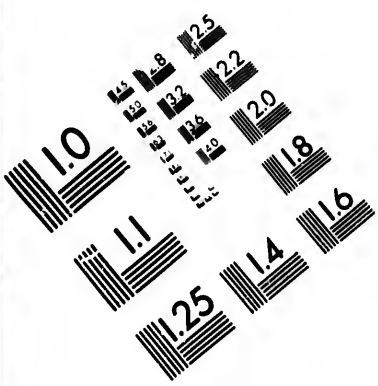


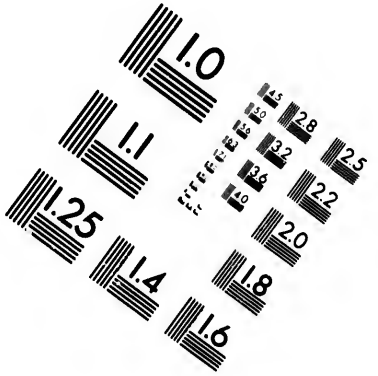


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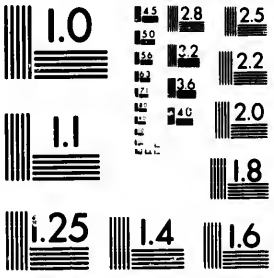


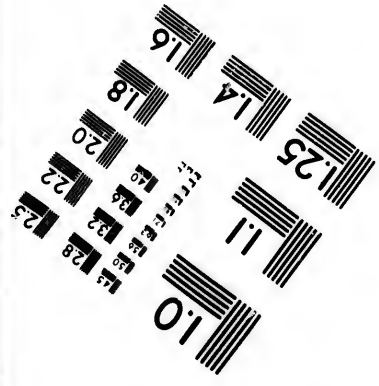


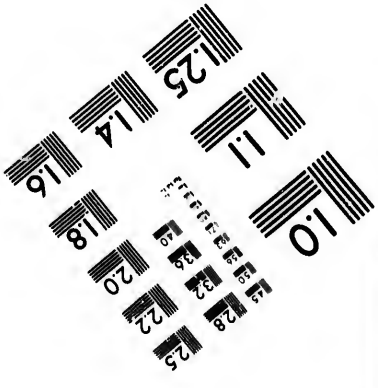

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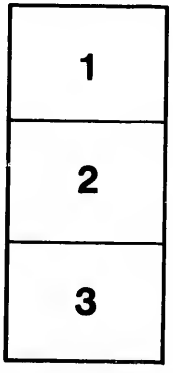


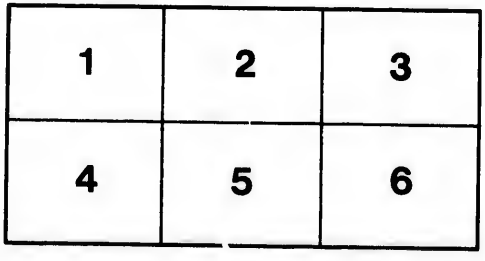

THE

# INAUGURAL ADDRESSES, &c.

DELIVERED AT THE OPENING OF THE

# LAW SCHOOL

IN CONNECTION WITH

# DALHOUSIE UNIVERSITY,

HALIFAX, NOVA SCOTIA,

**At the beginning of the First Term in 1883,**

BY

THE HON. A. G. ARCHIBALD, C. M. G, Q. C, LL B., &c.

AND

R. C. WELDON, A. M., PH.D., &c.

HALIFAX:
NOVA SCOTIA PRINTING COMPANY.
1884.

1960

THE LAW SCHOOL

IS UNDER OBLIGATION TO

THE HON. SIR WILLIAM YOUNG, Kt., Ll.D.

Ex-Chief Justice of Nova Scotia,

FOR THE FUNDS TO ENABLE THEM TO PUBLISH AND CIRCULATE THIS PAMPHLET.

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DEAN OF FACULTY;

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HON. J. S. D. THOMPSON,

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JOHN Y. PAYZANT, A. M.,

*Lecturer on Torts.*

J. T. BULMER,

*Librarian.*

# ADVANTAGES OF STUDY AT A LAW SCHOOL.

On this subject no attempt will be made to address the more advanced members of the legal profession—even for the purpose of soliciting their assistance and patronage. To them the recollections of student days—of labor wasted in profitless paths, of time lost in doing nothing, for the want of direction what to do, and of the laborious acquisition in after life, of the knowledge which experience, and perhaps adversity, have alone made known the value,—must appeal more earnestly than the voice of this little circular can. To the younger class of lawyers who read the literature of their profession—even to those who have not had the advantages of studying at a law school, nothing need be said, for they know that both in Great Britain and America the system of oral instruction for law students is being vigorously extended, and is insisted upon wherever the views of the legal brotherhood are uttered—whether in its lecture halls, its conventions or its periodicals.

To those who are about entering on student life, however, and to those who have just entered on it, a few words of explanation may be presented as to the advantages which a law school has to offer them.

In the first place, all that can be said, and it is a vast deal, in favor of studying any science or art, in company with other students, and under the direction of professors, may be said in favour of pursuing legal knowledge in the same way. But much more can be said of the advantages of so studying legal science. Law is so vast a subject that it would be hard to say of any man—living or dead—that he is or was its master—although many have been masters of the art of acquiring a knowledge of it, and of administering its principles. Consider its history, of which the student must learn something ;

how extensive, how remote the beginning ; how various the countries through which the lines must be traced—how intricate when followed down, into its relationship with all the principles of modern legislation and jurisprudence. Consider the vast territorial range of its empire—the common law still forming the staple for the whole English speaking race, and finding daily exposition in the courts and publications of more than a hundred millions of people. Consider the variety of its subdivisions, so numerous that it is considered no disgrace to the most eminent of the profession to have it said of them that of some branches of law they know nothing. The lawyer who, amidst the labors of his practice, can find time to make his office-students even acquainted with the boundaries of this expanse, will have done well—even if he has not been able to direct their subsequent wanderings.

In the study of such a science how essential is it that the learner shall know *How to learn.* This he cannot know by private, or office study. The literature is too narrow for him in a private library—far too wide for him in a public collection, without a guide. The distractions which, in the office, call the thoughts aside defeat the most assiduous desire, and, worst of all, there is the distress of having learned with difficulty and hopefulness many things which are found afterwards to be valueless, or nearly so. The law-school provides *a system*, by apportioning certain hours to study, and requiring that they shall be well spent; it secures the *attention* by excluding, during the hours of lecture and recitation, all other things than those which relate to the subject in hand, it shows the student where his labor will be profitably spent, teaches him the relations between the various branches of legal literature, stimulates his energy by the sight and competition of those who are to be his rivals in after years, and expounds to him by the "living voice," which is easier and more encouraging than the "living page." The law-school gives the voice and page together.

In shewing the student *What to learn*, another advantage consists. Those branches of law are chosen which are considered either essential, or the most likely to be useful. They are divided among a number of professors, so that each, during the

term, may lecture on a specialty and the student, instead of having to rely on one preceptor, engrossed with business, has the advantage of multiplied instructors who are themselves as fully incited to study, by the exercises of the school, as the students are. The difficulties, which, in reading the treatise, or the decided case, in private study, have to be passed by unnoticed, unless laborious digressions are made in collateral research, are transferred to the desk of the teacher, and his study and experience are enlisted in the student's aid.

This much, and it is no little, can be fairly claimed for law-school teaching, but the case is not fully stated yet. This much is true and just of law-schools in all countries, when properly conducted, but more has to be said in favor of such institutions in the Dominion of Canada, and especially in the Maritime Provinces. Our profession studies the common law of England, with occasional reference to American and Colonial authorities for the exposition and illustration of its doctrines, but, when we leave that base, we have a legal system as distinct from that of any other country as the legal system of Massachusetts is distinct from that of England. Even in considering the common law, we have to reject all, (and there is not a little,) that is inapplicable to our condition. In the lines on which we diverge from the law of England the American law is of little assistance to us, and we are at a greater disadvantage than the profession in almost any other important state, because we have very few publications on our distinctive system—no reliable publications indeed which are anything more than Canadian supplements of English books. We need not stay to account for this, but the numerical limit of our population, narrowing the field for the enterprize of the author, would probably account chiefly for the fact if reasons had to be sought. Be that as it may, in the absence of such publications it is to the living teacher that the student must look for guidance in those branches of the law in which our system departs from that of England, and in which the consequences of the departure have to be critically analyzed and compared. With the legal literature which England and America possess, if in those countries instruction by the methods of the school is considered essential to the proper

training of the lawyer who is to be ready for his work, and sure of his handicraft, how much more essential is it in a country where so much that we have to learn is still "unwritten law."

The Halifax Law School does not claim to have realized the ideal which the reader may have pictured to himself from these references to the advantages of such schools in general, but these advantages may be claimed for its methods of instruction, at least in some humble degree, as compared with other modes of preparation for the law, and the ideal of its founders and professors may, after all, not be very far from attainment—the ideal of a school which will be a practical help to many young men who desire to fit themselves well for the practice of the law—a school which will make legal studies more agreeable and legal practitioners more efficient.

# THE LIBRARY.

The enterprise of the founders of the school is no where more apparent than in the efforts they have put forth to secure a library. From the very inception of the school, the faculty were well aware, that its success depended quite as much on the collection of law books they could get together, as on the reputation and teaching ability of the faculty. Accordingly they have spared no pains or expense consistent with their circumstances, to give the student access to a library containing the leading reports, treatises, and statutes. At the opening of the second term in November next, they expect to meet the school with a collection of some 5000 volumes. The most that can be said of it is, that it contains the leading works required by students, but is only the nucleus of the collection which the faculty hope to put together with all possible speed, a collection so complete as to enable those having access to it, to verify all the authorities cited in the reports and treatises, and so ample, as to furnish the means of studying, not only the jurisprudence of Canada, but other countries as well. When it is remembered that the entire body of law which governs and regulates society, is contained in printed books, the importance of the library cannot well be over estimated.

In the provinces of the Dominion and Newfoundland, there have been printed of works of a legal character since 1751-2, the date of the introduction of printing, at least 4,000 volumes. This estimate takes no account of the ephemera of jurisprudence, the civil and criminal trials, reviews of cases, arguments, opinions, essays on law reform, and tracts, and pamphlets, on every variety of subject relating to law literature, and numbering at least 10,000 titles. Of these works not one quarter are to be found in any library in Canada. Nevertheless they are

invaluable to the student who attempts to study the growth and development of our legal institutions No man can afford to ignore the experience of those who have preceded him, and the man who expects to enlarge the bounds of knowledge, must do it by beginning where others leave off. Every pamphlet of a legal or political character has its appropriate and fitting place among the forces which have helped to mould our institutions. They should all be in a law library, and no collection is worthy of the name, which fails to open to the student the chambers, closets and garrets containing so much of the knowledge vital to a just judgment of the growth of our legal and political institutions.

So far, I have only referred to the publications of our own country, but when we turn our eyes toward the general literature of the law, its immense magnitude is well calculated to awe even those who read nothing but the binder's titles. A complete collection of the law reports would contain at least 5,550 volumes apportioned as follows; English, 1,500 volumes; Irish, 200; Scotch, 300; Canadian, 250; Australia and other Colonies, 200; American, 3,000. The periodical law literature of the last hundred years is contained in not less than 1,000 volumes, and this estimate includes only the best of it, exclusive of more than one edition, and all in our own language. Of treatises and digests an average library should contain at least 3,000 volumes. To this add 1,000 volumes of codes, statutes, &c., and 2,000 volumes relating to the Roman law, and the various continental systems founded thereon, and we have a total of 11,550 volumes, worth about $75,000. To keep up the collection in the current law publications, we need to provide for the purchase, of at least 100 volumes of reports, 100 treatises and 50 periodicals, costing about $1,500 each year.

