JUDGE CHARLES EDWARD CLARK

Charles E. Clark and the Reform of Legal Education

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Charles E. Clark was one of the leading reformers of legal education during the Legal Realist era. As a senior faculty member and then Dean of the Yale Law School from 1929 to 1939, Clark developed a bold program for reorienting legal scholarship and transforming legal education. At its core was the idea that legal scholarship should move from the study of appellate cases to empirical inquiry into law and social problems. Clark himself conducted many empirical studies, and encouraged such work by others. As dean, he inscribed empiricism on the banner of the Yale Law School. In speeches and annual reports, he took pride in the accomplishments of Yale’s empirical projects. Yet by the time he left Yale for the Second Circuit, the school had largely turned away from empiricism and would not return to this type of work for a very long time.

In this essay, written in homage to Clark, we trace the roots of his interest in empirical research and the evolution of the program of empirical studies he launched. The story does not have a happy ending: Clark’s plans for Yale did not come to fruition during his deanship or long thereafter. Some studies were started but not all of these were completed. Some members of the faculty began to do empirical research but many lost interest. Indeed, empirical research and social science did not enter the mainstream of Yale’s curriculum until decades after Clark left the school. Why this was so is a question with many answers. Clark was much further ahead
of his time than he -- or anyone else -- realized. He did not fully grasp the implications of the revolution he tried to initiate and lacked some of the skills needed to see it to completion. He encountered obstacles that he either could not, or did not want to, overcome. Many of these obstacles are with us still.

Though the history of Clark's efforts to reform legal education at Yale and elsewhere show that his efforts largely failed, it is important nonetheless. The barriers to full realization of Clark's initial vision -- of pragmatic empirical research done in the interest of social justice and progressive reform -- were overwhelming in this time. They still exist today, though to a lesser degree, and so does Clark's vision. Those who, like the present authors, wish to realize -- and surpass -- that vision can take sustenance from the story. The honesty with which Judge Clark addressed the task, and the energy he devoted to it, should inspire latter-day reformers who might pick up the torch.

I. The Guiding Ideas Behind Clark's Reforms

Charles Clark wrote relatively little on legal education, and much of what he published on this subject takes the form of occasional talks and the annual reports produced by all law school deans. We have searched these limited sources to tease out the ideas that animated him. The most general statement can be found in a speech he gave at the University of Chicago in 1936. Entitled "The Higher Learning in a Democracy," this address was a reply to ideas spelled out by Robert Maynard Hutchins, Clark's former student, sometime collaborator, and predecessor as Dean of the Yale Law School. In his reply, Clark showed his deep commitment to democracy, and spelled out the implications of his democratic ideals for education in general and legal education in particular.

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Hutchins, then president of the University of Chicago, had delivered the prestigious Storrs Lectures at Yale Law School in 1935. In these lectures, modestly entitled "The Higher Learning in America," he argued against the growing avarice, vocationalism, anti-intellectualism, and general purposelessness of the American University. Clark voiced general agreement with all of these complaints, except that against vocationalism, but objected strongly to Hutchins' solution. Hutchins emphasized a brief liberal arts curriculum focused on the Latin trivium -- grammar, logic and rhetoric -- plus mathematics and great books, followed by study in either natural sciences, social sciences or metaphysics directed at fundamental problems. He effectively excised professional education from the university. And to supply purpose Hutchins advocated developing a unifying philosophy, a metaphysics, an ethics and politics aimed at the good life.

Curiously, Clark did not attack this package for the socio-economic elitism that was implied by the fact that the graduate of such a curriculum, vaguely reminiscent of Oxbridge in the late nineteenth century, would be fit only for entry into the British Civil Service, an institution without an American analog. Nor did Clark pursue a related anti-elitist attack on the exclusion of professional education from the university, although by a failure to affirm his agreement with Hutchins on vocationalism and through an acknowledgment that the "American people" found such education "necessary," Clark made clear that such an attack was available to him. Democracy for Clark was not providing jobs for the children of the emerging middle and lower classes. Rather Clark focused on two seemingly disparate points: that the search in metaphysics for a unifying purpose for the university was potentially totalitarian and that Hutchins' objection to the gathering of "facts" or "knowledge" in the social sciences was a similarly

5 See Clark, supra note 3, at 321.
anti-democratic interference with the need for scholars to pursue research as they saw fit. "[F]reedom of the spirit and of the mind," a freedom that would "keep alive the fostering of the pursuit of knowledge, wherever it may lead, however it may affect sacred institutions," was possible "only in a democracy." For Clark, the "greatest danger" was not "confusion, or lack of direction" but the "deadening" of the impulse to pursue knowledge. One way that impulse might be deadened was to develop an "authoritarian attitude toward education."6

Now in one sense Clark’s criticism is all quite silly. Hutchins was one of the least authoritarian of university administrators; indeed it might be said that the impermanence of his program at the University of Chicago could be attributed to his failure to be sufficiently authoritarian. And one might argue that Hutchins was truly prescient in understanding the way that the search for social facts would drive social theory out of social science. Yet at the same time one can see in Clark’s prose the bogies that animated his objections to Hutchins’ argument.

In his critique of Hutchins, Clark drew a clear distinction between rationalism and empiricism. He saw these as very general tendencies of mind as well as opposing philosophies. While his description of rationalism and empiricism ranged throughout history and philosophy, issues of legal theory were never far from his thoughts. Thus, for Clark, "rationalism" was associated with abstract theory, belief and speculation; with the medieval university and the simpler times before the industrial revolution; with an "attempted recapture of the past" and the existence of "eternal laws." "Empiricism," on the other hand, was associated with fact; the modern university; new discoveries of our times which have "changed all our ways of living" and our understanding of the "fundamental laws of nature;" and the attempt to move for-

6 Id. at 334, 334-35, 334, 335.
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ward on the basis of historical experience and "prophecy as to the future." In law, rationalism led to the call for a return to fundamental legal principles and was associated with the work of such scholars as Philip E. Mechem and Walter B. Kennedy. Empiricism, on the other hand, led to a search for what ought to be the law and was associated with John Dewey and Jerome Frank. Rationalism, Clark felt, was inherently authoritarian (it reminded him of Cardinal Newman's effort to revive Catholicism as a unifying faith), while empiricism (and thus pragmatism) were inherently democratic.

