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COLUMBIA COLLEGE LAW SCHOOL, NEW YORK.

By Prof. Theodore W. Dwight.

THIS institution came into existence about thirty years ago (Nov. 1, 1858). It was considered at that time mainly as an experiment. No institution resembling a law school had ever existed in New York. Most of the leading lawyers had obtained their training in offices or by private reading, and were highly sceptical as to the possibility of securing competent legal knowledge by means of professional schools. Legal education was, however, at a very low ebb. The clerks in the law offices were left almost wholly to themselves. Frequently they were not even acquainted with the lawyers with whom, by a convenient fiction, they were supposed to be studying. Examinations for admission to the bar were held by committees appointed by the courts, who, where they inquired at all, sought for the most part to ascertain the knowledge of the candidate of petty details of practice. In general, the examinations were purely perfunctory. A politician of influence was not readily turned away. Few studied law as a science; many followed it as a trade or as a convenient ladder whereby to rise in a political career.
There was, however, a considerable number of the profession, men perhaps who had been trained in law schools elsewhere, who strove to improve this condition of things. They had been, however, thwarted in a variety of ways. The tradition still lingered that a lawyer merely held an office, instead of being a member of a learned profession. All the early lawyers had been admitted to practice by the mere mandate of the governor, without any examination as to professional ability or training. More than a hundred of these appointments still exist in the records of the State, in the Secretary of State’s office at Albany, running through a period of seventy years just preceding the American Revolution. They are simply letters patent, appointing a specified person an attorney at law, with authority to appear and practise “in all his Majesty’s courts of record,” or perhaps only in some specified court. Though this method disappeared at the organization of the State, the idea lying at the root of it prevailed long after the State government was formed. The mass of the public regarded the profession of the law as a legalized monopoly. Politicians determined to sweep this last feature out of existence; and accordingly in the State Constitution of 1846, a clause was inserted (Article Six, Section 8), that “any male citizen of the age of twenty-one years, of good moral character, and who possesses the requisite qualifications of learning and ability, shall be entitled to admission to practise in all the courts of the State.” This clause required no special mode of training, no attendance in a law office, no period of time devoted to study. Any person, no matter how ignorant of law or literature, could present himself for examination as to his moral character and as to his learning and ability. The examination was held by sporadic committees, appointed by any one of eight sections or divisions of the Supreme Court, each composed of a distinct set of judges, administering, as was said by a highly distinguished lawyer, “octagonal law.” If the examination was satisfactory to the committee, which was a law unto itself, the candidate was admitted to practise as an attorney and counsellor at law in all the courts of the State. The questions asked were for the most part trivial. Little knowledge of the great principles of law was called for or exhibited. Sometimes the examination resembled a screaming farce, as when some pretentious negro, having a full vocabulary of words at command, but with the most scanty knowledge of their meaning, submitted himself to the scrutiny, or more accurately to the mercy, of the examiners. If the candidate were rejected summarily, he had only to wait for a time, perhaps change his residence to another judicial division where the examination was understood to be even more lax, and try the temper of a different set of examiners. He might thus go the round of the districts and commence anew. No regulation required, after his rejection, any additional period of study. Matters were not much better before the new Constitution. As the writer of this article came to the bar in 1845, he is able to state from personal experience that admission could be had even under the old régime from a committee of leading lawyers by a successful answer to a single and narrow inquiry. This was on what morning of a particular week in the term of the Supreme Court a specified motion should be made, the day being fixed by a rule of court. If this was the outcome of a bar examination under a court of three judges, headed by Judge Nelson, afterwards of the Supreme Court of the United States, it may be conceived what it must have been under the eight-branched court of the Constitution of 1846, and its ever-changing committees of examiners.

This system, or rather no system, prevailed when the Columbia Law School commenced its existence (Nov. 1, 1858). There had previously been some lectures delivered, under the auspices of the College, by the distinguished Chancellor James Kent.
such students as chose to hear him. That great jurist was compelled, under the constitution of the State as it then existed, to retire from the high judicial office upon which he shed such enduring lustre at the comparatively early age of sixty. He was then in the full maturity of his powers. It is unquestionable that the State, by rejecting his services at the time when they were most valuable, sustained a most serious check to what may be fitly called the classical development of its jurisprudence; for Kent was truly many-sided. He was a fine classical scholar, a great student, a most persuasive and lucid writer, accustomed to broad lines of thought, in character most admirable, and wholly unaffected and genuine in manners, as befitted a man of eminent ability. He held judicial office for more than twenty-five years (from 1797 to 1823). His fitness for the position of Professor of Law had long been observed by the Trustees of the College; for they offered him the post in 1793, while he was at the bar, and again thirty years later, in 1823, when he retired from the bench. His reasons for acceptance are well and somewhat pathetically given in the preface to the first volume of the first edition of his Commentaries. He says: "This renewed mark (in 1823) of the approbation of the Trustees of the College determined me to employ the entire leisure in which I found myself in further endeavors to discharge the debt which, according to Lord Bacon, every man owes to his profession. I was strongly induced to accept the trust from want of occupation, being apprehensive that the sudden cessation of my habitual employment, and the contrast between the discussions of the forum and the solitude of retirement might be unpropitious to my health and spirits, and cast a premature shade over the happiness of declining years." Fortunate was he in the fact that the day of his retirement from the bench was the commencement of the brilliant career as a legal author for which he will be chiefly and most favorably remembered.

The lectures of Chancellor Kent in the course of four years had developed into the first two volumes of his Commentaries, the second volume being published November, 1827. Kent did not, however, succeed in establishing a law school or department in the College. He may not have made the effort. His course of lectures was personal to himself, and he left no successor. Some of his lectures have not been published, not from want of merit, but because they did not apparently form a part of a complete system. His Commentaries as they stand are imperfect as Commentaries on American Law, since they do not include torts, criminal law, administrative law, or procedure. There is evidence that his plan embraced at least some of these topics. As far as can be now ascertained, he simply read lectures to his hearers. He held no examinations, had no regular course of study, and held no moot courts. No degrees were con-
ferred by the Trustees on his students. He had no associates in instruction. There was, consequently, no Law Faculty. He was simply a professor reading a course of lectures. He held his hearers to attendance by the excellence of his expositions and the corresponding interest aroused in themselves. They paid him the respect due to his talents and the reverence due to his virtues. The writer speaks positively upon these points, from the information supplied to him by one of his students, no longer living, a man of great ability and spotless character.

