

Spring 2006

Dr. Jerome Hall-A North Star in My Life

Lowell E. Baier

Baier Properties, Inc., lebaier@lawbaier.com

Follow this and additional works at: <http://www.repository.law.indiana.edu/ilj>



Part of the [Legal Biography Commons](#), and the [Legal Education Commons](#)

Recommended Citation

Baier, Lowell E. (2006) "Dr. Jerome Hall-A North Star in My Life," *Indiana Law Journal*: Vol. 81: Iss. 2, Article 1.
Available at: <http://www.repository.law.indiana.edu/ilj/vol81/iss2/1>

This Essay is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in *Indiana Law Journal* by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact wattn@indiana.edu.



JEROME HALL LAW LIBRARY

INDIANA UNIVERSITY
Maurer School of Law
Bloomington

Dr. Jerome Hall—A North Star in My Life

LOWELL E. BAIER*



Dr. Jerome Hall

A native of Chicago, Illinois, Jerome Hall was educated at the University of Chicago where he earned his bachelor and law degrees (Ph.B. and J.D., with Order of the Coif). He was admitted to the Illinois bar in 1923, but after accepting a position as a business law lecturer at the IU Northwest campus, soon gave up a lucrative private practice to pursue his newfound interest in teaching.

In the years that followed, Professor Hall actively dedicated his life to excellence in teaching and scholarship in the areas of criminal law and legal philosophy. His academic career continued at the University of North Dakota where he served as a professor of law from 1929 to 1932. He spent the next few years as a Special Fellow at Columbia University and then as a Benjamin Research Fellow at Harvard Law School, earning doctoral degrees in law and legal philosophy from Columbia (Jur.Sc.D.) and Harvard (S.J.D.), respectively. After spending four years at Louisiana State University as a professor of law, he came to Indiana University in 1939. For the next 31 years, Professor Hall continued to distinguish himself as one of the outstanding American scholars in the field of jurisprudence and criminal law. Jerome Hall brought international fame and prestige to Indiana University in 1954 when he was chosen by the U.S. State Department to assist in the legal reconstruction of Korea after the Korean War. He was also an advisor during India's 1968 drive to revise its criminal code. Professor Hall taught at the Indiana University School of Law in Bloomington from 1939 until his retirement in 1970.

After retirement from Indiana University, Jerome Hall chose to continue his active teaching and research career. In 1970, he accepted a position at the University of California's Hastings College of Law as a member of the College's distinguished Sixty-Five Club, a unique portion of the faculty made up of eminent scholars who are invited to teach full-time after normal retirement. As late as 1986, at the age of 85, he was still teaching every day.

Among the numerous awards and honors he received for his commitment to excellence, Professor Hall cited the Frederic Bachman Lieber Memorial Award, awarded him in 1956 by Indiana University for distinguished teaching, as the one which gave him the most personal satisfaction. That award was followed in 1957 with his attainment of the coveted faculty rank of Distinguished Professor. He received honorary Doctor of Laws degrees from University of North Dakota and the China

* J.D., 1964, Indiana University School of Law—Bloomington; B.A., 1961, Valparaiso University. President, Baier Properties, Inc., Investment Builders, Bethesda, Maryland. Remarks presented at Indiana University School of Law—Bloomington upon the presentation of the Dr. Jerome Hall Memorial Bust, April 7, 2005.

Academy in Taipei, Taiwan, was named Honorary President of the Latin American Association of Sociology, and achieved the rank of the Order of San Francisco by the University of São Paulo in Brazil.

Tireless in his research and teaching, Professor Hall introduced his legal theories worldwide. He felt strongly that educational exchange between countries helped advance cultural relations, and supported that conviction through his numerous lectureships in 25 countries. Professor Hall was equally committed to a close association with legal practitioners which he considered essential for sound legal scholars. He was a Director of the American Society of Legal History, and a member of many organizations, including the China Academy, and the American Bar Association where he chaired their committee on law and religion, a topic he became fascinated with in the mid-1970s. He was the first person to hold, simultaneously, the presidency of both the American Society for Political and Legal Philosophy, and the International Association for Philosophy of Law and Social Philosophy.

Professor Hall was a prolific author with much of his work appearing in translation in Europe and Asia. His treatise Theft, Law, and Society was once called the most significant contribution to criminal law. Readings in Jurisprudence was the first comprehensive book in that field in use in the United States and England. His General Principles of Criminal Law was once called by a writer in the Journal of Legal Education "the most important treatise on criminal law produced by American legal scholarship." Eight other books followed during his prodigious career, 109 journal articles and book chapters, and 45 book reviews.