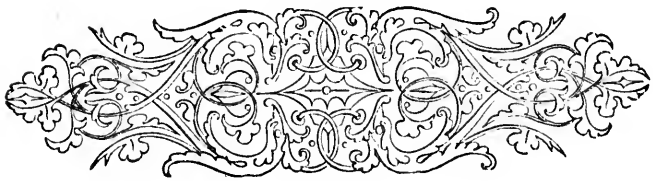
It will be noticed that the above estimate puts out of all consideration works on collateral and kindred subjects, to those taught in the school. A good law library should have quite as many books on these subjects as on juridical questions.

It is easy to sketch the wants of the school; but this does not solve the practical question, how are those books to be obtained, and the funds necessary to the support of the library?

I am of the opinion that the difficulties over these and similar questions are more imaginary than real, and that there are funds and books in abundance for those who deserve them, and who put themselves within the old and everlasting conditions of growth. If we would receive we must ask, and we must always keep before us an ideal far above human effort. If ten volumes are given us to-day, let us not forget that it doubles our obligations to try and get twenty to-morrow from somebody else. As will be seen from the list of donations, during the first year of the school, over 3,000 volumes have been contributed, chiefly by members of the profession. There are in the Maritime Provinces as many more volumes, which should be on our shelves, and which may be had for the asking. Of the legal works printed in Canada, Newfoundland, and the other colonies of North America, it is not too much to hope that the greater number of them will be contributed to the University by friends, authors, publishers, &c. Already the school has obtained many works by exchanging the publications of our own country for sets and works published abroad. The extent to which the library may be increased by exchanges, is only limited by the time and industry of the librarian. There is another source still open to us from which much may be expected, which, so far, for want of time we have not been able to open up. There are Nova Scotians filling positions of honor and profit in every country under the sun ; and if one residing in New York, George Munro, Esq., could found the school, why have we not a right to expect assistance in books from others residing there and elsewhere? In time the library from this source alone, may become the portrait gallery of the living, and the noble memorial hall of the dead. We have a right to hope that apart from the collections which can be made by the librarian and faculty, large contributions will be made to the library by those having the means. Already the gifts to the school from poor men represent a devotion, a self denial, a self sacrifice, calculated to inspire wide-spread emulation. Are there not members of the profession who will feel constrained by a devout love to their calling, by generous care for the honor of it, and by position and acquirements, to bestow on the profession such a library as we require? The powers of our

life are too frail, and its day too short to enable us to complete any career so as to be worthy of remembrance, if it fail to acknowledge the claims of those who shall succeed us. A well filled alcove in a library is a better monument than stone or marble, and the man who founds a library has a better claim to the remembrance and gratitude of posterity, than the founder of a dynasty. Bodley, Sloane, Bates, Smithson and Peabody, are the names which will not die, and when the names of the kings and queens of this century, are as forgotten as the twelve Cæsars of Suetonius, the founders of libraries will be remembered and cherished. An inherent vitality belongs to them, reproducing their image in descendants for all time to come.

J. T. Bulmer,
*Librarian.*



# GIFTS TO LIBRARY.

The following donations were made to the library in 1883-4, and it is hoped that the contributions this year will be on a larger scale and from all parts of the Dominion. The school desires and will receive the united support of the legal profession.

Sir William Young, $200; Hon. Mr. Justice Thompson, Hon. S. L. Shannon, Wallace Graham, Q. C., Robert Sedgewick, Q. C., Prof. R. Weldon, H. McD. Henry, Q. C., D. B. Woodworth, Esq., Prof. B. Russell, Prof. J. G. McGregor, J. J. Stewart, Esq., Hon. Robt. Boak, John Y. Payzant, A. M., and W. J. Stairs, Esq., $100 each; T. A. Ritchie, Esq., $50; A. K. Mackinlay, Esq., and James Scott, Esq., $25 each; and R. W. Fraser, Esq., $20.

The following is an imperfect list of the books contributed to the library during the same period. It is earnestly hoped that there are many old libraries in Canada, belonging to the descendents of lawyers who were prominent in their day, which will be given the school. To the members of the legal profession everywhere we appeal for books. Read this list and look over your library for what you can spare the school. Every man in the profession can help us without injuring himself. Kindly write on the circular enclosed herewith, your contributions, and mail to the librarian.

Akins, T. B., D. C. L., 14 vols.; Allison, J. F., Sackville, 1 vol.; Almon, Hon. W. J., M. D., 12 vols.; lot of Blue Books; Archibald, Sheriff, 16 vols.; Barnes, H. W.; 13 vols.; Bligh, H. H. Q. C., Antigonish, 2 vols.; Boak, H. W. C., 3 vols.; Borden, R. L., 1 vol.; Botsford, Hon. A. E., Sackville, N. B., 150 vols.; Bulmer, J. T., 156 vols.; Commissioners of the Provincial Library, 25 vols.; Customs Department, Halifax, per Hon. William Ross, 176 vols.; Do., per H. Withers, 42 vols.; Daly, M. B., M. P., 121 vols.; Davidson, J. R., 5 vols.; DesBarres, Hon. W. F., 212 vols.; DesBarres, L. W., 8 vols.; Dickie, Hon. R. B., Amherst, 200 vols.; Eaton, B. H., Q. C., 19 vols.; Ervin, John, 10 vols.; Evans, Mrs. William, Four Mile House, 11 vols.; Ferguson, Hon. Donald, Charlottetown, P. E. I., 1 vol.; Fielding, Hon. W. S., 12 vols.; Fogo, Hon. James, Q. C., Pictou, 15 vols.; Forrest, Rev. J. 4 vols.; Foster, Foster & Mills, 2 vols.; Fox, J. F., 107 vols.; Frame, Elizabeth,

Shubenacadie, 2 vols. ; Fullerton, W. M., Amherst, 3 vols. ; Government of Nova Scotia, 96 vols. ; Halifax Co. Municipality of, per H. W. Wiswell, 41 vols. ; Haniington, Hon. D. L., Dorchester, 10 vols. ; Harrington, C. S., Q. C., 1 vol. ; Henry, Hugh McD., Q. C., 62 vols. ; Hill, P. C., jr , 14 vols. ; Hobart, D. K., American Consul, Windsor, 29 vols. ; Howe, William, Q. C., 84 vols. ; Howe, Sydenham, 3 vols. ; lot of Pamphlets ; Hunt, J. Johnston, 6 vols. ; Johnston, His Honor J. W., Dartmouth, 151 vols. ; Kenny, Sir Edward, 140 ols. ; King, E. D., Q. C., 30 vols. ; Knapp, Charles, Dorchester, 12 vols. ; Matheson, D., Pictou, 14 vols. ; MacCoy, W. F., Q. C., 5 vols. ; McDonald, Hon. Chief Justice, 2 vols. ; McDonald, Alex., 12 vols. ; McHeffey, heirs of the Hon. Richard, Windsor, 143 vols. ; McKay, John, Gay's River, 37 vols. ; McKenzie, G. A., Dartmouth, 1 vol. ; Maclean, Dr. D., Shubenacadie, 9 vols. ; McLellan, W. W., 2 vols. ; McNab, Wm., 1 vol. ; McSweeney, W. B., 12 vols. ; Menger, John, 25 vols. ; Mills, W. A., 1 vol. ; Milner, Christopher, Sackville, 5 vols. ; Moore, Henry, Shubenacadie, 21 vols. ; Morse, Charles, Liverpool, 2 vols. ; Motton, Robert, 85 vols. ; Murray, Rev. Robert, 12 vols. ; Oulton, A. E., Dorchester, 2 vols. ; Ouseley, J. W., 31 vols. ; Parker, F. G., Shubenacadie, 19 vols. ; 20 Pamphlets ; Parsons, J., 57 vols. ; Payzant, J. Y., 20 vols. ; Peck, J. B., Dorchester, 3 vols. ; Penny, Mrs., Gay's River, 1 vol. ; Powell, A. A., Sackville, 8 vols. ; Power, Hon. L. G., 1 vol. ; Pryor, Henry, Q. C., D. C. L., 144 vols. ; Ratchford, C. E., Amherst, 2 vols. ; Rigby, Hon. S. G., 27 vols. ; Ritchie, Hon. J. W., 12 vols. ; Ritchie, George, LL.B., 3 vols. ; Russell, B., Dartmouth, 6 vols. ; Sedgewick, Robt., Q. C., 27 vols. ; Shannon, Hon. S. L., Q. C., 49 vols. ; Smith. Hon. H. W., 60 vols. ; Soule & Bugbee, Boston, 2 vols. ; Stewart, J. J., 6 vols. ; Stewart, D. B., Ottawa, 1 vol. ; State of Wisconsin, 1 vol. ; State of Pennyslvania, 2 vols. ; State of Vermont, 1 vol. ; State of Illinois, 1 vol. ; State of Nebraska, 1 vol. ; State of Kentucky, 1 vol. ; State of Wyoming, 3 vols. ; State of Missouri, 2 vols. ; State of Dakota, 1 vol. ; State of Michigan, 1 vol. ; State of Alabama, 1 vol. ; State of Indiana, 1 vol. ; State of Montana. 2 vols. ; State of New York, 4 vols. ; State of New Mexico, 1 vol. ; State of Arizona, 1 vol. ; Sutherland, W. D., 3 vols. ; Thompson, Hon. J. S. D., 72 vols. ; Thomson, James, Q. C., 1 vol. ; Thorne, J. H., 8 vols. ; Tremaine, F. J., 9 vols. ; Wallace, T. J., 11 vols. and lot of Pamphlets ; Wells, W. W., Dorchester, 12 vols. ; White, Hon. A. J., 12 vols. ; Whitman, Alfred, 7 vols. ; Wylde, J. J., 8 vols.

# ADDRESS

**Delivered by HON. A. G. ARCHIBALD, Q. C., C. M. G., &c., on the 30th day of October, A. D. 1883, on the occasion of the Opening of a Law School in connection with Dalhousie College, Halifax, Nova Scotia.**

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We are met this evening on an occasion of great interest. A branch of collegiate education, not hitherto attempted in this Province, is about to be opened.

The munificence of one of Nova Scotia's worthiest sons, has enabled the Governors of Dalhousie to add the subject of law to the curriculum of studies that may be pursued at the University. Leading lawyers among us, including Judges on the Bench, have seconded the effort. In a spirit of devotion and self-sacrifice (engaged as they are in the onerous duties that devolve on Bench and Bar) they have undertaken to contribute to the efficiency of the School. They recognize the principle which Bacon lays down in such cases when he says: "I hold every man a debtor to his profession—from the which, as men of course do seek to secure countenance, and profit, so ought they of *duty* to endeavor themselves by way of amends, to be a *help* and *ornament* thereunto."

There is one point, however, on which the Faculty have erred, if I may be permitted the use of such an expression. They should, for an inaugural address, have secured the services of a gentleman, better fitted than I can pretend to be, for the discharge of that duty. They have, among themselves, men who could have done justice to the subject. If, though not till after more than one remonstrance, I have yielded to the wishes of the Faculty, it is not because I do not feel that the service will suffer by the inefficiency of its execution, but because I acknowledge in Bacon's phrase, the debt I owe my profession, and must not when called upon shrink from the endeavor to be a "help," however little I may hope to be "an ornament thereunto."

