

by David Ray Papke*

When I stepped from the Wall Street station of the Lexington Avenue IRT, my mind jumped ten years backward in time to an associateship after my second year of law school. What a summer that had been, with a nascent critical consciousness battling daily against the national law school's assurance that the corporate firm was the pinnacle of the legal profession. The consciousness had won, but life "on the Street" still had an aura about it. My destination was the firm of Hawkins, Delafield and Wood where novelist, cultural critic and trusts and estates lawyer Louis Auchincloss had agreed to be interviewed.

I strolled past the Stock Exchange to an old, grey office building at 67 Wall Street and then rode the elevator to the twelfth floor, one of four occupied by the firm. The receptionist offered me a seat amongst the pieces of spindly furniture, and before long Auchincloss' personal secretary appeared. Leading the way to his office, she chatted about inflation's ravaging effect on estates--politely topical conversation in a "T and E" setting--but when we reached the office, her face showed concern. "I hope Mr. Auchincloss hasn't forgotten the appointment," she said. "I'm afraid he might be uptown."

I looked about the corner office, uncertain what to do. The cluttered desk stood on a diagonal with chair facing the bowels of the firm rather than the walls of windows. Cardboard boxes of Auchincloss' books--Powers of Attorney, Reading Henry James, Life, Law and Letters--were pushed against the walls.

As I peeked through the glass door of a bookcase, the room's proprietor strode into the scene. Shedding his suit coat and circling immediately to his desk chair, Auchincloss seemed fit for 64 years. His tortoise shell half-glasses called attention to the aquiline features of his face. When I mentioned his secretary's

*Rackham Fellow in American Studies, University of Michigan.

fears that he had forgotten the appointment, Auchincloss snapped, "I take appointments seriously. It's 2:30, and I said I'd be here at 2:30." Luckily, the tape recorder needed fiddling, and a few moments passed before our conversation officially began.

Papke: Were you torn as a young man between being a lawyer and being a writer?

Auchincloss: Yes indeed. I can remember an incident at a cocktail party when I was an associate at Sullivan & Cromwell. I mentioned to a wife of a friend of mine that I was still undecided whether to be a lawyer or a writer. She looked at me with astonishment and said, "Well, don't you think you're rather a big boy now?" It shocked me, and shortly thereafter I did make a decision. From 1951 to 1953, for about two and one-half years, I gave up the practice of law, and that's the only time since I graduated from law school, except for the war years, that I haven't practiced. However, it didn't work, at least in the sense that I didn't produce any more literature and I made a lot less money. In the end I decided this either-or business existed in the minds of other people but did not have to exist in my own. That made life a good deal easier.

Papke: Is it possible for the lawyer and writer to be one person?

Auchincloss: No, I don't think so. I'm very much a maverick, and I would not recommend my own course of action to anyone else. The law is too demanding, and there's nothing in common between getting out a brief, a trust indenture or a mortgage and creating a work of fiction.

Papke: Both lawyers and writers, at least good ones, have to be skillful in the use of language.

Auchincloss: To be sure, but the use of language is common to almost all activities. An accurate use of language represents an accurate use of thought.

Papke: Are there moments in your work when your legal self gives your literary self a boost?

Auchincloss: There were certain books I wrote--Powers of Attorney, The Partners

and The Great World and Timothy Colt--which were strongly related to my day-to-day practice of law. The practice of law was a great stimulant in those books as a subject and as the source of characters and situations. But that's very largely ceased. I recently wrote two short stories based on legal situations, but I don't draw on my legal experiences as much as I used to.

Papke: Are there times in your legal work when you use skills which you have developed as a writer?

Auchincloss: No, I would say never. It may happen in some ways, but there are no ways I can trace or of which I am aware. In fact, I have a tendency to keep these things apart. I always sign my opinion letters "Louis S. Auchincloss," but for my books I drop the middle initial. In my legal work I dictate rather than write, but when I'm doing my literature, I almost always write.

Papke: Your insistence on separate and distinct professional lives surprises me. In A Writer's Capital, your autobiographical work, you compared appellate opinions and short stories, and that made me think you perceived an overlap between law and literature.

Auchincloss: I said in A Writer's Capital that when I was a law student at the University of Virginia I was relieved to find decisions seemed like short stories. But that was the reaching out of a frustrated writer who wanted to feel that even in law school he hadn't gone too far from his original course. One's perceptions change after one graduates and starts getting the work out on the long hour. Today I should very much doubt there is any significant interrelationship between law and literature.

Papke: Does the law school experience itself have much in common with the practice of law?