After his retirement, the Trustees of the College filled their law professorship by the appointment of William Betts, Esq., a highly esteemed member of the New York Bar. It is not known that any courses of lectures were delivered by him. It is certain that none were when the existing Law School originated. His relations to legal instruction were then purely nominal. He was active and earnest in promoting the organization of the Law School as it now exists.

In fact, in 1858, the City of New York was, so far as legal instruction is concerned, unbroken and virgin ground. The memory of Chancellor Kent, as a lecturer, had practically died away. He was without a successor anywhere, not merely in the College, but throughout the city. Even thinking men, who believed in schools of theology and in colleges of medicine, had little or no faith in schools of law. The law was deemed for the most part to be a collection of "modern instances," to be found in the late reports, rather than a science to be mastered by the process of deduction from great and leading principles. Some praiseworthy attempts had been made to establish courses of lectures; but all had failed, as they were founded on erroneous methods. It was not without misgiving, it may be not without trepidation, that a new effort was made to cultivate ground apparently so unpromising.

The beginning of the Law School as it exists at present is now reached. It is unfortunate that most of the members of the Board of Trustees who were the most active in promoting the foundation of the Law School are not now living. The writer is alone cognizant of many of the leading facts. Some of them are very deeply imprinted upon his memory, as the result of controversies, now extinct, in which he participated. Others are the memorials of the sacrifices and toils of a lifetime,—for it is not allotted to many to devote thirty years of unremitting and at times exhausting labor to a single institution,—labor of the kind which is the lot of pioneers, and yet is not without its recompenses. While he may appear in the course of this article to be open to the charge of egotism, still, by reason of the special circumstances of the case, he begs the indulgence of his readers.

The foundation of the Law School by the Trustees of the College, in 1858, was part of a more general scheme. Columbia College, having, by reason of an increase in value of its real estate, a large accession to its means, resolved to offer to the public a post-graduate course of instruction, with a view, if there appeared to be a public desire for such a course, permanently to establish it. The whole plan was tentative or experimental. Four distinct courses of lectures of this class were then established: one on Philology, in charge of that distinguished scholar and statesman, the late George P. Marsh; a second by Dr. Francis Lieber, a standard writer upon topics of Political Science and of International Law, then a professor in the College; a third course on Ethics, by Professor Nairne, also of the College; and a fourth on Municipal Law, by Theodore W. Dwight, then Professor of Law in Hamilton College, New York, in which institution there was at the time a flourishing Law School. These courses were all entered upon at the rooms of the Historical Society, at the corner of Eleventh Street and Second Avenue. The first three of these courses, though thoroughly well-manned, did not seem to meet a public want, and after languishing for some time were discontinued.
As to the courses of lectures in law, the outcome was different. An experience of a few weeks showed that there was a clear public desire for instruction in law, and it was resolved by the authorities that a two years' course should be established; and from that time to the present moment there has been no lack of students.

The methods of instruction then established have continued, in substance, down to the present time, with such enlargements and modifications as experience has shown to be beneficial.

The central idea in instruction has always been this: The student is assigned daily a certain portion of an approved text-book for his reading prior to listening to expositions of the subject involved. To make the assignment effective, he is asked questions upon the topic, mainly to make it certain that he has studied the subject and has in a measure comprehended it, and is thus in a position to listen with advantage to expositions. This is a prime element in legal as well as other instruction, since experience shows that the mere reading of lectures to students upon an unfamiliar subject is of but little value, and that the impressions made are evanescent. The expositions are for the most part oral and in familiar language. Pertinent illustrations are resorted to, and every available means adopted to awaken attention and arouse interest, as a stimulus to future research or inquiry. Nothing is more certain than that, in order to make progress, the interest of the student must be aroused. Young men come to the study of the law from a great variety of motives, and these are often mixed. Some choose it as an avenue to wealth; others to political preferment; others because business is stagnant, and because it is better to have some occupation rather than to remain idle; others still, because their fathers recommend or direct it; and others, finally, because the ladies of their choice insist upon it as a condition precedent to the relief for which they sue. In more than one instance the writer has been made aware of this last requirement, stated in the imperative mood, with the further condition that the final examination shall be most creditable. He is happy to add that the youths won the prize in the contest nobler than the Olympian games. Few pursue the study of the law in the jubilant spirit of Lord Coke, and simply follow "the gladsome light of jurisprudence;" for, let it shine as it may, there are too many brambles and thickets about it to make the distant and obscured light at first attractive. Even when the better students approach the study of the law, they are frequently in a condition of benighted perplexity. They are confronted by an uncouth and unknown language, yet in the highest degree precise in its meaning. They are apt to transfer the popular meaning of words to those used in the technical sense. In every direction they need an earnest and determined leader who will not merely inform, but also encourage and
stimulate them. If this be true of the better students, it is far more so with those of the inferior grades. There is regularly a class of inefficient young men hanging about the skirts of every large institution, who desire the credit of being members, yet are not willing to do the work which the rules of the institution require. Others who are well meaning and faithful in attendance are mentally slow or even sluggish, and need a special treatment. An institution which does not take due care of all these classes and see that they attend faithfully to their duties, only partially fulfils its mission. For these various purposes, it is of prime importance that regular attendance should be secured, and that the professors should know, by roll-call or otherwise, whether the students attend or not. Many who in the outset are remiss in this respect become constant when they become interested. It is extremely difficult to arouse interest unless attendance in the beginning is compulsory; after a time they will begin to relish that which at first they treated with indifference or even with dislike. There is no doubt an opposing theory in education, which holds that attendance in the so-called University courses of study in the higher institutions should be voluntary. This method may suffice for a certain class of students. They are the few, the picked men. These need no care, no watching. But the larger number will be occasionally absent or inattentive, yielding to slight indisposition or other plausible but insufficient causes. But as the topics in law are continuous, not one unnecessary absence should occur during the entire course. To borrow a phrase from James Harrington, students “should be driven like wedges,” with a regular and unceasing pressure.

Some remarks recently made by Sir Frederick Pollock (the distinguished author of the work on Contracts), who has had great experience in legal education, are well worth quoting. He says: “Education is a difficult art; not the least of the difficulties is to make boys and young men do things which they would not do of themselves, and of which they cannot at the time understand the value” (Nineteenth Century, February, 1889, p. 289). This thought must not be merely apprehended; it must be firmly grasped and made effective in legal as well as other educational training.