In the history of education it is surprising that the science of law should ever have been thought unworthy of a chair in a University. "It is a science," says one of its ablest expounders, "which distinguishes the criterions of right and wrong, which teaches to establish the one, and to prevent, punish, or redress the other; which employs in its theory, the noblest faculties of the soul, and exerts, in its practice, the cardinal virtues of the heart; a science which is universal in its use and extent, accommodated to each individual, yet comprehending the whole community."

The same eminent writer says in another passage: "I think it an undeniable position that a competent knowledge of the laws of that society in which we live is the proper accomplishment of every gentlemen and scholar, a highly useful, I had almost said, essential part of liberal and polite education. And in this I am warranted by the example of ancient Rome, where, as Cicero informs us, the very boys were obliged to learn the twelve tables by heart, as a 'carmen necessarium' or indispensable lesson, to imprint on their tender minds an early knowledge of the laws and constitution of their country." Yet what aid do the collegiate institutions of this Province hold forth to our youth who desire to have some knowledge of the Law and Constitution under which they live? None whatever—and, as for that class of young men who are entering upon the study of the law as a profession, happy are they, if they serve their time with a Master who has leisure and inclination to help them over the initial difficulties of the study. Without such aid—and we fear, the number of pupils who receive it, is very limited, a student must be content with making slow progress in the rudiments of his profession, or else he must attain his knowledge at an expense of time, of effort and of energy, which, if incurred in any other pursuit, would justly be considered wasteful and extravagant.

Sir Edward Coke, in his quaint way, gives what he considers as a proper apportionment of the day for a law student.

> Six hours to sleep, to law's grave study six,
> Four spend in prayer, the rest on nature fix.

But as from year to year, from generation to generation, there is an accumulation of the *materials* which have to be studied, there is reason to fear that this apportionment may not be strictly observed—and that as time rolls on, a tendency may grow to enlarge the time allotted for work, and abridge that assigned for prayer.

Sir William Jones makes a somewhat different division of the day. Referring to the couplet of Coke, which we have quoted, he says, "rather

> Six hours to law—to soothing slumber seven,
> Ten to the world, and *all* to heaven."

In his opinion the spirit of devotion should not prevail during four hours only, to the exclusion of the rest of the day. It should hover over every hour of the twenty-four.

There is no question that the religious element should enter largely into the composition of a lawyer's mind, but, if we may rely on the facts of history, we have reason to fear that, at all events, in the times preceding ours, lawyers have not given due heed to the precepts of either of these sages. Be that as it may they do not, as a body, seem to have derived from their religious exercises all the benefit which so much devotion should have insured.

Of the work to be done, in the orthodox six hours a-day, sanctioned by the authority, alike of Coke and of Jones, the student will be able to form a better judgment after having his mind turned for a few minutes to the various Branches of jurisprudence which constitute the municipal law of England—the basis of our own—and to the various sources from which it is derived.

First of all then we have the "Common Law," which Blackstone describes as "that admirable system of maxims and unwritten customs, which is known by the name of the *common* law, as extending its authority universally over the *whole Realm*."

Some of the doctrines of the common law have undoubtedly such an origin—Blackstone indeed traces a few of such back to very early ages. But in the confusion arising from the various invasions and conquests of England, beginning with that of the Romans and ending with that of the Normans, intercalated as

these were with other invasions and conquests by Picts, Jutes, Anglo-Saxons and Danes, and the internecine quarrels on English soil, between the latter races, it is difficult to suppose that there was in early days any very considerable body of customs which prevailed uniformly over the whole of a country whose population was made up of materials so heterogeneous. Some customs and some rules, connected with matters of daily necessity there certainly were, which chrystallized into that form, but the phrase 'the common law,' is understood to comprehend much more than these. The idea underlaying the expression—the idea in the mind of Counsel when addressing the Bench—and in the mind of the Bench when addressed by Counsel, is that there is in existence and has been from time immemorial a vast body of maxims and doctrines, having the force of law which will meet and apply to any and every case that can come before the court. The English law is, or rather has been, full of Fictions, and this is one of the boldest of them. In the early history of England, Fiction was the hand-maid of Justice. By Fiction only could law, which, in its nature, is fixed and stable, be made to keep pace with society, which in its nature, is changeable and progressive.

Many of these Fictions, from that of the Common Recoveries of the Sixteenth Century, with the mythical Common Vouchees, down to the well remembered John Doe and Richard Roe, of thirty years ago, have in their days served useful purposes. They enabled the courts to free themselves from the shackles of doctrines that had fallen behind the times—and in certain cases to administer justice by a side wind, when they could not do it directly. By and by, however, when Law, through the aid of Fiction and of another auxiliary to be mentioned presently had made great progress, the Legislature stepped in and swept away a huge heap of make-believes, and enabled the courts to do directly, what formerly they could do only by pretences and subterfuges. The courts applied to such judicial inventions the maxim that 'In fictione juris semper existit equitas.' They permitted the use of them only when they subserved the objects of Justice. But even this permission implied, that the law, as it stood, was wrong or imperfect—that to administer it in that

form, would work injustice—that to avoid this, it was proper as Broom puts it, in his Maxims, "to make an assumption that a thing was true which was not true, or which was as probably false as true."

A considerable part of what has been called the common law, had its origin not in universal customs, nor in ancient statutes, nor in any other recognized source of law, but was really and truly the creation of the Judges; as much so as if power had been expressly conferred on them to make law, where there was none, or to settle it where it was doubtful. Sir James Mackintosh says, that "the Law of England has been chiefly formed out of the simple principles of natural justice, by a long series of judicial decisions."

He might have added that in some of those decisions, we will not say in any great proportion of them, the judge, in early days, was governed by principles derived neither from immemorial custom, nor tradition, nor ancient practice, nor natural justice, nor any other authority of indigenous growth, but from a code which he ignored and affected to despise. The Judges and Parliaments of those days, alike resisted the adoption of foreign laws. "Nolumus leges Angliae mutari," was the motto of the Barons assmbled at Merton, and the Courts affected to share the feelings of the Senate. If, therefor, they appropriated from a foreign code any doctrines and principles which, however sound in themselves, had not yet found their way into English jurisprudence, it was necessary to suppose that they derived them from that vast mythical collection of maxims and unwritten customs to which Blackstone refers. The Clergy of the day were striving to introduce the Civil Law into England, and this course of the Judges reconciled the opponents of the Clergy to doctrines and principles which they would not have tolerated if there source had been known.

Good service was done to the English law by the work of Bracton. "Do consuetudinibus et legibus Anglicanis," composed about the middle of the thirteenth century, almost at the very time that the Barons assembled at Merton were making their celebrated declaration. This work is itself an illustration of the extent to which English Law has been moulded by the hand of

fiction. It is not necessary to go the length of Sir Henry Maine, who, in speaking of this work, (and there should be no better authority) says of it.

"That an English lawyer of the time of Henry III. should have been able to put off on his countrymen as a compendium of English law, a treatise of which the entire form, and a third of the contents were directly borrowed from the Corpus Juris, and that he should have ventured on this experiment in a country where the systematic study of the Roman law was formally proscribed, will always be among the most hopeless enigmas of English Jurisprudence."

And yet this work, owing much, as undoubtedly it did, to a code that had no force in England, the study of which was actually prohibited, was treated as a repository of ancient customs and met with the most marked favour. Great numbers of manuscript copies were made and scattered over the realm. Many of these are still in existence. There are eight of them in the Book Department of the British Museum at this moment.

Two centuries however had still to elapse before the invention of printing, and still another before this book was to be put in type. In that form it has become a recognized exponent of the Common Law, and on it, largely, are based the subsequent systematic treatises on English Law.

The Common Law can hardly, therefore, be said to be, as the theory was, a code in existence from time immemorial, not written indeed, but locked up in the breast of Judges, who let out from time to time so much of it as was necessary for the adjudication of the particular cases before them.

By their law-making power, the Judges not only created law when there was none, but sometimes by the aid of their fictions, they found out a way indirectly, to repeal acts of Parliament, passed in the most solemn form. The fiction threw a decent veil over the usurpation, and probably was treated as fact by the rude and illiterate men to whom the functions of legislation in early times belonged. By-and-by, when the general scheme of municipal law had acquired some degree of completeness, the necessity for judge-made law, grew less and less urgent, while on the other hand the improvement and progress of society rendered it no

longer necessary that the functions of the legislature should be exercised by any body but itself.

While on this subject permit me to say, that there is something in the principles which govern our judicial decisions adverse to the creation of a symmetrical system of law. With us the judgment on a case before the Court depends upon the special circumstances of the individual case. A judge must be understood as deciding only the points in controversy in that case. To them alone the arguments of the counsel are to be directed. On them alone the decision of the judge is authoritative. If he goes further, and gives an opinion beyond what the case requires, this is an 'obiter dictum' without authority and is called in question whenever a case arises which really involves the point to which the 'obiter dictum' referred. So far as this concerns the question directly in controversy, the decision of the judge establishes the law and is considered binding in subsequent cases.

In the old Roman system, a case when decided by the judge was settled for ever, but it affected only the litigants themselves. It was not quoted as an authority to govern future cases. The law remained the same after the decision that it was before. The bench therefor, though it decided cases, did not make law. But what to our minds seems an anomaly, is that in a parallel stage of legal developement, the function of creating much of the law, which with us was exercised by the Bench, with them fell to private members of the Bar.

In our Province we all know that every young gentleman who studies law hopes to be at least Chief Justice. If he were studying in England, he would not be content with any position under that of Lord Chancellor. In like manner a Roman lawyer had his pet object of ambition, and that was to become Praetor, when, for a year at least, he would exercise the highest judicial functions, and be the fountain at once of equity and law.

In preparing himself for this, the highest post to which he could aspire, he devoted himself assiduously to the study of his profession. He was also engaged in daily practice as an advocate and juris-consult.

In this way a lawyer of eminent ability, acquired a distinction

so marked that his opinion was to a large extent looked upon as law, and certainly came in time to be the source and origin of much that was law. In dealing with cases submitted to him, he was not obliged to confine himself to the points raised by the particular facts, but he rounded off his opinion by a view of the principles which he considered to underlay the class of cases of which this was one. In this manner the 'Responsa prudentum' which is the only thing in the Roman system analagous to our case law, gave to that code a character of symmetry and harmony which we look for in vain under the English system.

Legal writers and commentators in those days addressed themselves, not to the cases decided by the Praetors, but to the opinions thus given, and drew their deductions from, and made their comments upon, the doctrines of these eminent juris-consults. The result is that the Roman law furnishes a set of principles applicable to cases, while the English system gives us cases from which principles are to be deduced. The one system furnishes the essence and spirit of law, the other the raw materials from which the essence and spirit are to be distilled. The Roman law with its digests and institutes and commentaries, is voluminous enough, but the books in which it is contained bear no proportion in number to those which embalm for us, the cases that have given occupation to our courts for six centuries. The volumes of reports at the time of Sir Edmund Coke was counted by hundreds. Now they may be counted by thousands.

When we consider the slow and fragmentary way in which our case law has been built up, by a long series of judicial decisions, extending from the earliest times to the present day, touching almost every point that can be raised before a court, covering no entire principle or branch of the law, but dealing with each case as it arose, and then only with so much of the case as was necessary to dispose of the particular controversy, it is not a matter of wonder that the system should be somewhat irregular and unsymmetrical.

