

# Book Review

## Building Community in Sarastro's Dungeon

David Damrosch, *We Scholars: Changing the Culture of the University*.  
Cambridge: Harvard University Press, 1995. Pp. 225. \$32.50

**Carol Weisbrod\***

We have various images of the life of the scholar. One is suggested by Wordsworth's description of a statue of Newton: "The marble index of a mind for ever / Voyaging through strange seas of Thought, alone."<sup>1</sup> Another image is less noble, as Jaroslav Pelikan has recently reminded us, though no less isolated. Dr. Causabon, the infinitely disappointing husband of George Eliot's Dorothea Brooke, is a scholar hard at work on a pointless inquiry, independently and forever.<sup>2</sup> In his recent book, *We Scholars: Changing the Culture of the*

---

\* Ellen Ash Peters Professor of Law, University of Connecticut Law School.

1. WILLIAM WORDSWORTH, *The Prelude*, in THE COMPLETE POETICAL WORKS OF WORDSWORTH 139 (Houghton Mifflin 1964) (1850).

2. Pelikan writes that the picture of Causabon in *Middlemarch* is "one of the most chilling depictions of a pendant in all of literature . . ." JAROSLAV PELIKAN, THE IDEA OF THE UNIVERSITY: A REEXAMINATION 3 (1992) (discussing GEORGE ELIOT, *MIDDLEMARCH* (Bert G. Hornback ed., Norton Critical ed. 1977) (1871-72)).

*University*, David Damrosch, Professor of English and Comparative Literature at Columbia, intends to propose a “new model of the scholarly community and of its relation to society at large.”<sup>3</sup> In so doing, he adds two unusual figures to our set of scholarly images, Tamino and Papageno. Tamino and Papageno are Mozart’s seekers after truth in the *Magic Flute*,<sup>4</sup> in a setting described by Professor Damrosch as Sarastro’s dungeon. In effect, these two can be seen as the contemporary graduate student and the contemporary academic, seeking enlightenment not alone in an ivory tower, but in the silent depths and isolation of a separated community.

*We Scholars* is a “secular sermon,”<sup>5</sup> polemical while still tentative. Its basic point is that what is called the academic community should become a real community. Damrosch’s goal is not to argue against the values represented by the traditional academic, individualist model but to argue against the monopoly presently exercised by the association of isolation and research.<sup>6</sup> Professor Damrosch has a wide circle of friends. They include people from varied disciplines.<sup>7</sup> He also knows people outside the university.<sup>8</sup> His friends and colleagues appear throughout the book, adding their perspectives and comments to his account. Finally, they testify to his point and show Damrosch as an embodiment of his thesis.

Professor Damrosch believes that disciplinary specialization and a definition of isolation as the condition of scholarship have resulted in a unfortunate situation. His solution is to have conversation and community among and between gregarious specialists. The book proceeds with two dimensions of university life in mind, the first generalist and specialist, the second (largely a trait in individual personalities) the sociable and the solitary. While the intellectual generalist or specialist may or may not have started out as gregarious,

3. DAVID DAMROSCH, *WE SCHOLARS: CHANGING THE CULTURE OF THE UNIVERSITY* 5 (1995).

4. For a review of the plot of the opera, see WILLI APPEL & RALPH DANIEL, *HARVARD BRIEF DICTIONARY OF MUSIC* (1960):

Tamino (tenor), seeing a picture of Pamina (soprano), daughter of the evil Queen of the Night (soprano), falls in love with her. Accompanied by the bird-catcher Papageno (baritone), he goes out to rescue her from the temple of the high priest Sarastro (bass) where she is held captive, guarded and pestered by the moor Monostatos (tenor). Sarastro, who holds Pamina only in order “to guide her to wisdom,” finds Tamino worthy, and also promises that Papageno will find a companion—Papagena (soprano). But various ordeals (injunction against speaking, passing through fire and water) are necessary before the two pairs of lovers are united.

*Id.* at 164.

5. DAMROSCH, *supra* note 3, at 208.

6. *Id.* at 103.

7. See, e.g., *id.* at 193 (paleontology); *id.* at 188 (cellular immunology); see also *id.* at 60, 95.

8. He refers to friends outside the university residing in places such as Tribeca and Soho. See *id.* at 277.

it is clear to Damrosch that the present condition of the university (and particularly the training of scholars) leads to the association of substantive specialization and the production of academic isolates, whose only contact with the idea of community, a very limited one, comes from dealing with other specialists in the same specialty.<sup>9</sup> “I am not positing any absolute or one-to-one correlation between a scholar’s personality and the writing that scholar will produce,” he writes, “but there is a general family resemblance.”<sup>10</sup> Damrosch believes that “[a]t some middle range in between one’s private self and one’s public teaching and writing, there exists what could be called one’s scholarly personality . . . .”<sup>11</sup> Modern scholarship, he concludes, “has taken on a markedly introverted cast . . . .”<sup>12</sup>

David Damrosch’s book on the university—one of a number to be published recently—argues that when people are accustomed to intensely individual work over a very long time, in the end they are less able to work collaboratively. Damrosch’s work is a rich account of the state of the universities, including responses to many current discussions of the university and a good deal about the changes in higher education in the last one hundred years.