It is particularly essential in the New York Law Schools to insist upon actual and regular attendance, since by a rule of court an attendance in a law school not exceeding a fixed period can serve as a substitute for a corresponding time of clerkship in a law office. The attendance is to be shown by the certificate of the Dean or Warden of the Law School; and this, of course, cannot be conscientiously given without authentic evidence at his command establishing the fact to be certified.

The writer is well aware that other systems of legal instruction are warmly advocated by law instructors of great ability and experience, and pursued with much success. One of these is well described in an article in the first number of this magazine. Much can properly be said in favor of it, particularly in reference to the superior class of students. But it is not to be forgotten that there exists and always will exist in the profession of the law a great and important class of men of average ability, who fill most respectably and usefully the humbler avenues of professional life. These men must be trained as well as those of superior powers. During the course of their educational training they thrive best with daily leadership and constant suggestion and stimulation. While it is not conceded that the alternative method is better for any students, it seems clear that it is inferior to true teaching in its effects upon those of average powers.

Again, it is worthy of remark that the methods pursued in the Columbia Law School closely connect themselves with collegiate training. Graduates of the Colleges find substantially the same methods of education in use here to which they have been already accustomed. They traverse the field
of law, and obtain an outline of its principles. It is the business of their later lives to fill up this outline with detailed knowledge, partly worked out by the exercise of their reasoning powers, which have been constantly called into requisition, and partly by the examination of adjudged cases. They are in a position in which they can profit by such studies and trace the line of adjudication from its original sources. It seems to be a wise and natural method in the study of other sciences to obtain an accurate outline before crowding the mind with details. Why not in law?

It is not out of place in this connection to refer to the chosen methods of acquiring the Roman law, both as sanctioned by great jurists and by imperial authority, after an experience continuing through centuries. It cannot be denied that the system of rules worked out by the jurists of the Empire was far more scientific than those which prevail in the common law, so far as these are not borrowed from those very jurists. The Roman jurists had "cases" to deal with, precisely as we do. They were not mere legal philosophers, but disposed of practical and "burning" questions of their time. They were, however, in the habit of referring back to a legal principle in disposing of a concrete case, and believed that great principles could be so stated as to win the attention of students and give them a solid basis for future detailed acquisitions. Hence it happens that posterity, by the aid of the great historian Niebuhr, has the advantage of studying the Institutes of Gaius, though in a fragmentary state,—a work compact in form, scientific in treatment, clear and accurate in its method, and persuasive in its reasoning. Assume that Gaius completed this work about the close of the life of the Emperor Marcus Aurelius (say A.D. 178), it continued to be used for the instruction of students for three and a half centuries, down to the time of Justinian, who in the course of his reign issued another book of Institutes based on Gaius, avowedly for the use of students. It is significant that this later work was largely composed in the very words of Gaius. It is reasonable to suppose that this happened not from mere servility of expression, but because Gaius, like Blackstone or Kent, was a handbook in constant use for legal teaching, and so it was inexpedient to change its phraseology, unless where it became necessary to do so by reason of changes in the law, made by Justinian, principally under the influence of a later public opinion. The justness of these statements is borne out by a sentence or two in the forefront of Justinian's own Institutes, Book I., Title I. His words, no doubt composed by the lawyers who made this later adaptation of the Institutes of Gaius, will bear quotation. The accurate translation of J. B. Moyle (Clarendon Press, Oxford, 1883), is followed: "Our object being the exposition of the law of the Roman people, we think that the most advantageous plan will be to commence with
an easy and simple path, and then to proceed to details with a most careful and scrupulous exactness of interpretation. Otherwise, if we begin by burdening the student's memory, as yet weak and untrained, with a multitude and variety of matters, one of two things will happen,—we shall either cause him wholly to desert the study of law, or else we shall bring him at last, after great labor, and often too distrustful of his own powers (the commonest cause among the young of ill-success), to a point which he might have reached earlier, without such labor and confident in himself, had he been led along a smoother path." These words seem wise and suited to the subject. Justinian's plan was that students should thoroughly master the Institutes; and this the name of his book imports. Though easily brought within a couple of hundred of printed pages, the Institutes have gained a legal immortality, and have been, are still, the source of knowledge for students of the Roman law, as well as for lawyers in England and in the United States, few of whom resort to the great collection of cases in the Pandects, while such as do, enter that wilderness through the gate of the Institutes. This work, as is well known, comprises the first elements of the science of law, arranged in four books. This arrangement is apparently borrowed by Blackstone in his Commentaries, who first succeeded in treating the materials of the common law in an orderly manner, and who first relieved the student from fathoming the "laws of disorder" in Lord Coke's comments upon Littleton. So it happens that the methods and many of the rules of Justinian not only serve for education in the Roman law, but for discipline and thought in our own.

Only one remark more needs to be made in justification of the course of study pursued in the Columbia Law School. It lends itself readily to the purposes of a review. The great value of a review is not to be lost sight of. This statement will be sustained by all educators in collegiate courses. It is equally applicable to legal study. It is highly important that a student should go over a subject more than once. It is in this manner that early difficulties disappear. The materials for thought become permanently lodged in the mind. The pernicious habit of cramming is avoided. The student's interest in his subject increases. The law may still be a labyrinth, but he has a clew which enables him to work himself through its mazes. More than all, the student gains that confidence in his attainments which Justinian so justly declares, in the passage already quoted, to be a prime condition of success in legal pursuits.

The methods of study outlined in this paper appear to have been adopted in England in the early period before law instruction fell into decay. There were no suitable treatises then at hand. The lecturers, then termed "readers," discussed before an audience of students a legal topic from a systematic point of view. The lectures of this kind that have come down to us are very satisfactory. Reference may be made to Lord Bacon's reading on the Statute of Uses, or Sir Francis Moore's reading on the Statute of Charitable Uses. A number of a valuable character are still in existence, but unpublished, awaiting exhumation by the Selden Society. This system, it is true, after a time failed. That failure was not due to any defect in method, but to more general causes. The lectures were but occasional; there were no regular instructors. Large sums of money were expected to be laid out by the lecturers in the way of entertainment of the students who had honored them with an invitation to "read." Such an assessment, for it was practically that, after a time became burdensome, and lawyers invited to lecture declined the invitation. Add to this that the Inns of Court were, particularly during the period of the Stuarts, places for the cultivation of jollity and merriment. They were houses where the fun was "fast and furious," and where the sobriety of the law came to be out of place. Instruction in the principles
of law altogether ceased there. Whatever legal instruction there was, was relegated to the law offices. This was in general little enough; for we have the testimony of the poet Cowper, who at one time entered a law office as a student, that the students of his day for the most part spent their time in “giggling and in making others giggle, instead of studying law.” From this double failure of the Inns of Court and the law offices came the pernicious idea, long prevalent but now passing away, that systematic instruction had no true place in legal education.

