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The Study of Law by Correspondence

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In New York graduates of colleges and universities are admitted to the bar examinations after two years of law study. That time is entirely too short, and the answer papers of the two-year men demonstrate it. We do not approve of the one-year discrimination in favor of college graduates over those who are not, and the results of the examinations afford no reason for the same. Public opinion will not consent that the period of law study of noncollege graduates be raised to four years, in order that the collegiates may be compelled to study for three years, or in aid of three-year law school courses. We are confronted with a condition, and not a theory. Two years of law study is too short for any person, and as we cannot get four years for nongraduates we advocate the abolition of the discrimination against them, and think that all alike should be compelled to study law not less than three years. We are not quarreling with any theories predicated on the greater age and mental activity and receptivity of college graduates. We contend that two years of law study is not sufficient properly to qualify any person for the bar.

There should be an entire separation of the law school and the state in the matter of admission to the bar, and no attempt should be made to conform state rules in relation thereto to the business or educational interests of the law schools.

We think that the Standard Rules should contain among others the following conditions:

(a) That every candidate for admission to the bar should be a citizen of the United States.

(b) That he should have at least a high school education or its equivalent, as defined by state educational authority, before he begins the study of the law.

(c) That no candidate should be admitted to the bar examinations unless he had studied law in the prescribed manner for not less than three years, two of which must be spent in good and regular attendance upon, and the successful completion of, the prescribed course of study at a proper law school, and one year in the service of a bona fide clerkship in the law office of a practicing attorney in the state.

(d) That law schools whose time is allowable under the rules should meet the requirements heretofore stated and as set forth in the rules regulating admission to the bar in New York.

(e) That no candidate be certified for admission who does not successfully pass a special examination in pleading, practice, and evidence.

(f) That each applicant for admission be required to state in the affidavit filed by him on his application that he has read the Canons of Professional Ethics adopted in the state, or in lieu thereof those adopted by the American Bar Association, and has faith-

fully endeavored to make himself acquainted with the same, and that he will endeavor to conform his professional conduct thereto, and that the examiners be requested to examine on said Canons of Professional Ethics all applicants applying to it for admission to the bar, and that the faculties of all law schools within the state be requested to teach the subject of professional ethics.

If the law hopes to maintain its ancient supremacy as the first and the learned profession it has a task before it. We are not pessimistic; but it is fast losing its prestige by reason of the adoption by medicine and other professions of higher educational and professional requirements for entrance thereto, and the consequent inflow to the bar of those who cannot aspire to medicine or the other regulated professions, and who find the law cheap and easy.

Admission to the bar should for many obvious reasons represent some cost, as well as sacrifice in time, service, and study.

We believe that proper rules regulating admission to the bar, honestly enforced and containing the conditions above set forth, will commend themselves to the people as well as to the profession, be of great public service, tend to elevate the standards of education and morality at the bar, restore to it its primacy, and be a monument to the intelligent section of the American Bar Association which formulated them and aided in their adoption.

JAMES PARKER HALL, Dean of University of Chicago Law School, followed Judge Danaher with a paper entitled "THE STUDY OF LAW BY CORRESPONDENCE." Mr. Hall said:

During the past twenty years correspondence study of all kinds has increased in this country by leaps and bounds. Long regarded with suspicion by institutions of higher education, correspondence courses are now offered in a large number of subjects by several prominent American universities, and a much larger number of students are enrolled in private correspondence schools. A great variety of subjects are taught in this way, many of them very well taught indeed. The work appeals to a class of students whose attitude toward their education can scarcely be improved. They are earnest, ambitious, hard-working men and women, more mature in years than the average college student, and vastly more mature in the sober experiences and responsibilities of life. They labor under the handicap, for the most part, of devoting their best energies to something else before they can find time for their study; but their eagerness to make the most of their opportunities does much to

offset this. Students who have done academic work by correspondence at the University of Chicago, and, with this to their credit, have entered the University and pursued resident work, have, on the average, done better in such resident work than have students who have entered the University with advanced standing from other approved colleges. This may not be interpreted, of course, to mean that correspondence work is superior to resident work, for undeniably the very best students are those who have spent the full time in residence; but it indicates the superior diligence and enthusiasm of the correspondence student.