Causabon, it is clear, is a man who “flunked sandbox.”<sup>13</sup> The argument of the book is that this is true, in effect, of many if not most academics. Gregarious intellectuals are screened out of academic life by the model of the isolated researcher. In general, Damrosch says, “We do *freedom* better than we do *home*.”<sup>14</sup>

The image of Sarastro’s dungeon is used by Damrosch in connection with Julius Getman’s account of becoming an academic.<sup>15</sup> As Damrosch recounts the Getman story, “illumination [“a scholarly vision” in Getman] comes after long hours of interior striving in the deserted law library, separated from family and all friends except for a fellow initiate—with whom, more disciplined than Papageno in Sarastro’s dungeon, Getman exchanges no words for hours at a time.”<sup>16</sup> This “Sarastro’s dungeon model of scholarly community,”<sup>17</sup>

9. *See id.* at 85.

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.* at 10 (attributing this language to an unidentified colleague who said, “I went to graduate school because I flunked sandbox.”).

14. DAMROSCH, *supra* note 3, at 8.

15. JULIUS GETMAN, *IN THE COMPANY OF SCHOLARS: THE STRUGGLE FOR HIGHER EDUCATION* 8 (1992). Getman, a professor of law for 30 years at universities including Texas, Indiana, and Yale, recounted his experiences in a recent memoir. Getman has had work experience in the larger world of the university through the American Association of University Professors. Reinforcing the point that autobiographical narratives have a form, Damrosch compares Getman’s book to a conversion narrative. *See* DAMROSCH, *supra* note 3, at 91.

16. DAMROSCH, *supra* note 3, at 91.

is later somewhat elaborated in connection with a discussion of David Bromwich's account of the university, *Politics by Other Means*.<sup>18</sup> On Damrosch's reading, the Bromwich discussion allows for some interaction between scholars. Damrosch writes: "Bromwich's terms would probably . . . permit[] Tamino and Papageno to share their thoughts during the research phase in Sarastro's dungeon—as Sarastro himself allows them to do to a modest extent, even though he has made them promise not to."<sup>19</sup>

The image is provocative, not least because it suggests something about what Damrosch will later refer to as the "partially autonomous sub system" of the university in relation to the surrounding society.<sup>20</sup> Damrosch is calling for a different interaction between the two spheres and a restructuring of relationships.<sup>21</sup>

However, the portrait Damrosch draws of the academic life is incomplete. Consideration of law schools would have illuminated some of the very important issues with which Professor Damrosch is concerned. Material drawn from the academic life of the modern American law school has considerable relevance to the general university picture. Some questions which might have been usefully explored are suggested here.

If one added the law schools more systematically to the inquiry on the state of the universities, one would find that a generalist tradition still exists there in addition to a specialist tradition. One might also find that there was a certain amount of conversation and even collaboration though it is not obvious that there is community. It is particularly important to include the law schools if one is interested in the issue of the university and the world, since it is lawyers who are concerned with questions of official power and violence (more directly than, say, English professors). Further development of the image of Sarastro and his society of initiates might have served Professor Damrosch well in this connection, because it surfaces clearly the relations between small social fields and the larger society. They may or may not be microcosms of that society. They may represent values that are, to some degree, antagonistic to the values of the larger society. Further, it is significant that Tamino is and remains a prince, a man who will return to the world of public power.

---

17. *Id.* at 94.

18. DAVID BROMWICH, *POLITICS BY OTHER MEANS: HIGHER EDUCATION AND GROUP THINKING* (1992).

19. *Id.* at 101.

20. *Id.* at 208 (discussing work of the anthropologist, Mary Douglas).

21. *See id.* at 5, 203-06.

Sarastro will remain head of a separated community, at least in the Mozart version of the story,<sup>22</sup> while Tamino the prince, now enlightened, will return to the world. The figure of Tamino, from the community but in the world, has something in common with the academic lawyer. There is much discussion of what legal research ought to be, and particularly how directly responsive to real world issues it ought to be, but it does not seem too much to say that legal scholarship, to the extent that it draws on legal argument and legal texts, is always involved at some level or other with society. Tamino will take what he has learned in the setting of the community and somehow apply it. Even those academic lawyers most focused on scholarship for truth and understanding—rather than for directly normative problem solving—would probably concede that changes in consciousness precede changes in regulation.

However, Damrosch's book has little descriptive material on law schools<sup>23</sup> although they are said to have a "very different academic culture."<sup>24</sup> The book is, nonetheless, of interest to a law school audience, and particularly to the sub-group of those engaged in work that might be called interdisciplinary research.<sup>25</sup> Damrosch's book is centrally the story of specialization, with "generalists" treated in part through discussion of the core curriculum at the undergraduate level.<sup>26</sup> Specialization and isolation reinforce each other. The broad solution Damrosch proposes is that faculty talk to each other. Structures should be devised so that this will happen.<sup>27</sup>

Professor Damrosch writes: "When people acculturate themselves to academic life by enhancing their tolerance for solitary work and diminishing their intellectual sociability, they reduce their ability to

22. In Ingmar Bergman's screenplay for *THE MAGIC FLUTE* (Janus Films 1975), Sarastro retires and Pamina and Tamino stay to lead the community. See PAULINE KAEL, *FOR KEEPS: 30 YEARS AT THE MOVIES* 662 (1994).

23. Damrosch dedicates his book to his wife, Professor Lori Damrosch of Columbia University School of Law, but does not discuss law schools in any depth. Neither did Henry Rosovsky, who explained in his work on the university that he did not feel competent to "delve deeply into" the professional schools, HENRY ROVOSKY, *THE UNIVERSITY: AN OWNER'S MANUAL* 135 (1990), although he noted that "in the last few decades economists (and lawyers) have increasingly moved into top jobs in academic administration." *Id.* at 26.