To sum up this branch of the subject, the Columbia method is true teaching, and presupposes for its highest success the teaching faculty in the professors. This is sometimes not possessed by men of the very highest ability. It is of the greatest importance that it should be cultivated.

An important result of this method is, that where the number of students is not too large, the relation between them and their professors is quite a personal one, and leads to mutual interest and it may be to mutual affection. The private intercourse between them under such circumstances is free and unrestrained. Counsel and advice are eagerly sought and faithfully given. The relation becomes practically fraternal. For example, until the number of students became very large, it was the regular course of things at Columbia for members of the graduating class, after they had been examined and received a recommendation for a degree, to meet at their own request the professors who during their course had the principal charge of them, to obtain a farewell greeting with words of affection and expressions of desire for kindly remembrance in their future career. Such influences reacted upon their conduct, making discipline wholly unnecessary. Not an instance of it occurred for the first twenty years of the life of the institution.

Another remark may be made shedding light on the value of this method. During a period of thirty years not a single instance has transpired of any former student’s expressing dissatisfaction with it. On the other hand, hundreds of instances have occurred of indications of very high satisfaction. Several leading lawyers have sent to the school four or five sons in succession. A large number of the students attend upon the recommendation of the Alumni, who now commence to show their estimation of the value of the method by sending their own sons. The classes are abundantly filled without special effort to obtain students.

To sum up the whole matter, is not this, in substance, the “Socratic method” of teaching? A few words may be quoted from Mr. Grote: “In the Phaedrus of Plato the Platonic Socrates delivers the opinion that writing is unavailing as a means of imparting philosophy; that the only way in which philosophy can be imparted is through oral colloquy adapted by the teacher to the mental necessities and varying stages of pro-
gress of each individual learner; and that writing can only serve after such oral instruction has been imparted to revive it, if forgotten in the memory both of the teacher and hearer who has been orally taught."\footnote{Grote's Plato, 183.}

Methods such as these were adopted, after mature deliberation and some experience, when the institution was organized. Valuable suggestions had been obtained from the experience of Hon. Samuel J. Hitchcock, for many years Law Professor in the Yale Law School, a most accurate thinker and an admirable Law Professor. Many men of legal eminence still living profited greatly by his teachings. No student under his instruction admired him more or looked more to his methods for suggestions than the first Professor in Columbia College Law School.

Columbia College, at the time of the foundation of the Law School, was very fortunate in its Trustees. There were several of them who took a keen and enlightened interest in the Law School, and who did much to insure its growth and prosperity by their wise and prudent counsels and by their zealous efforts in its behalf. Prominent among them were the Hon. Hamilton Fish, afterwards the distinguished Secretary of State of the United States during the administration of General Grant; the Hon. Samuel B. Ruggles, a distinguished citizen of the city of New York; George T. Strong, Esq., a fine lawyer and a man of high culture and varied accomplishments. Mr. Justice Blatchford, now of the Supreme Court of the United States, was from the beginning and has been ever since a Trustee and a constant friend of the institution, though his judicial duties have prevented him from taking the active part in its management attributable to the other gentlemen who have been named. Mr. Gouverneur M. Ogden, long the Treasurer of the College, gave much time and attention to this subject. It would not be just to omit in this survey the name of Marshall S. Bidwell, a lawyer of most extensive and varied legal training, educated by English methods, but extremely attached to this country, and possessing a constant and unwearied interest in the promotion of legal education. It is due to these gentlemen to say that though most of them were heavily burdened with professional avocations, they were unwearied in their attention to this department. Several of them were the more active members of a committee of the Trustees on the Law School, and for many years personally attended the final examinations of the members of the graduating class. The attendance of Mr. Ruggles was very remarkable. He was then far advanced in life, but full of the spirit and earnestness of youth. Nothing could dampen his ardor; more than once, while sick in bed and under the constant attendance of a nurse, he sent for the writer to make some suggestions which he thought of use to the Law School. On one occasion his physician interfered and forbade the visit, but found that the prohibition increased his patient's restlessness to such an extent that he permitted an interview, with the gravest forebodings as to the result, though his apprehensions were still graver if the interview was forbidden. After an hour's discussion, in which Mr. Ruggles explained and enforced his views and patiently listened to opposing considerations, he became tranquil, and soon beginning to mend, rapidly recovered. He was one of the few men that make real the vivid but slightly altered description of Dryden:—

"A fiery soul, that, working out its way,
Fretted the feeble body to decay,
And o'er-informed the tenement of clay."

Mr. Ruggles was a far-seeing man, of statesmanlike views and of prophetic vision. His eloquent and glowing predictions while in the State legislature at an early age of the future of the West, and of its great highway to the East, the Erie Canal, though at the time deemed visionary, were more than justified in the event. The Law School owes much to his untiring zeal, wise suggestions, and surpassing interest in its prosperity.
Firm friendship for his juniors in years was in him but another name for a truly paternal affection.

It was, further, a fortunate thing that in the outset a number of the most prominent judges and lawyers in New York, while not members of the Board of Trustees, aided the institution by their support and by the delivery of occasional lectures. One of these still survives in a green old age, still practising at the bar, though for a long period on the bench where he remained until disqualified by age to serve,—a man interested in every direction in the advancement of science and education. Reference is made to Hon. C. P. Daly, long Chief-Justice of the Court of Common Pleas, and also for many years the venerable President of the American Geographical Society, an office which he still fills and adorns.

The first lecture in the Law School was delivered on Monday, Nov. 1, 1858, by Mr. Dwight, at the rooms of the Historical Society. It was an introductory lecture, afterwards printed. The audience consisted mainly of lawyers. It was plain that many of them could be counted upon as friends of a system of legal education. The result was an immediate attendance of thirty-five students, who showed their intention of pursuing a regular course of study by at once paying a tuition fee for instruction throughout the year. Such assurances were given of a future increase of numbers that it was determined to divide each class at the beginning of the coming year into two sections, for their convenience. The next year, the number of students was sixty-two. In the third year there were one hundred and three. Many of these early students were members of the bar. In one year the lawyers in attendance numbered seventy-five. What better commentary could be supplied of the inefficiency of instruction obtainable in the law offices?

