

## Book Reviews

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## Book Reviews

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**A History of The School of Law—Columbia University.**<sup>†</sup>  
By the Staff of the Foundation for Research in Legal History under the Direction of Julius Goebel, Jr. New York. Columbia University Press, 1955. Pp. 524. \$6.00.

In his preface to this agreeable *History* Professor Goebel observes, perhaps somewhat ruefully, that a history of an institution of learning must deal mostly with the "outward" rather than the "inward" face; the public record of individual and collective accomplishment rather than, "the genius of the teachers, the spirit of the students, the ardors and aspirations of men associated in the fellowship of learning". Even so mild an apology as this is unnecessary. The "inward face" of Columbia comes through very nicely indeed.

The book might be called a biography rather than a history. Certainly there is more here than a mere recital of events. The Columbia School of Law, in common with other distinguished schools, has a character of its own, apparent to anyone familiar with the school or its accomplishments. It is in showing the development of that character that the *History* is most successful. To the casual present-day observer it seems almost as though our great schools have always been here — secure in their pre-eminence, confident in their excellence and their ability to perform the exacting job of teaching. In a way it is comforting for those concerned with legal education to learn that Columbia has had its difficulties, suffered growing pains, and made mistakes even as the rest of us have done and are doing. It is encouraging to learn that difficulties can be overcome and mistakes repaired in a comparatively short time. It is instructive to have a report such as this on how the job was done and done well.

Through its early years the history of Columbia is in tabloid a history of legal education generally. From the appointment of Dwight in 1858 through the tenure of Kirchwey (1901-1910) the first problem for law teachers was convincing the Bar and citizenry generally that formal schooling was a superior way to train lawyers. The office-trained Bar could hardly be expected to respond to abstract argument on the point. Only demonstrated results would

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<sup>†</sup> One of a nineteen volume Bicentennial History of Columbia University.

be persuasive. It is a measure of the talents of Dwight, Keener, their associates and their contemporaries in other schools that by the turn of the century law schools no longer needed to argue for their existence.

Acceptance of schools as the principal agencies for training the legal profession brought increased responsibility. Great law schools became great because they recognized that they were now charged with the duty of providing not merely adequate, but the best possible training for lawyers. Langdell's case method prevailed over initial resistance because it was a superior method of teaching. Nowhere was that pedagogical revolution more poignantly felt than at Columbia. Whatever reservations one might have about the unfeeling way in which Dwight's deanship was terminated, it seems clear that the move had to be made. Columbia in 1891 could do a better job under Keener. The decision, one can be sure, was a hard one to make. Perhaps it was clumsily executed. The significant thing was the establishment of a precedent that even the hard decisions must be made if the duty of excellence is to be discharged.

The *History* makes abundantly clear that the present Columbia School of Law dates from the deanship of Harlan Fiske Stone (1910-1924). Stone's immense gifts for incisive analysis and sustained, coherent thought enabled him to formulate the purposes of legal education with simplicity and directness. "It cannot be too often emphasized", he said in his report in 1919, "that the professional school with educational ideals has a definite and, of necessity, a relatively limited aim: it is to train men for the Bar in the best possible manner in the limited time at its command." Columbia's stature among professional schools today is in large part attributable to the fact that Stone and his successors continued dedicated to this profoundly simple objective.

Stone recognized, as had Dwight and others before him, that there are two aspects to legal training: mastery of legal principles and acquiring facility in the practical skills of day to day practice. Like Dwight, he believed that law schools should apply themselves to the first of these. Practical skills could be acquired, and quickly, in practice; but, if the student did not master in his schooling the theoretical basis which gives continuity and coherence to the law, it might in large part be lost to him forever. Stone appreciated that in the first instance it was the responsibility of the school and its teachers to see that the students did acquire an understanding of the whole body of the law;

that such understanding was beyond the students' reach unless rules and doctrines were explained in terms of their philosophy and history and tested in the light of their present social function. Changes in curriculum and pedagogy under Stone were aimed at enlarging the students' apprehension of the law as "a form of social control" and at increasing the students' ability to use the law as a tool for the solution of appropriate social problems. Stone's method was not merely to add courses or diversify the subject matter of the law school curriculum. He did not believe in making a professional school into a "school of jurisprudence" and in his 1921 report he cautioned:

"We will do well to remember that our law schools cannot become schools of economics and sociology and maintain their present position. . . . To make the work of our school progressive and enlightened without loss of a due sense of proportion and at the same time preserve unimpaired our sense of the practical aim of law as an agency for administering justice and securing social order must in this as in every case be the guiding principle in determining all questions of Law School policy."