Upon Jerome Hall's death at age 91, the Hastings' Law Dean said, "Hall's contributions to American law are legend. He leaves a large body of scholarship for future generations. And lest it be forgotten, he will be remembered as well by several generations of lawyers who revered him as a great teacher."¹

In January, 2005, I reached the landmark age of sixty-five. It caused me to become deeply reflective of the major components of my life and career, of my achievements, and of the factors and people that motivated me throughout.

I was raised both in northern Indiana and Montana, where my grandfather homesteaded in 1915. In my travels with Granddad in the Western states, I was struck early on by how you always knew where you were by the orientation of the surrounding mountain ranges and peaks. Even if you are not paying attention, you always subconsciously or subliminally know where you are, and how to navigate in the mountains, whereas in northern Indiana or a big city—like Washington, D.C., where I now live—orientation points are not as obvious as the mountains of the West.

Life is like a journey through the mountains where you need to hold fast to a few orientation points, or "North Stars," that are forever with you as you pass from year to year, decade to decade, through life's peaks and valleys. Dr. Jerome Hall has remained for forty years one of the "North Stars" in my life.

I had the rare privilege of being one of Dr. Hall's few research assistants for two years. During that two-year period, Dr. Hall taught me how to think logically and

1. This text, by the Author, is engraved on a plaque accompanying the Dr. Jerome Hall Memorial Bust in the lobby of the law library at the Indiana University School of Law-Bloomington.

express clear, concise concepts and issues. Dr. Hall was a genius, educated and cultivated in jurisprudence, philosophy, psychology and ethics. He earned two doctorates—one in law from Columbia, the other in philosophy from Harvard—to complement his undergraduate and law school degrees from the University of Chicago. His life was dedicated to original thought in the science of psychology and the jurisprudence of criminal law; he authored 11 books, 109 journal articles and book chapters, and 45 book reviews. His life was truly a journey of the mind and spirit, because for him the law was an interdisciplinary study of people and the human interface.

This profile of a genius and what influence he would have on my life was not apparent when I went to work for Dr. Hall. What I thought I needed was a job to pay for my education. What I got was a “North Star,” which I have used to guide me through my life and career for the last forty years.

Dr. Hall was demanding and tough. He stood just over six feet tall, weighed about 180 pounds, was erect with an imposing bearing, wore thick black horn-rimmed glasses, and had a shock of gray hair. He was always impeccably dressed in a pressed suit and vest, with a starched white handkerchief in the jacket pocket. In his office, he always had a curved pipe in hand as he smoked, thought, and rocked in his office chair. Dr. Hall had a firm demeanor and a stare that made one “shrive!” when he was disappointed in your work. He could look right through you. He never raised his strong voice, never swore, and never made small talk. He was all business.

The office was remote and solitary, up on the third floor, at the end of the long hall in the rear corner of the building, with tall leaded glass windows overlooking the woods. It had bookcases on every wall, running floor to ceiling; they were always overflowing with books and manuscripts. Projects were always neatly arranged on his huge desk. He also had a separate conference table for the most recently reported, yet-to-be-briefed cases and his other current research projects. A large, thirty-inch rotating globe of the world on a massive oak stand dominated one corner. The scent of rich, aromatic pipe smoke always hung in the air.

My job for fifteen to twenty hours every week was to brief the latest reported criminal cases of note that Dr. Hall selected. My first experience will give you some insight into how Dr. Hall’s mind worked, and why he quickly became my mentor and a North Star, his lessons being the constellation of stars he imparted to me.

Dr. Hall gave me one case to brief, thirty or thirty-five pages long. I briefed it into a five-page text and, proud of my analysis, presented it to Dr. Hall. Seated behind his giant desk, rocking with his pipe, he briefly looked through it, and asked me, “What is this?” After I responded with some apprehension that it was the brief he asked for, he handed it back to me and said, “I asked you for a brief that tells me what the case stands for. I didn’t ask you to rewrite the court’s opinion. You are capable of a better job than this!” He followed this statement with his silent and penetrating stare.

I left the office chagrined and puzzled. For the next two days I labored over a rewrite of the brief, distilling it down into two pages. I presented it to Dr. Hall with great apprehension, and again he handed it back as before, telling me that all he wanted to know is what the case stood for, and admonished me that I could do better. And again he gave me his silent stare.

