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Art. III.—LEGAL EDUCATION.

LORD Brougham has truly and wisely said that "the nullity of the present system of preparation for the bar is so avowed and certain, the defects are so glaring, and the advantages of a better system are so self-evident, and the sort of course which that system ought to take, namely, by appointing professors to give lectures, and with due provision for examination to make that teaching effectual, all this is so perfectly self-evident, that I do not think that a commission would have anything to inquire into." Nevertheless, the opposition to anything like an effective remedy for the vast evils arising from defective legal education never was more formidable or inveterate than at this time.

We shall endeavour to treat, first, of the nature and extent of the deficiency, secondly, of its evil effects, and, thirdly, of its remedy

The law is certainly a less inviting study than any other, and it is one which is generally pursued at a period of life when dry studies are especially repulsive. Much, nevertheless, depends on the character of the first three or four years' cultivation of the legal mind, and on the method pursued as well as the matter learnt. The whole framework of the lawyer is often formed during the few earliest years of his studies, and habits of pedantic formalism and slavery to precedent on the one hand, or of loose generalization on the other—of cumbersome learning or defective knowledge, are frequently unalterably acquired. At this most important period, when the iron is on the anvil, nothing is done by jurisprudence for her sons. This is surely a vast oversight. The parents of students are usually incompetent to direct their course, and equally so to correct their deficiencies. The utmost that is ever done is to send them to a special pleader or conveyancer, who, if he be a man of any eminence, and has business of his own, is far too much engaged to instruct his pupils. They are made to draw conveyances or pleadings, and, with the exception of occasional dicta, usually unexplained, they are left to grope their way as best they can, without any instruction worthy of the name.

Of the inadequacy of the existing order of text-books we have had frequent occasion to speak. Even if pupils are disposed to seek for information, they will seek for it in vain in the most natural sources. They will find, with few exceptions, nothing but strings of crude decisions or isolated cases, headed, in most instances, by some prefatory axiom too general to be of the smallest service in informing the mind or storing it with prin-

ciples. "Petere fontes" is the only resource, and the student must plunge without a guide into the ocean of Reports, which inundate him with law on all points and subjects, and which he finds it often impossible to methodize and digest "multorum camelorum onus!" Well has Lord Brougham described the crude monster which encumbers the student in the debate on the criminal law in the House of Lords —

"Where are those streams—those fountains of justice to be found? Those fountains are contained in thirty-two quarto volumes of statutes, besides three times the number of private acts, filling in all thirty thousand quarto printed pages. The operations of the 'working pure' lie in the decisions of the judges, who have no rules to guide them but such as they can make out by looking partly to the text-books, and partly to their own sense of what is known generally in the profession to be the law, but which has not yet been reduced into shape by text writers. What is the number of volumes of these decisions? I speak only of the courts of common law The following statement of the tomes of records of judicial legislation or decision —that mass which has been accumulating, not from the time that Mr. Murray had used the words at the bar which I have cited, not from the time that Lord Mansfield had acceded to the bench in 1756, but from the year 1786, when he left the bench—will be found partly correct. There are one hundred and sixty closely-printed bulky volumes of decisions, to which, if I added the nisi prius cases, I should make up one hundred and seventy volumes of decisions only of the three courts of common law at Westminster, without reckoning the courts of equity, or the courts of law in Ireland,—that is, one hundred and fifty thousand pages of print, with all of which it becomes, and not only becomes, but behoves the judges and practitioners to be familiar. In fact it is a mass of matter painful to mention and frightful to contemplate. The expense, it must be obvious, of purchasing such a mass of books must be enormous, in fact it is an expense which the student at law cannot compass, and which the practitioner, if he enter on it at all, must defray out of his professional gains. Yet all this mass it becomes, and not becomes only, but behoves the judges to learn and inwardly digest, because they must administer the law and deliver their decisions, exhibiting an outward knowledge and acquaintance with its contents. Then the books are continually on the increase, in fact they increase at compound interest. No fewer than fifty-nine learned lawyers are occupied in preparing reports, who send out in the shape of reports every year twelve or fourteen large volumes, which each barrister ought to possess, and each judge be familiar with, but which, continually increasing as the stream, defies any but a large fortune to purchase--any degree of memory to retain—any degree of perspicacity to disentangle."

Mr. James Stewart observes in his evidence before Mr Wyse's Committee—

"That he has felt in the course of his experience the necessity of an

improved system of legal education in several ways. English books of law are in a very unsatisfactory state, there are very few institutional books, and I should say that one great reason for thinking that the institution of lectures would do good, is that certainly our best books have been written in connection with lectures. For instance, Blackstone's Commentaries attained, I conceive, their present perfection from having been repeatedly delivered as lectures; the opinion of Lord Ellenborough, which I happened to have met with yesterday, appears to me to bear upon this inquiry He says, 'Blackstone, when he compiled his lectures, was comparatively an ignorant man, he was merely a fellow of All Souls, and moderately skilled in the law His true and solid knowledge was acquired afterwards. He grew learned as he proceeded with his work.' Now I conceive that you will have, if you establish lectures, similar books written, similar institutional books. Mr. Justice Story's books, which certainly rank as high or higher than other books that we have, were written, all them I believe, in connexion with the lectures which he delivered. He went from the justice-seat repeatedly to deliver lectures, and it was in this way that those books were gradually written, filled in and perfected, from being constantly in his mind, and having the advantage of assistance from his class to some extent, and it was thus that those books of practice attained the perfection they now have.