However queer or sensible this rendering of the bad and the good may seem today, it made perfect sense in the debates about legal thought and legal education during the inter-war years. For Legal Realists the object of scorn, of attack, of reform was the rationalist understanding of law as received truth, "ancient precedents and principles" sufficiently understood when ordered for use. For these Realists (in Clark's words): "the lag between the actual and the theoretical has grown . . . great" as "business, economics, the arts and sciences, even the state itself, have all gone forward to leave the precedents and principles outworn." And, for Clark at least, the cure for these outworn precedents and principles was "knowledge" sought "not so that we can simply discover the is, in order to put behind it the sanction of law, but so that we can approach the ought with the assurance that we possess the intelligence to know the consequences of our moral judgment," for "[i]t is necessary that we refurbish our knowledge of man and his actions before we do too much announcing of eternal laws." Such knowledge was to be gained through empirical inquiry designed to find out "what was actually going on" in the law's "day to day activities." These activities, he felt, were "little reflected [in], even distorted, by the published opinions in the cases which

7 Id. at 322, 332.
8 Both men were prominent critics of Legal Realism in the mid-thirties. See, e.g., Mechem, The Jurisprudence of Despair, 21 Iowa L. Rev. 669 (1936); Kennedy, Functional Nonsense and the Transcendental Approach, 5 Fordham L. Rev. 272 (1936).
9 Clark, supra note 3, at 322-24.
chance to have been appealed.' Yet, it was those opinions which formed the basis for the legal rationalists’ statements of legal principles.  

All these ideas -- the dated, not timeless nature of law and legal principles; the rejection of the appellate case as the sole, sure guide to the law; the need to understand how law really worked through empirical research and the use of such research to gain an understanding of what should be done to improve the law -- were central to Clark’s vision of legal education. They can be seen in embryo in a plan Clark and Hutchins put forth in 1926 -- a decade before this exchange -- to establish an ‘Institute of Procedure’ at the Yale Law School. Then they proposed to ‘perform distinguished public service by assisting in the solution of the most pressing problem in the law by scientific study of all procedure in its functional, comparative, and historical aspects.” Justifying their proposal, they lamented the low estate to which the administration of the law had fallen, harking back to the criticisms of Bentham and Dickens and noting similar complaints of contemporary leaders of the bar. Then, after recounting the unsuccessful, historical efforts at procedural reform and detailing contemporary efforts, including those of the American Law Institute, they concluded, ‘The reformers have failed, we believe, because the necessary basic research has been lacking.”

In this plan, and more clearly in the address he gave critiquing his former student and colleague, Clark laid out the general principles that animated his vision of legal education. While we really do not know how Clark came by these principles for legal education and scholarship, in general terms they echo the approach taken by the progressive movement and reformers influenced by pragmatism. These reformers believed that the governmental and social institu-

10 Id. at 333, 327.
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tions which America had inherited from the nineteenth century were ill-suited to deal with the problems it confronted in the twentieth century. They saw that in the Gilded Age the nation had become heavily industrialized and urban, and its cities populated by immigrants recently arrived from Europe. In this climate, not only were public and private institutions unable to cope; the principles these institutions were based on were inappropriate and had to be revised. Thus, reformers like John Dewey, Jane Addams, John Commons and Louis Brandeis agreed on the need to develop new institutions -- or reform old ones -- along very different lines and in accord with new principles. But the new institutions and solutions, they felt, could not be derived from abstract inquiry. Rather, reformers had to look for solutions that would arise from a deep understanding of the changed social milieu. To do this, they had to know the "true facts" of each situation, and devise new, forward-looking and pragmatic solutions. Once articulated by reformers, these facts and solutions could be communicated to relevant decisionmakers who -- like the reformers themselves -- were thought to be "men of good will" committed to the same democratic and pragmatic ethos the reformers held. This approach led to such new private organizations as the National Civic Federation, the Federation of Settlement Houses, the National Consumers Federation and the National Housing Association, the widespread use of "fact-finding" commissions for good government, and the Brandeis brief in the courts. It might lead to the improvement of legal education as well.

Moreover, it was no accident that Clark’s rejoinder to Hutchins referred to "the higher learning in a democracy," rather than "in America," the term Hutchins had used. Clark, like other progressive-pragmatists, saw a clear relation between the new "science" they wanted to create and the democracy they fervently believed in. Scientific empiricism was democratic where rationalism was not. Science was "democratic" in two senses: first, because it respected the need to assemble the "true facts" about the real experiences of ordinary people and second, because the scientist did not impose his metaphysical biases on the social order. Like the citi-
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zen fact-finding commissions so beloved by progressives, the scientific empiricist in the academy would seek facts first and frame solutions later. Untainted by ancient and metaphysical, "rational" principles, empiricists would be responsive to the needs of the time and the people. And thus they would be equipped to engage in that most democratic of activities -- reform.

II. Clark’s Plans for Reform

As outlined in his Hutchins’ speech, Clark’s plans were, of course, plans for research by the law professoriate, only part of the operation of a law school. Yet they are the key aspect of his ideas for the reform of legal education. Exactly what did he envision? He left a scanty record, but a pair of speeches from the mid-thirties when Clark was Dean of the Yale Law School provide some clues to his thinking.

Identifying a central focus to either speech is a serious problem; Clark was a rambler. The first was an address given as President of the Association of American Law Schools.\(^\text{12}\) In it, Clark first looked at the role of the law professor in its various guises . . . improving legal education, advancing the understanding of legal rules through scholarship, aiding in the reform of law through service to bodies such as the American Law Institute or the Commissioners on Uniform State Laws and engaging in private practice. Then, quite abruptly he shifted to discussing "whether the law is performing the vitally useful functions which it should perform in our modern social organization." Without defining those functions, Clark quickly asserted that the law was not performing adequately and that it was important for the law professoriate to "assume leadership in insuring the better social functioning of the bar."\(^\text{13}\) And what was the law professor to do? "Study the problem before we assume its solution;" begin a "careful study of the

\text{\footnotesize{\(^\text{12}\) Clark, Law Professor, What Now?, 20 A.B.A. J. 431 (1934).}}

\text{\footnotesize{\(^\text{13}\) Id. at 433, 433-34. It should be noted that here Clark made a common lawyer’s mistake by seeing the social functioning of the bar as the same as the social functioning of law.}}}
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bar's functioning.'" Although recognizing that research would require "some hypothesis," Clark offered none. He merely suggested that "the bar as a whole should be studied... to determine its general calibre, its united and separate activities, the degree of specialization that exists, the opportunities for the younger lawyer, how well the crime situation is being met and how well various classes in the community are being served...." These topics as well as "the functioning of the local courts and the judges thereof and how well they are serving the needs of the community and each of the various classes therein" were to be the subjects for necessary empirical research by law professors who were urged on with the observation that there were "endless possibilities" for the use of the information collected.\(^{14}\)