Imagine any material structure, erected upon no settled plan, begun in a remote age, put up bit by bit, here a little and there a little, a wing at one time, a porch at another, here a tower, and there a steeple, a roof raised a story in one part, and lowered a

story in another; the materials of brick, of wood, of stone by turns, and built by workmen of every century. From such a mode of building we would not expect a very harmonious whole. Yet such a structure is the law of England, and, considering the way in which it has been erected, it is perfectly marvellous that the fabric should challenge as it does the admiration of the world. There has been in England no greater law reformer than Jeremy Bentham. He is probably the severest critic of British law, which England has produced. In referring to the points of which we have been speaking, he says of the English Law: "Confused, indeterminate, inadequate, ill adapted and inconsistent, as to a vast extent the provision or no provision would be found to be, that has been made by it for the various cases that have happened to present themselves for decision, yet, in the character of a repository for such cases, it affords for the manufactory of real Law, a stock of materials which is beyond all price. Traverse the whole continent of Europe, ransack all the Libraries belonging to all the jurisprudential systems of the several political states, add the contents together, you would not be able to compose a collection of cases equal in variety, in amplitude, in clearness of statement, in a word, on all points taken together, in constructiveness, to that which may be seen to be afforded by the collection of English Reports of adjudged cases."

The splendid eulogium at the close of this estimate, is an ample set off to the censure, not altogether justifiable, with which it is introduced and derives much of its value from the known hostility with which the writer viewed many parts of the English system.

But whatever its origin, and whatever its faults, the system is destined to exercise an enormous influence over human affairs. It is true the continent of Europe, and the north part of the Island of Great Britain are largely governed by Roman Law. But England and almost every Country in which England has planted her flag, has its legal system based on the principles of English Law. Throughout the United States, with their fifty million of inhabitants—in this Dominion from the Atlantic to the Pacific—in Africa—in Australia and Austral Asia—in the Islands of the Pacific—in the West Indies and India itself,

the English system is either the Basis of the Law or is largely adopted in its administration. Of the two systems it may be said with truth, that English Law of indigenous growth, and Roman Law, between them govern the legal relations of the whole civilized world.

I need not dwell on the vast body of the Law of England, which consists of legislative enactments. These are contained in some where about one hundred and fifty volumes, with an average of perhaps five hundred pages to a volume.

But there is another branch of the municipal Law of England which cannot be passed over so rapidly. This lies side by side with the common Law, but it is founded on distinct principles, and claims incidentally to supersede the common Law by virtue of a superior sanctity inherent in those principles. It differs from fictions, inasmuch as its interference with the civil law is open and avowed. There were certain mischiefs in connection with the administration of the common Law which, we have seen, were cured by the judges themselves. There were other mischiefs which either they could not reach or were not disposed to reach by their fictions. Yet the law as they administered it, was in some cases a violation of those principles of right and wrong, which God has implanted in the breast of every man. These mischiefs required a remedy, and it was found in the doctrines of Equity. These derive their force neither from ancient customs, nor legislative enactments, nor from any other external source. They depend upon their intrinsic vigor as a system of ethics, which would not allow the Law to be used as a cloak for fraud or deception. These principles were assumed to flow from the conscience of the sovereign. He committed the administration of them, to his Chancellor, who in olden times was generally a cleric. By degrees the doctrines of Equity, were moulded by a succession of judges, until they became as fixed and certain as those of the common Law. The decisions of the Court, in cases where equity is involved, are recorded in a vast body of Chancery Reports, which swell the books of reference to which a Lawyer has occasion to resort, by some hundreds of additional volumes.

There is still another large branch of the municipal law,

being that formerly administered by the Ecclesiastical Courts, and yet another containing the Principles of Maritime and International Law. On all these branches the Student must have some information ; so that it is clear he has before him no idle life, if he expects to attain a high standing in his profession.

Now when a student makes an effort to inform himself how he is to commence the work before him, he naturally looks for advice to the men who have themselves acquired distinction in the profession. Suppose he takes up the fascinating book which Lord Campbell has written of the Lives of his brother Chancellors. He will find in the biography of Lord Eldon the advice given by a sage of the Law to a person just entering upon the study of it. Lord Campbell says, "When I was commencing my legal curriculum, I was told this anecdote. A young student asked Sir Vicary Cobbs how he should learn his profession. Sir Vicary. 'Read Coke upon Littleton.' Student. 'I have read Coke on Littleton.' Sir Vicary. 'Read Coke upon Littleton over again.' Student. 'I have read it twice over.' Sir Vicary. 'Thrice.' Student. 'Yes thrice.' Sir Vicary. 'You may now sit down and make an abstract of it."

Sir Vicary's student life began over a century ago—and we are not much surprised at finding him express an opinion that had then been prevalent for nearly two hundred years, and was regarded almost as a legal maxim. But we may wonder at the emphatic confirmation of that opinion given by Lord Campbell, who studied law about the beginning of this century and who committed his opinion to writing not more than forty years ago. He says. 'If my opinion is of any value, I heartly join in the same advice. The Book contains much that is obsolete, and much that is altered by statutable enactments, but no man can thoroughly understand the law as it now stands, without being familiar with the writings of Lord Coke, nor is he by any means so dry and forbidding as is generally supposed. He is certainly unmethodical, but he is singularly perspicuous. He fixes the attention—his quaintness is often most amusing and he excites our admiration by the inexhaustable stores of erudition which without any effort he seems spontaneously to pour forth—Thus were our genuine lawyers formed. Lord Eldon read Coke up-

on Littleton, once, twice, thrice, and made an abstract of the whole work as a useful exercise, obeying the wise injunction.

"Legere Multum non Multa."

We must receive this utterance with respect, because it proceeds from a man of the highest rank in his profession. But will it be considered presumptuous to say that it does not carry conviction.

There is truth in the statement that familiarity with the work in question is of great service to a lawyer. But the point of Lord Campbell's anecdote is, not the value of the knowledge to be attained from the work, but the mode and especially the time, in which the Book should be read. The student should begin with it, should read it over and over again, and then abstract it, and all this before attempting any other Book. He admits that a great deal of it is obsolete, a great deal more not now law. Yet the student is to burden his memory with a huge amount of legal rubbish. He is for the time to believe that to be law, which is not law, and which he is afterwards to unlearn. He is by and by to jettison half the cargo he has taken on board, and still later on, to find that much remains that should have been thrown overboard before—and he is to begin his study without the slightest acquaintance with the technical terms which stare him in the face the moment he opens the Book. This mode of studying law seems to me on a par with that adopted for the dead languages in some schools, where Greek is learned from a grammar compiled in Latin. The pupil has to learn a language of which he knows nothing by the aid of another of which he knows almost as little. This is not exactly on the principle of the Dictionary which was said to define "Ignota per Ignotiora" but it comes pretty near to it.

It seems to me that a law student who without any preparation for the difficulties of the work, without any knowledge of the technical language in which it is written, takes up Coke on Littleton to study it, is groping in darkness almost Cimmerian. There may be some men who can do this and yet not become disgusted with the study, where the threshold is made so repulsive. Sir Vicary Gibbs may have done it. He does not indeed say that he did. All that we learn is, that he advised a

student to do it. Lord Campbell may have done it. He does not say that he did. He merely advises others to do it. The only thing he asserts as a matter of fact is, that Lord Eldon actually did it. This may be true. Lord Eldon did many things which no ordinary man could do. He could drink two bottles of strong Newcastle Port, and go on immediately to deliver a Judgment covering the most abstruse and complicated points in a Case in Equity—expressing himself with perfect clearness and precision. What would have muddled an ordinary brain and silenced an ordinary tongue, only seemed to clear Lord Eldon's intellect and smooth the flow of his graceful oratory. One who, as a judge, could do what it is believed no other judge ever did, or was able to do, or would have cared to do, or to be thought able to do, might, as a student, have succeeded in many things which an ordinary person should not be advised to attempt.

But we are not so much surprised at this course of study being recommended by English Lawyers, particularly the older class of them, as we are to find their opinions concurred in by eminent members of the profession on this side of the water. As late as the year 1850, one of these gentlemen, who held a high position at the American Bar, delivers himself in this wise, on the subject we are now discussing.

'Old authorities no longer divide with old wine, the reverence of either Seniors or Juniors. Most of the old Law Books that used to be thought as good a foundation for their part of the truth as the prophets and apostles are for the whole truth, are taken away, I rather think, from the bottom of the building and thrown into the ground. The Littleton, upon whom Coke sits, or seems to sit, to the end of things, as Carlyle says, has fewer than of old to sit with him, for long hours to alleviate the incumbrance.

For the most part, as I am told, the incumbent and the succumbent lie together in the dust, which uppermost not many care to know.

"Almost any law-book that is more than 21 years of age, like a single lady who has attained that climacteric, is said to be too old for much devotion. Indexes, Digests, and Treatises, which supply thoughts without cultivating the power of thinking, and

are renewed with notes and commentaries 'de die in diem' to spare the fatigue of research are supposed to be the most convenient society for student as well as practitioner. Such are the rumors which float upon the air. "All old things are passed away, all things are become new." A great truth in its one sense, when first spoken and always, is now thought to be true in all senses, and renewable from year to year for ever."

The man who gave utterance to these opinions was himself an eminent lawyer of Pennsylvania. Side by side with his State, there were, as side by side with our Province there are, some forty civilized States and Provinces, deriving their law from an English source. Each of these States and Provinces has its separate judicial Tribunals, with reports of the cases adjudicated before them. These Communities were placed in circumstances similar to his own, as they are to ours. It might therefore well be supposed that the questions brought before the Courts in all these countries, must bear a close similitude to each other. The Reports of cases in one country, if not authoritative in another, would at all events through the arguments used by Counsel and the decisions of Judges, throw much light on the points of controversy. It would become necessary, therefore, for the legal practitioner on this side of the water, not only to study the decisions of the English Courts, which up to a certain date are authoritative in every State and Province, but in addition he would have occasionally to refer to these Reports, which are comprised in some thousands of volumes. One cannot therefore, but be surprised at the sneers in which the orator indulges at the aid offered by Indexes, Digests, Treatises and Notes. What indeed under such circumstances could be more hopeless than to attempt by personal research of the Reports themselves, to find the cases which may be applicable to a particular controversy? A lawyer might have at his finger ends all that is to be found in Coke upon Littleton, and still, if applied to on any question, which, in nine cases out of ten, comes before a Court of Law with us or in the United States he would be as helpless as a child.

In the Case of the Bar in a New Country, there are many additional reasons why the course of legal study should differ from that which would be proper in England.

There the Profession is divided in various ways. First of all, there are two great Branches of the Profession. Lawyers are divided according as they prepare the written papers and proceedings—or as they address the Court. The first-class are Attorneys, Solicitors, or Proctors. The latter, Barristers or Advocates, taking the title according to the Courts in which they respectively practice. Then again each of these classes is sub-divided into sections which devote themselves to a particular portion of the business belonging to the class. Thus confining themselves within a limited range, they acquire peculiar skill in the conduct of cases coming within the sphere of activity which they select. They seldom, if ever, travel beyond that sphere. With us, and in all countries situate like ours, the case is entirely different. Here practically all members of the profession are Attornies, Solicitors, Proctors, Barristers, and Advocates. They must be prepared to appear in every Court—to be concerned in every case. They must know something of Law, and something of Equity. They must have some acquaintance with the law of Nations, and some with the law of Divorce. They must be ready to draft a bill in Equity, or a Libel in the Admiralty, alternately with a Declaration in a Civil Cause, or an Indictment in a Criminal one. In fact the business of a Lawyer in a New Country, requires great versatility of talent, great readiness of resource. It requires a general information about everything, which is hardly consistent with very profound information about anything. Consequently there is less reason for, or rather, there is more reason for not, pursuing the special course of study recommended by the eminent authorities we have quoted. The special knowledge which might in this way be acquired, like the Greek and Latin, which are supposed by some people to be 'Education,' has a value in the one case, as it has in the other, but if the time spent in acquiring it, had been devoted to objects that would better prepare the student for the work of life, the world would be the better of the student, and the student better fitted for the world.