"The generality of the law books of the present day are written on no general method, they are written on isolated subjects. I was much struck by a remark of Lord Campbell's, in his Lives of the Chancellors, that if you want to get certain portions of common law, especially on the subject of pleading, you have to go to Patteson's and Williams's Notes on Serjeant Williams's Notes to Saunders's Reports. Saunders's is an old work, written in Norman-French. Mr. Serjeant Williams gives notes to his isolated cases, and then Mr. Justice Patteson and Mr. Williams give notes to those notes, and that is the state of the law, and that, on a great portion of the common law, is now the best book that you can put in the hands of the student at the pleader's chambers. The student has to search out the principles of law from a large mass of details. In the study of the law of property it happens that the student has sooner or later to read Coke upon Littleton. Now half of Coke upon Littleton is entirely obsolete, and in general the information it contains is scattered up and down in a very unsatisfactory way If you had lectures, you would have those branches of law placed upon a very much clearer footing."

It is moreover much more needful that the law student should be guided in his early pilgrimage, and that his tuition should be cared for, than that even of the medical or theological student, who has no similar labyrinth to pass through. For the literature and text books of every other profession are more adapted to illustrate a science and teach its principles. As Lord Kenyon remarked, in the study of law a mass lies before the student enough to deter young minds, and it is left to

hazard in which road they pursue. There is no teaching of the science which of all others is least easily self taught.

Some persons think that it is very improving that men should have to overcome these difficulties by means of their own unaided efforts, and that the mental exercise thus involved has a salutary effect. If this be true, it is an argument against all tuition, and all facilities of instruction, and so far from its being desirable that elementary works on science should be plain and intelligible, there should be none at all. All our physicians, surgeons, divines, engineers, &c., should be heaven born and self-taught. Unfortunately genius is not so abundant.

Lord CAMPBELL has aptly remarked, "that those men who are eagerly bent on study will improve themselves, they will be self-taught, and will conquer all disadvantages, *but serious inconveniences arise from there not being better instruction provided for those who are to practise as advocates.* In England we have had a succession of men of very great talent and very great distinction, but I think we have not, generally speaking, had great jurists. * * * There can be no doubt *that in the present want of system a great deal of time is wasted by the student, from his being left entirely without a guide to his own researches, discoveries, and exertions.* However eminent men in all public departments have been already produced at the bar, such men would have been equally great if they had had a regular legal education, and many of them would have performed their duties in a still more distinguished and satisfactory manner, while many of those who have acquired high office by their abilities and their interest, being deficient in legal acquirements, have not performed the duties assigned to them at all in a manner so well as they would have done if they had been more particularly and more systematically educated."

Mr. Bethell, a bencher of the Middle Temple, speaking in his evidence before Mr. Wyse's committee on legal education, says—"I think it is obvious to every person who is thoroughly acquainted with the tone and manner of the education of young men, that their habits as students are directed to what you may denominate merely practical attainments, *and that you can scarcely find an instance of a young man who has commenced his legal studies by laying anything like that broad foundation of the study of jurisprudence in such a manner as you would desire it to be done as a preparative to the practical details* into which the student now almost immediately enters."

In point of fact, we expect our lawyers to be educated without education, and, after eating a quantum sufficit of dinners, to pay their fees, and enter upon their functions competent to

discharge them, without the slightest pains being taken to make them so. From the days of Lord Bacon, we have had perpetual lamentation over this state of things without an effective effort to remedy it.

The system of drawing pleadings is very ill suited to assist the student. It acquaints him slightly with legal phraseology, but leaves him almost unacquainted with the principles of law If he is permitted to answer cases, he usually sets to work to pick out the set of facts which the most nearly resemble those before him, and judgments are used to determine the point, not on principle, but by precedent and authority By these means law is not learnt, and the habit of reliance on cases is acquired.

The members of our profession are rapidly degenerating into mere case lawyers. It is well remarked in an able pamphlet,[1] "Undoubtedly the very best lawyers in the profession on both sides of the channel are amongst those who cite fewest cases in court, and in the opinions which they give on cases submitted to them. The show of multitudinous citation, whether relevant (or irrelevant, as is too often the case,) takes with the gallery and with the young members of both branches of the profession, and the latest case often relieves a judge from the duty of canvassing or deliberating upon the principle which the case in argument involves, and from which the decision cited, if a right decision, necessarily flowed." And Mr. Bethell, a bencher of the Middle Temple, observes, "that an individual taking up a book of modern reports, and observing the manner in which cases are argued, will not detect in them evidence of any great extent of reading, of any large acquaintance with the principles of the science of law, any familiarity with the works of any foreign or ancient jurists, which are deemed in all other countries to constitute the basis of legal education. He will observe in arguments a mere habit of calling upon the memory for the citation of what are more or less apt instances of adjudication of similar points found in the reports, and in which the *argument is most frequently a mere task of memory rather than of the enunciation and application of* LEGAL PRINCIPLES."

This is a serious evil, and it is one which the nature of our legal education almost necessarily entails. Pleaders' chambers are almost the only seminaries of lawyers, and a man must have an instinctive love of broad rules, and an innate breadth of mind, if he emerges from such slavery to precedent with a love and knowledge of principles. And yet without them is he a lawyer?—such as lawyers were of yore, when, in the time

[1] Letters on Legal Education, by H. H. Joy, Esq.

of Coke, men gave reasons for their positions, and fortified them with maxims and principles? Nothing tends more to the degeneracy of lawyers than this vile habit of squaring every case to some foregone case, which was probably merely an echo, in servile adherence, to some other case before it. Cases are now stored up in the memory, and frequently noted in strings for citation, without the slightest attempt to state the principle of which they are the mere off-shoots and rarely are they read by the student in the spirit or with the intent so justly enjoined by Monsieur Camus. "Pour vous penètrer de la Science des Lois, et non pour faire parade d'une vaine erudition. C'est dans l'ensemble des raisonnements et dans le plan entier de vos ouvrages qu'on doit reconnaître que vos avez medité les livres de droit, et non dans les citations qu'il est facile d'accumuler souvent avec plus de patience que de savoir."

