

LAW AND BUSINESS LAW

Distinctions are tools of precision often used for the purpose of achieving clarity of definition. One engaged in the teaching of a given subject should be able to define that subject in such manner as to distinguish it from all others. Naturally, the more two subjects have in common the more difficult it is to distinguish them.

Perhaps every teacher of business law has been asked by a new acquaintance, "Do you teach at the law school?" "No," comes the reply, "I teach in the business school." "What do you teach in the business school?" "Business law." "What is business law?" "Well," It is difficult to conceive of a similar series of questions being asked of colleagues in other fields. There seems to be a dearth of appreciation concerning the field of business law, and it is not beyond comprehension that the word "business" included in the term "business law" sometimes operates as a stigma.

What is business law? Simply to say that it is that part of the law which pertains to business sounds sensible, but is misleading. There is no portion of the law that does not have some connection with business. There is no subject matter offered in the law school that is not included in some business law textbook. The subject matters dealt with under business law bear the same titles as do the courses given in the law school: contracts, sales, negotiable instruments, agency, etc.

What then is the distinction between the field of law and the field of business law? So far as subject matter is concerned, there is no distinction. Even so-called "law for laymen" is still law. There are certain underlying principles in the law that make it impossible for law to be anything but law, regardless of the aims of those who study it. Whether the traditional subject matter approach is used, or the functional approach, the materials gathered and absorbed still come from the same sources and fall within the same classifications. If there is a difference between these two fields, it falls within the respective objectives sought to be accomplished. The law student is following a course of study that will lead him toward the practice of law, while the student of business law has set for his goal a career in business. While the former spends all of his time in legal studies, the latter devotes only a small fraction of his time to the study of law. The one attains legal breadth and depth, while the other acquires an appreciation and understanding of law to such an extent that he can conduct his everyday affairs intelligently, recognize legal significance in transactions and occurrences, know when it is advisable to obtain the services of a lawyer and, it is hoped, carry on his business affairs in an ethical manner.

There remains for consideration the distinction between the professor of law and the professor of business law. It may be said as

a practical matter that both have the same educational background. Yet, one finds himself facing law students; the other, business students. As stated above, both deal with the same subject matter, although the professor of law usually specializes in one or two segments of the law. On the other hand, the professor of business law must keep abreast in many areas. Both might complain of time limitations which make impossible full coverage of subject matter in each course, but the greater task of fulfillment lies with the teacher of business law. Any course of study that is worthwhile requires some depth. Coupled with the fact that the scope of business law is almost without limit, the limited exposure of students to this field makes success seem like only an imaginary ideal.

There occasionally rises a plaintive cry among teachers of business law concerning the matter of esteem. Esteem in education is not achieved by position alone, but by outstanding teaching and scholarly production. Obstacles which hinder regularity in scholarly production do not usually come to the attention of those who reward such production. As between teachers of law and teachers of business law, it cannot be denied that the former as a group, and proportionately if you will, have by far outproduced the latter. Considering the obstacles, the lead is where it should be, but the gap should be much narrower. If, as a group, we who teach business law are to attain the esteem accorded to teachers in other fields, we must supercharge our efforts in the direction of scholarly production.

After many attempts, the American Business Law Association finally launched this Bulletin. One of its fundamental aims was to provide its members with a vehicle whereby scholarly production would be certain of publication. Most of the materials published thus far have come from papers delivered at national and regional meetings. This practice cannot long continue if the Bulletin is to attain prominence. We need manuscripts prepared for printed publication as well as those prepared for oral delivery. A spirit of competition must be engendered if the requirements of quality are to be met. Though law and business law may differ in objective, those engaged in these fields have common ground to till and, therefore, equivalent opportunity to be fruitful in significant scholarly production.

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