It will be convenient in this connection to show the number of students in the succeeding years, exhibiting the fact that the growth of the institution has been quite steady instead of being sudden or spasmodic.

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Some remarks should be made as to these figures. The numbers in 1875-76 were swollen by the fact that the requirement of a preliminary examination went into effect in the succeeding year, and some students entered then to escape it. The number was reduced in 1883 to 1885, owing to a considerable increase both in the tuition fee and the diploma fee. It will be seen that since 1885 there has been a regular increase. These numbers embrace two classes,—a senior and a junior class. In October, 1890, there will be a third year's class formed, which will presumably swell the attendance to a still larger number than at present.
The theory of the course has regularly been to give the classes an outline of the whole domain of municipal law. Of course, in two years only a mere outline was possible. In the early history of the institution, it was quite difficult to hold the students for that time, since by the rules of court, as already stated, no time whatever was required. Here were two parallel methods offered to each aspirant for legal honors. One was offered in this manner: attend the Law School, remain two years, and then upon an examination be admitted to the bar. The friends of the other method remonstrated: why attend any lectures? go up to your examination when you please, trust to your good fortune and the leniency of the examiners; you will readily attain your end.

It was determined at an early day that it was wise to confine the attention of the students mainly to the principles of the law, paying comparatively little attention to the details of local practice. There was, however, a formidable obstacle in the way of this course. The examiners appointed by the court practically paid no attention to legal principles, although there was but one examination for admission for both attorneys and counsellors. Besides, as new examiners were appointed four times a year, there was no established or prevailing method of proceeding in that respect. If one Board favored theoretical study, the next adopted a different view, and confined all their inquiries to trivial and useless details. Taking all things together, the outlook for the success of a regular and systematic course of study was unpromising and discouraging.

This state of things led to an application to the legislature to allow the graduates to be admitted to the bar on a certificate from the College that they had attended the lectures for two years, and had passed a satisfactory examination before its Law Committee. This Committee consisted of the Professors in the Law School and the members of the Board of Trustees belonging to the Law Committee, all of whom were highly reputable lawyers, some of them having a national reputation. Among them were Hamilton Fish, Mr. Justice Blatchford, Alexander W. Bradford, formerly Surrogate and a distinguished lawyer, George T. Strong, and at a later date, Stephen P. Nash. Legislation of this kind was not new, but then existed in favor of several Law Schools in the State; among others, one at Albany, still in operation. The Law Committee for a number of years acted under this law, personally attending public examinations at a great personal sacrifice, and passing upon the fitness of the applicant for admission to the bar, as well as for the bestowment upon them by the Trustees of the degree of Bachelor of Laws. The "pass" examination to which candidates for graduation were required to submit covered the whole range of their studies. This method was adopted to secure greater familiarity with the subjects in which they had been instructed, every effort being made to avoid cramming. This system is still continued. It has resulted in great thoroughness of study and close acquaintance with the subject. The better students have their resources at immediate command. Ground that has been so thoroughly traversed does not need to be traversed again. These "pass" examinations have been mainly oral. If the candidate is unsuccessful, another trial is conceded upon written papers. It is by such a variety of modes that the knowledge or want of knowledge of every student, both day by day and finally, can be ascertained. Mr. Pollock has recently given expression to the principle: "Viva voce questioning and discussion and whatever may bring the order of examination into contact with real life and make it less of a routine apart, should, so far as possible, be introduced and encouraged" (Nineteenth Century, February, 1889, p. 300).

The first class graduated in the year 1860. A motion was made to that branch of the Supreme Court holding its terms in the City of New York for the admission of the grad-
uates on the certificate provided by the Legislature in the law above described. The court held the law to be unconstitutional and void, on a theory that the power to admit attorneys, etc., was inherent in the court, and that the legislature had no authority to provide for admission in any other way. This preposterous decision, unexpectedly adverse to the graduates, since no such question had been raised in other judicial districts as to the other Law Schools, led to an appeal to the Court of Appeals, in which two points altogether new in our jurisprudence were presented. One was, whether an appeal could be taken from an order denying the petition or motion of an applicant for admission to the bar; and the other, on the merits of the case, as to the power of the legislature over the whole subject of the practitioners in the court. This second question branched out into an historical as well as legal inquiry, in which all the English legislation and practice were considered, from the earliest period down to the time of the argument. The argument was published in full in a separate pamphlet. A mere outline of it is presented in the report of the case, in 22 New York R. 67, under the name of the matter of Cooper. The Court of Appeals held that the order was appealable as involving a substantial right, and thereupon reversed the decision of the Supreme Court. The graduates were accordingly admitted under the statute, and continued to be for a number of years. The great justification for this legislation at this time was, that the Supreme Court, though intrusted with the power of admitting attorneys and counsellors to practice, had conspicuously failed in establishing any satisfactory method. The Law Schools needed temporarily a different mode of proceeding. After their modes had had a fair trial before the public, legislation was no longer necessary, since the later judges have more thoroughly realized their responsibility to the profession, and the court examinations are more reasonable, though, be it said with respect, there is still in some quarters room for improvement.