24. DAMROSCH, *supra* note 3, in acknowledgements.

25. See Thomas Morawetz, *Empathy and Judgment*, 8 *YALE J.L. & HUMAN.* 517 (1996). When disciplinary foundations are unclear, "inter-disciplinary" may have little meaning.

26. This is particularly true in the chapter called "General Education in the Age of Specialization." See DAMROSCH, *supra* note 3, at 108-39.

27. Another aspect of Damrosch's call for reform focuses on the doctorate program, which he suggests should be more open to the publication of articles as a doctoral dissertation and not insist on a book length monographic form. See *id.* at 133. The proposal for conceiving the dissertation as articles is designed to open the possibility of collaborative work. Several articles might be written with different sponsors. A student "could go so far as to write one or more sections jointly with someone else, doing other sections independently, as to demonstrate individual strengths to potential employers . . ." *Id.* at 133.

address problems that require collaborative solutions, or even that require close attention to the perspectives offered by approaches or disciplines other than one's own . . . ."<sup>28</sup> He offers as a parallel to his own view a description of the isolation of United Nations agencies, each created to solve a particular problem, in dealing with problems that require joint efforts.<sup>29</sup> That description of the general importance of cooperation and collaboration, however strange it might sound to parts of the academic community, can hardly have been a novel approach to problem solving to the audience of international lawyers who heard it. While lawyers may be perceived as the most narrow of specialists—"common law conveyancers" strikes the right note—lawyers are, in a fairly serious way, trained as generalists.

Initially, one might note here that the "distinction" between generalist and specialist can be seen as something like a spectrum concerning the levels of generality with which we approach a problem and the freedom with which we allow ourselves to bring in material beyond the precise technical subject at hand. The spectrum can be evidenced by both research and teaching.<sup>30</sup> To judge from *We Scholars*, one might place Professor Damrosch on the spectrum somewhere towards the generalist side, although he remains a specialist. He becomes someone we might call a broadly informed specialist.<sup>31</sup>

Issues of specialization in law could be dealt with in *We Scholars* in at least two phases, the first having to do with practice,<sup>32</sup> and the second with academic lawyering. The first question is investigated by people interested in the history of the profession, and distinctions here might relate to the large or small firms, or city and country practice. As to the second, in relation to teaching, a further division might well be needed between high status schools where even a newcomer could spend a considerable amount of time mastering a

---

28. *Id.* at 148.

29. *See id.* at 187 (quoting Brian Urquhart, former Under-Secretary General of the United Nations). The material on the United Nations is elaborated with further quotation from Urquhart's memoir. *See* BRIAN URQUHART, *A LIFE IN PEACE AND WAR* (1987).

30. The hypothetical "caring liberal arts teacher" in the law school context is given this speech in a study of self-images of law professors: "The idea that I am training mere legal technicians is abhorrent. Basically, I see myself as a generalist who has a background in other academic fields as well as law, and so reaches out to other parts of the university community for academic support." Douglas D. McFarland, *Self-Images of Law Professors: Rethinking the Schism in Legal Education*, 35 J. LEGAL EDUC. 232, 249 (1985).

31. For range and depth beyond the idea conveyed by the word "generalist" to something approaching encyclopedic erudition, we sometimes employ the word "polymath."

32. *See* WOODROW WILSON, *MERE LITERATURE AND OTHER ESSAYS* 37 (Boston & New York, Houghton Mifflin 1896) (discussing city practitioner as specialist and country practitioner as generalist).

field, and those schools that would view this as a luxury. We could raise the question whether, and how much, academic lawyers specialize in the highly developed sense that Damrosch uses. For example, when academic lawyers use historical materials to generate illustrative case studies of ideas that are essentially legal or jurisprudential, they may not keep up with the secondary literature concerning those case studies, though they may read the legal and jurisprudential literature concerning the idea illustrated. Whether they keep up with "law" in general may turn on how much in the current discussion relates to the idea, and whether the idea shows up in Supreme Court decisions, or in odd corners of state law, or in non-legal materials altogether. The "specialist" in a person, or a period, or a statute, however, may feel more of an obligation to stay current with the secondary literature. Addressing such questions would get to the issue of whether people doing interdisciplinary work in law and history, for example, are doing the same thing as the people who are doing history, whether they are asking the same questions or approaching the materials in the same way.<sup>33</sup>

Because the law schools are in part heirs to the traditions of the generalist, they offer a variation on the triumph of specialization that is the central story of *We Scholars*. Given that law schools have a relationship to society different from that of some other parts of the university, Professor Damrosch's account of alienation and aggression, with its emphasis on the development of the idea of scholar as an exile or internal emigre,<sup>34</sup> would presumably have been modified somewhat. (Lawyers cannot be pure outsiders, after all. Their subject is intrinsically social and in America at least some degree of satisfaction with existing institutions is taken for granted by most legal academics, often under the heading "the rule of law.") Because law and legal research are often not about truth but about problem solving, and because in the effort to solve problems legal research often involves the work of other disciplines, the study of law schools would have added something to the account of academic research that Professor Damrosch puts forward. In recent years the intellectual life of the law schools has been a subject of intense exploration in law journals, non-legal scholarly journals, and books. In law schools we find both specialists and generalists, those committed to pragmatic approaches and those who identify with seekers after truth. Another

---

33. For a recent discussion (with acknowledgements to some who disagree), see Mark Tushnet, *Interdisciplinary Legal Scholarship: The Case of History in Law*, 71 CHI.-KENT L. REV. 909 (1996).

