

LAW IN THE EMPIRE.

A SCHOOL OF ADVANCED STUDIES.

PROPOSED CENTRE IN LONDON.

TO THE EDITOR OF THE TIMES.

Sir,—Among the subjects proposed for discussion this year at the triennial Congress of the Universities of the British Empire appears the title "The Establishment in London of an Advanced School of Legal Study." In one form or another this idea has found expression at various times during the last 50 years, and the weighty support which it has always received is alone sufficient to secure for the proposal the most careful consideration. But it is likely that at the actual sittings of the Congress the legal profession throughout the Empire will be only incidentally represented, and in any event the time available for discussion must necessarily be very limited. I am therefore taking the liberty of asking for the hospitality of your columns in order to put forward some suggestions which may perhaps serve as a preliminary basis for the fuller discussion of this proposal by others better qualified than myself.

The scheme will fail if we either try to do the wrong thing or try to do the right thing in the wrong way. May I therefore offer as briefly as possible two negative and three positive suggestions?

In the first place, the whole idea should be kept clear of the least suspicion of propaganda. In certain parts of the Empire, notably Quebec and South Africa, there is a very strong local sentiment which is intensely jealous of any encroachment of the English common law upon the traditional civil law system of the country. If there is the slightest ground for suspecting that this proposal forms part of a movement for propagating the English common law throughout the Dominions at the expense of other existing systems, it will obtain no support outside the present common law jurisdictions. Throughout this discussion it will therefore be prudent for the devotees of the common law to exercise self-restraint in singing the praises of their deity, and it will also be wise to avoid all politico-sentimental talk about "drawing closer the bonds of Empire," the supernatural wisdom of the Privy Council, and similar forms of Imperialist propaganda. The scheme should be discussed solely upon its technical merits as a means for the scientific study of law and the practical improvement of legislation.

Secondly, it is important that no proposal should be made to interfere with or to duplicate the existing systems for admission to the legal profession in various parts of the Empire. Upon this point local professional feeling is very strong in many parts of the Dominions, and in Canada it has hitherto proved impossible for the provincial Bar societies to agree even upon uniform standards and methods of legal education within the Dominion. Any proposal to create a body in London with co-ordinate power to prepare students in whole or in part for the provincial Bars would arouse an hostility that would probably be fatal.

My first positive suggestion, therefore, is that on its teaching side the proposed school should confine itself strictly to the instruction of well-prepared students who have already taken a degree in law or otherwise qualified themselves for admission to practise in their respective countries. Some of these students will come at their own cost, but many will require financial assistance, and they should stay at least two years. In most cases they will probably take the opportunity of "eating dinners" and being called to the English Bar. The work should be arranged in such a manner as to permit of concurrent attendance in chambers or offices. In Canada, at any rate, the apprenticeship part of legal education has, under modern conditions, largely degenerated into a useless form, and an inside acquaintance with good English practice would be of the highest educational value to students from this Dominion. The general educational level of the profession in Canada is far below that which prevails at the English Bar, and this shows itself in the very inferior character of the work done, when judged by English professional standards. If even a small number of Canadian students could be put through a good course of advanced study, coupled with some practical experience, a very real benefit would be conferred on the legal profession and the public in the Dominion.

On its scientific side the main work of the school should be the advanced study of comparative law and legislation. In France this branch of study has lately come into considerable prominence, but, so far as I know, it is almost entirely neglected throughout the British Empire. At Columbia University, in New York, private endowment has created a "Legislative Drafting Research Fund," and the assistance of this department is being continually sought in the drafting of legislation throughout the United States. Our own Society of Comparative Legislation already does much valuable literary work in this connexion, but its resources are, of course, very limited, and its labours are at present known only to a few scholars.

Under present conditions much of the enormous legislative energy annually expended throughout the Empire is largely running to waste. There is a vast amount of needlessly bad draftsmanship, and a vast amount of quite unnecessary local variation. In Canada the work of the Commissioners on Uniformity of Legislation has done much to correct this evil, and the labours of a similar body in the United States have resulted in the general adoption of uniform State laws upon such subjects as sale of goods, negotiable instruments, and other commercial matters. A bureau of this kind, located in London and provided with the necessary support, could undoubtedly render invaluable service to the Empire as a whole.

Lastly, it is essential that the school should be equipped with a real library of Imperial law. At present such libraries can be found at Harvard and Columbia, and possibly at one or two other American universities, but it is rather humiliating to reflect that no such library in a complete form can be found in the British Dominions. Among the English libraries several have large collections of Colonial reports and statutes, but there is much overlapping, and no library that I know is complete in the sense in which those of Harvard and Columbia are complete. That such a library in London would be of immense value in a score of ways requires no demonstration.

I offer these remarks for what they are worth, fully conscious that many criticisms and improvements will immediately suggest themselves to more competent judges. I have only written, since I fear lest another excellent proposal may end in talk merely because we have neglected in good time to define our objective and the means whereby we hope to reach it.

I am, &c.,

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