Auchincloss: I feel my law school days were totally and completely different from the practice of law. Law school is a cloistered life. You have no clients, no partners, no associates. I was quite happy there and have in many ways been happy practicing law, but the two experiences are quite different. I might compare the law school experience to being a judge but not to practicing law.

Papke: Do you think law schools do a good job? Is law taught the way it should be taught?

Auchincloss: Law is basically being taught about as well as it can be taught. It's a lot of rough stuff, and it just has to be gotten over.

Papke: Some felt in the 1970s that legal education should shoulder part of the blame for Watergate.

Auchincloss: Well yes, there was a feeling that a lot of lawyers had been involved in Watergate, but those men would have been just as naughty regardless of how law school was taught. Mr. Nixon himself was barely a lawyer. He hardly ever practiced in his life. If he had gone to business school, he would have been just as bad, and I should think he was bad before he started law school. What can law schools do about badness? Teach a class in morals? Who'd go to it?

Papke: It would have to be a required course.

Auchincloss: Indeed. These things go infinitely deeper. The immorality of Watergate, my God, was incontestable and common to our society particularly at that time and I think still. But to blame it on law school and lawyers is to be very trivial.

Papke: Should the law schools use literature in their curricula?

Auchincloss: John W. Davis and Felix Frankfurter used to say that the pre-law student should study English, English and more English, but I don't think that course of study should continue in law school itself. Instead, the schools might require entering students to have more grammar and literature in their undergraduate course of study. If I were dean of a law school, I would prefer students trained in English to those trained in economics.

Papke: Are you content with the way literature is taught?

Auchincloss: I loved my courses in English and French Literature at Yale, but I haven't taken any literature courses for a very long time. How well is literature taught at Yale today? I really couldn't say, although I'm aware it's a very controversial subject. Elizabeth Hardwick calls the Yale English Department the Yale football team.

Papke: Are the college years the right time to study literature?

Auchincloss: Yes, I should think they are the best time. It doesn't mean it's too late after that, but between the ages of 16 and 22 the pores are the most open. Those are the most romantic and most sexually intense years, and during those years the reading of literature is a special experience.

Papke: How should writing, as opposed to literature, be taught?

Auchincloss: I think you can teach anybody to write good, concise English, but I do not happen to believe you can teach people to write fiction or short stories. Most writers I've known who have taught writing have quite candidly done so for the money or for the occupation. Indeed, writing schools are a conspiracy of hypocrisy. They are useful primarily to the professional writers who teach in them, and I've heard that often said quite cynically at cocktail parties by well-known writers. The best a writing teacher can do is help somebody with a creative capacity to get it out. In Henry James' novel The Tragic Muse the old French actress says to a woman who wants to become an actress, "Somewhere you have a voice. It's a question if we can find it." That woman had a voice, and indeed it was found. I dare say in a creative writing course the best the teacher can do is get the talent out from under, out from where it has been smothered.

Papke: In Life, Law and Letters, your recent collection of sketches and essays, you write fondly of Cardozo's exciting, elusive, almost mystical opinions. Do you think Cardozo could have been a great novelist?

Auchincloss: That of course is pure speculation, but I do feel Cardozo might have been a novelist manqué. There's something about his personality and highly individual way of doing things, and here and there I find a sentence which seems a stray from a novel or short story. But Cardozo is the only great judge about whom I would have thought that. The others were very properly judges. I never sense the novelist manqué in Felix Frankfurter or in Learned Hand and certainly never in Justice Holmes. A sentence from Justice Holmes could be found only in an opinion by Holmes, which is of course right and good.

Papke: Often the seductiveness of Cardozo's opinions depends more on his style and creativity than on the tightness of his arguments.

Auchincloss: Yes, Cardozo has tremendous charm with language, and although in recent years there has been a feeling that his prose is a bit heavy and self-conscious, I still like it.

Papke: Are there writers who could have been lawyers or judges?

Auchincloss: I'm not sure there are many. One feels Trollope might have been a damned good lawyer. His lawyers are so good and speak so well. Also, one could imagine Dickens as a rather dramatic litigator. But it's harder to make the speculative argument in this direction.

Papke: Dickens was in a way a public interest literatus. His novels are frequently cited as proof that literature can accomplish social goals.

Auchincloss: I think people who feel literature ought to be accomplishing social goals are tiresome. I find myself very bored by that whole school of thought. Literature is what it is, and its effect or its advantage or disadvantage to people as a whole seems to me totally unimportant. It's a necessary part of the social fabric, of life and of civilization for certain people, and whether it's ultimately for the good or the bad, I couldn't care less. To argue otherwise is like saying a dentist who fills your tooth accomplishes a very bad thing if you're a bad person.