In Scotland the same mindless practice appears to prevail, for Mr. Maconochie, a member of its bar, observes, "that it is too generally the case now for a practising lawyer to refer to preceding recorded cases *instead of*, as during the last century, *going up to first principles.* He does not get up now the length of first principles, because the multitude of decided cases to which he can refer is daily increasing *The effect of this is to make the profession one of technicalities, to be acquired by the exercise of the power of memory, rather than a* philosophy to be acquired by the developement of the reasoning powers."

This very graphic passage admirably delineates the evil fostered by the absence of all scientific and effective law education. The student, left to himself, naturally clings to authorities, and saves himself from the trouble of thought at an age when the powers of memory are stronger than the taste for reflection. Hence the bar swarms with sciolists, and possesses a far larger proportion of members who know nothing of the principles of the science they profess, than any other profession, trade or calling, be it what it may In proportion to their respective numbers, there are far more lawyers ignorant of law than physicians ignorant of medicine, or sailors or soldiers ignorant of nautical and military tactics, or even of clergymen ignorant of theology

The practice of attending the courts, so very little pursued with a view to instruction, is in its best aspect extremely insufficient for its purpose. The student again listens to the same eternal parade and conflict of cases, with scarcely a pretence at connection, analysis, or logical deduction. The power of his mind is insensibly weakened, its higher faculties are not stimulated, and that which he sees unexercised by others he has no inducement to cultivate himself. Some even of the judges pander to this abuse, they fancy it saves them trouble to de-

cide by precedent rather than by principle, and so inveterately has the system been adopted by their predecessors, that they would certainly run the risk of overruling one another, were they now to trust to reason and decide on principle. How huge is the evil thus displayed! How great the degeneracy of law from the time even of Lord Mansfield, and how immeasureably are we beneath the mind of Plowden. We seem to have done with what Bolingbroke termed "the ideal of law," and to have substituted for it mechanism devoid of power and simplicity

Is anything in operation to amend this mindless and thoughtless system? Nothing Is there any attempt to give a higher order of instruction? None whatever in England.

The law school of St. Petersburg is truly stated by Mr. Joy to be

"a true judicial seminary, no other establishment can be compared with it in point of magnificence and sumptuousness. The school has its church, its ministers of religion, its physicians, its police, its regents for each class, its chancery, in one word, all the *personnel* necessary to a complete administration. The duration of the course of each class is fixed at one year, so that the complete course of studies occupies six years. The pupils who annually leave, after having terminated their course, perform a noviciate of at least six years in judicial practice.

"In the third class, the pupils whilst studying foreign languages, history, philosophy, statistics, &c., at the same time attend a course of the encyclopedia of law, a course of Roman law, and a course of political economy Courses of religious instruction and on the fine arts are also frequented by all the classes of the law school. In the two last classes philosophical studies are pursued, but the time devoted to them is more limited. Historical studies are particularly attended to. Instruction is given in the second class in the Roman law, and in the following branches of the national law constitutional law and the law of castes, administrative law (central and provincial), civil law, and criminal law. In this class also the exercises of practical jurisprudence are commenced. In the last class the pupils receive instruction in the law of seignorial jurisdictions, in procedure, in legal medicine, financial law, the law of police, administrative law, the provincial laws of countries incorporated with Russia, and the German law. The principal objects of the labours of this last class is judicial practice, it consists of young men who are to enter immediately upon the exercise of judicial functions."

The course of legal education required in Prussia is thus described by Mr. E. Moriarty

"For persons who intend to become either clergymen or teachers, it is only necessary that they should bring from the gymnasium or

public school a certificate of having obtained the third degree of merit, but for lawyers, persons that intend to devote themselves to the legal career, it is necessary that they should have No. 2, and this examination, which is to inquire whether they be ripe for attendance on the university, is of a very extensive nature. I should say that it was fully equal to the examination in the second undergraduate year at an English university, embracing a very extensive course of classics, and a certificate that you are in a position to write Latin free from all grammatical mistakes, when the pupil enters the university there is a preliminary examination, of a rather cursory nature, as it is considered that this certificate is sufficient warranty for his reception.

"Naturrecht, or the philosophy of jurisprudence in the abstract, takes four hours per week, two hours each day The lectures are two hours consecutively, whilst on most other subjects they are but one hour, on the ground of their being more involved, that the subject is one requiring complete elucidation at the time. The subject has so many branches that you must deal with those branches at the time, otherwise you lose very much by taking up the thing in piecemeal."

"The lectures are divided over three years. After the expiration of three years at any of the universities, one half-year of which must have been at a Prussian university, the student sends in his certificate of assiduity and attendance at some superior law tribunal, with an application to be admitted to practise at that tribunal after an examination as to his legal acquirements. If the certificate be found satisfactory, the president of the tribunal directs a commission, consisting of two examiners, to issue, and then the student is examined in the principles of Roman law, and abstract questions of law in general, the leading principles on which a criminal code should be founded, in short, the general philosophy of jurisprudence. No very minute inquisition into his knowledge of practical details is at this stage required, this examination is of a rather superficial character, should he however be found competent, he is then appointed auscultator and received into the tribunal in this capacity He must serve for one year, and gratuitously Previously to his admission to this rank he must bring a certificate from his parents or guardians that they are ready and willing to support him during the three or four, or it may be more, preparatory years previous to his passing what is called the state examination, from which time a certain moral responsibility for his provision devolves upon the state. During this probationary year he is placed in the different departments of the court, in the registry, in the book-keeping department, and so on, and must, with the assistance of another, institute himself, and conduct to an issue, two or three cases, occurring within the jurisdiction of and requiring decision from this gericht, but he has the assistance of an elder counsellor, they provide in that way a moral guarantee for at least tolerable accuracy of procedure. This is then submitted to the decision of the court itself. He is also sent to the unter

gericht, or inferior court, in order to learn the details of proceeding. The whole course of education occupies generally seven years. He is, after a year elapses, at liberty to apply to become a referendarius, when a second examination takes place of a more searching character as regards the peculiarly Prussian forms of procedure and law, and he is considered as being qualified for the discharge of any of the legal functions of an inferior character he has still to pass what is called the state examination, for which he is not eligible until he has served two years as referendarius, and gratuitously at some superior court. The state examination is of extraordinary severity, fifty per cent. of those who attempt and those who have been moderately assiduous fail. This examination can only be passed in Berlin, and before the permanent commission for that purpose. The inquiry embraces the most extensive course, not only of law, but of all branches of information that may be subsequently required in the discharge of the executive duties of government, as the system of police, and the general principles of all the subjects connected with mining, woods and forests, trade, and statistics of population. The system necessarily insures competence in all the subordinates.