This episode repeated itself two more times as I rewrote my brief and got it down to one paragraph on a half page, at which point Dr. Hall again admonished me to tell him what the case stood for—in one word. Distill the court’s opinion into one word. That instruction demonstrated the microscopic power of Dr. Hall’s mind and his analytical

approach to the law. For the next two years, I struggled to analyze opinion after opinion, distilling each down to the very essence of the deciding issue and the one word that the case stood for.

Upon reflection over these past forty years, I am often reminded of the quote, popularly attributed to King Henry II, admonishing Thomas Becket, then the Archbishop of Canterbury, that “the prospect of being hanged tends to narrow one’s focus.”² And so it was working under Dr. Hall’s tutelage.

That first terrifying experience quickly taught me the power of the written word, and how complex thoughts and concepts can be distilled into concise, simple words. And it taught me how one can narrowly focus the mind like a microscope to distill the very essence from our native language; how the power of one or a few words from a focused, disciplined mind can convey thoughts so powerful that they control the course of the judicial thought process that governs our republic. That was North Star Lesson Number One.

A second orientation lesson Dr. Hall taught me was the power and use of dialogue and debate as a tool to get to the essence of an idea. Dr. Hall would on occasion have me be his foil, and debate with him a new idea or thought he had conceived. He would have me probe and dissect his idea through dialogue to find unresolved elements or false conclusions or faulty premises. Then we would reverse roles and I would defend the idea until his considerable intellectual skills would overrun my defenses. These debates often occurred late in the evening as he rocked in his chair and drew on his ever-present pipe.

I discovered how easy it is to deceive oneself with original thought, without exposing it to vigorous debate and open critique, and how this public process distills an idea or issue down to its core. Remember this in your hallway dialogues and your coffee sessions: the dialectic process is critical to your education and career because it shapes a logical, analytical mind. That’s North Star Lesson Number Two: sharpen an idea like an arrow through debate and dialogue.

The third lesson Dr. Hall taught me was a work ethic and high commitment to a chosen profession. To be a complete, focused professional, one’s life must be balanced. To develop a steadfast personal commitment of excellence in your chosen profession, you must learn a work ethic that itself requires a commitment of seventy to eighty hours per week. I have discovered over these past forty years that the harder you work, the luckier you get.

Dr. Hall’s office lights were never dim. He would arrive by eight or nine o’clock, six—sometimes seven—days a week, walk home for dinner, and return to work well into the night, reading, writing, and thinking. Never during the two years I worked for Dr. Hall were his office lights off when I passed by late at night. Late one night when the library closed, I recalled I had left a book in Dr. Hall’s office, and went to retrieve it. I surprised him deep in thought, and as I quickly left, he asked with a sly smile, “Is it lunch time yet?” He did have a dry wit.

His personal commitment to his chosen profession was evident in his lecturing across this continent and the world—he lectured in some twenty-five countries. He

2. The quote originates from JAMES BOSWELL, *THE LIFE OF SAMUEL JOHNSON* 849 (Oxford World’s Classic ed., Oxford Univ. Press 1998) (1791) (“Depend upon it, Sir, when a man knows he is to be hanged in a fortnight, it concentrates his mind wonderfully.”).

loved to dialogue and colloquy with students and with his peers in the law, and freely gave of his time and talents to the world. This was another perspective of Hall's mentorship: give others time and attention, and thereby pay back the world for the rewards it gives you. He restructured Korea's criminal code after World War II, and India's after British colonization ended. That dedication and commitment to hard work and paying back was at the core of Dr. Hall's Lesson Number Three.

But Dr. Hall believed in a balanced life. He was not all work. He loved opera and encouraged me to partake of the music department's performances here on campus. My love of opera—inspired by Dr. Hall's encouragement—continues to this day.

One of my favorite spots in the world is Tuscany, with its wonderful hill towns; that romance began with a lecture series in Bloomington on the Etruscans and their early civilization. Again, I attended this with Dr. Hall's encouragement. He suggested I take advantage of the many opportunities the campus offered. That was Dr. Hall's Lesson Number Three: dedicate and commit yourself to hard work in a chosen profession, paying back the world for the rewards it has given you, and provide time for yourself to enjoy the best that this world has to offer.

Lesson Number Four was to "think out of the box," to take the intellectual chance of exposing original thought to public debate and challenge. Dr. Hall did this in his early book, *Theft, Law and Society*, and in the succeeding years he rewrote America's view of the concept of mens rea, or intent, as we know it today, and redefined motive in criminal jurisprudence, just to name some of his original contributions.