The genuine value of much of the work done by correspondence is beyond successful dispute. The imagination is inspired by the possibilities of work of this character, open to any one of sufficient preliminary education and a little leisure, and reaching thousands who may never hope to attend resident schools after they can earn their own living. One would be glad to believe that home study could open all the doors of opportunity; but unhappily this is not true. As with many other ideas of genuine merit, the principle of correspondence study has been exploited for gain in fields where it is of little value. People are told that they can learn to draw cartoons, that they can learn to write advertisements, that they can learn to sell real estate, and that they can become lawyers—all by mail. They are not told that they can become doctors and dentists and pharmacists in this way, because our states some years ago decided that it was unwise to intrust the bodies of their citizens to practitioners not trained in appropriate professional schools. Some day they will regard men's property and rights as worthy of similar protection. Until then correspondence schools of law and of piano-playing will flourish.

Correspondence law schools direct their appeal to two classes of persons: (1) Those who wish to acquire some knowledge of law for purposes of business or of general information; and (2) those who wish to become practicing lawyers. Concerning the first class I have nothing to say, except that frequently the books required to be bought are not well adapted to their ostensible purpose. As regards the correspondence study of law, conducted under the representation that this is an adequate method of preparing for practice, one can only say that it is a fraud, quite comparable with the bogus claims of many patent medicines and get-rich-quick schemes. One or two correspondence schools state that their work is not intended as a substitute for that of a resident law school, and that they offer it only to students who cannot possibly attend the latter. This position can be criticised only in so far as it leads prospective students to believe that correspondence work is an adequate, although inferior, method of preparing for the

bar. Most correspondence schools, however, make no such modest claims. I quote a paragraph from the circular letter sent to inquiring students by one of the most pretentious of these schools:

"Combining, as we do, the most able faculty, together with the best series of text-books ever written, we believe that we are fully justified in our claim that the instructions issued by this institute are far superior to those offered by any other correspondence school, and the equal of any of the larger resident law schools."

It appears that the able faculty, as well as the text-books, are written. Is this a cryptic intimation that both exist upon paper? Then follows an offer to cut the regular tuition fee for the complete three-year course from \$200 to \$75, which is apologetically explained as being necessary to cover the cost of books—the instruction being absolutely free. The books, it should be said, are published by the same concern in another one of its Protean forms. Doubtless the accomplished dean of this "most able faculty" would be the first to repudiate such representations; but what is a dean, that he should think of controlling the advertising department?

Why is it that a correspondence law school cannot really do anything like as good work as a resident law school, and what do the present correspondence law schools really do for their students? An adequate professional training for law requires far more than the reading of text-books, however excellent. It should compel the student to think, carefully, frequently, and steadily, in the face of controversy, about a great variety of legal problems that are to be solved by the application of legal principles; and it should also train him to use law books, and to weigh, compare, and distinguish precedents, just as a lawyer must do. Theoretically, it would perhaps be possible to do the dialectic part of the work by mail, provided that teacher and pupil were both tireless correspondents; but no such instruction could be carried on by circular form letters, designed to answer supposed typical difficulties, and so few students could be handled by a single instructor in this way that it would be quite impracticable as a commercial proposition. Even thus, the student could not gain the necessary familiarity with law books at large, and an experience in dealing with precedents to establish or controvert legal propositions.

In fact, what he may get from the correspondence law school is a set of books dealing in a dull, inaccurate, and insufficient way with the principal topics of the law, the profit on which forms a substantial part of the school's income. Sometimes the school seems to have been started largely to sell the books. In one instance the unannotated text of a large law encyclopedia is used; an excellent work for lawyers, but of

little value to students for lack of discussion of principles. Several of the better correspondence schools, however, are not fairly open to criticism in this respect, but use the standard elementary treatises for students still employed in those resident schools that have not adopted the case method of study.

In the next place, the student is usually given a circular of directions regarding his study, which often contains excellent suggestions. He also receives, at intervals, examination papers, containing questions which he is asked to answer, sometimes without the aid of his books, and sometimes with all the aid he can obtain from them. Almost without exception these questions are valueless as a stimulus to thought. Frequently they follow the language or arrangement of the text in such a manner that it is almost impossible to answer them wrongly. Many of them simply call for conventional definitions, and too few of them deal with matters of any practical legal interest. The student's answers to these questions are returned to him, with a few perfunctory comments, and sometimes some circular matter intended to correct the commoner mistakes. Mistakes of an unusual character are often overlooked by this mechanical treatment. I have seen some examination answers returned by one of the better correspondence law schools, in which the most naïve and startling statements had passed unchallenged, apparently because the overworked reader had not been looking for such extraordinary blunders. When the examination papers are marked, it is rare that the grade is not sufficiently encouraging, so that the student will continue to pay his installments. Sometimes copies of a few special lectures upon various topics are sent at intervals to be used with the text-books. The quality of these is more frequently rhetorical than legal.