In such a state of things, Indexes, and Digests, Treatises and Notes, are of inestimable value. Books written within

twenty-one years, which give the law to a late date, are a thousand times more useful than the Entries and Year Books, and Littleton with Coke on his back, whose desertion by the profession, our American friend so eloquently bewails. In point of fact, it is to these that our Lawyer is indebted for the time to think. Had he, in each case in which he is engaged, to search for himself, in the Reports, for Cases in point, he would waste recklessly the time which should be employed in thinking. If he is to exercise any thought at all, he will owe it to the time which these aids enable him to save.

There is another point of difference between an old and a new Country that must not be lost sight of.

In England the young men who propose to devote themselves to the higher walks of the profession, as a rule, begin after having received a good Collegiate Education, and when they enter upon the study of law, have arrived at the age of manhood. They can devote to the new persuit a trained and mature intellect. They are not disheartened by the necessity of giving attention, at the same time, to other studies. It is easy to see how much this affects the course of study, which it is possible to pursue. What would be practicable in England, is impossible here. The time may come, when our circumstances will permit a longer course of study, before commencing the active work of life. It has not yet come.

In the cases of the great Lawyers to whom we have had occasion to refer, it is worth our while enquiring how far they come within the limits of our distinction.

Sir Vicary Gibbs spent his youth at Eton, and his early manhood at Kings College, Cambridge, where he became a fellow. He was called to the Bar after this long educational period at the mature age of thirty one.

Lord Eldon was sent to Oxford when sixteen years old, and remained there till after he came of age. He obtained a fellowship at that university, which however he lost by running away with and marrying a coal fitter's daughter. He was twenty-five years old when admitted to the Bar.

Lord Campbell spent eight years of his early life at the

University of St. Andrews, and had reached his twenty seventh year at the time of his admission to the Bar.

In every one of these cases, the Collegiate Course was completed before the professional course was commenced. In each the Student was of mature years, and entered on his special studies with the advantage of an intellect thoroughly trained, and a mind instructed by other studies.

At the age when the youngest of these great lawyers was admitted to the Bar, our men who devote themselves to the law, are as a rule actively engaged in professional business, supporting themselves from its proceeds. I do not say that it would not be far better, for them and for us—I believe it would—that they should study longer and begin later. But what can we do? We must adapt ourselves to our circumstanees and do as we can, not as we would.

We might carry our argument a little further, and ask whether in the changed condition of society, and the enormous growth of personal property and of litigation depending on contract, there is any ground for giving such preeminence to the study of the Tenure of Real Estate. But we have already occupied too much of your time, with this branch of the subject.

Instead of devoting to the study of Coke such primary and exclusive attention, we think it much better for the student to take for his early reading some treatise which gives the best general idea of the whole system of municipal Law. Having thus acquired the outlines of the science, and having in his mind a map of the whole, he can fill up the interior as time and occasion permit. Since the appearance of Blackstone's Commentaries about one hundred and twenty years ago, this work has been an early companion of the Law student. Some of its law, as Campbell says of most of Coke's, has become obsolete or been repealed, but the work is an admirable one for the student to begin with. Sir William Jones has pronounced it to be "the most beautiful outline that was ever given of any science."

An eloquent clergyman has spoken of it in these glowing words :

'Nothing can exceed the luminous arrangement, the vast comprehension and (we may venture to add from the best

authorities) the legal accuracy, of this wonderful performance, which in style and composition is distinguished by an unaffected grace, a majestic simplicity, which can only be eclipsed by the splendour of its higher qualities.'

The author of this eloquent enconium was an admirable judge of the grace and beauty of the style—he could fairly estimate the skill, exhibited in the plan of the composition, but, not being himself of the profession, he does not venture, of his own knowledge, to speak of its legal accuracy. Of that he judges, as he says himself, on the authority of others.

In that respect the opinion of a professional critic of our day is much more moderate, and probably in some respects more correct:

'It may,' says the writer we refer to, 'be noticed that the great work of Blackstone marks an era in the developement of legal ideas in England. It was not merely the first, as it still remains the only adequate attempt to expound the leading principles of the whole body of law, but it was distinctly inspired by a rationalizing method. Blackstone tried, not only to express but to illustrate, legal rules, and had a keen sense of the value of historical illustrations. He worked, of course with the materials at his command. His manner and his work are obnoxious alike to the modern jurist and the modern historian. He is accused by the one, of perverting history, by the other of confusing the law. But his scheme is a great advance on anything that has been attempted before, and if his work has been prolific in popular fallacies, at events it enriched English literature by a conspectus of the law, in which the logical connexion of its principles 'inter se,' and its relation to historical facts were distinctly, if erroneously, recognized." The praise bestowed on this great work every one who has studied it, will recognize as well deserved, while there may be some foundation for a portion of the adverse criticism which is blended with the praise.

With the choice between Coke on Littleton on the one hand, and Blackstone on the other, there can be no hesitation. It is the choice between a common place book, in which the author notes down, without system or method, everything that occurs

to him, relative or irrelative to the text on which he is commenting; a choice between that and a systematic treatise, in which every branch of the law is assigned its fitting place.

The work has gone through a great many editions, has been overloaded with notes, and reduced by excisions. But in our judgment the book in its original form without note or comment, is a most admirable introduction to legal studies. With Blackstone's scheme of law once fairly impressed on the mind by a careful perusal, the student on a second and subsequent readings will appreciate, and benefit by, notes which in the first instance would only have perplexed him.

It is worth while to note the origin of this great work. Blackstone was educated at Oxford, of which he became a Fellow. Afterwards he studied law, and was admitted to the Bar. He practised his profession for some years, when it occurred to him that he would supply a want that had always existed at his Alma Mater, at which no course of lectures on the Law and Constitution of England had been established. With all her splendid equipment in every branch of science and literature, there was no chair for common law. Accordingly he organized a course of lectures, which were highly successful. They were repeated from year to year, till by and by they were collected and published as Blackstone's Commentaries. Convinced of the value of this course of lectures, Mr. Viner, a private gentleman, a lawyer by profession, determined, as he says in his will, to dedicate the bulk of his property "to the benefit of posterity and the perpetual service of his country," and gave the sum of £12,000 sterling, to endow a chair and establish fellowships, to give permanence to the course. If England can boast of the munificence of its Viner, and of the disposal he made of his wealth, we have equal reason to be proud of our Munro. The names of both will descend to posterity inscribed on the same scroll of honor.

The experiment at Oxford owed its success in the first instance to the eminent talents of the Lecturer. But there was then, and there is now, much in the conditions of life in England; much in what we have already referred to, in the distinctions which prevail there between different branches of the profession;

much in the time of life at which young men there are in the habit of commencing their legal studies; and still something more in the situation of country towns like Oxford and Cambridge, (University towns though they be,) adverse to the success of such an enterprise. In England everything connected with law clusters in and about London. There are situate the Inns of Court, hallowed by the traditions of five centuries, through one or other of which every English Barrister has had to pass on his way to the profession. There all the business of the higher Courts is conducted, except only the trial of issues in country causes. There sat the full benches of the High Courts. There the Lord Chancellor and the various subordinates and functionaries under him, discharged their judicial duties. There sat the High Court of Admiralty, and there also the Court for the Probate of Wills, and of Marriage and Divorce. These Courts, to be sure, now form but one, but all the business which they did as separate Courts is now done by the Supreme Court which takes their place, and it is done in London. There sat, and there sits now, the Judicial Committee of the Privy Council to hear appeals from every quarter of the globe in which there is a colony or country subordinate to the crown of England,—appeals in which questions arise and are disposed of; now on laws which were passed but yesterday, now upon Codes which were in full force when our ancestors were wandering savages in the wilds of Britain. There too sits, while Parliament meets, the great tribunal of appeal, the last resort in litigation in causes arising within the realm. Before these Courts appear day by day, the ablest counsel the bar of England can furnish discussing every conceivable point of law and equity. The law student in London has the aid of the splendid libraries of the Inns of Court. He has the opportunity of daily attendance on the Courts of the branch of the profession he proposes to follow. He may listen to the arguments of the most able and astute lawyers the world can produce. He has thus access to a school of law which dwarfs anything else that can be set up beside it. Whether, therefore, in England a chair of common law is successful or not, in London or out of it, no argument, drawn from its want of success there, has any bearing on the question of its success in a

new country. On our side of the Atlantic we find these schools affiliated to almost every leading University, and working with marked success. Their influence for good is felt far and wide over the countries in which they have been established. We ourselves have been obliged, practically, to recognize their great value, and to contribute our mite towards their success. Some of our law students, disgusted with the absence of any course of legal instruction in our colleges, or out of them, and unwilling to enter their profession without the advantages which these schools afford, have resorted to the neighbouring Union, and from the law lectures of Harvard, or some other school of law in the United States, have learned to form a higher and a broader view of their profession than they could ever have attained from the uninstructive routine of a law office in Nova Scotia. By listening to lectures which explain the principles underlaying all law, the student comes, in the language of Littleton, "to understand and apprehend the arguments and reasons of the law, &c., for by the arguments and reasons of the law, a man more sooner shall come to the certainty and knowledge of the law."

"Lex plus landatur quando ratione probatur."

Such discourses open up to him entirely new views of the field over which his studies are to range. They help him to trace law backwards to its first germs in the family group, to follow it as the family developes into a community, and the family usages into customary law, or into a code or some other written form—to learn to distinguish between the essential and the accidental, between what is common to all law, and what is peculiar to one system or to one country. With a mind thus prepared he can approach the study of our municipal law with great advantage—and it must be his own fault, if, when he comes to enter upon the active duties of his profession, he finds himself eclipsed by men who have won distinction without having enjoyed the advantages that have fallen to his lot.

Beyond and above all things, a lawyer should cultivate a high sense of personal honor—next to that, he should feel to be dear to him, the honor of his profession. He should thus,

first for his own sake, secondly for theirs, shrink from any act or proceeding, either as attorney or in the higher sphere of barrister, which could compromise or sully his own reputation, and through it, that of the profession. He is not engaged in a trade. It is the lowest view of his profession to consider it as a business to make money by. There is no more despicable creature on the face of the earth than the lawyer whose whole soul is absorbed in Bills of Costs—who uses the opportunities his profession affords for no higher purpose than to exact fees—to mulct somebody—no matter whether client or antagonist—in Bills of Costs. Some acts done by lawyers through tricks and quirks of the law, (far be it from me to say that any Nova Scotia lawyer has ever done the like,) whereby they succeed in robbing an innocent man of his money, deserve to be placed on a par with acts of piracy. The men who do these things may be in—but they cannot be of—the profession. Still it is by such men as these that a noble profession is degraded. It is the fact that men of the kind exist in some countries, that accounts for, if it does not justify, such sneers as that of Addison when he tells the anecdote of a king sending to a neighboring prince for 30,000 swine, and receiving a reply that the swine could not be spared, but he had 30,000 lawyers who were quite at his service.