A similar outline can be seen in an address given at the centennial celebration of the Tulane Law School, then headed by a former student.\(^{15}\) Here the problem Clark identified was similar. Although "brilliantly successful as a practitioner or... 'client caretaker,'" the lawyer "has failed... in social and political leadership." A similar failure on the part of the law schools was identified: their "finest products" were "drawn off into the service of a business and profit economy which already now in retrospect looks unlovely." Clark then asserted that the law schools attempted to do otherwise but that their product was "conditioned by the profession itself." So he turned to an examination of the bar which was "conditioned by the economic organization in which... [it] functions." But rather than advocating a change in that economic organization or letting the lawyer off the hook for simply "serv[ing] his society as it actually is," Clark asserted that the bar had "overdone" such service to the status quo and at the same time had allowed "a real and noticeable decline in [its] political and social leadership."\(^{16}\) Then he pointed to increasing stratification of the

\(^{14}\) Id. at 434.

\(^{15}\) Clark, Legal Education in the Modern Society, 30 Tulane L. Rev. 1 (1955).

\(^{16}\) Id. at 2, 4, 5, 6. When speaking of the decline in leadership Clark chose his authorities wisely; relying on Justices Stone and Roberts and the soon to be Justice Jackson. Id. at 6-7.
metropolitan bar and the inability of "the ordinary citizen" to find "a lawyer combining qualities of ability and trustworthiness and availability at a reasonable price." And finally he noted that if the law schools were to help improve things, they would have to "turn their attention to the profession and its functioning and forget somewhat . . . judicial precedent as well as the judicial lucubrations of individual judges." Thereafter examples of such "factual study" of the profession were trotted out. Finally Clark suggested that the "greater collective action and control" by the bar of its individual members would help solve these problems. He thought this might come about through such changes as the adoption of the "integrated" bar and the reform of the structure of the American Bar Association so as to develop a "real guild" that would assure that every citizen could have "honest, capable legal service at a reasonable price" and the lawyer "a dependable income." 17

The similarity between the two articles and Clark's critique of Hutchins is quite striking. Each identifies a general problem appropriate to progressive reform. Importantly, each sees the problem as of seemingly recent origin and as largely non-controversial or at least obvious to men of good will. For each, though the development of an hypothesis about the problem is mentioned, the actual work talked about when discussing the problem is the collection of "facts" about the functioning of the legal system through empirical research. And thereafter it is asserted that pragmatic solutions to these problems are possible, implicitly based on, or as a result of, the facts sought through the research. Finally, this process is identified with democracy in action, i.e., it will bring good results.

All of this, of course, sounds unbelievably naive to contemporary readers. We have come to understand that "problems" are not just out there waiting to be discovered and solved, but are created by the act of taking a state of affairs as problematic. We have come to

17 Id. at 8, 9-10; 11
see that "facts" are themselves social constructions; no one any-
more believes that we just go out and collect facts like rocks upon
a cobble beach. We have learned that even the best research can-
not generate an unproblematic solution to social problems. And
we have come to see that "hypotheses" must be derived from the-
ory, not from a "problem." But these understandings, common-
place today, were not available to Clark or -- for that matter -- to
most American social scientists of his time.

What is important, for our purposes, however, is that Clark's un-
derstanding of empirical research led him to propose profound and
far-reaching changes in the nature of legal scholarship. The idea
that law professors should do empirical research of any kind was
largely unheard of before the 1920s and untried until Clark began
his own work in the summer of 1927.\textsuperscript{18} Up to then, all research
conducted by law professors had been doctrinal case law research --
- the patient derivation, description, and ordering of legal doctrine.

Doctrinal caselaw scholars read their advance sheets regularly.
They saw the materials provided by the West Publishing Company
as raw material for their labors. But in the early years of this cen-
tury -- at least -- such scholars were not interested in what the ap-
PELLATE courts were doing, but rather in what they said they were
doing. Doctrinal case law scholars were not trying to see how ap-
pELLATE courts actually decided cases, or to probe the underlying
policy reasons for the outcomes that were reached. This kind of
"caselaw empiricism," pioneered by Arthur Corbin, would be-
come a major activity only in the Realist epoch. Rather, the doc-
trinal caselaw scholars read the cases to determine if they were
correct \textit{in principle}, i.e., if their rationales conformed with "correct" legal theory. It was assumed that good doctrine conformed
with the world, so that once the right rules were articulated and fol-
lowed all would be well. The point of scholarship was to increase

\textsuperscript{18} See generally, Schlegal, American Legal Realism and Empirical Social Sciences: From the Yale
"goodness" of the law by ensuring that it conformed to principle, and that people of ill-will or little learning did not deform the law by "warping good principle with bad precedent." 19

Clark saw things very differently. He rejected the assumption, underlying the doctrinal caselaw project, that the picture of the world in doctrine was congruent with the world. True, he never quite said it that way, but he didn't have to. Roscoe Pound had already introduced the idea of the gap between the law in the books and the law in action, and had stressed that legal scholarship had failed accurately to portray the law in action. This idea was implicit in Clark's notion of "problems," for these situations described conditions in which the courts were either using "bad" principles or principles which were "out of date." Either way, the correct solution was to reform the law "to bring it into consonance with modern life." Reformed law would be efficacious, a goal Clark wholeheartedly supported.

In this sense, Clark's view of the proper role for professorial research does not seem so very different than that held by even the most traditionalist professors of his time. Even Joseph Beale, that arch-conservative, maintained that doctrine had to change, had to get "better" lest law become the only "unprogressive" science. 20 Yet there was a real difference between Clark's understanding of the methods for change and reform, and those that animated such "rationalist" projects as the original Restatements. For by invoking both caselaw empiricism and -- more significantly -- empirical investigation of social facts, Clark decentered the norms and rules from their traditional place in legal thought. He turned professorial attention away from norms meant to govern the world and instead pointed it toward the world itself. Moreover, Clark did not merely say that such inquiry was a plausible or useful task for the academy; he said it was the most important task.