In the same year (1860), in order to stimulate excellence in attainments of the students, a series of annual prizes was established, commencing with $250, and diminishing regularly by $50, until the sum of $100 was reached. These were adjudicated by leading members of the bar upon the combined merits of written answers to printed questions, and of essays upon topics selected by the instructors. None could compete for the prizes except those who had fully completed the two years’ course. The questions covered the range of studies for the whole course. Stringent rules were adopted in reference to the answers, so as to secure the absolute fidelity of the candidates in their work. The first committee of award consisted of Judges D. P. Ingraham of the Supreme Court, Lewis B. Woodruff of the Superior Court, and Chief-Justice Daly of the Common Pleas; all jurists of great emi-
nence, and having the confidence of the public. They declared the "result as evinced in the essays and answers as creditable in the highest degree both to the students and to the institution." It is believed that this method of ascertaining excellence in attainments was adopted for the first time in this country by this Law School. Did space admit of it, this first list of questions, answered in writing in the presence of a professor in five hours by the candidates, would be inserted in this article. At that time no miserable printed question-books, with their numerous asinine answers, were in existence to mislead unwary students. The prizes, with the same general methods of ascertaining excellence, have continued down to the present day. The questions were intended to be fair and at the same time searching. A number of the question papers have in recent years been resorted to by the Supreme Court examiners in the regular bar examinations. The combination of the two tests has proved highly useful, in the manner about to be detailed. The student, when he submits his essay to the examiners, must make a solemn declaration that he has had no direct aid in the preparation of his essay. Still, the prize is considerable in amount, and the credit of obtaining it is not without its value. Accordingly, he may yield to temptation and violate his pledge, obtaining assistance from others; still, if he be in fact a student but of moderate excellence, his tell-tale answers will disclose the falsity of his declaration, and forfeit his chances for a prize. Great care has been taken to exclude the participation of the Law School Faculty in any form whatever in the award. It is a fixed rule that none of them shall read or examine the papers until after the award is made, and not even then, unless they appear in print, as they sometimes do. In this way all heart-burning, so common with defeated candidates, is wholly avoided, at least so far as the Law School authorities are concerned. In later years it has been possible to select Law School Alumni as the judges. There is considerable advantage in this practice, as they are acquainted with the methods in use, and above all as they take a very deep interest in the work, in many instances putting off cases and surrendering gratuitously weeks of valuable professional time to the service, the number of papers being frequently large. There is a fine and healthy feeling among them that they owe a kind of debt to the profession in promoting the education of its members.

In the same year (1860), Francis Lieber, LL.D., then a Professor in the School of Arts in Columbia College, became a professor in the Law School, as an instructor in Political Science. After a time he became attached solely to the Law School, surrendering his work with the undergraduates. Great interest was felt in his instruction, as he was the author of many valuable works, and a high authority upon questions of public law. He was of great service to the Government, during the Civil War, in the preparation and preservation of valuable public papers of permanent value. Dr. Lieber at an early day attracted the highly favorable regard, among others, of Mr. Justice Story, who complimented him in the warmest terms on the excellence of his great work on Political Ethics, referring to its "sound principles, striking and original views, and varied learning." He adds that "he recommends it constantly to all his friends, and especially to young men, as leading them in the right track" (Life and Letters of Joseph Story, vol. ii. pp. 278, 329). He speaks with almost equal praise of his more strictly legal work on Interpretation and Construction of Written Language (Hermeneutics), characterizing it as "full of excellent hints and principles and guiding rules, written in a clear and compact style, with great force of illustration and accuracy of statement, and in a spirit of candor and without partisanship" (Life and Letters, p. 283). This work survives to our own day, under the excellent editorship and valuable contributions of Prof. W. G. Hammond. It is much to the credit of Dr. Lieber,
that, though born and educated in Germany, he thoroughly understood American political institutions, and treated them with an intelligent insight and skill rare—even among American students. He was a true friend of a well-regulated political liberty, which on all suitable occasions he was wont to expound and to extol.

No one could be more proud of the title “jurist” than Dr. Lieber. He greatly preferred it to that of Professor. When called by the latter title, he was wont playfully to correct the speaker, if well acquainted with him, saying, “Doctor, if you please.” He was fond of legal maxims and sententious phrases carrying with them sound or far-reaching principles. He would sometimes print these in large type, and surround them with gilt frames and present them to friends, to be hung up for constant recognition in offices and libraries. One to which he was particularly attached concerned the relation between duties and rights, in Latin dress: “Nullum jus sine officio; nullum officium sine jure.” Such phrases as these appeared, as it were, to be engraved on his heart. His whole instruction had an elevated tone. The title of his work, “Political Ethics,” well expresses the general current of his thoughts. In his view a political structure without ethical principles was built upon the sand. His lectures were highly useful and suggestive to those students who constantly listened to him. If he failed in any respect, it was in the lack of that regular system so dear to the American student’s heart, his mind was so deep in thought, so rich in suggestion, so affluent in illustration, that to an ordinary student there might seem to be a break in the continuity of treatment of his subject, when there were in fact only elegant accessories and delightful excursions, from which he would in due time return to the main track of his discourse.

The writer desires to acknowledge his great indebtedness to Dr. Lieber for most valuable suggestions made in conversation and in correspondence, and his profound respect for his thorough comprehension of the principles of a true political science. His death in 1872 was sudden, and caused a great loss to the cause of education and the interests of the country at large.

The vacancy thus created in the department of Political Science was filled in 1876 by the election of Prof. John W. Burgess of Amherst College to that chair. The title of this professorship has been so changed in later years as to extend it to Constitutional and International History and Law.

In the year 1878 the organization of the Law School was modified. The office of Warden (created in 1864) was continued, and five professorships were established: (1) of the Law of Contracts, Maritime and Admiralty Law; (2) of Real Estate and Equity Jurisprudence; (3) of Criminal Law, Torts, and Procedure; (4) of Constitutional History and International Law; (5) of Medical Jurisprudence.

Theodore W. Dwight was continued in the
office of Warden, and appointed to the first of
the professorships the Hon. John F. Dillon,
Circuit Judge of the United States for the
Eighth Judicial Circuit, was appointed to the
second; George Chase, a graduate of the Law
School, was appointed to the third; John W.
Burgess, to the fourth; and the Hon. John
Ordronaux, M.D., LL.D., to the fifth. Dr.
Ordronaux was the author of valuable works
on the subject of Medical Jurisprudence.

Judge Dillon, having resigned his judge-
sHIP and having become a citizen of New
York, entered upon the duties of his depart-
ment with great zeal and interest. He was
fond of instruction, and would have been
pleased to devote his life to legal study and
the preparation of legal works for the use of
students and the profession. His great judi-
cial experience and eminence soon made such
demands upon his time as a practitioner as
to induce him to devote himself wholly to
litigated business. He accordingly retired
from the professorship in 1882. Some time
later, the professorship was filled by the ap-
pointment of Benjamin F. Lee, a graduate
of the Law School, residing in the city of
New York. Mr. Lee was then in large prac-
tice, particularly in that branch of the law to
which his professorship relates.