It is only of late years that we have had the courage to place in the avenues to the profession, the slightest impediment to prevent any from entering that chose to do so. Now we require some educational and moral tests. A youth is no longer allowed to enter upon his pupilage without being called upon to show that he has some qualifications for the profession. It is to be hoped that as time goes on, the preliminary examination will become more and more strict, and that when the student shall have had the opportunities which the school of law will afford, the final examination will also be conducted with increased vigor. There will then be no excuse on the part of the examiners, for not exhibiting towards the profession and the public, some of that pity and sympathy which they are sure to feel for the individual.

The education which the school will afford, will not of course make a lawyer, any more than an ordinary education at college

will make a scholar. But it will afford an admirable preparation for legal pursuits. As regards all education, it may be said in the language of Gibbon, that "every man who rises above the common level, receives two educations, the first from his instructors—the second, the most personal and important, from himself."

If this be so as regards ordinary education, it is still more so in respect to Law. One of the oldest of legal maxims declares the "Lucubrationes viginti annorum" necessary to the making of a thorough lawyer. If the emphatic saying of Carlyle, "that our school hours are all the days and nights of our existence," be applicable to ordinary education, it is especially so to the Law—where life is a continuous study. Every case is a lesson; every search required in the exigencies of daily work, widens and broadens and deepens our acquaintance with a science of almost boundless width, and breadth, and depth.

In a new country like ours, lawyers exercise a large influence. They naturally take a leading part in the local business of every community. Their habits of ready speech, their acquaintance with the forms of deliberative assemblies, make them an authority at those meetings which every community in a free country has occasion to hold. It is of the highest importance, therefore, that they should possess a character for candor, for public spirit, for honor and integrity, in the communities in which they reside. With such qualities they can be most useful in their several spheres—as useful as withc it them they would be mischievous and dangerous. Every well-wisher of his country, therefore, will welcome any effort to raise the character and standing of the profession. We hail this enterprise as having for its aim an object so important. We trust that it will have an effect, not only on the lawyers as a class, but, through them, on the communities in which they dwell. We hope that the effect will be such as to justify the expectations which have led the munificent founder of the chair of law, to add this to his other splendid benefactions to Dalhousie, for which our people can never be sufficiently grateful.

# ADDRESS

**Delivered by R. C. Weldon, A.M., Ph.D., Dean of the Law Faculty, at the convocation of the University, on the 30th day of October, A. D. 1883.**

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Having been appointed by the authorities of this University to deliver an address at the opening of the present session, I have chosen to spend the time given me to-day in speaking to you of law schools past and present, and of the needs and aims of our newly-founded law school.

Upon this college platform, in this city, and at this day, it is surely not necessary to work out a detailed augument in favor of professional education. The case for professional schools has been stated more than once in this city carefully, and by men whose hearts were in their words. Better still, in divinity and medicine, schools have been flourishing in Halifax for some years. In the upper provinces of Canada, in divinity, medicine, and law, schools have been established and are prospering, some of them greatly. Up to this year, we of the maritime provinces have made no serious efforts to establish a law school of our own; but now, through the munificence of Mr. Munro and the co-operation of the bench and bar of this province, a law school has been founded in this city, in connection with Dalhousie College.

For many years, the best lawyers in our provinces have deplored the imperfect opportunities open to their students for the acquisition of a knowledge of the law. In our larger towns, where numbers of law students are congregated together, what with the help they render each other in their clubs, their access to good libraries, their opportunities of visiting the courts, the difficulties of unguided study are not so great; but to the student in the small country town, without books, without any help from discussions with fellow students, with little guidance from

the barrister with whom the student is articled, with the most unsuitable books in his hand, with rare chances of looking into a court of justice, nothing can be conceived more discouraging than the four lean and dismal years of articled clerkship. The human mind soon adapts itself to its surroundings, and the law student, failing to get any insight, and to feel the keen and ennobling delights of intellectual mastery, soon looks for his rewards elsewhere, and comes to regards his profession as one half monopoly and the other half jugglery, and to believe that his occupation is mainly a contrivance for extorting fees from somebody, it matters little whom. To such a student at the beginning of his studies, a regular curriculum of law study, with the most suitable books for students recommended and an orderly exposition of the leading principles of law given by living teachers, must afford stimulus and guidance. Our students in times past have felt the need of such helps. Let one run his eye over the law school calendars and notice the numbers of young men from the provinces, yearly going to Boston, Cambridge, Ann Arbor and New York, for their legal education, and it will at once occur to him that the age and wealth and intellectual activities of our own country are great enough to minister to those wants, which lead so many of our cleverest young men into an involuntary exile. There are those who scout these new departures and point to the distinguished judges of our province, living and dead, who have won their proud eminence without these helps in their student days. No one disputes that very conspicuous success is three-fourths a matter of natural endowment and only one-fourth a matter of training. Still we have the strongest testimony in our favor from these very men—self made men as they are called—who look back with regret upon their own student years as but poorly spent—and take care that their own children in choosing their father's profession shall be equipped with the best training of the schools.

The founding of a school for the study of the common law of England is by no means a new departure. It is but a revival of an institution almost as old as the law itself. Shortly after the courts were fixed permanently at Westminster, the inns of

court were established in that town, to do for the students of the law substantially what the illustrious foundations on the Isis and Cam were doing for the men in arts and divinity. The inns of court were born in that great struggle between the English common law and the Roman law which illustrates so well the stubborn individuality and self-reliance and insular pride of the English people. Professor Vacarius, an accomplished civilian, was expounding to the young Englishman at Oxford during Stephen's reign, the institutes of Justinian; but this Italian's seductive eulogies of the symmetry and logical completeness of his favorite study were answered by the vigorous and prompt endeavors of the English lawyers to gather around them the English law students and teach these the ancient laws of England—handed down from the Anglo-Saxon kings--laws which were the embodiment of Anglo-Saxon notions of common sense and justice. The inns of court were instituted in accordance with an order of Edward I., in 1292, directing that students apt and eager should be brought from the provinces and placed in proximity to the courts of law. Curious notices of these schools at different times have come down to us. Fortescue, in the second century of their existence, says, "The students apply themselves diligently to the study of the law. Upon festival days they study history. Here everything good and virtuous is to be learned. All vice is discouraged and banished. Knights, Barons, and the greatest nobility place their sons there, not so much to make law their study, much less to live by the profession, but to form their manners and to preserve them from the contagion of vice. Amongst the students there is a constant harmony, the greatest friendship and a general freedom of discussion. In number they are more than 2,000."

It is obvious from the great number, that in these schools terms were kept by the great mass of the sons of the nobility, after leaving Oxford and Cambridge. The law in those days was not a jealous mistress. Fortescue assures us that in the inns, the law students were taught to dance, sing, play in masques and revels and generally to get skill in all those accomplishments that become the well-born. We, four hundred years

later, cannot offer so wide and pleasant a curriculum. It may be remembered that Justice Shallow studied at one of these inns. By his own telling he must have cut mad pranks there in his day. Late in life, he delighted to assure his friends that the folk of the inns "will talk of mad Shallow yet." It is true that Shallow's memories fit in very badly with the old chancellor's account just quoted, but Shallow was at Clements' inn two reigns before "De Laudibus" was written and things may have mended in the interval, besides, Falstaff thinks Shallow was one of those old men "given to the vice of lying." One hundred years later and we have a minute account of the degrees and ranks among the members of the inns. The youngest lawyers are called mootemen. Mootemen of eight years standing may become utter-barristers. Benchers are chosen from utter-barristers of twelve years standing—of which benchers, one reads yearly in the summer vacation to instruct the students, and is called a single reader. A single reader of nine years standing may be called to read in the Lent vacation and is called a double reader. From double readers the king chooses sergeants, judges, and the Solicitor and Attorney-General. "All these together," says Coke, "do form the most famous university for law that is in the whole world. In these houses, the readings and other exercises therein continually used are most excellent and behoofful for attaining to the knowledge of the laws." The manner of these readings in Elizabeth's reign is minutely described by Stow. "The benchers appoint the eldest utter-barrister to read amongst them openly in the hall of which he hath notice two terms before. The first day he chooseth some statute, whereupon he grounds his whole reading for that vacation. He reciteth certain doubts and questions which he hath devised upon that statute; after which another barrister doth labor to prove the reader's opinion to be against law. Afterwards the sergeants and judges to declare their opinions, and this exercise doth continue three to four hours daily." The great popularity of these readings was not due entirely to the learning and logic of the reader—for "during the time of reading, the reader keeps a constant and splendid table, insomuch that it hath cost £1,000 for even three days' feasts."

When the immediate purpose of the founding of the inns of court had been accomplished, and the champions of the civil law had carried their codes and institutes and digests away with them back across the channel, then these schools lapsed into that intellectual torpor that benumbed all the universities of Europe in that day. During our own times earnest efforts have been made to restore the inns of court to their old position, that of a law university for England. Vigorous preliminary and final examinations have been instituted. Lectures in common law, equity, real property, international law, Roman law, constitutional law and history, have been established, which the students are compelled to attend. More radical changes are still being urged by the advocates of legal training in England, and no doubt these changes will be made when once the more urgent legal reforms now pressing are disposed of.

On the continent of Europe professional training in law is given by the law faculties of the universities. In the greatest, although the youngest of these magnificent foundations, the university of Berlin, the professors of jurisprudence have held from the outstart very high rank. The university itself was born in the early years of this century, when Germany, smarting under the humiliation of the French conquest, came to see that her only possible chances of recovering power lay in an appeal to intellectual and spiritual forces. $60,000 a year were voted by Prussia to establish the university, and this, says Fichte, "was the highest regard for science and thought ever afforded by a state, for it was given during a period of the direst oppression and under the greatest financial difficulties; and it was not a matter of display or of elegance that was sought for but a means of giving health and vigor to the nation."

A foremost place was given to jurisprudence on the new foundation, for none knew better than those famous founders that a profound study of law is one of the most conservative elements in the life of a state. Carl von Savigny was named to the king as the man in all Germany best fitted to direct the study of jurisprudence. Much of interest in legal education in Germany centres around Savigny. He was born in 1779 at Frankfort on the Maine. At 16 he entered the University of

Marburg; at twenty-one he took the doctor's degree; at twenty-four he declined a chair of law at Heidelberg; at twenty-nine he was professor of Roman law at Landshut; and at 31 he was called away to Berlin to aid in building up a united Germany. Once established in Berlin, Savigny's labors as teacher and author were more successful than ever. One of his first cares was to establish a juridical college in connection with the faculty. The juridical college, the spruch collegium as it is called, is a unique institution, being the instrument by which the continental universities have so considerably influenced the administration of justice. It is made up of the law professors. It has no jurisdiction, but the courts are authorized to communicate to it the documents and pleadings in any cause, and are bound to accept and promulgate its decision. In some States this reference to the law faculty is made by the courts at their own option, in others by the desire of the parties to the suit. Savigny saw in this institution a means of aiding legal education, as well as an organ by which scientific law might influence practice. It was a great aim of Savigny's life to bridge the gulf between theoretical and practical law. He did establish a spruch collegium of so much celebrity, that cases were remitted to it from several States, and in sixteen years the college published one hundred and thirty-eight reports of its decisions.