20. Id. at 38.
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To see exactly where Clark’s preference lay, one need only look at what he said while dean at Yale. This emerges rather clearly in Clark’s description of his faculty’s research in his annual dean’s reports. Clark may have always discussed the faculty’s “library” research first -- what else could one do at Arthur Corbin’s law school -- but from the start his language showed where his heart was. It was “field” research that grabbed Clark.\(^{21}\) Undertaking such research into the “social aspects of law” was a “striking . . . development” in which researchers were “going out to the courts themselves and to the court files and records, and even to the business and social history of litigants.”\(^ {22}\) So when Clark recounted his faculty’s research efforts he began with his studies of the caseload of the Connecticut trial courts. “[M]ost promising” was an attempt to link “court statistics to the social trends of the communities” studied. A similar though larger study of the federal courts was seen as a “way to secure the basic information necessary before any wise discussion of the federal court situation is possible.” A study of auto accidents moved a bit beyond the litigation norm by seeking the “case history” of all reported accidents -- those settled before litigation and those litigated -- in New Haven for a short period of time. And a study of business failures similarly attempted not just to study the administration of the bankruptcy courts, but also to identify “antecedents or possible causes recurring in the various bankrupt businesses.” Slightly farther away from the procedure model were studies undertaken by Underhill Moore of the relationship between judicial decisions in commercial paper cases and the normal banking practice in the geographic area of the decision.\(^ {23}\)

\(^{21}\) See, e.g., Report of the School of Law to the President and Fellows of Yale University 1929-30, at 16-17. [Hereafter cited as Report of Dean Clark, without cross-reference.]

\(^{22}\) Id. at 15. One might, of course, note that this was a limited understanding of what “field” research might investigate, but to do so would be to indulge in the most obvious of historical criticism. In a world in which “law” meant appellate case law, to divorce law from appellate doctrine and even litigation, and so make society the centerpiece around which law was arrayed as an often marginal influence would have been to break intellectual traces in a way that few humans have ever done and surely no law school deans.

\(^{23}\) Id. at 17, 18, 19.
Clark's two procedure studies can easily serve as examples of what much of this body of early Yale Law School empirical research looked like. Clark began his research with a census of one or two years of cases in the upper civil trial courts of the three largest counties in Connecticut and three years of federal district court civil cases as well -- about 9,300 in all. Each was coded for such things as type of case, time of filing and incidence of various procedures -- pleas to the jurisdiction of the court, motions to dismiss, answers, bench trials, jury trials -- and the ultimate result. Considering that all the work was done by hand, it is quite astonishing that in under a year Clark could publish preliminary findings showing disposition by type of action and the frequency of the use of the jury trial, prejudgment attachment and various dilatory pleas. The preponderance of uncontested divorces and foreclosures, settled automotive negligence claims, and simple debt collections suggests that state court civil litigation in urban Connecticut in 1925 was largely routine and administrative. Subsequently, when Clark tripled the data set and machine processed it, he was able to identify the emergence of a specialized personal injury bar and demonstrate that jury verdicts, though uncommon, were more likely to be appealed and appealed successfully than nonjury verdicts.24

The federal court study was similar, though larger in scope. This study focused on how fast cases moved through the system, how they terminated and with what outcomes. Thirteen district courts were studied. In each, three years of criminal and one of civil cases were examined. Here again the findings were for modern eyes unsurprising. On the criminal side most defendants pled guilty most often at arraignment and jury trials were few and generally short. On the civil side the study disclosed that the politically contentious diversity jurisdiction had been eclipsed by cases brought by the United States and/or based on the federal question

24 Schlegel, supra note 17, at 495-98; 509-10.
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jurisdiction, and that most diversity cases were simple contract and tort cases where the defendant foreign corporation was in fact doing business in the forum state. The research on federal courts, like that on Connecticut provided good baseline data for understanding patterns of litigation prevailing at the time.25

While most of research projects at Yale focused on litigation, almost all exemplified Clark’s ideas about the nature and purpose of empirical research by law professors. Each was focused on a social problem -- court congestion in first state, then federal, courts; the auto accident problem; the bankruptcy. In each, at least initially, the researchers saw the first step toward solving the problem as a matter of collecting the facts about the problem -- count cases and chart their movement through the system; tote up the cost of accidents and the spottiness of compensation; interview bankrupts. And in each, at least initially, they thought the solution obvious -- remove the blockages in the system; develop an insurance compensation scheme; make discharge harder. It was the scheme that Clark had identified in all three of his speeches. Indeed, Clark’s strong commitment to this scheme can be seen in his reaction to the one Yale empirical research project he had trouble with -- Underhill Moore’s banking study. Clark worried that this project was not focused on a social problem and therefore implied no solution. It was not focused on reform of law at all. At most it reflected a faith in fact collection, a faith that was soon overwhelmed by methodological concerns.26

Of course, a key question remains. What did Clark see as the relationship of these studies and the day-to-day education of law students? From the beginning he was willing to recognize that he faced ‘‘questions about the life of the School as a teaching institution.’’ Although at the outset of the empirical research enterprise a

25 Id. at 498-507, 512-17.
seminar for law students had been offered on Methods of Social and Legal Research. Clark asserted that "the research must necessarily" remain somewhat separated from the teaching division of the school. Occasionally students could assist or participate in field work, and graduate students might actually do field work projects of their own, but it was "not practicable to have the general student body" engage in such work. And in his second dean's report Clark tried to meet objections from alumni that "students were being asked to undertake extensive field studies, and thus were sacrificing their opportunities for legal study while performing tasks largely of a clerical nature," when he noted that, "[d]ue to the time-consuming nature of the work, there is little opportunity for students to participate in collecting materials."27

If student participation was out of the question, then what didactic use could be made of all this research? In his first report Clark tried to answer that question by observing that the "teaching in the School should . . . be richer and more worthwhile as materials are collected . . ." How so? Clark offered this suggestion: "[T]he court administration study is already supplying important concrete information on our procedural machinery for use in Procedure courses. . . . For example, should we continue a lengthy study of the details of suing for slander and libel when the court statistics show that considerably less than one-half of one per cent of the cases are in these fields?" Yet only one year later he had already turned to lamenting that "[i]n fact, one of our problems is to bring this body of material into the ordinary day-to-day bounds of knowledge of the student." Still Clark seemed to think that there were other ways of bringing his research to his students. He noted that "the professional curriculum . . . has been broadened to show the impact of the other disciplines, notably the social sciences, upon the law."28

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It was a grand plan.