34. Damrosch writes: "[To] the extent that [scholars] are called on to improve existing society, they will be more effective in doing so if their outlook is skeptical, detached, dissatisfied with the status quo." DAMROSCH, *supra* note 3, at 78.

contrast is between those academics who seek verifiable truth—the model here might be natural sciences—and those focused more pragmatically on policy issues. In that sense, the approaches in the law schools reproduce the distinctions found in the larger university. Some are committed to empirical work, others to theoretical modeling, others to pragmatic policy-oriented problem solving.

Of course, the differences between the law schools and the universities of which they form a part are significant. A central difference is that graduate schools intend to train professors. Law schools generally train people who will be lawyers. New lawyers are trained by people who either rejected that path after trying it or who never took it at all. Damrosch describes the law school environment as one in which the student who intends to practice can reject (and not internalize) the norms of the law schools.<sup>35</sup> And yet internalization of the norms of law school may be necessary for that success in law school which can ultimately be used as an initial channeling device for success, on certain measures, in the profession as a whole. Issues relating to law students and other graduate students (e.g., presence or absence of mentoring relationships, intensity of orientation to particular methods or approaches, assistance in job placement) might also be appropriate subjects for systematic treatment in a book on the university.<sup>36</sup>

A further difference between the conventions of legal education and legal research and the conventions of the arts and sciences is suggested by the contrast between Damrosch's unannotated reference to Tamino and Papageno in Sarastro's Dungeon<sup>37</sup> and a law review note. A footnote in a law review might carefully identify these persons this way: "Characters in *The Magic Flute* by Wolfgang Amadeus Mozart, libretto by Emanuel Schikaneder (1791, New York performance 1833). On Masonry and Mozart, see Jacques Chailley, *The Magic Flute Unveiled* (1972)." A fuller citation, not impossible to imagine, would add the words "opera" and "composer." A note might include a reference to Mozart's better known librettist, Lorenzo da Ponte, focusing perhaps on his career in New York,<sup>38</sup> for purposes of display if not enlightenment. The difference in approach between the sparse identification in Damrosch and the hypothetical but not fanciful use of an overly discursive elaboration of the reference that could be found in a law review is striking. What does it signal? For a person sensitive to issues of multiculturalism, the reference without

---

35. *Id.* at 151.

36. Of course, other professional schools might well be considered in such as inquiry.

37. DAMROSCH, *supra* note 3, at 91, 94, 101 (including reference to Mozart).

38. See JOHN DIZIKES, *OPERA IN AMERICA: A CULTURAL HISTORY* 71-80 (1993).

annotation might speak to the issue of ethnocentric expression. It may treat the same question differently to say that the form of the reference says something about Damrosch's expectations of his audience.<sup>39</sup>

Robert Gordon notes that there is a connection between some of the vices of law review writing and our scholarly conventions of trying to write for generalist rather than special audiences. He expands the point this way: "Current articles are long and dull in part because their writers assume no background knowledge in their readers. Everything, from the doctrinal and historical context to the meaning of elementary terms of economic or critical analysis, has to be elaborately spelled out."<sup>40</sup> That, he notes, "is not how any real academic discipline operates."<sup>41</sup>

Lawyers writing in law reviews are required by the conventions of law review publishing to expect nothing of their readers, despite the fact that, in general, lawyers are literate and law students are not only literate but now often have one or more advanced degrees. Why then do we annotate in this way? One answer would point to the history of law reviews and law review citation, assuming that the present generation is simply carrying forward a device which, however useful once, is without serious meaning now.<sup>42</sup> Other explanations might look for present functions. One function relates to an efficiency question: Those who might want to locate the material should not have to elaborate upon the sources individually. Another explanation

39. The same point, concerning the assumption of a culture shared by the reader, might be illustrated by Pelikan's book on the university, which quotes "what is probably the most beautifully crafted of all academic mystery stories" and seems to assume that the reader is familiar with Dorothy Sayers's *Gaudy Night*. See PELIKAN, *supra* note 2, at 7. The book seems to refer to Dorothy Sayers only in the index, *see id.* at 237 (indicating only "7, 49-50"), and the list of works cited and consulted. *See id.* at 226. The highly articulated law review form might represent the same reference in this way:

JAROSLAV PELIKAN, *THE IDEA OF THE UNIVERSITY: A REEXAMINATION* 7 (1992) (quoting without citation DOROTHY SAYERS, *GAUDY NIGHT* 29 (Harper 1993) (1935)). The toast is described by Sayers as follows: "She spoke gravely, unrolling the great scroll of history, pleading for the Humanities, proclaiming the pax academica to a world terrified with unrest . . ." SAYERS, *supra*, at 29.

(A comment on the history of women in the English universities is possible but optional.)

40. Robert Gordon, *Lawyers, Scholars and the Middle Ground*, 91 MICH. L. REV. 2075, 2102 (1993).

41. *Id.*

42. Fred Rodell, *Goodbye to the Law Reviews*, 23 VA. L. REV. 38 (1936), saw two kinds of footnotes: those that reiterated the point in the text and those that provided verification of the point for the suspicious. It is as if the writer (or student editor) expected a reader to say, "You say that this is a set of characters in an opera by Mozart. Prove it. Or at least document it." Further instruction might read: "And be very careful about post-modern invented sources, please. The article may be playful, but sources that are not obviously [to whom?] jokes are supposed to be real." The citation form used by most law reviews is a subject of its own. For law review bluebooking as "the hypertrophy of law" (mindless elaboration for its own sake), see Richard Posner, *Goodbye to the Bluebook*, 53 U. CHI. L. REV. 1343 (1986).

of the footnote might be the assumption that anyone can get the idea if provided with a little background. Where once alumni provided a generalist audience, now the law reviews—while they may or may not have much to say to alumni—have a different audience of generalists, those who teach in the law schools or who function as (generalist) judges.

