

Legal Education in the United States.*

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IN Mr. O'Brien's interesting Life of Lord Russell, which has recently appeared, the writer speaks of the latter's great interest in the subject of legal education, and of his unsuccessful efforts to reform the system as it exists in England. He quotes from an address which Lord Russell delivered on the subject, and adds: "But nothing came of his address, and the question of 'legal education' still belongs to the future."

English lawyers have long conceded the superiority of the advantages which the United States afford to students who seek an education in law.

Throughout the colonial period no law schools existed in America, and the law was studied in the offices of the lawyers. In those days the lawyers were not so busy as to prevent their giving personal attention and supervision to the young men who read under their guidance and direction.

The first law school established in America was founded in Connecticut in the famous old town of Litchfield,—made famous by this fact. The school was opened in 1784 by Tapping Reeve, who afterwards became chief justice of the state. Judge Reeve was a graduate of Princeton, and married a sister of Aaron Burr. His school attained great reputation throughout the country, and many who afterwards became eminent in the profession obtained their legal education there. The school was closed in 1833, and the number of the students

it enrolled during its existence was 1,024. Judge Reeve was sole instructor till 1798, when he associated with him James Gould. Gould, who was born in Branford, Connecticut, was a graduate of Yale, and served at Yale as a tutor from 1793 to 1795. He pursued his law studies in the Litchfield school, and became a judge of the supreme court of this state in 1816. The law school was conducted in a modest one-story building, which, I learn, is still standing, though in a dilapidated condition. It does not occupy its original site, having been removed to the outskirts of the town, where it is used as a dwelling; its occupants being persons of color. Judge Reeve is said to have been the first eminent lawyer in this country to advocate a change in the laws regarding the property of married women. He was the author of the well-known work on the Domestic Relations, as James Gould was of the work on Pleading, which is regarded as a classic in the law. The Litchfield school was never incorporated, and conferred no degrees.

The second law school in the United States was that established at Harvard in 1817. Harvard, however, has the distinction of being the first law school in the country to be established as a department of a university.

The Yale law school dates from 1824. The college catalogue for that year contains for the first time the names of law students. It seems to have been an outgrowth of a private school conducted in New Haven by Mr. Seth P. Staples, and then by Judge Samuel J. Hitchcock

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and Judge David Daggett. It was, I believe, the second law school in the United States to be established as a university department.

But before the law schools were established law was taught to some extent as a culture study in the colleges. Thus William and Mary College established in 1779, through the influence of Jefferson, a chair of law. The successive incumbents of this chair taught the law continuously from 1779 till 1861. The University of Pennsylvania established a professorship of law in 1790, and Mr. Justice Wilson of the supreme court of the United States gave a course of lectures on this subject. His instruction continued for a year or two, when the chair became vacant, and so remained till 1817. Columbia established a professorship in 1793, and Chancellor Kent was selected as its incumbent. In 1798 he retired, and the chair remained vacant till 1823, when Kent, who was a graduate of Yale, was again chosen to fill it. He served till 1847. From that time there was no instruction in law at Columbia till the law school was opened in 1858. The corporation of Yale established a professorship of law in 1801, and from that time till 1810 law lectures were delivered from time to time by Hon. Elizur Goodrich. Mr. Goodrich was a graduate of Yale, was a member of congress, judge of probate for seventeen years, and judge of the county court for twelve years. Harvard does not appear to have made any provision for law instruction till 1815, two years before its law school was established. But Dartmouth established an academic professorship of law as early as 1808.

The list of those who have given instruction in law in the schools of the United States contains the names of many eminent men. Among them may be mentioned Mr. Justice Wilson and

Mr. Justice Sharswood, of Pennsylvania; Chancellor Kent and Theodore W. Dwight, of Columbia; Chancellor Wythe and St. George Tucker, of William and Mary; Mr. Justice Cooley, of Michigan; John B. Minor, of the University of Virginia; Mr. Justice Story, Greenleaf, Washburn, and Parsons, of Harvard; and John Randolph Tucker, of Washington and Lee University. It is not necessary to make mention of the living, and the names of the distinguished men who have taught at Yale are familiar to our student body.

In 1850 there were very few law schools in the United States, and as late as 1870 the number was only 28. Recently there has been a phenomenal increase in the number. In 1880 there were 48, in 1890 54, and in 1901 100. But even now the number of law schools is not as large as the number of medical and theological schools. In 1899 there were in this country 163 schools of theology, and 151 schools of medicine.