The important changes initiated by Stone and developed by his successors were changes in method rather than in subject matter as such. At the heart of the change was student research in seminars, essays, moot court and such activities as legislative drafting. Students were encouraged to handle and work with the law rather than simply to acquire a catalogue of rules and doctrines.

The idea that the first function of a law school was training men for a learned and responsible profession was not established at Columbia without dissent. Perhaps the most critical period in Columbia's history began in the late years of Stone's deanship and continued until shortly after the appointment of Young B. Smith in 1928. Faculty warfare of the period centered on the question whether Columbia should continue as a professional school or should serve another function by converting itself into an institute for advanced legal research and study. A firm decision had to be made and again, though hard and in some ways costly, the decision was made. Some very able men showed their disappointment in the decision, and their resentment of the part played in the controversy by University President Nicholas Murray Butler, by leaving the school. William O. Douglas and Underhill Moore left Columbia for Yale. Hes-

sel E. Yntema, Leon C. Marshall and Herman Oliphant went to Johns Hopkins University where Walter Wheeler Cook was setting up an Institute of Law for the objective study of law as a social institution. Few observers at this point, however, would question the wisdom of the decision to keep Columbia a professional school.

Columbia has continued as a school where program and standards are keyed to the needs of the working Bar. By producing competent lawyers the school has served the profession well and in so doing has fulfilled its most important obligation to the whole community. By a firm, if sometimes painful, policy of restricting admissions and eliminating students with unsatisfactory records the school has given assurance that its graduates are truly capable of assuming the responsibility of membership in the profession. In selecting its faculty the school has been ever aware that the first job of a teacher is to teach. Columbia has had many faculty members who from time to time have directly served the law and the community as scholars, practitioners, researchers and administrators, without forgetting, again in the words of Dean Stone, that:

“. . . opportunities for members of the Faculty of Law to render public service do not present themselves exclusively outside the University. Great public service can be rendered by the law teacher by teaching with thoroughness and scholarly method the fundamental principles of our law and by inspiring his students with respect for and loyalty to our legal institutions.”

Changes in curriculum and program have been made as dictated by changes in “the fabric of the law”. Courses are subjected to continuing scrutiny to determine whether they offer students the training they need. No area, not even the sacred preserves of procedure and property law, have been proof against critical reexamination and revision. As legislation grew larger in the body of the law, courses were introduced to take account of the change, and the Legislative Drafting Research Fund was installed to assist in the job of making legislation more effective. The Fund has performed notable service in providing technical assistance to legislators, training draftsmen and in calling attention to shortcomings in the process of legislating. All that being true the compilers of this *History* yet can observe, “Probably more important than any formal instruction, however, was the practical experience given to students who were

employed by the Fund to help prepare and draft bills for private groups or for legislative committees.”

The closing chapters of this *History* perhaps forecast that a sequel will be in order at some future date. As early as 1931 Dean Young B. Smith urged the establishment of a great law center at Columbia for the coordination of studies of law and government with those in related fields. Law teachers were and are necessarily aware that good legal training is also sound training for public service. Dean Smith visualized a center of study which would furnish still better professional education and, beyond that, additional work and training in the areas of research and public service. At the time of Dean Smith's retirement in 1952, plans were fully under way for the establishment of the law center which his vision and devotion had, in large part, made possible. Assuredly, this law center will reflect the creed of its initiator, a creed articulated by Governor Thomas E. Dewey at a dinner in Dean Smith's honor in 1953:

“He has always been a stout advocate of the essential quality of all teaching, and most essential in law teaching, that our job is to teach men to think as lawyers, and to become statesmen in the process.”

This *History* of the Columbia School of Law is an enlightening document for all those dedicated to legal education. In the Columbia graduate it inspires fond recollection and realization, a second time, that the study of law under the guidance of great teachers is indeed an exciting experience.

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