The legislature in 1876 committed the
whole subject of admission to the bar to the
charge of the Court of Appeals. The matter
was to be regulated by rules of court. Rules
were accordingly established by the court
affecting students in law schools as well as
in lawyers’ offices. The Statutes permit the
court in framing its rules to dispense with
the whole or any part of the period of clerk-
ship required from clergs in offices in favor
of students in the law schools. (Code of
Civil Procedure, §§ 57, 58.) The rules made
under these provisions in substance require
a three years’ course of study for admission
at one and the same time to the degree of
Attorney and Counsellor in all the courts of
the State. There may, however, be received
in lieu of one year’s study a degree of grad-
uation in a literary college and one year’s
study in a law school. Where there is no
degree in a literary college, two years’ study
in a law school is allowed. But in every
case there must be at least one year’s clerk-
sHIP with a practising lawyer in the State.
Law-school students now have no privileges
whatever in connection with admission to the
bar. They must pass an examination
before the court in the same manner as oth-
er students. The court examinations have
much improved of later years, at least in
some of the judicial districts. The term of
the examiners has been much lengthened,
and there is a much greater disposition on
their part to ascertain the knowledge of
candidates for admission upon points of sub-
stantive law than there was formerly. The
candidates in the Law School for the degree
of Bachelor of Laws must sustain an addi-
tional examination at the close of their course,
covering the entire period of study.

Not long after the establishment of these
rules, the members of the Court of Appeals
assented, at the request of the Warden of the
Law School, to a personal interchange of
views on the subject of admission to the bar.
Among other matters, a preliminary exami-
nation was strongly recommended by the
Warden. Such an examination had been al-
ready established in the Law School, and
was then in full operation. The court ac-
ceded to this view, though not concurring in
the recommendation that some knowledge
of Latin should be required. In lieu of that a
preliminary examination in English branches
of study, established by the Board of Re-
gents of the University (and popularly called
“Regents’ Examination”), is now required to
be passed by all candidates for admission
(unless they are college graduates), whether
they be students in law schools or not.
This regulation is made perfectly effective
by the rule that no course of study shall
legally commence until the examination is
duly passed, though, when passed, the time
will relate back for a period not exceeding
three months in favor of those who have
already commenced their clerkship or sub-
stituted course of study. There is, however, still open an opportunity for evading the preliminary examination, since the rule is not applied to those who have been admitted in other States and who come to New York to practise. It would have a great influence in promoting the cause of legal education, if such regulations could be made uniform, at least in substance, throughout the country. How can the practitioners in law be called a learned profession, when one who is profoundly ignorant of arithmetic, orthography, or English or American history, not to say Latin, and every modern language, can be made a lawyer without any demur, as he can be in some of our States, through the good will of examining Boards? The New York method is unquestionably the correct one, as it commits to an independent body of men the duty of inquiring into a student’s general attainments in other branches of study besides the law. The only ground for criticism is that the preliminary examination does not embrace as many subjects as are desirable, though this defect may perhaps ere long be supplied.

There are thus, at present, two parallel modes of going to the bar in the State of New York: one is partly through the law schools and partly through the law offices; the other, exclusively through clerkship in an office. The former is expensive; the latter is without expense, and in some instances slightly remunerative. In each method the court directs the examination for admission to practice. It is creditable to the young men studying the law, that they still crowd the law schools, notwithstanding that they have no exclusive privileges. This many of them do with much labor and self-sacrifice to procure the necessary means. Their motive is to obtain systematic knowledge. It should be added, as to the tuition fees in Columbia, that they are considerably reduced in favor of such students as are shown by proper evidence to be in want of sufficient pecuniary means and are at the same time faithful to their studies. Their fidelity is tested every half-year by a certificate of the Warden of their satisfactory attendance as shown by the college books, and of their proficiency as ascertained by conference with their instructors.

In recent years, owing among other things to the great increase in the number of students, it has been determined to augment the tests of attendance and proficiency. To this end a series of prize tutorships was established, three in number. These tutors are selected from the leading students in their classes, hold office for three years, and are so classified that one goes out of office each year. An exercise under the charge of these tutors, known by the students as a “quiz,” meets with great favor and is largely attended, particularly in the case of those tutors who develop an aptitude for the successful performance of their duties. The attendance is voluntary and without charge.
It is a very pleasant feature of the Law School work, that strong friendships spring up among the students, following them in later life. Their intercourse leads to constant discussion of legal questions, developing frequently differences of legal opinion which are finally referred to the professor in charge of their work. It is noteworthy that this was, of old, the method of the barristers who met in or near Westminster Hall and put questions to one another. Moreover, partnerships in business grow out of this friendship, as well as other important legal connections. There is a fine spirit of mental activity prevailing, sometimes leading to excess of intellectual labor and requiring suitable checks from older friends. If a professor’s life and work are under any circumstances agreeable and self-satisfying, it is under those which prevail at Columbia, where with most of the students no stimulus is needed, where the spirit of inquiry is eager and satisfied only with replies resting upon reason, and where the courtesy and forbearance of students are sincere and admirable. A majority of them are college graduates. Many of them were marked men in their undergraduate courses. These set a high standard of work for their fellows who have not had equal literary advantages. Upwards of fifty literary colleges are represented, with varying types of undergraduate education.

The opportunities offered at Columbia for training in the principles of political science and of International and Constitutional Law should now be stated. In the year 1876 Prof. John W. Burgess became Professor of this class of subjects, both in the School of Arts and in the Law School. The Trustees of the College displayed an enlightened interest in this branch of education, until it was raised to the rank of a department by itself. It was proper that this should be the case, since a quite considerable number of students desired to confine their attention to the ordinary branches of municipal law,—“the bread and butter studies.” Arrangements were thus readily made for them, while those who desired a wider range of study had full opportunity accorded to them. Moreover, there was a class of students who desired only to study political science and other branches closely associated with it. At the present time any law student may, at his option, study any one or more of the topics assigned to that department without further tuition fee, and may matriculate as a candidate for a degree therein on payment of the nominal fee of $5. The professors in this department were trained in the best European universities. Several of them are graduates of this Law School.