Yet another idea might be rooted in a competitive desire to display erudition in fields outside of law. We are not after all plumbers,<sup>43</sup> or, at least, we know things that basically are not about plumbing. Finally, the extended footnote may signal the aspiration of the generalist: Far from being the plumbers and hired guns of the narrowest images of lawyers, academic lawyers may be people to whom nothing human is alien.

Even apart from its presence in academic writing, the idea of the generalist is pervasive in law. A lawyer's ambition may assume a fairly generalized form, with many paths upward. Lawyers are said to be practical problem-solvers. They often believe that they can do many things. Once it was not uncommon for law professors to go in and out of practice, or government, or administration. Perhaps for some it is still common.<sup>44</sup> It seems uncommon for people with law degrees to believe that they have been trained for only one thing, and that if they cannot do that thing, their degrees are useless.

Legal academics have other traits that might be worth exploring and compared with traits of other academics in the university. For example, erudition is respected, but it is not the same as "smarts" or "candlepower."<sup>45</sup> Legal academics often believe in the value of questions and analysis more than in the value of information. As noted, they do not necessarily "keep up" with the academic writing in their fields in the way that the specialist in the humanities or

---

43. See Paul Samuelson, *The Convergence of Law School and the University*, 1974 AMERICAN SCHOLAR 256, 257 (addressing the relation of law schools and the university; noting that universities do not train plumbers). The juxtaposition of the images of lawyers and plumbers is common. Grant Gilmore notes that until Blackstone's time, "Lawyers continued to think of themselves, as they were thought of by others, as being plumbers or repairmen." GRANT GILMORE, *THE AGES OF AMERICAN LAW* 3 (1977). Thus, "[t]he law books were essentially plumber's manuals." *Id.* Earlier, William Twining had discussed the images this way: The plumber-lawyer is simply someone "who is master of certain specialized knowledge, the 'law,' and certain technical skills." William Twining, *Pericles and the Plumber*, LAW Q. REV., July 1967, at 396, 397-98. It follows from this that he needs a "no-nonsense specialized training to make him a competent technical," and a liberal education in law is essentially wasteful or even dangerous. *Id.* The contrast is to a figure called by Twining "Pericles," the law giver, the wise judge. *Id.* For this figure, a broad liberal arts education is important. See *id.*

44. This is also true, of course, of people trained in other fields. But law professors are certainly among America's public intellectuals.

45. "Candlepower" is an expression common in the law school world meaning raw analytic ability.

sciences presumably does.<sup>46</sup> And it may be that some lawyers are specialists in a very particular way. Grant Gilmore suggests that lawyers are “specialists” in the use of language as an “instrument for making precise statements.”<sup>47</sup> Or perhaps lawyers are, as they are supposed to be, “specially competent to invent, facilitate, and obstruct connections among purposes, policies, rules, and forms.”<sup>48</sup> When the “specialist” idea in law emerges in substantive terms, it is often associated with an idea of a profession as much as a particular body of knowledge. A law teacher in 1952, when confronting interdisciplinary materials in a casebook, wrote: “I am a lawyer—not an anthropologist, nor a theologian, nor an economist nor a historian. . . . And the very heart and core of my pedagogy is that I teach *how* to use knowledge and not merely knowledge itself.”<sup>49</sup> The generalists in law are regularly met with the specialist critique, to the effect that the teacher is not sufficiently focused on law, or on “hard law.” Such a critique may use as a test of utility the needs of a hypothetical practitioner who graduates from law school and “hangs out a shingle.” Damrosch offers an anecdote that will be familiar in essence to some law professors: He asked an alumnus of Trilling’s core (generalist) classes about the class. “It was shooting the breeze,” was the answer, “[Shooting the breeze] of a very high order, naturally, but still shooting the breeze.”<sup>50</sup>

For Damrosch, scholarly collaboration is highly desirable. But why? Do those who work collaboratively become somehow more generalist? While Damrosch seems at times to be a generalist in his own range of interests (his own writing—as evidenced by this

---

46. For this reason, the idea that the foundational courses in law school—which of course do convey information—are primarily about an informational base seems misplaced. See Louis Menand, *How to Make a Ph.D Better*, N.Y. TIMES, Sept. 22, 1996, § 6 (Magazine), at 8. The difficulties for first term students relate precisely to the fact that students must learn both what they are supposed to know and how they are to use what they know.

47. Grant Gilmore, *What Is a Law School*, 15 CONN. L. REV. 1, 2 (1982); see also David Riesman, *On Discovering and Teaching Sociology*, 1988 ANN. REV. SOC. 12 (“With the omniscient arrogance of some bright lawyers, Robert M. Hutchins had contempt for specialized research.”). Many lawyers do have expert knowledge of some field, but they do not, it seems, give up the generalist claim for this reason. There is no doubt about the need of the technical grounding, but this, as Llewellyn among others insisted, is not sufficient. Llewellyn put the point by describing two paintings of the nude by Renoir: The second version could only have been produced by a person who could also produce the first. For law as in painting, technique is the necessary foundation for the artist, see KARL LLEWELLYN, *The Study of Law as a Liberal Art*, in JURISPRUDENCE: REALISM IN THEORY AND PRACTICE 378, 381 (1962), and law is a “liberal art at work,” *id.*

48. LAW AND THE SOCIAL SCIENCES 9 (Leon Lipson & Stanton Wheeler eds., 1986).

49. Robert Kingsley, Book Review, 5 J. LEGAL EDUC. 400, 401 (1953) (reviewing FOWLER V. HARPER, *PROBLEMS OF THE FAMILY* (1952); ALBERT C. JACOBS & JULIUS GOEBEL, JR., *CASES AND MATERIALS ON DOMESTIC RELATIONS* (3d ed. 1952)).

