A PROBLEM OF LEGAL EDUCATION.

In an address delivered by him before the Ontario Bar Association, in the month of May last, Dr. D. A. MacRae gave expression to certain very definite opinions in respect of the problem of the preliminary education which should be required of a Student entering upon the study of law. His address was necessarily too comprehensive to be reproduced as an article in the REVIEW, but as the subject is one of manifest importance, calling for very serious consideration, it is intended in this article to make an effort to reproduce the opinions of Dr. MacRae, using his own language with great freedom, and on the distinct understanding that, although the writer concurs in everything that he says, Dr. MacRae is to have full credit for all that is said.

At the outset, it must be borne in mind that Ontario delights to be called the premier province of the Dominion of Canada, and lawyers practising in Ontario are apt to think that their institutions are of the best. We also like to think that Canada ranks favourably with the United States in all matters of social well-being. Hence it was a very great shock to the present writer, when reading a publication of the Carnegie Foundation a few years ago, to find that the Law School of the Province of Ontario was very far down indeed in the list, although the shock was mitigated by the information that the Dalhousie Law School, of which Dr. MacRae was then the Dean, ranked very high. Since that time, there has been a re-organization of the Ontario Law School, and Dr. MacRae has shewn his strength by accepting a position junior to his old friend, Dean Falconbridge. Those best informed have every confidence that there will be real co-operation between the two, and that if they are given proper opportunity, they will in time place the Law School at Osgoode Hall in the position which it should occupy. The fact that this situation exists is a very pregnant reason why very careful consideration should be given to any utterance of Dr. MacRae upon the subject of legal education. It is not merely a matter of today or tomorrow; it concerns the whole future of the administration of law in the Province of Ontario.

The text is found in a quotation from the Report of the Committee on Legal Education of the Canadian Bar Association for 1923: "The

question of a proper standard of preliminary education for law students is fundamental to all other questions of legal education. Until a creditable standard of preliminary education for all students seeking admission to study law has been adopted throughout Canada other improvements in legal education will be attended with difficulty. The foundation must be well and truly laid before the superstructure can be well builded." There can be no question as to the truth of this statement, and the Legal Education Committee of the Association has been consistent in recommending improvements in the standard. Everybody agrees that the Committee has been right in theory, but the outstanding difficulty has been what is very aptly termed the "Abraham Lincoln argument." The force of that argument turns upon the fact that this is a democratic country, and that if a University education should become a necessary preliminary to the study of law, the young man who is financially unable to attend a University will be prevented from entering the profession. In Ontario emphasis is added to this argument by reason of the fact that certain eminent leaders of the Bar today are not University men, and their success is said to demonstrate as a fact that University education is not essential. Upon the surface, this argument seems to be a potent one, but by those who had the advantage of hearing Dr. MacRae's address, it was found to be altogether superficial. There is a type of man whose native qualities are so exceptional that he cannot be kept down, and it is altogether to the credit of the gentlemen in question that they have won to the places they occupy without the advantage of a University education. Their success, however, does not demonstrate anything as to the principle underlying the question of legal education. The present writer had the advantage of being a student at Queen's University at a time when perhaps the larger number of students there were actually fighting their way through the University. Many years have gone by since then, and many of these struggling young men have attained high places, as a result of their education there, without which they would probably have been still "splitting rails."

For purposes of comparison, the standards of preliminary education in the various common law Provinces of Canada may be arranged as follows, the grade of standard in each case being interpreted in terms of University matriculation and the Arts course. This statement is based upon changes recently decided upon, and to be brought into effect in New Brunswick and Alberta, and must be taken as subject to possible correction:

Province.	*Standard.*
Manitoba, Nova Scotia, New Brunswick, Alberta	Matriculation plus two years in Arts, or equivalent.
British Columbia, Saskatchewan, Quebec, Prince Edward Island	Matriculation plus one year in Arts, or equivalent.
Ontario	Matriculation plus Honour examinations in four subjects, estimated to be equivalent to two-thirds of the first year in Arts.