The regular course of education in the Law School has hitherto occupied two years. In the spring of 1888 the Trustees decided to have a three years’ course. Actual attendance (except in the case of those who were students when this statute was passed) will be compulsory for this whole period, as a prerequisite to a candidacy for the degree of Bachelor of Laws. The first class to which this rule will be applicable entered on the first Monday of October, 1888. The third year’s course will, accordingly, not go into actual operation until the fall of 1890. The specific topics to be assigned to the third year are not yet determined upon, though under discussion. So much as this has been decided, that there will be in the third year two Elective Courses,—one in topics of private law, and the other in branches of public law, including Constitutional and International Law. The result is that a student can then

1 Reference is here made to a passage from the opinion of JUDE, J., found in the Year Book of 7 Henry VI. pl. 20. He says: “One day, while passing between Westminster and Charing Cross, I put a case to the late Justice Hankford (whom may God assoolzie), and before he would answer, he put a question back to me, whether, if he should convey to me provided that he should have forever the profits of the land, he or I would in law have the profits, and I replied that I would have them, for the deed should be construed more to the advantage of the grantee than of the grantor; in other words, the conveyance would be good and the proviso void. Whereupon Hankford said that my inquiry resembled that case, and that his opinion was the same as mine.” This little glimpse of these barristers, both afterwards judges, “talking law” between Westminster and Charing Cross, is certainly instructive.
obtain the degree of Bachelor of Laws by a two years' course in private law, with the addition of a third year either in private or public law, on passing the requisite final examination.

For quite a number of years the Law School labored under the disadvantage of inadequate accommodations. This fact was partly due to an unexpected number of students, and partly to a desire on the part of the Trustees to make temporary provision until a suitable building could be erected. Such a building was constructed at great cost, on the block bounded by 49th and 50th Streets and Madison and Park Avenues. This block is entirely devoted to the uses of the College. The building is understood to be fireproof. The upper part of it is used for the College Library, while the lower rooms are assigned to the Law School. There are two large lecture-rooms, each having a sufficient capacity to accommodate two hundred and fifty students, and suitable rooms for offices, etc. The library is open to all students every secular day in the year (with the exception of one or two days) from eight o'clock in the morning until ten o'clock at night. The law students in large numbers make use of the books, not merely in law, but in history and political science.

The corps of instructors in the Law School at present (March, 1889) is as follows: Theodore W. Dwight, Warden and Professor of the Law of Contracts, etc. : Benjamin Franklin Lee, Professor of Real Estate and Equity Jurisprudence; George Chase, Professor of Criminal Law, Torts, Evidence, and Procedure; John W. Burgess, Professor of Constitutional History, International and Constitutional Law and Political Science; John Ordronaux, Professor of Medical Jurisprudence; Robert D. Petty, Instructor in Municipal Law; Paul D. Cravath, Alfred Gandy Reeves, and Philo Perry Safford, Prize Tutors. Of this number, Professors Dwight and Chase make their professional work, as lawyers, subordinate to attendance to Law School duties throughout the scholar-}


The professorships in the third year's course have not as yet been definitely established. It is, however, presumed that in the Elective Course in Constitutional and International Law instruction will be given by some of the professors in the existing department of Political Science; namely, Prof. John W. Burgess, Prof. Edmund Monroe Smith, lecturer on Roman Law and Comparative Jurisprudence, and Frank J. Goodnow, Professor of Administrative Law.

Owing to the recent introduction of the third year's course, and the possible rearrangement and redistribution of studies to take place within a few weeks, it is not deemed expedient in this article to state the existing courses of study. It is altogether certain that the new courses will embrace all that has been heretofore taught in Contracts, Real Estate, Equity Jurisprudence, Torts, Evidence, and Procedure, and as much more as can reasonably be brought within the increased time allotted to legal study. This extension of the course is largely due to the persistent and enlightened efforts of Stephen P. Nash, Esq., an eminent practitioner at the New York Bar, to whom the Law School owes a permanent debt of gratitude.

The success of the work of the Law School for the last thirty years must naturally be shown by the character and work of its students and graduates. It must be remembered, however, that the oldest of them have but just reached middle life, while there are but few surviving who have passed the age of forty-five. The results of the work done here have certainly been highly satisfactory. The three Circuit Judges of the first and second judicial circuits, Judges Colt, Wallace, and Lacombe, were trained under the system prevailing here. A very large number of the younger men of promise and ability at the New York
Bar are graduates or were students. A number of them hold or have held high judicial positions in the State and Territorial courts, several of them reaching the rank of Chief-Justices and Chancellors. The men who have been active in political reform in New York have been trained here, including Seth Low and Theodore Roosevelt. The same remark may be made of the better element in New York political life. The prominent offices are held by these students, including such positions as that of the Mayor, Corporation Counsel, City Chamberlain, etc. As prosecuting officers they have been highly efficient and successful. In the City Councils they have been unflinchingly opposed to corruption, sometimes standing almost alone in their efforts to prevent it. Some of them have exhibited remarkable talents in the management of great public enterprises. Diplomacy has had through them fit expression. They have borne their part well in high executive and legislative positions, frequently having in the latter that commanding influence which springs from knowledge, ability, and purity of purpose. Their arguments before courts exhibit in numerous instances thoroughness, breadth of research, and strength of reasoning, deserving and receiving high compliments from judges who know what good argumentation is.

A single fact shows their general spirit in connection with membership of the Bar Association of the City of New York. There is perhaps no institution of this kind in this country which is more meritorious and successful. It originated with the leading members of the bar. None can join it except such as pass the ordeal of a careful inquiry by a thoroughly well-selected committee on admissions,—an inquiry into the training, ability, and character of the candidates. An admirable library containing upwards of thirty thousand volumes, many of them rare and of great value, bespeaks the energy and intelligence of the Society. Of this association of picked men, having on its rolls nine hundred and fifty members, a majority (477) consists of graduates or former students of this Law School. This is a pregnant fact, showing their earnestness in broad and comprehensive study. With many of them, membership is won with the first scanty savings made in the outset of their professional life. So much and more has been achieved by these young men in the face of an active and relentless competition from lawyers crowding into this city from all parts of the United States. Nor is the success of the graduates confined to the city of New York. Similar results might be cited from various parts of the country.

The managers of the Law School have reason to think that they have not spent their strength in vain. They look forward with some solicitude to their new departure. Will the three years’ course be sustained by the community? It is believed that it will be. The time seems ripe for it. The signs of success are flattering, particularly in the fact that the number of students remains constant, notwithstanding the announcement of a longer curriculum of study. Such institutions have no governmental support here to uphold them, as on the continent of Europe. Attendance is in the face of easier methods tolerated by the State. If the proposed course be successful, it will be another instance of the willingness of the American people to submit to sacrifices and to practise self-denial in the hope of attaining a higher education. It casts a serious responsibility upon the Board of Instruction here to see that the hope turns out to be well grounded.