50. DAMROSCH, *supra* note 3, at 124.

book—is engaging and broadly informed),<sup>51</sup> specialist values are suggested in certain discussions. It is, Damrosch writes, “no longer responsible to float among several fields.”<sup>52</sup> Those who do so “are likely to be continually reinventing wheels, treading back over well-worn paths, lagging ten or twenty years behind the current state of discussion.”<sup>53</sup> Damrosch believes that the specialist who has experienced “the excitement of clarifying and deepening a current discussion”<sup>54</sup> will be dismayed by standing before undergraduates lecturing on unfamiliar material. His argument for collaboration seems often to be based on the image of a conversation among specialists.

It is on a point like this that some academic lawyers may reflect a different orientation, closer to that of the autodidact or the amateur. There may be an excitement in teaching in order to learn and the comparative perspectives of the specialist on the new material may in fact be interesting. It is also possible that the wheel must be reinvented every ten or twenty years, and that certain ideas must be rediscovered in every generation. Far from being the obligatory point of entry, the current state of the discussion—which sees the path as well worn—may well be the thing a scholar is trying to avoid in reopening older questions.

Professor Damrosch does not focus on the details of the question of what is meant by the idea of collaborative work across disciplines, or what the problems might be in such conversations. He is generally arguing against solitude, and for interaction with other people, sometimes within departments, sometimes across departments.

But there might actually be some difficulties in communicating across disciplines. For many academics, including academics in law schools, the production of knowledge is at the core of the research enterprise. But in some fields, including law, research is often directed to some sort of problem solving, considering the problem as something that arises in the real world. In this sort of legal research, much of the legal system and that real world is taken as a given. It is assumed that legal scholarship will often suggest a normative solution to the problem, normative conventionally in terms of some limited law reform.<sup>55</sup> As noted earlier, even where legal academic writing

---

51. And he offers a notable list of the interests to which he was once loyal: “several ancient and modern literatures,” literary theory, Biblical studies, history, archaeology, anthropology, and art history. Since he cannot manage all of these, he looks to collaboration as a way of preserving the original possibilities. *See id.* at 15-16.

52. *Id.* at 130.

53. *Id.* See also his reference to the “relatively modest crossdisciplinary work that a single scholar can do well.” *Id.* at 7.

54. *Id.* at 130.

55. See generally Edward Rubin, *On Beyond Truth: A Theory for Evaluating Legal Scholarship*, 80 CAL. L. REV. 889 (1992) (including descriptions of various contemporary movements

describes its purpose as a change in consciousness, solutions may be said, at a very general level, to be concerned with law reform.

An opposing emphasis in legal research, common among lay people—including the university outside the law schools as well as some law professors—conceives law as an autonomous system of technical rules presented in an arcane vocabulary. Mastery of the intricacies of at least some of these rules is taken to constitute lawyer's knowledge.<sup>56</sup> The debate between these two orientations towards law—and what particular balance between them legal education should reflect—has gone on in the United States for a very long time, much antedating the noticeable movement of humanities trained people into the legal academy in the 1970s. These orientations might be quite different, both in their willingness to engage an interdisciplinary conversation and in their capacity to do so. For some decades, much writing in law, but not all, has drawn on other disciplines. When E.D. Hirsch, noting a contrast between schools of education and other professional schools, sees law schools as engaging the ideas of other fields related to law<sup>57</sup> (including philosophy, economics, and “even literature”), he assumes that there is in fact a serious relation between law and these other fields.<sup>58</sup>

One question is whether legal academic work is different because lawyers, unlike other scholars perhaps, work collaboratively.<sup>59</sup> But perhaps this is deceptive. (Note that David Riesman suggested in 1951 that lawyers were likely to become “hard-working isolates,” and that even the apparent “team work of a law review is based on com-

---

in legal scholarship).

56. See LAURA KALMAN, *THE STRANGE CAREER OF LEGAL LIBERALISM* 60-93 (1996); see also WILLIAM L. TWINING, *BLACKSTONE'S TOWER: THE ENGLISH LAW SCHOOL* 23-48 (1994); M. H. Hoeflich, *Plus ça change, plus c'est la même chose: The Integration of Theory and Practice in Legal Education*, 66 *TEMP. L. REV.* 123 (1993).

57. In law, the question of the nature of legal scholarship is currently highly contested, particularly the discussion concerning the relationship of legal scholarship to practice of law. Esoteric writing is also suggested. Richard Delgado, *Coughlin's Complaint: How to Disparage Outsider Writing, One Year Later*, 82 *VA. L. REV.* 95, 99 n.25 (1996) (referring to “dual-meanings of some outsider writing”).

58. See E.D. HIRSCH, *THE SCHOOLS WE NEED AND WHY WE DON'T HAVE THEM* 123 (1996).

59. Victor Rosenblum, *David Damrosch: We Scholars*, 46 *J. LEGAL EDUC.* 308, 309 (1996) (reviewing DAMROSCH, *supra* note 3) (regretting the failure to give legal education equal attention).

petitive performance largely and very little on good fellowship.”<sup>60</sup> Was this true? Is it?)