During the last one hundred years Savigny's is the greatest name among European lawyers; and the best years of his brilliant and useiul life were spent in teaching law to his countrymen. A university degree is the portal through which young Germans enter into the higher sorts of law practice, and as the universities are equipped with full law faculties—there are in Germany abundant guarantees for the thoroughness of the legal training of the young lawyer.

In the United States of America the law school is of comparatively recent growth; its origin is due to the zeal of a distinguished judge. Judge Reeves of Litchfield, regretting the wasted hours of his own student life, and believing that in the ample leisure of those days there was an opportunity for the study of general principles of law, such as could not be found when business came pouring in upon the practitioner—believing

too that a study of general principles alone could give that width of horizon and due sense of proportion which mark the highest type of lawyer, decided to gather about him the young lawyers and law students of his own town, and give them formal instruction in law. By the use of lectures, by reading texts books together, discussing pertinent cases, exacting written theses, and frequent examinations, he may be said to have founded the first law school in America. The great American law teacher however, is Joseph Story, of Harvard. He gave the American law school its fame, he convinced the American lawyers of its usefulness. At first the struggle of the law schools for life was a hard one. The old practitioners of New England and New York felt that they had done pretty well in the world without law schools and were inclined to laugh at Harvard's new move in 1827—when by the help of Nathan Dane, Story's chair was endowed. A word, in passing, about the greatest legal luminary of the new world. Story was born in 1779—the same year as his illustrious friend Savigny. At nineteen he graduated at Harvard, at twenty-six he was elected to the legislature of the State of Mass., at twenty-eight to Congress, at thirty-one he was appointed to the Supreme Court of the United States, which seat he held until his death, thirty-five years later. At fifty he became Dane Professor of law in Harvard, and this chair he filled also until his death. He is, by universal consent, the greatest American judge. In constitutional law he stood beside Chief Justice Marshall, in international law he was without a peer. In erudition, quickness and judgment, he surpassed all other judges of his time. American legal authorship owes its recognition beyond the Atlantic to his books. He holds a unique position among the great names in law. He was a great judge and a great jurist. In England and her colonies, the jurist is an unknown species of lawyer, but in Germany, France, and Belgium the jurists mould the courts, not the courts the jurists. The judges in these countries do not hold the first rank in law; they belong to the civil service, and are not recruited from the ablest members of the bar. They do not pretend, as do our judges, to give opinions by which "their decisions are fitted into a symmetrical system of law and by which the precedent of

to-day subordinates itself to the past and dominates the future." This work is left to the jurists. The courts barely register decisions. By jurists and not by judges a common law is built up. The rank in England held by Hardwicke, Mansfield, Stowell and Westbury, is in Germany held not by judges but by Savigny, Mittermaier and Bluntschli.

As a jurist, Story took even rank with his greatest contemporaries in Europe. After the great work of Savigny, no work in the old world or the new upon the conflict of laws, is so authoritative throughout the courts of christendom as Story's. But his judgments and books combined did less for American law than his 16 years teaching at Harvard. His students came from all parts of the union. They were not more instructed by his great learning than ennobled by the transparent purity and loftiness of his aims. He delighted in his profession. She was never in his mind to be the hand-maiden of chicanery. He was never tired of exhorting his students to abjure everything unworthy in their subsequent practice. His pupils became the ornaments of the bench and bar in many cities. One of his favorite pupils was Sumner, the last great American senator. When Story went to Harvard, although for some years the college had had a Royal professor of Law, there was not one law student, and a wheelbarrow would carry all the books. When he died there were 150 law students and 6000 law books. Story's teachings gave a great impulse to thorough law study. Massachusetts does not rank among the most populous States of the Union, but she has the oldest and most celebrated law school in America. Her bar and bench have a remarkable pre-eminence. Of no other State in the Union are the judgments so often cited in foreign countries. The Massachusetts judgments are very often quoted by the English judges, and with the greatest deference. The Massachusetts reports among American reports are of the highest value, and this singular pre-eminence in law of that small but ancient commonwealth is due to the altogether exceptional training the Massachusetts bar has received at Cambridge. Since Story's death many law schools have been established. To-day there are in the United States 48 schools with 229 instructors, 3,134 students and 88,712 books ; or roughly speaking,

one school to every million of people, with 5 instructors, 66 students and 1800 books. Throughout the whole country the cleverest young men enter the profession of law via the law school.

In Canada, I believe. there is not one law school with endowed chairs and adequate libraries. Do we not need them? Can we any longer do without them? Let us come now to the necessity felt by a student of the English law of having more guidance than he is able to get from the barrister with whom he is articled, and the books he finds about him. The body of the English law is infinite. The statutory law runs back to the days of Henry III., through unnumbered acts of the English parliament. Besides there are the Provincial Acts, and latterly the Dominion Statutes. The unwritten law is to be looked for in cases that are like the leaves of the trees for number. A man cannot come to know the names of the books in which the cases are to be found. The most busy men after long lives can only get to know fairly well but small parts of the great body of the law. In a single year the law presses are issuing books enough to make a small library. A young man sent to learn the existing law from this immense mass of material needs the most careful guidance. No one barrister, busy with office work, can find time to do for his student half that he is capable of doing, and no one barrister can find leisure enough to acquire that minute acquaintance with all parts of the law that will make himself alone an adequate guide and instructor. The work to be done is so immense, that we must combine and specialize. They recognize this in England, and, as we have shown, are rebuilding their ancient university. The difficulties of the young Canadian student of law, are immensely greater than those of the young English student. First of all the young Englishmen who seek admission to the bar, carry to their law studies a much more thorough intellectual training. More than eighty-five per cent. of those admitted to the English bar during the last four years have been university graduates. Less than 25 per cent. of those admitted to the bar in Nova Scotia and New Brunswick during the same have been college graduates. Furthermore, the English universities provide lectures in Roman law, constitution-

al and international law, so that students who contemplate subsequent law studies have in college a fine opportunity for the study of these general and historical subjects. In this country the colleges make little or no provision of this sort. We emphasize the difference in the degree of fitness for study between the two classes of students in order to ground an argument for the general attendance upon a law school here. In these Provinces, where so many untrained men go up for examination in law, there is an imperative necessity for something like University drill and guidance.

We said a moment ago that, great as were the difficulties of unguided study to an English student of law, those of a Canadian were greater. In England they have text books embodying the latest statutes and judgments. We have practically no home books, we rely upon the English books, which our experienced lawyers have to handle with much caution. Our colonial legislatures do not undertake to keep pace with the Imperial Parliament, wherefore it happens that the English law of to-day—as we find it embodied in the latest and best books—differs greatly from our own. Our law students are apt to be misled by these books, which contain much that is not law in the colonies and omit much that is law. Life is so short and early impressions are so enduring, that it is a misfortune for a student to start with a radical misconception of the law. The Canadian books upon [illegible] few and most of them bad. If the anticipations of [illegible]ers of the Dominion had been fulfilled, and the laws [illegible]nglish speaking people had been made uniform, we [illegible]ld have a legal constituency large enough to warrant our ablest lawyers in devoting their ripest years to authorship.

Being thus conscious of the want of a law school to train the young men of our provinces, an obligation rests upon those who are responsible for the intellectual oversight of the people to supply this want. It is unwise to drive out of the country the best men of any profession and compel them to secure their intellectual outfit abroad. The great expense incident to such study will debar all but the most fortunate from seeking such privileges and even these may purchase their privileges at the grave price of alienating their affection from the land of their

birth. Almost all that these students gain could be gained as well by foreign travel subsequent to the completion of their studies, provided that well equipped schools with accomplished specialists were available at home. To build up in this city of Halifax a university with faculties of arts, medicine, applied science and law, strong in libraries, laboratories, museums and apparatus, with subjects so specialized that the professors may come to know what is known in their departments, a university that shall attract students in considerable numbers from all the Maritime Provinces that shall influence the intellectual life of Canada as Harvard and Yale have influenced the intellectual life of New England; this seems to be a legitimate ambition to any generous spirits who wish their country well. No more eligible sight for a great university can be found in Canada. The light, of course, should come from the east. What more delightful city than this, wrapped round on all sides by the sea, in which to spend one's student days? No city in Canada offers greater facilities for the founding of a law school. Here are occasional sittings of the Exchequer Court, frequent sittings of the Admiralty Court, regular sittings of the Supreme Court *in banc* and at *nisi prius*, of the County Court, and the local courts, some or other of which are in almost daily session—by visiting which the observant student can learn a great deal. The inducements which we can hold out to provincial students to pursue their law studies here, rather than in the United States, are that the principles of law taught are those recognized in our own courts, that the statutes quoted are the imperial and colonial statutes, which govern us; that the cases cited in illustration are authoritative in our own courts.

Our attempt to found a law school has had the singular good fortune to win the favor of the bench and bar at the outstart. We have met with the greatest kindness in all quarters. From this City, from all parts of this province, and from New Brunswick, valuable books and cordial messages of sympathy and approval have come to us. The pressing need of the school is for books, and these books, from some quarter or other we must have. Some books we have already secured through the bounty of our

friends. More we must obtain; and to this our best efforts during the coming months will be directed.

A few words as to our course of study and we have done. In devoting some part of our time to the subject of international law, we are but abreast of the best schools of law at home and abroad. It is true that in our present relations to England, we are not called on to assume the responsibilities, nor are we permitted to enjoy the rights of independent sovereignty. At present therefor, the rules of public international law have but a limited application to us. But almost nowhere in the empire is there so constant a demand for the rules of private international law. The laws of six English provinces of Canada in respect of property and civil rights are different. The laws of Quebec belong to a distinct system of jurisprudence. Along our southern boundary are many commonwealths, with systems of law differing from our own and from each other. Into the new provinces of the North West immigrants are carrying the laws of half the states of Europe. There must therefore be in Canada a constant conflict of laws; and a constant invocation of the rules of private international law will be necessary, to determine *inter alia* the validity of wills, the distribution of intestate estates, the competency of divorce, the legality of marriage, the capacity of persons to contract.

As to the value of the study of public international law, let me quote from a famous admiralty judge:—

"There is yet another study, which may well engage the attention of our lawyers. I mean the study of the law of nations. This is at all times the duty and ought to be the pride of all who aspire to be statesmen, and as many of our lawyers become legislators it seems to be the study to which of all others, they should seriously devote themselves. Independent of these considerations, there is nothing that can give so high a finish, so brilliant an ornament or so extensive an instruction as this pursuit to a professional education. What, indeed, can tend more to exalt and purify the mind, than speculations upon the origin and extent of moral obligations, upon the great truth and dictates of natural law, upon the immutable principles that regulate right and wrong in social and private life; and upon

the just applications of these to the intercourse and duties and contentions of independent nations ?"

In the course of our studies in this school we shall trace the law of nations from its origin in the *jus gentium* of the Romans, see it incorporating provisions from famous sea codes, from the code of the Hanseatic league and the Consolato del Mare, see it declared by admiralty judges, and developed by Grotius and the great jurists who followed him. We shall find it in former times speaking with a low and unheeded voice, but in these latter days with a voice of august majesty, defending the weak, rebuking the strong, putting down the mighty from their seats and exalting them of low degree, dismantling fleets, disbanding armies ; in minor matters appealing to that comity, which is the very perfume of international politeness, and in graver matters to the nations' sense of honor and justice, enforcing its appeals by the terrible sanctions of war. If the day comes when Canada may take her place among sovereign states, then she will choose her embassadors and secretaries of legation from those men who, in their youth, pursued wide and liberal courses of study, who thus early have familiarized themselves with the languages, literatures and history of Europe, and with the general principles of public law.