"The course of study necessarily insures, to a considerable degree, the moral as well as the intellectual competence of the individuals employed. No one class of persons in Germany enjoy a reputation for respectability, for general respectability in every way in the same degree, as the body of the legal profession. I believe that the reputation of the kammergericht, which is the highest judicial tribunal in Prussia, something analogous to our Court of Chancery, that it is the high reputation for independence, and the intelligence and knowledge of its members, that sustains Prussia at present from any commotions."

In respect of legal education in America, professor Greenleaf favoured me (says Mr Joy in his letters to Mr. Hamilton) two years since with a catalogue of the students of law in Harvard University, to which is prefixed a full account of the law school, and of the courses of lectures and studies pursued there at that time. The design of the institution is to afford a complete course of legal education for the bar, and also a systematic course of studies in commercial jurisprudence for those who intend to devote themselves exclusively to mercantile business and pursuits. The course of instruction embraces the various branches of public and constitutional law, admiralty, maritime, equity and common law, which are common to all the United States, with occasional illustrations of foreign jurisprudence. The course of instruction for gentlemen intended for the mercantile profession is more limited, and embraces the principal branches only of commercial jurisprudence the law of agency, of partnership, of bailments, of bills of exchange, of promissory notes, of insurance, of shipping, navigation, and other maritime

concerns, and of sales—and, if the students desire, also of constitutional law Students may enter the school in any stage of their professional studies or mercantile pursuits. They may also elect what particular studies they will pursue. The academical year is divided into two terms, of twenty weeks each, with a vacation of six weeks at the end of each term. Instruction is given by recitations, by examinations, and by oral lectures and expositions, of which each professor gives at least six every week to the several classes. A moot court is held weekly, at which a cause previously given out is argued by four students, and an opinion is given by the presiding professor. All students who have pursued their studies in the law school for three terms or eighteen months, or who, after having been admitted to the bar, have pursued their studies in the law school for one year, are entitled, upon the certificate and recommendation of the law faculty, to the degree of bachelor of laws.

The books required for the public course are about seventy in number. A parallel course of private reading is pursued at the same time, and embraces about the same number. Others are added from time to time, as far as the leisure and progress of the students may permit.

In the public course is included civil and foreign law Corpus Juris Civilis, Ayliffe's Pandect of Roman Law, Browne's Civil Law, Justinian's Institutes and Pandects, Pothier's Commercial Treatises and on Sale and Obligations, Toullier's Droit Civil, Van Leeuwen's Dutch Law, Domat's Civil Law (select titles), Foucher's Codes, The Spanish Partidas, Institutes of Spanish Law, Martens, Rutherforth, Vattel and Wheaton, Bynkershoek, Grotius, Puffendorf and Ward.

"With regard to legal education in France (Mr. Joy adds), the jurists of that country recommend a course of such extent, and occupying so long a period of study, that it seems almost exaggerated to those who are accustomed to the skeleton education of the bar in this country

"M. Camus, when sketching, many years since, a plan of study for a young friend, adds, that it will occupy about ten years, and M. Dupin observes, that ten years are not more than enough to complete the course of education. A student, previous to admission to the lowest stage recognized by the profession of the bar in France, must have gone through a course of study for three years, at a recognized school of law He must obtain a legal diploma, and receive the consent of the procureur-general of the cour royale at which he proposes to be admitted. Having received that consent, he must be presented to the court by a senior advocate, and after taking a prescribed

oath he is admissible as a stagiaire, in which capacity he must serve three years further to be eligible and admitted on the roll of advocates. His enrolment depends upon the conseil de discipline of the court, which is elected annually, and is presided over by an officer called bâtonnier. There is an appeal from that council to the respective cour royale."

It is not a little worthy of comment, that in our own country we were possessed of similar advantages in the time of Sir Edward Coke. He says, in the preface to his third reports—

"Now for the degrees of law, as there be in the universities of Cambridge and Oxford divers degrees, as general sophisters, bachelors, masters, doctors, of whom be chosen men for eminent and judicial places, both in the church and ecclesiastical courts, so in the profession of the law there are mootmen, which are those that argue readers' cases in houses of chancery, both in terms and grand vacations, of mootmen, after eight years' study, or thereabouts, are chosen utter barristers, of these are chosen readers in inns of chancery, of utter barristers, after they have been of that degree twelve years at least, are chosen benchers or ancients, of which one, that is of the puisne sort, reads yearly in summer vacation and is called a single reader, and one of the ancients that had formerly read reads in Lent vacation and is called a double reader; and commonly it is between his first and second readings about nine or ten years, and out of these the king makes choice of his attorney and solicitor-general, his attorney of the court of wards and liveries, and attorney of the duchy, and of these readers are sergeants elected by the king and are by the king's writ called ad statum et gradum servientis ad legem, and out of these the king electeth one, two, or three, as please him, to be his sergeants, which are called the king's sergeants, of sergeants are by the king also constituted the honourable and reverend judges and sages of the law For the young student, which most commonly cometh from one of the universities for his entrance or beginning, were first instituted and erected eight houses of chancery, to learn there the elements of the law, that is to say, Clifford's Inn, Lyon's Inn, Clement's Inn, Barnard's Inn, Staple's Inn, Furnival's Inn, Thavie's Inn, and New Inn, and each of these houses consist of forty, or thereabouts. For the readers, utter barristers, mootmen and inferior students, are four famous and renowned colleges or houses of court called the Inner Temple, to which the first three houses of chancery appertain, Gray's Inn, to which the next two belong, Lincoln's Inn, which enjoyeth the last two but one, and the Middle Temple, which hath only the last. Each of the houses of court consists of readers above twenty, of utter barristers above thrice so many, of young gentlemen about the number of eight or nine score, who there spend their time in study of law and in commendable exercises fit for gentlemen, the judges of the law and sergeants, being commonly above the number of twenty, are equally distinguished into two higher and more eminent houses called Serjeants' Inn, all these are not far distant from one another

and altogether do make the most famous university for profession of law only or of any one human science that is in the world. In which houses of court and chancery the readings and other exercises of the laws therein continually used are most excellent and behoofful for attaining to the knowledge of these laws."