Let me share with you another personal story of how Dr. Hall's "think out of the box" mentoring impacted me while I was still a law student. My undergraduate focus was economics, and during law school I did a summer internship at the Federal Trade Commission in Washington, D.C., studying the application of antitrust legislation first hand. Following my course work here in antitrust, I became interested in the Antidumping Act, an arcane but powerful foreign trade law enacted in 1921, which our government and American industry used to keep foreign imports from being sold here below their fair market value; that is, you cannot "dump" your goods here below their fair value and injure competitive American manufacturers.

My antitrust professor, Dr. Ralph Fuchs, and Dr. Hall both encouraged me to write what became a doctoral dissertation on a novel idea I had conceived. The Treasury Department and Tariff Commission that enforced the 1921 Act had no real consistent standards of jurisprudence to interpret and apply the law in their forty-three reported cases. Their standards varied over the years from Republican to Democratic administrations. And yet our own federal courts had established clear interpretations of standards in the Robinson-Pattman Act, Clayton and Sherman Antitrust Acts; the very same standards were called out in the 1921 Antidumping Act.

So I proposed as an original thought this question: why not take our domestic interpretations of the same standards legislated and consistently applied in our Sherman Antitrust Act, Robinson-Pattman Act, etc., and apply them to the 1921 Antidumping Act? The issues and definitions of "fair value," "predatory intent," "competitive injury," and "likelihood of future injury," just to name a few of the standards, were the same.

I wrote the dissertation, analyzed and reinterpreted the forty-three reported cases, and began to get some very positive feedback from members of the professional bar in Washington, D.C. that worked in the foreign trade law arena. My notion was quickly characterized as "novel," "original," "revolutionary," and "challenging." Dr. Hall urged me to publish the dissertation.

Although I had not been selected for law review, I asked the editor to publish my work anyway. He said, "No thanks, you're not a member of the law review team." However, with Dr. Hall's encouragement, I submitted my article to the *Stanford Law Review*, which published it.³

I'd done the same thing a year earlier with Dr. Hall's encouragement, after a colleague and I had won the annual Sherman Minton Moot Court competition in 1963. I turned the brief into a law review article, and when the *Indiana Law Journal* declined to publish the article I sent it to the *St. Louis University Law Review*, where it was published with great enthusiasm.⁴ Although I had never been on law review, I had two law review articles to my credit when I graduated from Indiana University School of Law-Bloomington.

That's called "thinking out of the box," and that's what Dr. Hall's mentoring taught me: be original and dare to take an intellectual chance. In fact, the *Stanford Law Review's* publication of my antidumping dissertation gave it even greater currency. The Congress was holding hearings that summer on the Antidumping Act, and they got hold of my dissertation and used it to criticize the Tariff Commission for their prior inconsistencies of interpretation and application. My article became the catalyst for a whole new interpretation of the 1921 Act, which was applied thereafter, and remains so today forty years later.

Coming up with this novel idea was one thing, but doing a doctoral dissertation and then going outside the traditional "box" to get it published, and then making a significant impact on the application and interpretation of a major foreign-trade law, would never have been realized without the encouragement and mentorship of Dr. Hall. That was North Star Lesson Number Four: dare to take an intellectual chance and think out of the box. Chicago architect Daniel Burnham put this another way when he said, "Make no little plans . . . for they have no magic to stir men's blood!" To this I'll add a quote by the Alaskan adventurer Norman Vaughan: "Dream big and dare to fail."

Dr. Hall's lessons to orient me through life could continue, but why do I share these lessons? I do it to encourage you to open your eyes to receiving a mentor or two in your life, or to become a mentor to another.

Why is this important?

As noted throughout this Essay, mentors teach lessons and give orientation points, North Stars or landmarks to guide you through life. But there is a whole other level besides the obvious I have not yet touched on that affirms the need for a mentor—the subconscious level of recall and nurturing of the soul so critical to development. A good mentor's lessons will be recalled in the depths of that still-small voice in your subconscious memory later throughout life, something I didn't fully appreciate until reflective moments much later.

Mentors affirm, nurture, and nourish you through your achievements and progress in your studies. Their affirmations validate and legitimize your very being, sense of purpose and place, and position in life. Mentors lift you up and reinforce your endurance and commitment to get through your studies and preparation for a professional career. And then, when life knocks you down (and it will—there's no

3. Lowell E. Baier, *Substantive Interpretations Under the Antidumping Act and the Foreign Trade Policy of the United States*, 17 STAN. L. REV. 409 (1965).