Papke: But surely different types of literature have different social results.

Auchincloss: I don't think there are many social results from literature. To begin with, serious literature is known by too few. It's certainly impossible for me to believe Saul Bellow will have any effect. He's really not read by that many people. And cheap literature doesn't have anything to say. You can't believe Princess Daisy is going to have much of an effect on our current civilization, and yet that's a widely read book.

Papke: Do elite art and mass art provide different rewards?

Auchincloss: I don't think the phrase "elite art" is very helpful. I suppose you

mean "obscure art" or "difficult art," which may be very lousy or may be very good. There's always been a certain amount of difficult art which people are not going to reach for. Certainly the later novels of Henry James appeal to only a small number of people, but I don't think that means they're "elite." There's no suggestion that the readers are any better off. It's like developing a particular palate for a particular wine. It's a particular aesthetic experience and few people have it, but to say it's elite is a put-down. It does not help define what the art is. There's always a great deal of art--literature, poetry and everything else--which is quite readily available for anybody who wants it.

Papke: A few years ago I used Powers of Attorney, your collection of short stories set in the Wall Street law firm of Tower, Tilney & Webb, in a course about the American legal profession. Although the work is fiction, it proved a good introduction to corporate law firms.

Auchincloss: I took two stories from that book recently and made them into a play for Channel 13, but I found in doing the stories I had to start almost from scratch. I like the stories in Powers of Attorney, but they certainly do date. The stories were written before we knew what a word processing machine was, before we'd even heard of Lexis. The entire attitude of associates toward partners and so on certainly has changed. The stories were inspired by my practice, but today the book is almost an historical document.

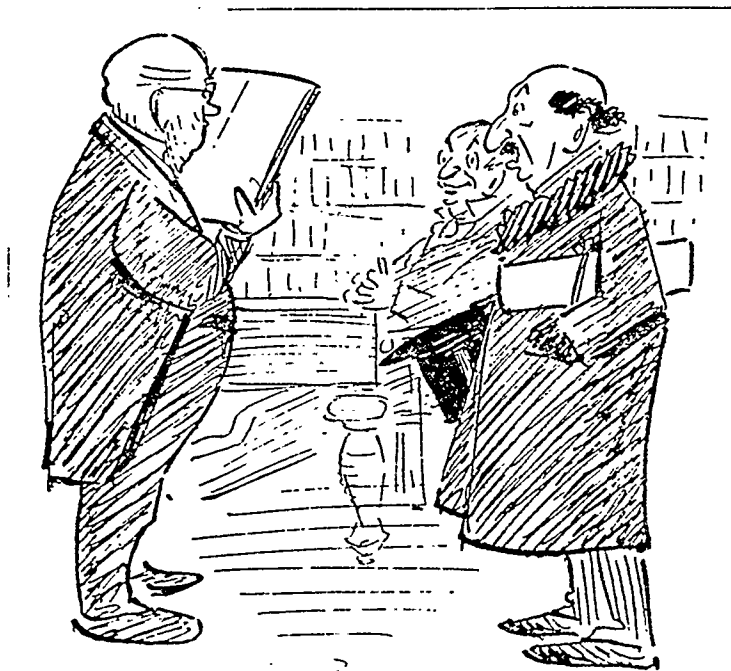
Papke: I think the book says a great deal about comprehending hierarchy and about dealing with real or imagined prejudice.

Auchincloss: Oh yes, everybody wants to believe there's some way of making it other than just plain disgusting hard work. There's a fear of losing a nice big ladder all full of prejudices which can be understood and utilized. My God, what if somebody became a partner just because somebody liked him? How can you plan in a world like that?

Papke: I recall the story "Powers of Suggestion" and the young associate Jake

Platt who keeps a secret file listing the states of origin, law schools, religions and social background of all the attorneys in his firm. The file reminds me of the charts recently produced by an attorney suing a prominent Wall Street firm which had refused to make him partner.

Auchincloss: The attorney said he was discriminated against because he had an Italian background and was a Roman Catholic. It might have been true in 1895. Today the plaintiff himself could inspire a character for a short story. I can just see it: An associate struggles to make partner. He is disappointed and embittered when the firm rejects him. He fights through the bitterness and sees he was not the victim of discrimination. And then finally he asks, "But why wasn't I discriminated against?" When people feel themselves losing their ethnic identity, they become angry that there isn't discrimination. It's better to have someone be down on you because you are a Roman Catholic than to have somebody not know and not care. A world in which everyone is the same is a terrifying thought.



THE ZEALOUS CLERK WHO OVERDID IT