Why is that professional training, so zealously upheld and so elaborately administered, deemed useless now? Is it that we need it less in these mercantile days,—in this era of parade and pretence?—when men are so apt to lead and so willing to be led by sound rather than by reason, and by the shadow than by the substance! It is wanted more on that very account. It is wanted more, because there is far more complexity as well as breadth and number of facts to which law is applied. It is wanted more, because it tends to improve legislation, which is far less effective and skilful, though it affects interests an hundred-fold more important than ever

Let us examine what are the results of our defective education in law Is not this defective education the direct cause of defective justice? Is law as well administered as if it were better taught to those who administer it? Unquestionably not. This is certainly a consideration less important to the profession than to the public, but the profession is bound to regard the interest of the public. The low standard which a defective education establishes affects even the bench, and men are chosen for promotion who would not be thought of were it not for the prevalent mediocrity at the Bar This is a very delicate point, on which the writer will be wise to say little and the reader to think much. Not a few of the weakest judgments and most erroneous decisions ever given are alarmingly modern. A tone of advocacy obtains which lowers the whole character of jurisprudence. Men who are deficient in knowledge of law strive to make up for it by dint of noise, effrontery and chicanery. Every species of low tactic is resorted to. Grimace and invective, buffoonery and insult, supply the place of argument and the science of advocacy The judges, however disgusted with the flippancies and trickeries they are doomed to witness, have no power to supply the defect which is the real cause of the degeneracy of which these frequent exhibitions are the offspring The absence of any educational requirement lets in to the profession numbers of men who have no right to rank in it, and it is vain to expect them to exhibit qualifications which they were not required to possess on their admission to the Bar.

The benchers, by calling men to the Bar without any inquiry into their professional fitness or acquirements, virtually announce that they do not think a knowledge of law requisite to the

status of a barrister, for they themselves confer it quite independently of any fitness at all. It is folly to say that all men who mean to practise will educate and render themselves competent without any test of qualification. They very frequently do nothing of the sort, and rely on their connexions to carry them through, or on the tactics and devices to which the dearth of competency often gives success. Were there a higher standard of expectation the case would be different. The absence of legal education lets in appliances of professional advancement which it also contributes to countenance. That merit and legal attainment are sure to prosper is a most fallacious notion. Were the standard raised and the competition of men with connexions but without knowledge excluded, it might be that mere merit and competency would obtain its reward. It is not so now, mere merit has very little chance of success unless it is known. It is not very likely to be known, for men of real merit shrink from those devious modes whereby their less scrupulous and deserving competitors trumpet themselves into notoriety and pander to the favour of attornies. This is one of the many strong reasons why an examination or other mode of testing and publishing merit and competency is desirable.

Mr. Joy very justly remarks —

"At the present day one may be admitted to the bar without any previous preparation. He need not have read any book either of law or equity There is no one to inquire whether he has or not. Let him produce a certificate of having eaten so many dinners at the inns of court, and having paid the accustomed fees, and he is at once admitted, without any test either of his moral or his intellectual character, or of his acquirements. This sounds very absurd. It is only long use that could render one insensible to such a state of things. It is no answer to say—men who are not well prepared, and who are not competent, will not rise in the profession.

> Qui cupit optatam cursu contingere metam
> Multa tulit fecitque puer.

Let it be remembered in whose hands the patronage of the young lawyer principally lies. In the present crowded state of the profession, arising in great part from the want of any educational test, the opportunities, as Mr. Starkie, Q. C., observes, of young men becoming known depends very much, not upon superior talent, but upon the patronage of solicitors, which previous education would in some measure obviate. I believe that attornies of respectability find themselves often in a painful dilemma from the importunate pressing for patronage from brothers-in-law, cousins, nephews, and other kinsmen, who deem their relationship a sufficient claim, irrespective either of their acquirements or competency, to take in hand the cases

of clients, who seldom inquire or know to what counsel their interests are intrusted, which they leave very much to the choice of their attorney.

"Men of high character and integrity in the profession do not allow themselves to be influenced by this consideration, but they know and regret to what an extent it influences those of an inferior class. Such persons, generally of small means and little education, snatching at business on almost any terms, turn without reference to their clients to those barristers whom they find most accommodating, and who, if they be also relatives, are still more likely to be subject to the controul of the solicitor. Now the most accommodating will uniformly be found amongst the least competent, and thus the profession is lowered, and the interests of the suitor are sacrificed.

"But further, in the present want of preliminary education, and of all guaranty for competency or acquirements, are not incompetent men promoted in the profession? Have not colonial judges and other appointments been made, both in England and Ireland, from a class unlearned and inexperienced? The evidence before the committee, particularly of Mr. Norton, lately a judge in British Guiana, Lord Brougham, Mr. Empson, and the Chief Remembrancer of the Court of Exchequer in Ireland, shows this to be a matter of urgent practical importance. Are the judges, who have the best opportunities of knowing the real merits and learning of those who practise before them, usually consulted in those appointments? Have not persons been preferred to professional honours and situations, who were unknown as professional men, otherwise than as being 'barristers of six years' standing,' the only legislative test of legal competency?

