntarily particular, from having, as early as 1817, had cause to manifest [my] conviction that Law Students of this country have not been as faithful to themselves and as desirous of availing themselves of every *legal facility*, as Medical Students uniformly have been, in seeking those facilities that appertain to *their* vocation.<sup>44</sup>

44. David Hoffman, *Professional Department of Lawyers*, *supra* note 6 (n.p.; bound at end).