

LEGAL EDUCATION

The discussions on Legal Education which have been proceeding from year to year are gradually bearing fruit. They at least indicate the restlessness of discontent with our present system and the doubt whether our methods are attaining their object. The views expressed show that opinions differ as to what is the true object of legal education. Is it, for example, to be used as an instrument to restrict the numbers of persons who may practise law, and thus increase the profits of those admitted to the ranks of qualified practitioners, or is it to help to ensure that there shall be a group of persons endowed with education, character, and mental ability who are devoted to the administration of justice in the land so that the country shall, as has been said, be governed by the force of law and not by the law of force.

All are agreed that the more profound the knowledge of the principles of the law, and the greater the aptitude of the lawyer in applying them to the multitudinous variety of circumstances of modern life, the greater service he can yield to his clients and the more valuable those services become. Legal education is partly based on the idea of profit to the practitioner and is inter-mixed with the ideal of service to the public and the nation at large. There is also the actuating motive of maintaining the efficiency of lawyers at a standard which puts them above their multifarious competitors.

The searchings of heart among the Bars of the Provinces seem to point to a recognition that some change may be advantageously made in our methods of legal education, including therein the choice of candidates, and that perhaps we have not yet found the best way of evolving for Canada a general class of lawyers whom we shall be proud to recognize as constituting the "Bar of Canada". We have men of the highest attainments and character already, of whom we are proud, but who will gainsay that improvement is needed if the profession as a body is to give the best service of which it can be made capable.

If the profession is to consist of picked individuals who have passed through a process of tentative selection, and then of elimination of those who fail to prove during the period of education, or, if you will, of probation, that they possess the requisite knowledge, attributes and character to become members of a really learned and responsible profession, then greater attention should be given to the system of selection.

These remarks are intended to centre upon the question whether both the restriction of the number of the persons authorized to practise law, and the maintenance of their quality, cannot be aided by a more careful selection of would-be students or articulated clerks, and secondly, of those who seek call or admission.

We pride ourselves that in Canada the aristocracy of our citizenship depends on character and not on origin or wealth, although some think that type of aristocrat might perhaps receive a mark of recognition for life when he has given the public exceptionally useful or distinguished service.

But there is no sound reason why the welfare of the profession, and therefore of the public, should be sacrificed for the sake of the poor man's son anymore than that the question of wealth should enter into the list of qualifications. Money will not make a good lawyer. It may to some extent assist an aspirant to gain a better education, but the qualification rests on brains and character. Health counts; but valuable as it is, it is not always essential.

Brains may produce brilliance, but that alone is not enough. Men may enter the profession who are possessed of agility of brain, retentiveness of memory, and persuasiveness of speech and even of attraction of manner, but in whose hearts lurks the canker of crookedness.

But nothing can stop brains, health and character when combined with a set purpose from entering the profession and attaining success therein. The poor man's son is perhaps more likely to possess this combination than is that of a rich man. All he needs is time. The profession is full of such men, but it also is burdened by some who would have been spared suffering for themselves and their clients if at an earlier stage they had been diverted to other scenes of activity, but who were permitted by the system in vogue to wander about in a field in which they could not cultivate or produce anything worth while.

The rules of the Governing Bodies do not appear to give sufficient elasticity in the selection or discarding of candidates on the grounds of their character or suitability. A formal certificate by one or two persons that they have known the candidate—years and that he is of good moral character, determines that all-important essential without further enquiry.

True the Governing Bodies cannot be expected to hold a Court of Moral Enquiry and even if they could adjudge with the wisdom of Solomon it is true their "Passees" like other good men would be apt occasionally to fall from the path of rectitude,

but it is common practice in such ordinary affairs as Life Insurance office transactions or Surety Bonds to procure names of reference and confidential reports, and in the case of some societies a small committee is charged with the duty of making personal enquiries concerning the worthiness of the candidate before his name can be considered for admission.

Again the certification as to character and the fulfilment of the conditions of service is usually merely formal, and if it was known to be the subject of more searching enquiry beneficial results might well ensue in some instances.

A barrister who had a knack of winning cases attributed it to his having learnt to think. This needs time and study. Another eminent lawyer declaimed on the futility of cramming as opposed to leisurely absorption whereby a profound knowledge of the principles of law can be acquired. "If", said he, "you had all the food needed to sustain you for life set before you at once and were told you must eat that quantity, you would be appalled at the task before you, whereas by taking it regularly, pleasure and profit would be the result".

So it is with education for the Law. The poor man's son needs time so does the rich man's, and much depth of learning can be reached if a longer term of years is devoted to the educational and probational period.

If candidates cannot afford the delay without an opportunity to earn money a certain number of months might be allowed in each year to permit them to enter employment. In any event the rule against a candidate undertaking any other work for profit during his educational period might be relaxed with certain safeguards. This could be done without detriment if the term of his education is sufficiently expanded, in fact he might gain invaluable practical experience. The Textbook System, then the Case System followed by Practice, i.e. the Office System, but under conditions where the student can devote his best energies to them in entirely separate periods, could be all adopted if more time is allotted to studentship.

An intermediate stage might perhaps be prescribed during which a tentative license might be issued to practise for gain. It might possibly be limited to inferior Courts or to certain fields of practice. And the issuance of a final qualifying license dependent merely upon the payment of the annual fee might be deferred during a set number of years, and then issued only upon application accompanied by recommendations as to efficiency and character. By that time the candidate should

know whether the profession suits him and he suits the profession.

The same suggestions concerning investigation into the character of a candidate would apply to an applicant already qualified in another Province. Many admirable and welcome additions find their way across the boundaries from one Province to another, but if there should happen to be a black sheep a formal certificate that he is a member of the Bar of his last Province serves as a coat of whitewash under which he gains admittance to the new fold whose reputation before long he will begin to injure.

Therefore it is suggested that means should be found for:—

- (1) More searching enquiry as to character and suitability of candidates.
- (2) Extending the period for strictly legal education as distinguished from general education.
- (3) Considering the issuance of temporary limited or tentative licenses.

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