"It will be always so until education, solid and substantial education, is made a test, until, without it, no one can force himself into the profession. This will remove the prospect, that attracts so many to the bar, of professional promotion without previous labour, learning, or character. At the same time it must be admitted that inferior as the members of the profession at large are in erudition to the great lawyers of the sixteenth and seventeenth centuries, there are men at the bar of both countries who need not shrink from comparison with its most accomplished members in the last century, and the anxiety evinced to raise the standard of legal education, in which the leading members of the English, and I trust also of the Irish, bar fully participate, does not result so much from the low and imperfect state of learning amongst its professors, as from a desire to erect a general standard incomparably higher than can possibly be attained in the present state of things."

Mediocrity of mind is discreditable enough at the Bar, but mediocrity of morals is disgraceful, and the fact that low practices are confined with scarcely an exception to its least competent members, is sufficient proof that a qualification which involved legal attainments would tend to rid the profession of

such persons for the future, and diminish, if it did not abolish, the degrading resources to obtain business, which few men, who have higher powers of procuring it, would descend to use. This admits of very little doubt, for there are no black sheep in the profession who do not more or less acutely feel the odium under which they live. Their malpractices are always known and diligently proclaimed, they become the victims of their own vice, *fœnum habent in cornu*, their debasement is notorious. No one puts himself in this position who can do better by cleanlier means. The immoralities of the Bar result, therefore, greatly from the inferiority of legal education. Elevate the standard, and insist on competency measured by an educational test, and you infallibly raise the character of competition and improve the moral tone of the profession.

Infinitely insufficient is the character of legal education, almost divested of breadth and magnitude and of all vigorous exercise of judgment. A student's education is usually a thing of shreds and patches. Their minds are a reflex of marginal notes, and a compendium of points of practice. Rarely do we find radical leaning, enlarged powers of generalisation, or a grasp of principles. Lord BROUGHAM pointedly remarks,— "It is exceedingly unfortunate, because it gives an appearance very often of more ignorance than really exists, as their minds being directed more to the practice than to the principles of the profession, when a question of principle arises, they have very much to seek in many instances. I ascribe it entirely to the defects in legal education. Even as practical lawyers, they are left very much to pick up their law in the best way they can without the great assistance of a teacher"

This is well and wisely said. The want of teachers is a prolific evil, and the ignorance and professional inferiority so frequently exhibited, result no less from the absence of all immediate inducement to the student to excel, than from the want of adequate tuition. It is well remarked in Mr. Joy's pamphlet, that the

"raising a higher standard of education, and enforcing a more extended, solid, scientific and practical preliminary course, is a step in the right direction to remedy evils in which every member of the community is personally interested. The same noble writer who has said of the profession of the law, that it is in its nature the noblest and most beneficial to the public, has also said, that in its abuse it is the most sordid and pernicious.

"If an extensive and *bonâ fide* course of study were adopted, and the student were to receive marks of honour and approbation from the inns of court, 'nothing,' as Lord Brougham observes, 'could

tend more to present a man favourably to the profession, to solicitors, attornies and clients, than to send him forth as having gained the approval of the inn of court to which he belonged, and the heads of that inn, who are always men of the greatest eminence in the profession.'

"The student would thus enter upon the profession ripe to undertake its duties conscientiously and adequately, and would be likely in a very short time to meet with employment—his usefulness and competency would immediately be developed. According to the present usage, a lad of one or two and twenty years is called to the bar, and idles away term after term, and year after year in the gossip of the hall, or reading at random and unsystematically in a law library, without assistance or encouragement. What the profound Bishop Butler remarked of reading generally, as it is too often indulged, is peculiarly true of *such* reading of law 'no part of time is more to be put to the account of idleness (one can scarce forbear saying is spent with less thought) than great part of that which is spent in reading.' Such time as is not spent in the hall, or in such miscellaneous reading, is passed in picking up, in an irksome attendance in the courts, detached arguments or judgment upon cases following one another in rapid succession, quite unconnected, and leaving a confused impression of legal points and principles, which he finds it impossible to reduce to any definite theory, or to arrange in his mind with reference to future use. If some good natured client or favouring attorney, who thinks more of bringing his young kinsman into notice than of consulting the interests of his client, gives him employment in court, and if he is thus forced prematurely into business (præpostera lectio, præpropera praxis, Sir Edward Coke would say,) he loses all chance of ever becoming a sound or learned lawyer. His previous education is but a skeleton, his information has been acquired at random, he has no scientific knowledge of the principles of law, his reading has not been directed by any experienced head, he has gone over such books as accident suggested—his knowledge has no system—he has seen nothing of practice, and not having worked under a practical member of the profession, as the German and French law students are used to do, every thing is strange to him, all he can do is to 'make himself *up*' for the case he has to deal with, and so with the next case, and thus he goes on from case to case, congratulated by his less successful young friends on the good fortune of being so early in harness, until, when it is too late to methodize his knowledge, or to master law as a science, he sees his companions who, more tardy in having briefs or clients, employed their years of studentship under a learned and experienced member of the profession, who guided their reading and explained what they read, and developed the rules, principles, and science of the law, turn out superior scholars, more useful and admired members of the profession, more steadily employed, and more likely to become and keep their places as leaders at the bar."

It appears that matters are not much better at the Scottish bar.