III. The Failure of Clark’s Plan for Reform

Anyone familiar with the history of the Yale Law School knows that Clark’s plans to reform legal education by decentering the study of rules and doctrine and introducing empirical research and its results did not get very far during his tenure as dean and for many years thereafter. One of us has already chronicled the course of empirical research at Yale up to 1943, showing that bold beginnings often were abandoned and that few projects reached conclusion.29 Laura Kalman’s study of Yale too showed that social science methods and materials were largely relegated to the occasional seminar, and did not really crack the large basic courses except criminal law.30 For at least thirty years after Clark left Yale for the Second Circuit, it was quite possible for a student to go through three years at the Yale Law School and never be exposed to any form of social science or empirical research. Even today, most American law schools have yet to embrace the bold plans that Clark outlined a half-century ago. What went wrong?

A. Empirical Research and the Teaching of Civil Procedure

To begin an analysis of this troubling question, let’s look at Clark’s own teaching materials. Remember, that Clark was not only a pioneer of empirical research and a proponent of legal education reform, he was also the pre-eminent expert on civil procedure of his time, and he taught the basic civil procedure course in whole or in part almost every year until he departed for the court. However, there is more than a little irony in the fact that, despite the “endless possibilities” for the use the results of empirical study, Clark largely failed to integrate the research he and his Yale colleagues had done on civil procedure in his own teaching materials for this basic first year course.

29 See Schlegel, supra note 17; Schlegel, supra note 25.
Between 1930 and 1933 Clark published a two-volume casebook entitled *Pleading and Procedure*. It was capacious enough to have incorporated almost anything he wished to include. It covered both common law and code pleading as well as equitable remedies, the union of law and equity, joinder and pretrial motions, though not discovery. Yet, in all two volumes of Clark’s casebook there was only one reference to the procedural research he had done, a brief observation in a section on summary judgments near the end of the second volume to the effect that the “unusually high proportion of plaintiffs’ judgments” indicate that summary judgment “finds its particular justification in the fact that so many cases result in plaintiffs’ judgments, with no real defense existing.”31 Now of course one could pass the paucity of reference to Clark’s own research to the fact that neither the federal nor Connecticut court studies had been published by the time Clark finished the casebook manuscript.32 But surely that explanation could not stand seven years later when he published a second edition of the stripped-down, one-volume edition of the original monster. Here, in addition to the original summary judgment observation which was preserved, Clark added one more reference to his work.

Available reports on civil judicial statistics in some jurisdictions show that by far the greater number of negligence cases which are brought never reach trial, suggesting that a large number are settled by the parties; further, of those which go to judgment, many more result in judgments for plaintiffs than for defendants, in the auto pedestrian cases the ratio being as high as 80 to 20 per cent. Should facts of this kind suggesting perhaps what may be the normal course of negligence cases have bearing upon the rules fixing the burden of pleading and proof?33

32 Modesty was not the reason; the volumes are littered with citations to his work and that of his students.
33 C. Clark, *Cases on Pleading and Procedure* 985-86, 221 (2d ed. 1940) (Footnote omitted).
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These are, it must be granted, peculiar observations, the rhetorical style of casebook editor’s comments notwithstanding. The course of negligence cases through the judicial system might better suggest that law was being used for some other purpose than adjudication and the absence of defenses might suggest something similar or perhaps a defect in substantive law. But the allocation of burdens of pleading and proof or the goodness of the summary judgment! It is a stretch. Why the need to stretch?

In his preface Clark established that his purpose was:

to indicate the philosophy behind the procedural rules, to emphasize the modern aspects of law administration and to employ history not as an end in itself, but for the light it casts on present day rules [all with the objective of showing that] a study of modern law administration can be made to achieve results somewhat commensurate with its importance from both a theoretical and a practical standpoint. 34

Yet, whatever one might say about theory, from a severely practical standpoint the results of Clark’s research showed that pleading and procedure were not very important. Libel and slander were not big deals, but so too, in the aggregate neither were auto accidents nor contract cases. Both were in large measure collection devices, more administrative, like getting a building permit, than adjudicative in any meaningful sense. The light that these studies cast on “present day rules” or on “modern aspects of law administration” was, depending on one’s point of view, either little and dim - - because they had almost nothing to say about the subject - - or much and harsh -- because they suggested that the subject was one on which almost nothing need be said.

Now neither of these possibilities were easy to swallow for a man who had set out to do field work in order to get “the facts” that

34 C. Clark, supra note 31, at v, vi.
were a "prerequisite to reform," and who would soon turn to rewriting the Federal Rules of Civil Procedure. That was the problem with all of this empirical research for teaching at the Yale Law School; it was unruly, if we may pun. It suggested that, to the extent that the focus of research was social problems, the rules of law, at least the rules of pleading and practice, were often not key elements in a strategy of reform. And yet Clark’s enterprise was the reform of those rules, as can be seen, not just in his participation in the creation of the Federal Rules, but also in the microstructure of his casebook.

Looked at in detail, Clark’s casebook is remarkably contemporary. True, it starts by distinguishing contract from tort actions, something no current casebook does, but that distinction is rooted in the need to cover some common law pleading. And it has too many cases for modern sensibilities. But in its microstructure it is identical to the modern version: state a rule then criticize it in the light of "modern" conditions; ad infinitum, ad nauseam. This should have been no surprise, after all; the point of philosophy and history was to illuminate "present day rules." And not just procedural rules. When Clark described the need to expand Douglas' bankruptcy study he emphasized "[t]he actual affect on business of stated legal rules, and... the joint operation of legal rules and business practices on the social life of the community." It was to be a "careful, impartial, long-term study unfettered by necessity of purely vocational study." That no such study ever took place is less important than the centrality of legal rule to the enterprise and the recognition of the necessity that the study avoid becoming purely "vocational" in nature. A vocational study would presumably not be aimed at reform. Yet to see the potential problems inherent in such a study one need only remember the impact of Macaulay's study of contracting behavior on contracts teaching.

35 Clark & Hutchins, supra note 11.
36 Report of Dean Clark, 1929-30 at 23.
37 Macaulay, Non-Contractual Relations in Business, 28 Am. Soc. Rev. 55 (1963) established that resort
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ness would have been just as difficult to domesticate in one of Douglas' Business Associations casebooks as findings about the limited effect of the rules of pleading on civil actions.