We mean to devote some study to the constitutional law of England and to the growth of that law during the eighteen hundred years since Tacitus saw and sketched our German ancestors in their old homes by the North Sea. That England has lived so long and grown so steadily, that she has drawn to her breasts from so many lands whole colonies of fugitives from despotism—all this is due to her firm, just, mild laws, and the firmness, justice and clemency of her laws are due to her admirable political constitution. England's continental neighbours have paid her the singular compliment of borrowing her most famous political institutions such as Jury Trial and the House of Commons, with a belief that these have a magical efficacy. When Cavour dreamed of a United Italy, he came to England and dwelt there four years to study the constitution. Bunsen thought Prussia must learn the art of popular government from England, whose House of Commons had been in

uninterrupted life for 600 years. Guizot felt that France must borrow from England much of the machinery of representative government, and to that end he made a study of the English constitution, more thorough than most English historians have made.

The experiment of transplanting unaltered to the continent, institutions, found to be well adapted to England, must prove disappointing. Still no truer compliment could be paid to the English system. Surely, if the statesmen of Europe have thought the English constitution worthy of the profoundest study, it behoves us, living under the English flag, to acquaint ourselves with the secret of its power. In drawing up our curriculum we have not forgotten the duty which every university owes to the state, the duty which Aristotle saw and emphasized so long ago—of teaching the young men the science of government. In our free government we all have political duties, some higher, some humbler, and these duties will be best performed by those who have given them most thought. We may fairly hope that some of our students will, in their riper years, be called upon to discharge public duties. We aim to help these to act with fidelity and wisdom. The treatment of constitutional questions differs so much from the treatment of strictly legal questions; it demands so much more historical knowledge and breadth of judgment, that the mental habits acquired by constitutional studies are found to be a wholesome complement to the habits acquired by the study of mere precedents. Time will not permit us to dwell upon the value of the study of constitutional history. We can only know well what we have by knowing from what and though what intermediate forms it came. In the study of the growth of English institutions, the English lawyer must always take pride; for in the days of E. land's peril the English lawyers have been the saviours of their nation. From the days of Cerdic, the Saxon, until now, the darkest days for England were those before the commonwealth, and amidst the shadows cast by the imminent dangers of that time, the heroic figures of the great English lawyers loom up and assume the stature of the demigods of old.

Interesting as these historical and general subjects are, in

this law school as elsewhere, by far the greatest part of our time and thought must be given to more useful and practical studies —to the study of the common law of England.

To praise the English common law " is wasteful and ridiculous excess." No one needs to praise it. No one needs to praise the Parthenon, or the Venus de Milo, or the Sistine Madonna, or the symphony in C minor, or King Lear. England is one of *many* great nations, The English literature is one of *many* rich and beautiful literatures, but the English law is one of *two* great systems of jurisprudence. This wonderful fact says more than a hundred eulogies. So much of the best brain, and blood of the brightest men of the cleverest race in Europe has gone to build up the common law of England, that it behoves us all in our studies to come with the reverence of children and sit at the feet of these statesmen, lawyers and judges, who through so many generations have been formulating this law. We know how arduously these men wrought for u with what fortitude they suffered, with what calm faith they did their duty in their time, leaving their fame to the wise years that were to come, and we cannot study their works without feeling,

" Our hearts run o'er,
With silent worship of these great of old,
These dead but sceptred sovereigns
Who still rule our spirit from their urns."

# THE AMERICAN LAW REVIEW.

Among law periodicals, the above Review unquestionably takes the foremost place. For many years it was published in Boston by the well known firm of Little, Brown & Co., but in 1883 it was consolidated with the SOUTHERN LAW REVIEW, and since that date has been published in St. Louis. It was predicted by some that it would not sustain its reputation out of Boston, but the very contrary is the case, and it is now a more appropriate and fitting representative of all that is best in an ideal law periodical, than at any period in its previous history. It contains articles on live, legal topics, by the best writers; full and accurate digests of all reported cases, as published by the legal magazines and journals in advance of reports; notes on current topics of professional interest; reliable book reviews and notices and references to all changes in law and legislation. No pains or expense has hitherto been spared to make the Review worth ten times the price of it to every earnest lawyer in the land. To the practicing lawyer it is invaluable as it enables him to make his brief bristle with points, while to the lawyer of scholarly instincts it is indispensable. It is now in its eighteenth year, published bi-monthly, terms five dollars per year, and we have no hesitation in recommending it to the profession as worthy of their confidence and support, and we only hope that this notice may help to give it the circulation in the Dominion and Newfoundland which it so justly deserves.

Address—REVIEW PUBLISHING COMPANY,
210 and 212 Pine Street, St. Louis,
Missouri, U. S.

# UNITED STATES SUPREME COURT REPORTS.

As yet it is not generally known in Canada and Newfoundland that a revolution has taken place in the publication of law reports, and that a struggling country lawyer can now obtain the most valuable of the American reports for one dollar per volume. How this came about and to whom the profession are indebted for this great boon we will briefly narrate. In 1882 a company called "The Lawyers' Co-operative Publishing Company" began publishing at Newark, Wayne County, New York, the Supreme Court Reports of the United States, at the astonishingly low price of one dollar per volume. As they were unknown alike to the profession and the law-book selling trade, it was but natural to suppose that the managers of the company were inexperienced or visionary, and that in a few months they would use up their capital and end like all wild-cat adventures, in insolvency. But, contrary to the expectations of their friends and patrons, the legal profession and the hopes of their enemies, the law-book publishers, the company kept right on, after the time they were expected to die, publishing volume after volume, and at the present time of writing have brought out some eighty volumes in twenty books. Without doubt, in a few months the company will complete the most valuable series of the American reports,—the only complete, uniform, uncondensed edition extant. But the cheapness of the edition is not by any means its most atttactive feature, and the editorial additions alone are worth the price of the Reports. However, to those features we will refer more particularily hereafter.

The unexpected success of the venture in the Supreme Court Reports of the United States induced the company to undertake an edition of the earlier reports of the New York Common Law Series, in 80 volumes, beginning in 1794 and coming down to 1847. Of this series they have published about 60 volumes,

and in a few months will complete the set. These reports are more often cited in the United States than the reports of any other State. They contain the decisions of the most eminent American Jurists; embrace the widest range of commercial subjects arising in a state of the largest and most varied commercial interest, and are noted for their exhaustive discussion and treatment of the fundamental principles of the Common Law. Of course it was to be expected that the new enterprise would receive the most determined opposition from the law-book publishers. Accordingly, the publishers who owned old plates and reporters copyright, at once announced that they would print cheap editions and sell them at a dollar a volume, thus hoping to under-sell the Co-operative Company, and crush them out in the genuine old way in which monopoly crushes out young enterprise. But there was just this to prevent that: the new edition was far superior in every way to that from the old plates, and where the publishers of the old edition could sell one set of their books, the Co-operative Company could sell ten, thus proving that the legal profession took in the situation and made no mistake in the bestowal of their patronage. Their editorial additions embrace:—

1st.—Tables of cases reported placed together in consecutive order at the beginning of the book.

2nd.—At the beginning of each book a table of all cases, statutes and constitutions cited by the court in the opinions embraced.

3rd.—Subject or catch words to head-notes, serving the same purpose, to save time, as the head-notes themselves.

4th.—A classified table of citations at the foot of each case, giving references to subsequent cases wherein such cases had been cited by Federal or State Courts.

(We call especial attention to these "citations." Practical experience shows them to be the most useful notes which can be added to a series of old reports; their number and length being determined by the estimation in which the cases are held in subsequent opinions.)

5th.—More extended foot-notes to the more important or

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6th.—A consolidated general index at the end of each book.

Old reports with these additions are, for obvious reasons, even more valuable to the practitioner in every day work, than current reports.

It will thus be seen that not only have they revolutionized prices, but they have added so many time and labor saving features to their work, that their publications are the most complete and perfect known to the profession. Every lawyer who speaks the English language, or is any way connected in the administration of Justice in the British Empire or the United States, is interested in the success of this company. If the best of the United States reports can be published at that price, why cannot the same be done with the reports of the Privy Council, House of Lords, in fact all the reports. The success of this company means an extension of the blessings of cheap law books to every man in the profession. No more healthful influence could be exerted on the legal learning and general jurisprudence of Canada, than a wide diffusion of the reports of the Supreme Court of the United States and New York.

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Address—

THE LAWYERS' CO-OPERATIVE PUBLISHING COMPANY,
Newark, Wayne County,
New York, U. S.

# DALHOUSIE LAW SCHOOL.

## MATRICULATION.

Articled clerks and graduates and undergraduates of any College or University recognized will be admitted as students of the first year without examination. In New Brunswick and Nova Scotia the time of articled clerkship is shorter by a year to graduates of the School.

## EXPENSES.

Owing to the large endowments possessed by the School, the Governors are enabled to make the tuition fees so low as to give the greatest possible encouragement to legal education :—

| | |
|---|---|
| Books | $ 20.00 |
| Tuition Fees | 30.00 |
| Board for 25 weeks | 100.00 |
| | $150.00 |

Students, by forming clubs, can obtain board at a much lower rate than four dollars per week, and the amount to be expended on books is entirely within their discretion. Students have taken the course and paid all expenses for one hundred dollars, but it is advisable to come prepared with the larger amount.

## SCHOLARSHIPS, PRIZES, &c.

Four prizes are given for proficiency in the subjects taught, and it is the aim of the Governors to secure several Scholarships for the next year.

## THE LAW LIBRARY.

The Law Library contains a fine selection of the works, reports, statutes, &c., needed by students. During the past year

3,000 volumes have been procured, and it is the aim of the Faculty to make it the most complete in Canada. It is open to students from 9 A. M. to 9 P. M., and there is always a competent instructor in the Library to assist students.

## MOOT COURTS.

Moot Courts are held fortnightly,—one for the students of the first year, and the other for the students of the second and third years. They are presided over by a member of the Faculty, a practising barrister, or a Judge of the Supreme Court. It is the aim of the School to make practical as well as theoretical lawyers.

## MISCELLANEOUS.

No seat will be assigned to a student, and no recognition given to him in the University, until he has registered his name and purchased his class tickets. The registration of Students and the issue of class tickets will be made on Monday, 27th October, at 3 P. M., in the Library of the Law School.

Address— R. C. WELDON,
Dean, Halifax, N. S.

# DALHOUSIE UNIVERSITY,

HALIFAX, N. S.

## FACULTY OF ARTS.

This University was founded in 1821, "for the education of youth in the higher branches of science and literature."

The Faculty of Arts consists of ten Professors and two Tutors. Instruction is provided in Latin, Greek, Hebrew, French, German, English Language and Literature, History, Political Economy, Ethics, Logic and Psychology, Metaphysics, Mathematics, Physics, Chemistry, Mineralogy and Botany. Laboratory training is provided in Chemistry, in Physics and in Microscopic research.

Besides Medals and Prizes in the various subjects of study, the University offers $10,000 annually in Exhibitions and Bursaries, thus providing 60 students with the means of gaining a University education. These Exhibitions and Bursaries are awarded by competitive examination to students entering the first and third years of the Arts course. The Exhibitions are of the value of $200 a year; the Bursaries of the value of $150 a year. The University is able to offer the above through the munificence of George Munro, Esq, of New York.

Calendars and all desired information may be obtained on application to the Principal.