"Mr. Maconochie in his evidence says of the Scotch bar, what is equally true, under modification, of the profession both in England and Ireland—'we have men attending the writers of the signet or attorneys' offices in Edinburgh at the age of sixteen, going in there and attending the law classes of the university, and then being called to the bar, thus possessing a competent knowledge of the practice of their profession, with great ignorance of its principles. The practical consequence is that you have young men who, from their knowledge of practice and their connexion with attorneys, are pushed into practice and elevated, it may be, in their profession, but when the period of life comes at which they are to become what is called a senior counsel, they then fall from the eminenee which they have acquired from their more technical knowledge of practice, unless at that critical period they are saved from falling by securing a seat upon the bench or a sheriffship. I think a great deal of the eminence of the Scotch lawyers at the end of the last century arose from their being thoroughly educated men, not merely in general science and literature, but in the great principles of universal law'"

The necessity for legal education is more apparent at the Common Law than the Chancery Bar. The scope of study is more confined in the latter. A man who is really competent as a common lawyer in all the various branches into which he is liable to be introduced, is no ordinary person under the existing means of instruction. It is no trifling labour to master the principles and rules which determine the law of contracts alone, for example, with the multitude of nice distinctions that embarrass them. Real property law forms a distinct branch, having little or no affinity to the other studies of the common law This again involves a moderate knowledge of conveyancing. The law of torts is distinct from either. Criminal law, very absurdly thought by some persons to be an easy subject, requires much study and attention. And all this is to be learnt after laying in a preliminary stock of knowledge acquired from institutional works, such as Blackstone, and, according to the prevailing fashion, is to be accompanied by a year or two's apprenticeship to some special pleader, which will be well nigh absorbed in mastering the intricacies and dogmas of that benighted department of our system[1] of jurisprudence. If the

[1] Professor Empson of Haileybury College says truly, that "young men come commonly now into a special pleader s room, or a conveyancer s, and have merely an attorney s instruction to draw a declaration, for which they are told to refer to a great book of precedents, Chitty's, or some other man's, and to make a copy of it, that is all the instruction in ninety-nine cases out of one hundred that is got at a special pleader's, you just see the grain brought to the

student omits to master any one of the branches of study we have named (and there are several others), he fails to perfect himself as a lawyer, and is more or less incompetent to practise. The natural result of the present practice, of leaving every wayfarer in this monstrous labyrinth to find his own path, is, that nine tenths of the men called *are* more or less incompetent to practise, and a large majority of them remain so for life. This perhaps might be of no importance to any but themselves, were merit and competency the only road to success, but it is far otherwise. Connexion and interest, or ability in some of the practical arts of advocacy, often introduce men grossly incompetent as lawyers into business. Instances abound on every side, and unfortunately they are so common that no shame attaches to their ignorance, or to the rebuke and exposure it meets with from the bench. The clients suffer far more extensively from this abuse than they are allowed to know defeat is attributed to anything but the blunders and ignorance of those who misconduct the business intrusted to them. The profession suffers by lowering the standard of its capacity and its character

Mr. Warren, in his thoughtful work on Law Studies, well observes, "that the consequence of the present railroad rapidity of access to the profession is, to swell the Bar with perpetual streams of mediocrity and incapacity, incessantly adding to its numbers those who can never do the least credit to it, who cannot even conceive the idea of excellence, having neither inclination nor ability to make the requisite effort or sacrifice, but simply a disposition, nay, determination, to keep for a brief while their ground, by reliance on unfair and discreditable sources of support."

It would be easy to fill pages with instances of the gross incompetency of men whose legal education is imperfect—instances publicly displayed in Court, but such a course would savour of personal criticism rather than of the desire which alone animates us of doing service to the profession. Besides, such instances are familiar to every lawyer who has attended our courts.

This incompetency extends its deteriorating influence in every direction. Men of inferior capacity are deemed eligible to official and even judicial functions. Revising barristers, chairmen of quarter sessions, and even the new order of judges

mill and poured in and see it ground, and that is the instruction *mutatis mutandis* of an equity draftsman. To this representation there are, no doubt, some striking exceptions, but I doubt matters will not be much amended until there is a thorough change in the course of legal education previous to entering these offices."

for the Small Debt Courts, are frequently chosen without regard, or with far too little regard, to their professional qualifications. Men are made chairmen of quarter sessions without any knowledge of law at all, and there is one case of the recent appointment of a man to one of the Small Debt Courts as judge, who for years past has held some assistant commissionership and has not practised at all. Is this a fit person to decide on all the nice distinctions which arise on the law of contracts? Colonial, judicial and magisterial appointments have been made with equal recklessness. This is not merely the result of corrupt patronage, it is much more owing to the extremely low standard of legal competency which has obtained from the general deficiency of legal education.

The remedy for these very great evils appears to us to be attainable only, first, by the institution of an efficient system of instruction, and, secondly, by tests of competency as a sine qua non to the call to the Bar.

Let us first discuss the methods of instituting efficient means of instruction. In the first place opinion seems largely in favour of leaving the administration of instruction in the hands of the benchers of the various inns of court. In this view we heartily concur. The profession affords no body of men more eminently qualified or more justly entitled to this high office.

We feel that our province is chiefly that of collecting the opinions of the most competent persons, to offer them to the benchers, on the most feasible mode of conducting the desired system. Leaving therefore the question open to us as to the precise manner in which this should be done, we shall record the chief suggestions already made by others, so as to inform our readers on the subject and to collect materials for further discussion.

Lord Brougham, whose zealous efforts throughout life for the moral advancement of the profession entitle his views to respectful consideration, speaks highly of the disposition of the benchers to co-operate. His lordship adds, "that it might be exceedingly beneficial if some benchers from the King's inns in Ireland were to meet a deputation of the English benchers, and that great benefit might accrue by inviting delegates from Ireland to co-operate with the delegates from the several inns of court in London, with the view of making the system as uniform as could be."

Mr. James Stewart observes in his evidence before the committee, that "the great thing is to obtain, if possible, the confidence of the profession, and that it would be obtained more by leaving it to the inns of court than by attempting any new

institution." This, however, is a point scarcely admitting of a doubt, and which it is useless to labour.