B. The Fading Vision of a Reformist Dean

If using empirical research in courses was problematic, continuing to produce such research first became difficult then faded from Clark's vision of legal education. By the third year of his deanship Clark was noting that it was in the faculty's research that the Depression was having "most serious results in curtailing our activities." The next year he lamented that "the promising beginnings made towards ascertainment of important legal and social facts must, for the present at least, remain suspended." Thereafter he noted the "most bitter toll" that the Depression had taken on "the group [of] projects for field investigation which have been a feature of the recent program of the School." And by the summer of 1935 separate description of these research projects was dispensed with in the annual reports. Such field research as was noted was being done elsewhere by government or other private organizations. That quintessential Realist law reform project, the Federal Rules, a project that "called for a staff of some ten men working in New Haven during . . . [the] summer, studying the material on procedural reform in the various countries and states," seemed not to need any data. Legal education would have to get its facts some other way. 38

C. "Theory" Displaces Fact Gathering

Or get other kinds of "facts," that was always possible. Clark recognized that carrying on empirical research was "an obvious and natural development of modern legal education" that proceeded

by businessmen to contract litigation, and often even resort to actual contract language, was an highly unusual occurrence since maintaining adventitious continuing relationships was far more important than any possible liability for breach of contract. The article is cited in every contracts casebook which thereafter focuses on contract doctrine just as did the casebooks published before Macaulay's work.

from "the outstanding movement in legal theory to-day," "that which emphasizes 'realism' in law and which aims to go behind the formal statement to the actualities of the judicial process." But one might "go behind" not just with empirical research but with powerful theory that "made sense" of legal phenomena. And Clark had within his law school a premier example of such work by individuals strongly associated with Realism. In 1931, Thurman Arnold, Edward S. Robinson, a psychologist, and Jerome Frank began "an advanced graduate course in the Judicial Process from the Point of View of Social Psychology." The course, locally known as "The Cave of the Winds," was "attended not only by . . . advanced students but also by members of . . . [Yale's various] faculties and guests and visitors from elsewhere." Clark described the course as discussing "the practical effects of ancient habits of thought concerning the legislative and judicial process upon modern procedural reform, the restatement of the law, and recent legislation." Participants included George Soule, editor of the then militantly left-wing New Republic. 39 The course produced two great books, Arnold's The Symbols of Government 40 and Robinson's Law and the Lawyers. 41 The books contained "striking and original, if at time devastating views of law, of government, and of lawyers" that "have been treated as a challenge to the profession," Clark noticed and opined that "no more stimulating books have appeared in the legal field in many years." 42

That conclusion was not wrong. Both books remain lively reading fifty-five years later. Arnold emphasizes the way that quite simple symbols tend to stand for, and thus detract attention from, very complex realities; Robinson, the way that lawyers have mystified the law for their own benefit. Both are part of the same genre of legal criticism that for Realism is symbolized by Frank's Law and the Modern Mind, 43 a book that has lost some of its critical bite to-

43 J. Frank, Law and the Modern Mind (1930).
day because of its unsophisticated Freudianism. But note Clark’s words. These books do not present “facts” about law; they present “views” of law and for Clark that was a very important distinction. From the beginning he distinguished “field” research from “library” research and while occasionally he included in that preferred classification something scholars today might deny were empirical by and large he knew what he was talking about when he talked of field research, the material that he sought to bring into “the ordinary day-to-day bounds of knowledge of the student.” Arnold’s and Robinson’s work required that neither leave the confines of their classrooms and offices. It didn’t require “taking to the field to secure that knowledge that would fuel reform.” It required only that the two men sit and think, attempt to understand in new ways what was already known about the law. As such it was much like traditional case law research that allowed the law professor to stay within the confines of an office and law library, sit and think, and attempt to understand in new ways what was already known about the cases. Clark clearly tolerated the enterprise but at the same time it was not what he had in mind for legal education.

IV. Why It All Didn’t Work Out

We know that Clark’s vision of legal education did not materialize at Yale during his tenure as dean and for many years thereafter. We know that this vision did not sweep the law schools, despite the prestige of Yale and its dean. Today, a half-century after Clark pioneered empiricism in legal education, proponents of this idea still lament the indifference of the law schools to social science and empiricism. What happened?

Clark includes Walter F. Dodd’s work on workers compensation, W. Dodd, Administration of Workmen’s Compensation (1936) as field research. This work is, in fact, simply a compilation of expert opinion than no one today would consider to be empirical. The question was less clear in the thirties.
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The story of social science in legal education is a long, complex and torturous one. The full study is yet to be written, although we have a number of excellent studies that cast light on the question. In this essay, we look primarily at the Yale story and the period in which Clark himself actively sought to reform legal education. We highlight three reasons why Clark's pioneering efforts were still-born.

A. Leadership

As much as both of us respect Clark, we have to admit that he lacked some of the leadership qualities that would have been required fully to bring about the changes he envisioned. Clark's ideas were revolutionary. They called for a new kind of law school, for a new kind of professoriate doing work for which no law professor of the time had been trained. They demanded an intellectual revolution, a root and branch transformation of ideas about law, research and education. Clark, for all his strength, was ill-suited to provide leadership suitable to this kind of revolution. He was touchy and impatient. He was more interested in practical results than in the long process of intellectual development. Ironically, he lacked some of the traits which Robert Maynard Hutchins demonstrated at Yale and then at Chicago: an ability to make something out of the scraps and pieces of a faculty's individual interests, to generate the excitement that gets people to commit themselves to a collective project and to maintain a cheerful optimism when the going got tough.45

B. The Faculty

But the failure of Clark's project cannot be laid primarily on his own doorstep. He may not have been the best academic "general" to have graced the deanship of the Yale Law School, but he also lacked the troops to carry out the bold reforms he projected. The

45 See Schlegel, supra note 18, at 488-91 573-79.
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Yale Law School faculty during the Clark deanship was divided, and Clark’s vision was not fully accepted nor widely shared. Moreover, many of those most committed to the empirical research project turned out to be the least committed to legal education, for as time went on, some of the most promising recruits to Clark’s project left the law school for government, practice and business. Had Clark led a faculty of convinced Legal Realists dedicated to his vision of pragmatic empirical research, things might have come out very differently.