4. Lowell E. Baier, *The Developing Principles in the Law of Unauthorized Practice re Real Estate Brokers*, 9 ST. LOUIS U. L.J. 127 (1964).

escaping life's travails), a good mentor's early affirmation and nurturing and validation of you as a person buried deep in your subconscious will give you the strength to get up, fight back, and keep moving. Life and career are games of skill. Life is a contact sport, full of bumps and bruises and scary, sometimes terrifying moments. Let me share with you one of these moments.

When I was fifty and at the height of my building career, I took one of those body blows. In the early 1990s, we had a major economic meltdown in the commercial real estate development industry, an economic catastrophe that destroyed our building industry and many of its players. As one of my survival weapons, I was forced to sue the biggest bank in Washington, D.C. for breach of contract and civil fraud, and—after six years—I prevailed.

But during the six-year period of intense litigation my real estate portfolio melted down, and I spent \$4 million in legal fees to survive, losing two-thirds of my net worth, which I had built from nothing over thirty years. Notwithstanding my victory, my health and wealth were dwindling, substantially reduced at the end of the fight.

But Dr. Hall and other cherished mentors continued to talk to me deep in my subconscious and consciousness throughout this six-year ordeal. The validations and affirmations they'd given me here at I.U. and elsewhere in my career became loud voices encouraging me to get up and keep fighting. I did, and I survived a major economic and personal crisis that destroyed many of my colleagues in the commercial real estate development business.

When I recall this experience, I am often reminded of a biblical verse from the Old Testament book of Proverbs 27:17, "As iron sharpens iron, so one man sharpens another." Dr. Hall did that for me. He gave me an inner moral compass that became a small voice of reassurance, validation, and hope, buried deep in my memory, that enabled me to survive a major catastrophe.

There is more to an education than book learning. What I am referring to cannot be found in books. Books provide food for the intellect and the mind. I'm talking about "soul food," and your mind is attached to your soul. That is its very foundation. And that's why Dr. Hall's mentorship was so powerful—he had degrees in both law and psychology and understood the connection. Later in life, Dr. Hall's inquiring mind added a third element to this interface—religion. He became fascinated with how law, psychology, and religion were connected. The lawyer's soul is at this very interface between law, psychology, and, yes, religion. Books feed the mind, but the mentor feeds both the mind and the soul, and Dr. Hall did that for me.

No one is created perfectly, and there are no perfect parents. At birth our souls are like a window pane, sparkling and crystal clear. During infancy, early childhood development, and puberty, the clear glass gets "nicks" and "dings," or gets clouded from a sometimes toxic upbringing, or is even shattered from abuse as a child. The small inner child within each of us is profoundly in need of unconditional love as well as nurturing and attention—lots of attention. We all hunger at the depths of our souls for reinforcement, repair, comfort, and validation both in early adulthood and throughout life (all the more so in the depths of life's struggles). That's where mentors come in.

They provide nurturing and validation during the actual mentoring process, and then afterward, from the orientation lessons they teach us that get imprinted on our minds like transistors on a microchip. There are certain universal truths and lessons we all need to learn, but the universe rarely speaks to us directly. None of us are Abraham, Moses, or Mohammad. The universe speaks to us through others, and mentors are

those who speak to us. They are the messengers of the truths of the universe. The true mentors I'm talking about are not public figures who you watch on television or read about in the newspaper. Those are role models, not mentors.

True mentors are those you interact with personally. They cultivate your mind with critique, constructive review, and positive feedback. They freely give you lots of time and attention. True mentors are never judgmental or harsh with criticism. They provide a sound moral compass for orientation throughout both a life and a career. They nurture within us a sense of good will, positive expectation, and hope. They are your teachers, your bosses, and your colleagues. They are typically older, but some are younger. My partner, for example, is twenty years my junior, and very much a mentor to me today on how to live a balanced life, how to be more effective in life, and how to give back to the world the rewards it has given me.

Identify the mentors who will teach you the orientation lessons you'll need. These mentors and their lessons will become your North Stars. Once you've found them, spend time with them—real time, quality time—not just today, but come back and visit them over the years. The repeat visits will give you continued reaffirmation that will enrich and enhance your life.

One day it will be your turn. Give that struggling student or associate your time, attention, and the constellation of stars that have oriented you in your journey through life. The secret of happiness is in giving and sharing—you reap what you sow. As Sir Winston Churchill said, "We make a living by what we get, but we make a life by what we give."

Over the years I've concluded there are two types of people: givers and takers; leaders and followers. Become a North Star, and pass on to others the nurturing, validation, and encouragement your mentors passed on to you. That's what Dr. Hall did for me. So when you look at his bronze bust out in the law library, remember him both for his scholarship and his mentoring. He was a giant in both.