Perhaps another difference is in the attitude towards the past. David Bromwich, in *Politics by Other Means*, stresses the scholarly connection with the past and contact with the famous dead.<sup>61</sup> This is assumed to be a value in Damrosch’s book.<sup>62</sup> But despite a formal emphasis on precedent in law itself, there is a serious sense in which much legal academic work is not cumulative, nor focused on the past, nor intent on furthering traditions.<sup>63</sup> The problems we address are those of our own generation. Moreover, in law, we typically work on the product of people successful in their own lifetimes, especially when we focus on judging. David Riesman once pointed out that no matter how much law professors criticized the work of particular judges or even judges in general, the idea was entirely common that the ultimate promotion for a law professor was to a high court.<sup>64</sup> This idea still seems true. There is, in law, little tradition of neglected genius. It is also true, however, that the present generation of law teachers is inclined, especially when engaged in theoretical work, to feel that its work is increasingly separated from the actual culture, the actual work of judges, or the future work of students.<sup>65</sup>

For all the assumed differences, however, there is a subtext in *We Scholars* that suggests that the culture of the law schools is also taken

60. See David Riesman, *Towards an Anthropological Science of Law and the Legal Profession*, 27 AM. J. SOC. 122, 129 (1951). For another view of law journal activity, see KARL LLEWELLYN, *THE BRAMBLE BUSH* 135 (1951). We are accustomed to a desire for isolation in poets and writers of fiction. Mary Oliver suggests, “From my way of thinking, Thoreau frequently seems an overly social person.” MARY OLIVER, *BLUE PASTURES* 57 (1995). Damrosch notes that Bromwich’s conversation occurs among very few people. DAMROSCH, *supra* note 3, at 101 (discussing BROMWICH, *supra* note 18). “Bromwich’s scholarly community in its ideal form is the mirror image of the Christian community presented by Mozart in Masonic form, as the Church’s minimum is Bromwich’s maximum: whereas Jesus promises to be present whenever two or three are gathered together, for Bromwich the room is getting pretty overcrowded by then.” *Id.*

61. See DAMROSCH, *supra* note 3, at 97-103 (discussing BROMWICH, *supra* note 18).

62. See DAMROSCH, *supra* note 3, at 100 (discussing the stress on the continuity with the past); see also *id.* at 119 (discussing the present challenge to core courses); *id.* at 111 (“Is the Bible a Great Book? Of course, it is—or rather, it should be, but the fact is that the Bible has not been given any substantial place in most core courses and anthologies. How could this distortion of our literary and cultural heritage have come to pass?”); *id.* at 113 (noting particularly that the Hebrew Bible has “languished in almost total eclipse”).

63. The tendency to work within the framework of one’s own peers-in-time has been intensified at least by computerized research in law focused on a current data base.

64. See Riesman, *supra* note 60, at 122.

65. But it may not be that we are *more* separated from society than was true in earlier periods. We read that James Barr Ames, among the country’s experts on negotiable instruments, did not know about the Negotiable Instruments Act until it had already been adopted by several states. See James Barr Ames, *The Negotiable Instruments Law*, 14 HARV. L. REV. 241, 242 (1900); see also Grant Gilmore, *Formalism and the Law of Negotiable Instruments*, 13 CREIGHTON L. REV. 441, 457 (1979). This suggests some kind of distance between the law school and the world outside.

by Professor Damrosch to be familiar and accessible. Professor Damrosch's use of Julius Getman's account of his initiation into the life of the university, an account geared to law schools, is used more generally to illustrate the Sarastro's Dungeon problem. In quoting extensively from Getman's book to describe the isolation of the contemporary scholar, *We Scholars* assumes that we all will recognize Getman's images.

Perhaps we will also recognize some of the questions treated by Professor Damrosch that deal with scholarship. Like the professors Damrosch discusses, law professors are in general people who did well in the preliminary instructional phase of the operation. On the whole they are relatively talented and ambitious individuals. (One can easily recognize the egoism of Conan Doyle's Professor Challenger, who responded to a journalist who described him as "one of our greatest living scientists" by asking "why the individious limitations and qualifications?"<sup>66</sup>)

As to the forms of scholarship, Damrosch notes that "a wide range of writing is located somewhere on a spectrum between the aphoristic essay and the academic monograph."<sup>67</sup> Or, as he adds, "better: more and more writing now combines pronounced elements of both ends of the continuum."<sup>68</sup> In many areas, as Damrosch notes, there is disagreement over what should count as scholarship at all.<sup>69</sup> Both of these things are true in law as well. We debate the nature of legal scholarship, and where once it was apparently possible, and perhaps necessary, to distinguish the formal article from the informal essay, it is now possible to publish work in which that distinction is hardly obvious.<sup>70</sup> Interdisciplinary work goes on in and around law. The law

66. ARTHUR CONAN DOYLE, *When the World Screamed*, in *THE PROFESSOR CHALLENGER STORIES* 32 (1969); see also Julius Getman, *The Price of a Chair*, 46 *J. LEGAL EDUC.* 456 (1996).

67. DAMROSCH, *supra* note 3, at 210.

68. *Id.* at 211. We do, as academic lawyers, continue to write and to publish. A different question is why we write at all. See STEVEN SCHWARZSCHILD, *THE PURSUIT OF THE IDEAL* 255 (1990); See also Kenneth Lasson, *Scholarship Amok: Excess in Pursuit of Truth and Tenure*, 103 *HARV. L. REV.* 926 (1990). Publication of work on law in book form presumably makes that work more accessible to a general audience. The neglect of the relationships between legal education and other fields in the humanities in Professor Damrosch's book is presumably explained by a civilized reluctance to make a claim of competence in a technical field with both specialized language and a mystification of processes. But does it require competence in any individual substantive field to deal with the sociology of the university?