Let’s look first at the senior faculty. There were about a dozen senior faculty members. If you exclude Corbin, who was no empiricist and only William Twining thinks was a Realist, Underhill Moore was the sole person fully committed to empirical research. William O. Douglas did some empirical research and Edwin Borchard did collect information and interview experts, but looked at critically, both seemed more interested in constructing Brandeis-brief type supporting statements for reform projects they favored. So for them, reform came first and empirical research second. Others were either uninterested in empirical work altogether or opposed to it. 46

Thus, to build support for his vision of legal education, Clark had to find recruits among the junior faculty. But the juniors were no more promising than the seniors. To be sure, some did join in the empirical projects that Clark promoted. But their involvement in empirical research was evanescent. Some, like Harry Shulman, who worked with Clark in the procedural studies, soon moved on to other kinds of legal scholarship and left empiricism behind. Others, like J. Howard Marshall and Abe Fortas, did conduct empirical studies; Marshall explored petroleum regulation while Fortas studied bankruptcy and securities regulation. But both these men --

46 The indifferent included Wesley Sturges and Ernest Lorenzen. Walton Hamilton was actively opposed; William Reynolds Vanz, passively. Both Thurman Arnold and Roscoe Turner Steffen did a bit of empirical work. Neither’s heart was in it, and it could easily be argued that both engaged in such research opportunistically.
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and others who initially showed interest in Clark’s project -- left the law school -- Fortas for government, Marshall for the oil industry. It seemed that if one was interested enough in learning how the world worked to join Clark’s empirical project, one soon found that working in that world was more attractive than sitting at Yale and explaining the world to others.47

To be sure, some of the juniors Clark recruited and encouraged did stay in academic life and continued to show interest in social science and express support for empirical research. Fleming James spent time as research director of the New York Law Society, a group set up to carry on the work initiated by Herman Oliphant at the short lived Institute of Law at Johns Hopkins. But James did not do significant empirical research as a Yale professor. Myres McDougall and his colleague Harold Lasswell saw the need for empirical research in policy making and championed a role for social science in legal education. But unlike Clark, McDougall didn’t conduct original empirical research himself, and his policy analyses tended to be based on data -- sometimes rather thin -- collected by others.48

Thus, the Yale faculty of Clark’s times was divided on the value of empirical research. Those who did the most tended to leave legal education. Even those who favored empirical research didn’t do it systematically or regularly. And the kind of research that was done was often rather different from the kind of “objective” collection of the “facts” that Clark initially called for and -- himself -- sought to carry out. Looking at much of the work that was done,

47 Others who followed this path were Richard Joyce Smith who did some empirical research into public utility regulation and Roger Fosler who similarly studied the securities markets. Both moved into practice in the areas they had started researching.
48 Some never touched empirical work, most notably Frederick Kessler, J. W. Moore - Clark’s assistant on the Federal Rules Project, and Fred Rodell, who followed Thurman Arnold into social theorizing. One of these, Eugene Rostow, stands in a peculiar class; though he never did any empirical work, as dean, he did assist such work as a trustee of the Walter Meyer Research Foundation. That organization sponsored much significant empirical work. Another, George Deason may be seen as the first law professor to center his research in the area of law and psychiatry using expert opinion much as McDougall used his second hand data.
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admittedly including some of Clark's own product, one might call it "hunter-gatherer" empiricism. This kind of study was close to Karl Llewellyn's notion that when lawyers wanted to know something about banking practice they should call a friendly banker. The point of this kind of empiricism was to bring the facts back to the law, not to study the law as a "factual" phenomenon. Empirical research was designed to help reform the law, not to understand it as a social process. Law professors became interested in the world so they could bring the world back to the law, not so they could situate the law and its operations within the world. While Clark's vision went beyond the narrowest form of "hunter-gathering," he too was a bit of a hunter-gatherer. Law and its reform came first. Social science was not a tool to understand the law, but to solve problems and make "better" law.

C. The Tasks That Were Not Done

This observation leads us to the third -- and perhaps most important -- reason why the bold plans Clark outlined for legal education did not materialize. Clark's vision entailed a revolution in the conceptualization of law and thus in the professional identity of the law professoriate that did not come about in the thirties -- or thereafter. Clark really never grasped the need for this dual revolution. Nor, had he done so, was he well equipped to carry it out. Few legal academics of his time had the needed understanding and skills, and none of these occupied leadership positions. Indeed, to this day the number of legal academics who understand the full implications of the empirical revolution are few, and fewer still have risen to posts of academic leadership. Key tasks were left undone in the thirties, and still remain incomplete. When we grasp the full magnitude of the program Clark envisioned and the obstacles to its realization, we appreciate all the more the pioneering nature of his project and its continued relevance half-a-century after he left full-time teaching and administration.

Here, another aspect of the history of Yale in the thirties casts light on the problems of conceptualization and identity that we wish to
highlight. This is the story of the relative success of the two seminars most closely tied to the intellectual revolution that Clark helped initiate: the Seminar on Methods of Social and Legal Research and that on Judicial Process from the Point of View of Social Psychology. The former, closest to Clark’s initial vision, was much less successful than the latter. In the story of the relative success of these two ventures lies a clue to the daunting nature of the tasks implied in Clark’s ideas and an explanation of the tasks he -- and subsequent generations -- left undone.

The Seminar on Methods was begun first. Taught initially by a sociologist, Dorothy Swaine Thomas, and later by Underhill Moore, this seminar -- sometimes attended by Clark, Arnold and Douglas -- inspired little or no work of importance. The Cave of the Winds, on the other hand, while it started later and lasted a shorter period, produced two major works of lasting importance and -- for a while -- was the intellectual center of the faculty. Why was the Cave of the Winds “all the rage,” while the Methods Seminar remained a marginal enterprise?

The Seminar on Methods explored the research Clark had inspired. It examined the studies of the Connecticut and Federal Courts, Douglas’ work on bankruptcy, the auto accident study, and Moore’s research on banking. What is noteworthy about all this work was that it pointed to the marginality of law, and suggested that researchers had to look beyond the law and legal rules if they were fully to understand the phenomena they were concerned with. The court studies showed that the details of civil procedure law didn’t matter since by and large they had nothing seriously contested to operate on. The bankruptcy studies showed that changes in bankruptcy administration weren’t going to make a difference because most bankrupts had little in the way of assets and failed because they failed, not because they were bad people whose conduct might be deterred by discharge law. The auto accident study suggested that a major legal innovation, compulsory insurance, did not make a difference in the rate of recovery for auto accidents. And then there was Moore’s banking study which sug-
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gested that common law followed business practice. A rather dismal collection of results. Why work to reform law if law had this little impact on life in the first place? Even more important, if one followed the path where these studies seemed to lead it was in the direction of the social uses of litigation and the practices of debtors, insurance companies and banks; that is, not toward legal rules, but away from them.