The increase in the number of students studying law in the law schools has been equally remarkable. In 1870 the number, according to the statistics of the United States Bureau of Education, was only 1,653. In 1880 it increased to 3,134; and in 1890 to 4,518. But in 1900—the last statistics available—the number enrolled had increased to 13,037. No similar increase took place in the schools of theology and medicine. From 1875 to 1899 the number of students in the professional schools of the United States increased as follows: In theology, 58 per cent.; in medicine, 177 per cent.; and in law, 343 per cent.

We have in the United States certain "correspondence schools" of law. There are three in Chicago, and one each in Washington, Detroit, and Indianapolis. They are the outgrowth of the university extension idea, which originated some

years ago in England, and was soon adopted in the United States. In England the idea has been applied, to some extent, to the teaching of law, there being a kind of tutorial instruction by post in that country. In the United States the mercantile value of the idea was recognized by some young men who have applied it to legal education. Correspondence schools of law do not merit, and have not received, the confidence and approval of the profession. It has been pertinently said that there is no place like home for one whose study of the law begins and ends at home. His practice would better be confined there also.

Instruction in the law was first given by means of lectures. This was due chiefly to the fact that in the early days there were no suitable books which could be placed in the hands of students, and the adoption of this system was in the beginning a matter of necessity, rather than of choice.

In the course of time suitable treatises on the various branches of legal study appeared, and were adopted in some of the schools as text-books. Theodore W. Dwight used this method with great advantage in the Columbia law school, and the system of text-book instruction came to be known as the "Dwight Method." It is a mistake, however, so to call it. It was used in the Yale law school years before Professor Dwight used it at Columbia. He studied in the Yale law school, and believed thoroughly in the Yale system. The study of law through text-books accompanied by oral exposition may properly be called the "Yale Method," inasmuch as it was employed here long before any other law school in the country adopted it. Professor Dwight never made claim to being the originator of the "Dwight Method."

The next method to be used was that of the "case" system. This is sometimes referred to as the "Langdell Method," being named for Professor Langdell, who became dean at Harvard in 1870. He at once introduced the system of studying the law through cases. The idea was his own, and the system a new one. It was at first regarded with much distrust, but has since come to be recognized as having decided merit, and has been adopted to some extent by many schools. Langdell declared that law was a science, and that, like other sciences, it was to be learned by going to the original sources. The cases to be studied are those which show the development of the leading principles of the law, and they are to be studied in their chronological order.

It is no part of my purpose to enter upon a discussion of the respective merits of these different systems. Yale makes use of each of them, and thereby recognizes the merits of each, and puts itself on record as believing that the three used in conjunction are superior to any one used alone.

There are some subjects to which the case method can be applied with greater advantage than it can to others. Thus, contracts and torts can be taught by cases more readily than the law of real property. It is claimed there are three millions of distinct principles in the law. If the student had to acquaint himself with these principles solely through a study of cases, life would be too short to accomplish the herculean task. It is only fair to Mr. Langdell to say that, while he concedes the number of principles are many, he asserts that the number of fundamental principles are few, and these he believes the student can master by his method. Yale cheerfully concedes the advantages which the student derives from a study of cases,

but has not deemed it wise to adopt the case system to the exclusion of textbooks and lectures.

The law schools of the United States prescribe no uniform requirements governing the admission of students. It is hopeless to expect that the schools for years to come will arrive at any common understanding on this important subject. At the present time no school makes it an absolute condition that the student should possess a college degree. Harvard announces that "persons who have never received a degree, but who have attained the age of twenty-one years, will, in rare instances, be admitted as special students by special vote of the faculty." Such students cannot obtain the degree at Harvard unless they obtain in the examinations of the entire course "a mark within five per cent. of that demanded for the honor degree." Yale does not insist upon a college degree, but requires the student to possess the qualifications requisite for admission to the Sheffield Scientific School of the University. President

Hadley, in his annual report to the Yale Corporation made in June, 1902, presents the Yale view of the matter at length. The reasons he advances I shall not attempt to set forth. Suffice it to say that in his opinion it is unwise to insist that students entering schools, either of law or medicine, should possess a college degree. "I believe," he says, "that it involves a dereliction of public duty none the less real because unconscious. I believe that Yale University can best do her public duty by resisting this tendency."

Most of the reputable law schools of this country simply require that the student shall possess the equivalent of a high school education. There are some schools which do not insist upon this, but it is difficult to understand how such schools can expect in the present day to be regarded by the profession as in good standing. The least that should be required is a good high school education, and a school which does not honestly insist upon that lays itself open to serious criticism.