It will be seen that Ontario occupies the unique position of being the only province which accepts anything less than the equivalent of one year in Arts, while today Manitoba and Nova Scotia require the equivalent of two years in Arts, and New Brunswick and Alberta propose to follow suit at once. Probably very few lawyers realize that this is the present situation, but those who desire to give it proper consideration will naturally wish to discuss the question from all points of view. Space prevents comparison with Law Schools in the United States, and it is sufficient for the moment to consider the situation in Canada. Why should Ontario remain in what appears to be a position of inferiority? What are the reasons in favour of an increase of the standard? It will be impossible to discuss all the points involved in these questions at length, and the most one can venture to do is to refer briefly to some of them. First, there is the broad reason of the educational needs of the lawyer for effective citizenship. To be a good lawyer, one must be also a good citizen. To be a good citizen, and to do good effectively needs more education than was needed a generation ago, for the simple reason that people generally are better educated than they were then. In the race of life the start is important, and if a young man starts with an inferior general education, his lack of it soon becomes apparent, and is very likely to diminish his influence with his fellow-citizens. Life is more complex than formerly, and the problems of life require broad and careful wisdom for their solution. Wisdom may be instinctive in the young man, but it is elementary that the more education he has, the more opportunity for the development of his wisdom and making it effective. At a dinner given in honour of his eightieth birthday some months ago, Mr. Elihu Root, speaking with all his vast experience of men and affairs, said:—

"We are becoming a better educated people. I doubt not that Mr. Hughes and Mr. Beck will agree with me when I say that the young lawyers who are coming to the bar include a vast number of young men of the first ability, far better educated than I was, or my associates were, when I came to the Bar 58 years ago. It is so with physicians; far better educated, more scientific men, the physicians are. And the engineers, and all the great throng of men using their brains in the new professions, in all branches of science . . . . It seems that we are in general becoming a better educated and more competent people. All over the land behold the rush of American youth to the colleges and universities for learning—nothing like it was ever seen in the world. The nearest that we can come to it is in that great crowding into the universities upon the dawn of the new learning that let the light in upon the darkness of the Middle Ages."

In a recent article in *Law Notes,* Mr. Shumaker, after pointing out the complex system of industry which has come into being in the present age and the new type of business man it is producing, and after predicting that the leading business men of the future will be in the main college men, goes on to warn us that if lawyers wish to avoid the fact of becoming mere hirelings or superior clerks, there is but one remedy, and that is "to increase the mental stature and equipment of its members. . . . If the bar is to maintain its status as an independent profession the lawyer must bring to consultation with the educated business man an education and culture at least equal. . . . Long traditions of professional dignity will no longer serve. . . . Only a real superiority of intellect and training over his clients will maintain the lawyer in his independent position." Here, then, we are furnished with another reason for a larger measure of education for the lawyer than was formerly necessary. His clients are better educated. They demand more of him in the way of general knowledge and education than the old type of business men did.

One other practical reason which should not be overlooked is that the entrance requirement of other professions which are fairly comparable with that of law is higher than our entrance requirement, and the effect is to divert into the legal profession a very considerable number of young men who merely want to get into some profession and are led to choose law, because it is cheapest and easiest to enter. A young man who has completed ordinary matriculation and contemplates entering the medical profession must take one more year at the

High School and then six years at college. That makes seven years in all, even if he does not contemplate that post-graduate work which most young physicians realize to be essential to ultimate success in their profession. If he looks to law, he sees only six years ahead of him, and two of these may be spent in an office with much less expense than if at college. One wonders if we are justified in placing before a hesitating youth the temptation involved in offering him a quicker and cheaper route to a profession. Dentistry and engineering should hardly be compared with law. They require one year less, but necessitate longer college attendance and consequent expense. This is a point of real importance.

Speaking of post-graduate work reminds one of another practical consideration. There are a few Law Schools, of which Harvard is of course the most conspicuous, which offer facilities for post-graduate work, which could not very well be offered by any of our Canadian schools. One frequently wonders why we do not hear of any Ontario graduates attending Harvard, especially in view of the fact that several from Dalhousie have made their mark there. The answer is that before Harvard and other similar institutions will accept students from other schools as candidates for advanced degrees, they require that the candidate shall have taken his law course at a school which prescribes the two year standard for admission. It is not enough that the candidate shall himself have had that much preliminary education or even that he shall have his B.A. degree. He must have taken his law course at a school which requires the two year standard for admission, the idea back of this requirement being that a school which adopts a lower standard for admission cannot do work of the character which they are content to recognize. No good purpose could be served by discussing whether or not it is reasonable or right that this requirement should exist. It is a fact that it does exist, and that it is so as a result of the most careful consideration by men who are thoroughly competent to deal with the problem which we are considering. Should Ontario remain in her present position of inferiority?

