PROBLEMS OF LEGAL EDUCATION

II. The Question of Co-ordination

Formerly it was thought that the so called skin diseases were something which related only to the skin. It is only in comparatively recent times that serious thought has been given in their treatment to questions of diet and general bodily health. In other words the doctors now view the skin and what is beneath it in their true relation to one another, and look upon them as parts of a single entity.

In this respect we have lagged behind the medical profession, for there is a distinct tendency on the part of those who deal with legal education to look upon it as something which is merely vocational. It is dealt with on the footing that a general education even if highly beneficial is not vital to the practicing lawyer, overlooking the fact that the most important contribution which the lawyer makes to his clients and the social welfare lies in the influence which he brings to bear on his clients' train of thought, rather than in the exercise of his technical skill.

Legal education and general education have to be looked at as an entity. They must be planned together, not as things which are to exist side by side but as elements which combine to form a single substance. Unless we deal with legal education in this way, we cannot hope to attain our suggested standard.[1]

The next question is whether we can attain this standard if we continue to tie the teaching of law to our secondary school system, leaving the student free to take a University training if he chooses to do so, or whether we can only attain this standard if we compel everyone seeking admission to take first a prescribed course of study at an approved University. This is a subject which has occasioned more debate than any other, particularly in Ontario.

There are a good many phases of this problem which merit discussion, but the important thing which really stands in the way of attaining our standard, if we continue to tie the teaching of law to our secondary schools, is the inflexibility of our secondary school systems, which are necessarily Province wide and highly centralized.

While the coping stone of this system consists in passing examinations which are commonly called junior matriculation, and while a considerable portion of those who go through our

[1] See my first article on "Problems of Legal Education" as it appears on pp. 331-433 of the current volume of the *Canadian Bar Review*.

secondary schools actually matriculate and go to the University, the system is necessarily designed to take care of all classes of people who are going into widely different occupations. Some of them intend to go into business; others into the Ministry; still others into teaching and so on ad infinitum. In other words any public and general secondary school system has to be planned with this end in view. It is there to give a broad range of factual knowledge and not to give a training in critical analysis.

The secondary school systems are accordingly something which have to be left alone in planning any co-ordinated scheme of legal education. It stands to reason that they cannot be moulded in such a way as to suit a minority like those who are only interested in legal education. This throws us back on the Universities, unless we are content to carry on with a double standard which creates difficulties in the law schools and in the profession. It is only in the Universities that teaching can be made sufficiently selective to enable us to work out a well balanced pre-law course.

Lastly, we cannot begin to attain the suggested standard without close and intelligent co-operation between the Universities and our governing bodies. Some of our combined Arts and Law courses sacrifice too much to a training in law, while on the other hand most of the Arts courses tend to go into too much which only has an historical value in literature.

When the choice of subject-matter for literary training is left entirely in the hands of literary people the natural tendency is to choose subject-matter for its literary value alone. While law is primarily a literary profession and in a sense too much attention cannot be given to literary training, there is no reason why it should be pushed to extremes when we consider that there is a vast body of matter which has a definite place in Law, Literature, History and Philosophy at one and the same time. The late Senator Beveridge's "Life of John Marshall" is a recent example of such a work. When it is looked at from one aspect it is an outstanding work on constitutional law, and, in particular, on the place of the Federal Judges in the American system of jurisprudence. When it is looked at from another aspect it is a most valuable history of the United States during its critical and formative period. Lastly, when it is looked at from the aspect of Philosophy, Marshall typified, as no other man on the Bench, the political philosophy and the philosophy of life itself which lay at the root of the early development of American institutions.

Works of this kind contain all of the materials which are necessary for a training in critical analysis. They cannot be read without the student formulating points of view which are based upon coherent lines of reasoning, and as they are models of style they are works which no student can study without acquiring sufficient forensic ability to enable him to read, write and speak the language of a cultured gentleman.

Surely we can sort out the best of this vast body of literature on subjects, which, if not strictly legal, are cognate to law, and with the help of our Universities use them as the basis of a well balanced combined course. This course should not be made too difficult and should represent the minimum which every candidate for admission to the Bar must take, leaving those who wish to specialize in any of the existing University courses free to do so.

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