In all this we see the too familiar spectacle of money coined from the hopes and ambitions of the ignorant and ill-advised. A method of education that within its proper limits has carried new hope to thousands is here prostituted to practically useless ends. I have not spoken of the grossly fraudulent representations regarding the recognition of correspondence work by resident law schools and by bar examiners, which are constantly made by a few correspondence law schools. I am glad to believe that most of them, at least, steer clear of criminal or civil liability; but, from what I have seen of the commercial and educational methods of correspondence law schools, I believe that they belong in the same class with enterprises which advertise mining stocks, rubber plantations, medical cure-alls, and the teaching of aerial navigation by mail.

The Section adopted a resolution to the effect that the Committee on Stand-

ard Rules for Admission to the Bar be continued, and directed to send a copy of its report in full to all members of State Boards of Bar Examiners and to all deans of law schools, with a request for suggestions and criticisms, and also that prior to May 1, 1910, the Committee submit a copy of its preliminary draft, with the rules, to each member of the American Bar Association and the Chief Justice of each state appellate court, to each member of the State Boards of Bar Examiners, and to the deans of all American law schools, with the request for criticisms and suggestions, and present its final report at the 1910 meeting of the Section, in the light of the replies so received.

The sixteen rules submitted in the report of the Committee on Standard Rules for Admission to the Bar were then discussed, and were either approved, amended, or disapproved.

After some difference of opinion, the first rule was approved as printed in the report. In discussing this rule, JOHN H. WIGMORE, of Illinois, said:

I have had an extremely harsh case of this particular kind come to my notice lately, and I have had occasion to reflect upon it. I think, where there are cities which include from 50,000 to 100,000 Poles, Italians, Germans, and other foreign nationalities, we all realize that there are great abuses under our law. For instance, in every Italian district, do you think that they go to our courts? They have padrones that do their entire law business. There is a king of Little Italy in Chicago, who keeps them all out of the courts. What is the reason? One reason is that, if you do not permit an adult alien to become a member of the bar, you throw those people back for their legal advice upon shysters, who cannot get admitted, and who take away from them the advice of good men, who may not yet be citizens because of our rules; and while the theory of this is ennobling and particularly American, it seems to me it is nothing but a theory, and that we had better recognize cosmopolitan conditions, and not for the sake of a theory have a rule which would prevent us in the next twenty years from doing a little more justice to our great foreign population.

While some agreed that the point made by Mr. Wigmore was well taken, the majority were of the opinion that it would be a mistake to allow Italians, Russians, or in fact any one, to become officers of our courts and ministers of justice, unless they first became American citizens.

The second rule was amended, so as to require the candidate, on admission, to prove that it is his intention personally to maintain an office, etc.

The third rule was amended by striking out the word "certificate" and inserting in its place the word "affidavit."

The fourth rule was disapproved by the Section.

The fifth, sixth, and seventh rules were approved as printed in the report.

The eighth rule was amended by adding to it the words "or an examination equivalent thereto."

The ninth rule was approved as printed.

Franklin M. Danaher of New York, moved that rule 10 be amended so as to require the candidate to serve his clerkship in the office of a regular attorney in

the state in which he applies for admission. This motion to amend was lost, and the rule was approved as printed in the report.

The eleventh rule was the cause of considerable discussion, but was finally approved as printed.

The twelfth rule was amended so as to include the subject "Conflict of Laws."

The thirteenth and fourteenth rules were approved as printed.

The fifteenth rule was disapproved.

The sixteenth rule was approved as printed.

The report of the Special Committee, appointed at the 1908 meeting, with reference to conferring the degree of LL. B., was read; but, because of lack of time, action upon it was postponed until next year.

On the recommendation of the Committee on Nominations, William O. Hart, of New Orleans, La., was elected Chairman, and Charles M. Hepburn, of New York and Indiana, was elected Secretary, of the Section for the ensuing year.