Let us come back to the "Abraham Lincoln argument." The cause of the "poor boy" is of course a popular cause, and the argument is one which does credit to the kindly impulses of those who advance it. On the other hand, it is fair to suppose that Abraham Lincoln would not have found a way to qualify if he had been compelled to meet a higher standard? The Ontario leaders already referred to are not the only ones who have overcome obstacles, and it

might almost be said as a characteristic of this Canada of ours that the boy who has had to fight his way up almost always makes the best man. Note that actual attendance at College is not suggested as an essential. Full University training is of course the ideal, but the grade of the standard is the important thing now under discussion, and it is not at all likely that the boy who has the stuff in him which is going to make for good in the future will be deterred by the necessity of working his way through one more year. After all, it is a great question whether it is really doing him a kindness to let him start too soon. The difficulties which he has to face in the practice of law are great enough to tax his strength without encumbering him with the difficulties imposed by lack of general training. It is a poor kindness to plunge into the profession a young man who only thinks he is qualified to enter it. The best way to help a young man of ability is not to lower the barrier which should for other reasons exist, but to help him over it. Dr. MacRae suggests the provision of loan funds to help such lads, thinking these better than scholarships and prizes, which often go to boys who really do not need them. A wisely administered loan fund would furnish to the meritorious student money to help him through, and might exempt him from any interest charge, until he should reach an earning position. This is one of many ideas of practical value which come to one's mind in discussing the subject.

Then again, is it quite fair to think only of those who are seeking admission to the profession of law? Those already in it deserve some consideration, and Ontario already has its fair proportion of practising lawyers. It has approximately 2,300, or one to every 1,275 of population, while Quebec has one to every 2,010 of population, Nova Scotia one to every 1,905 of population, and New Brunswick one to every 1,733 of population. It is not to be wondered at that many lawyers find it hard to make a living, and while there is of course always room at the top of the ladder, it is again a question whether it is fair to the young man of only ordinary ability and small educational attainments to start him in the race where the prizes become more difficult of attainment as the number of the contestants increases.

This is of course only one of the problems of legal education, and only a hasty and incomplete sketch of Dr. MacRae's address at that. It is, however, at the foundation, and one ventures to hope that it may receive the early consideration of those in authority. An increase in entrance requirements is called for, because of the former educational level of the community being raised, because of the better education

of the clients whom the lawyer is called upon to advise, because of the higher standards of preliminary education being demanded in other professions, because of the increased requirements for entering upon the study of law in other Provinces of Canada, because it is essential in order to give the Ontario Law School its proper position, and to secure recognition for its graduate elsewhere, and finally, because the solution of the problem is so undeniably a condition of further progress. The one argument to the contrary is met by the suggestion that consideration for the less favoured boy may better be shewn in some other way than by enabling him to enter the battle of life with inferior equipment.

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ILLEGAL PREMIUMS ON BAIL BONDS.—Notwithstanding the provision of the New York State law, passed in 1921, that the premium on bail bonds should not exceed thirty per cent. of the amount of bail fixed, it seems from reports in the daily press that the law is still broken with impunity in every court of criminal jurisdiction in the State. Apropos of the subject we quote the following from the *New York Evening Post:*

Gouging on bail bonds is very prevalent in every court in New York. Probably one in every ten bonds written carries with it an illegal premium. Adds a lawyer in the "Tenderloin" court:—

"My clients pay $50 for every $1,000 bail. That is the usual rate. Sometimes it is higher. The legal rate is $30."

And a bondsman explains:

"Why shouldn't they pay? They want to. Who wouldn't pay $20 extra, rather than go to jail?"

Back in January and February, 1921, the bail bond situation in New York came in for an airing when George W. Simpson, a city magistrate sitting in John Doe proceedings, conducted the investigation which led to the passage of the 3 per cent. law.

There the matter rested until United States Commissioner Cotter, who holds court in the Federal Building, declared war on the bondsmen who throng the corridors on the watch for prisoners in prohibition cases.