69. See DAMROSCH, *supra* note 3, at 9, 210-11 (discussing blurring of academic and intellectual forms).

70. So, too, we have some forms in law that seem to need a separate inquiry altogether. One assumes that someday the researcher into "invisible literatures" will make that inquiry. See J.G. BALLARD, *USER'S GUIDE TO THE MILLENNIUM: ESSAYS AND REVIEWS* 76 (1996) (referring to variety of texts beneath notice of literate culture). Ballard suggests a future in which "anthologies of twentieth-century office memos may be as treasured as the correspondence of Virginia Woolf and T. S. Eliot." *Id.* What, for example, is a teacher's manual? We might begin with the development from Lon Fuller's discussions, *LON FULLER, TEACHERS NOTES TO BASIC CONTRACT LAW* (1948) (52 pages), to the current manuals, which often go to several hundred

schools are becoming miniature universities themselves, as well as engaging more and more broadly in the life of the larger universities. Presumably reciprocal influences are at work, but *We Scholars* has little to say about this.

In the end, it seems likely that the law schools will continue to provide a home for generalists, in part for the reasons suggested by Learned Hand: “[A]n education which includes the ‘humanities’ is essential to political wisdom.”<sup>71</sup> He wrote, “By ‘humanities’ I especially mean history; but close beside history and of almost, if not quite, equal importance are letters, poetry, philosophy, the plastic arts, and music.”<sup>72</sup>

Hand explained why this was true:

Most of the issues that mankind sets out to settle, it never does settle. They are not solved, because, as I have just tried to say, they are incapable of solution properly speaking, being concerned with incommensurables. At any rate, even if that be not always true, the opposing parties seldom do agree upon a solution; and the dispute fades into the past unsolved, though perhaps it may be renewed as history, and fought over again. It disappears because it is replaced by some compromise that, although not wholly acceptable to either side, offers a tolerable substitute for victory; and he who would find the substitute needs an endowment as rich as possible in experience, an experience which makes the heart generous and provides his mind with an understanding of the hearts of others.<sup>73</sup>

Lawyers cannot ultimately be looking for victory, but only for a “tolerable substitute for victory.” The search for this substitute requires the largeness of mind and heart provided by the humanities. It is this perspective on law that relates academic lawyers most closely to the academics of Professor Damrosch’s study of the university.

#### CONCLUSION

There are many reasons for considering the law schools more systematically in an inquiry such as that undertaken in *We Scholars*.

---

pages. We might note that manuals are sometimes cited and that at least one has been anthologized. A *CONTRACTS ANTHOLOGY 12* (Peter Linzer ed., 1989) uses an extract from the *Teacher’s Manual for FRIEDRICH KESSLER & GRANT GILMORE, CONTRACTS* (1970). And note the inclusion of a teacher’s manual as part of the work of the late Walter Gellhorn. See Peter Strauss, *In Memoriam, Walter Gellhorn*, 96 *COLUM. L. REV.* 600, 600 (1996) (stating that “the hundreds of pages of teacher’s manual freely sharing insights and questions that might lead acolytes into the forest”).

71. *LEARNED HAND, A Plea for the Open Mind, in SPIRIT OF LIBERTY* 274 (Dillard ed., 3d ed. 1960).

72. *Id.* at 281.

73. *Id.* at 281-82.

People with doctoral degrees now teach in law schools in some numbers and therefore the traditions of graduate study which have produced them ought to be seen in this context as well as the context of arts and sciences. Law faculty work as University administrators often enough that a sense of how law faculties operate and how law professors think and work should, for the sake of the whole, be included in accounts of the university. The generalist or omniscient tradition is still strong in law schools as to legal subjects and beyond. The law schools provide a laboratory for the question of whether law faculty doing interdisciplinary law and sort of work are actually doing the same thing as faculty who work in the discipline outside the law schools. This is not to say that Damrosch should have written a different book, but is rather to say that this book is so close to these important questions that it seems particularly unfortunate that they were not more fully engaged.

The issue of the extent to which academics are or should be a very small elite and isolated group in society, strikingly evoked at the start of the book with a quotation from *Jude the Obscure*—"Done because we are too menny"—is not much developed.<sup>74</sup> As Damrosch notes, his concern is less with the overproduction of academics than it is with the tendency of academic life to "weed out certain *kinds* of people in general."<sup>75</sup> He believes that we should have "two kinds of scholars where we now have only one"—the isolates.<sup>76</sup> David Damrosch is concerned primarily with the values of the university, and like Sarastro, he wants to lead by friendship to a better place.<sup>77</sup> In addition, however, the book is said to have implications for society. With the suggestion that Tamino the prince is a figure analogous to an academic, we reach issues of cultural politics and the responsibility of intellectuals. Whatever we decide on these questions, and on the question of the relationship of the academy to the larger world, it seems that academic lawyers, who are among those most closely involved with issues of power and governance, should not be omitted from the consideration of the subject.

---

74. DAMROSCH, *supra* note 3, at 1. The issue of "too many lawyers" is, it may be noted, commonly addressed.

75. *Id.* at 147.

76. *Id.*

77. Sarastro, aria 15, "Within these holy bounds, revenge is unknown, and if a man fails, love leads him back to duty. Then he wanders, led by friendship, joyful and happy into a better land." THE MAGIC FLUTE (Decca London Records 1991) (libretto translation at 173) For another translation, see METROPOLITAN BOOK OF MOZART OPERAS 632 (Susan Webb trans., 1991).