Contrast the product of the Cave of the Winds, including the earlier published product of Jerome Frank, *Law and the Modern Mind*. This body of work pointed right at and into the law. Frank talked directly about judicial decision making -- that centerpiece of rule centered law -- and about legal certainty, about as traditional a pair of topics as one might find. Robinson and Arnold offered different though related, psychological theories that might be used to explain, if not the micro content of law, at least the behavior of lawyers and other law makers. The important point to see is that the relatively successful seminar, or at least the one whose product is remembered, looked in on law and tried to explain law for law’s purposes. The less remembered seminar, or at least its product, looked away from law, toward society, as it were.

Why is this fact of any importance? Primarily because Clark was trying to reform legal education. “Reforming” any human institution is difficult for those individuals who, as participants in that institution, are to be improved on. To the extent that each is relatively well socialized, part of each’s professional identity is tied up in that institution. To deprive an individual of his or her professional identity is to leave that person naked, without a place in society within which to understand one’s role in, and thus value to, society. As a result, in reforming a human institution one must always remember to take into account what the improvements do to the professional identities of the individuals in the institution. 49

The professional identity of the law professoriate in Clark’s time was formed around the notion of law as rule. Law professors “did” rules in class and in scholarship -- the central question for them was “What is the rule?” And the central heroes -- Langdell, Beale, Wigmore and Williston -- in their work produced monuments that answered just that question. Clark’s improved legal education thus had to face the question of what was to be the professional identity of the “reformed” law professor.

Curiously, Realism implicitly gave several different answers to that question. The most successful (in the Darwinian sense) variant is the work of Walter Wheeler Cook, Llewellyn and Wesley Sturges on understanding either the true rule or the incoherency of the formal rule. This variant left law study rule-oriented in a narrow sense and so left the law professor’s identity largely intact. The next most successful variant is that of Arnold, Frank, and Robinson. It has few descendants, but at least, because it keeps law, if not always rules, at the center of discussion, it does not require a radical break in professional identity. By using the social sciences in, and to explain, law and the actions of legal actors, the legal academic could still see him or herself as a professor of law. Maybe legal rules were not the center of attention, but at least legal action and actors were. It was a stretch, especially since such an enterprise raised questions about the boundary between law and political science or sociology or social psychology or (eventually) economics and such questions are ones that professional identities are designed to answer by delimiting boundaries. Still it must surely have been comforting to know that one was “in” law.

It should be noted that the post-Realist emphasis on policy studies, by not looking for the true rule but rather taking rules at face value and then searching for a policy justification for the rule so taken for granted, has made even less of a dent in the professional identity of the law professor. It simply asked that justification of the rules of law be switched from logical entailment based on fundamental principles to, in the weaker version, guesses about use in the world of law or, in the stronger, McDougall version, to what little data the social sciences might have accumulated that suggested use in the world.
Contrast the professional identity implied by Clark’s work and Moore’s as well. Because his research pointed out of law and toward society, Clark’s work implied that the researcher would have to take his or her identity somewhere out there. But of course the “somewhere” is the key word. It implied that the researcher had to create the appropriate professional identity, an enormous job that really can’t be done by one individual but must be done by a group of individuals constituting themselves as such. To thus head out alone, naked as it were, is scary. And so it is not surprising that in the end Moore returned to caselaw analysis and took up military history, and Clark spend his hours writing and then cheering for the Federal Rules.

The issue of professional identity was not faced in Clark’s time or for long thereafter. Clark and later members of the Yale Law School faculty did consort with social scientists, but the scientists were seen largely as instrumental adjuncts to the task of pragmatic reform. Law professors and social scientists would -- in this vision -- retain their separate roles and identities. Little thought was given to how professors of law might reconceptualize their work as the study of law in social context and as a social process.

The work not done in the thirties by Clark or any of the Legal Realists was taken up well after World War II by the group of scholars associated with the Law and Society movement. Elsewhere, one of us has charted the rise of the “law and society idea,” the notion that law can be conceptualized as a social process and studied in the context of society as a whole using methods of the social disciplines.51 This idea was simply not available to Clark or anyone of his generation. Indeed, it took another forty years or so before even a small group of academics -- many outside the law schools -- were able to develop this project and create the institu-

tions and professional identities necessary to sustain it. And this approach -- implicit in Clark's bolder ideas about legal education -- still remains marginal within the legal academy of our time. No law school is fully committed to it, and many reject it out-of-hand.

Law and Society initiated the idea of studying law from the outside as a social process, and examining law in the context of social situations in which it may be quite marginal. This basic idea has been taken up by such disparate academic movements as Law and Economics and Critical Legal Studies. These movements have helped create small groups of scholars with the kind of professional identity needed to sustain research that decenters the study of legal rules and thus fulfills the program implicit in Clark's work. But there has been a long and arduous struggle, marked by indifference and hostility from "mainstream" legal academics and internecine warfare among the various "law and . . ." projects. We can now find a few people here and there for whom the problem of professional identity is at least partially solved. But that has taken many decades, and much is still to be done.

V. Conclusion

Charlie Clark never meant to create an identity crisis for law professors. And he never grasped the internal contradictions between his own program and findings and the rule-centered vision he started out with. Indeed, when he reflected on his own work after he left Yale and suggested new studies that should be carried out, Clark tended to focus on work that kept legal rules -- particularly procedural rules -- at the center of inquiry. Yet the law of unintended consequences took over, as it so often does. Just as Clark's empirical studies on the courts started with a rule-oriented focus but inevitably turned toward social forces and problems, so his ideas about empiricism in legal research and education began with a call for law professors to understand the rules better but soon pointed toward the oftentimes marginal nature of the rules and thus the need to understand society better.
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That is why we can legitimately celebrate Clark as one of the patron saints of the "law and society" idea, and one of the pioneers of a movement that has even today not been fully accepted by the American legal academy. True, the traces of his ideas on empiricism in legal education are scanty; we have labored hard to develop his ideas from a few scattered texts. True, he did not fully understand the revolution he had called into being, and might have recoiled from its fullest implications had he become aware of them. But he never recanted his earliest and boldest vision of pragmatic and progressive empiricism in the cause of social justice.

That ideal can still inspire us today. To be sure, Clark's vision needs substantial refurbishing to make it relevant in today's more complex times and acceptable to our more sophisticated academic culture. But as we try to continue the tradition he really started, we can take inspiration from his gritty integrity, his reformist zeal, and his honest commitment to democracy, social justice, and progressive values.