A professional system is strongly advocated. Lectures in Class Rooms, succeeded by examinations on all the various branches, are deemed essential by nearly every one who has thought on the subject. In favour of lectures and examinations as essential to an efficient legal education, we may cite the high authority of Lords Brougham and Campbell, Mr Bethell, Mr. Empson, Mr. Starkie, the late Mr Preston, and Mr. Chitty, Messrs. Stewart, Austin, Graves, Doctor Phillimore, Doctor Bliss, Doctor Longfield, Doctor Greenleaf of America, the Chief Remembrancer of the Court of Exchequer in Ireland, of Judge Story, Chancellor Kent, Professor Greenleaf, and hosts of foreign jurists. Many of their opinions are expressed in strong and instructive terms.

Lord Campbell says—

"Having been educated at a Scotch university, where the system of lecturing prevails, I am partial to that system. I think that great advantages arise from a number of young men pursuing exactly the same course, having the same questions to discuss, and going through the same course of reading and examination, and that they will cultivate any branch of science more successfully in that way than by simply having books assigned to them by the tutor and being examined by twos and threes, or in small numbers, in those books."

Lord Brougham observes, that without examination of the students in the subject matter of the lectures delivered, lecturing is of no real use.

Judge Story, speaking of the system pursued by Professor Greenleaf and himself in juridical instructions, says—

"The system of instruction is not founded upon written lectures" (which he deemed inadequate), "but upon oral lectures, connected with the daily studies of the students in the various works which they studied, and in the lecture room, where they are all assembled in classes and where they undergo a daily examination, and every lecture grows out of the very pages of the volumes which they are then reading. In this way difficulties are cleared away, additional illustrations suggested, new questions propounded, and doubts raised, and occasionally authorities criticised, so that the instructor and the pupil move pari passu, and the pupil is invited to state his doubts and learns how to master his studies."

Professor Greenleaf, in a letter to Mr. Kennedy, gives this account of the plan adopted by the late Judge Story and himself —

"My own time," he says, "is given constantly to the classes, and that of Judge Story, when he is not sitting in court. They are met by one of us daily, and closely examined in rotation upon the portion

of the text studied by the class, and instructed by oral expositions and commentaries, and every week is held a moot court, where a cause is argued by four students, which is presented usually in the form of a motion for a new trial or verdict, subject to a special case, or some other of the ordinary modes in which legal questions are presented, and an opinion is ultimately delivered by the presiding professor. By these methods the attention of students is constantly drawn to the law as a science in its principles, its rules and minuter details of administration, which are mastered with a facility and readiness, and in a spirit of sound philosophy, to which the student, in his private clerkship, is almost totally a stranger. In our experience the advantages of associated or collegiate instruction in the science of law, followed by six to twelve months' attention to the manipulations of practice in a lawyer's office, are, beyond all comparison, superior to any other method of instruction we have ever known, and it cannot be that it can long remain out of favour either in Ireland or England. If it should once gain the attention of parliament, with the approbation and support of the principal legal characters in each house, the course of legal education may be regarded as safe."

Mr. Joy says, that Professor Empson is in the habit of lecturing as follows —

"He takes those as being something as near jurisprudence as may be, looking to ethics only so far as it is connected with law, and using it as an introduction to jurisprudence. He first states the broad principles which distinguish morals from law, and then takes a chapter on the rights of property, persons, and the duties and relations of private life, comparing a chapter on those subjects in a work on ethics with a corresponding chapter on the civil law, or in Blackstone, or in the commentaries of Kent, the American professor; and, lecturing in parallel lines on those subjects, he contrasts the rights and duties in a strictly moral sense with the analogous rights and duties given and enforced by law He compares these together, and shows how far they agree, and where they differ. He accustoms the students to commit law, in their minds, with reason and morals, and also with the practical relations of life, and to observe where the one branches off from the other. He also, in a further part of the course, compares in this particular, and generally the English law, with the civil law and with the Roman law, and its modern modifications. In lecturing upon evidence he adopts Bentham's or Dumont's theory of evidence, and compares it with Starkie, Phillips, or Livingstone, and also with Pothier, connecting the principles of evidence with the principles of general jurisprudence. He pursues, upon the same principles, commercial and constitutional law, and shows the relation that the history and philosophy of law bear to each other."

Mr Starkie says—

"I do not think that the system of attending in an office at all supersedes the necessity of lectures. When a young man goes into a pleader's office he plunges *in medias res*, and a great deal of expla-

nation is necessary. The great object of lectures would be to facilitate him in his course, beginning with the first rudiments, then he finds his way by degrees."

Dr. Phillimore recommends that there should be a publication of the honours obtained by students in their course of study and at the examinations, as at the universities, to give young men a legitimate opportunity of making themselves known to both branches of the profession and to the public, before entering upon it.

This is a most important and valuable remark. Half the benefit we hope to see resulting from such a measure depends on this publication of merit. Men who feel that they have capacity for business are constantly harassed and damaged by the inability to make that capacity known, and honourably available to them. *It is so in no other profession.* The low and unscrupulous portion of the profession take every means to conceal and depreciate the talent of their competitors, availing themselves of the obstacles to the publication of competency which the present system affords for the dishonest advancement of their own interest. Nothing would more effectually put down the efforts now systematically made by low barristers to damage and depreciate the reputation of their superiors in intellect and honesty, than the examination and publication of the honours awarded at examinations so wisely approved by Dr Phillimore.

Mr Bethell, we believe, had stated, that one of the aims of the committee of the Middle Temple, in appointing a professor of jurisprudence and civil law, was to create a channel through which not only knowledge of foreign institutions, but knowledge perhaps of all improvements and suggestions in foreign modes of procedure, may be communicated to the mind of the English student, and to the profession at large.

This is a commendable design, but infinitely inferior in importance to the great object of making legal education a reality instead of a name. We want daily teachers of law to students in fact as well as students in name. There should be then a professorial class of law lecturers here as there is abroad.

As Mr. James Stewart remarks—

"In France one man takes the department of advocate, another the department of professor. They are different departments. The advocate practises the law, and the professor declares what the law is. It is the same in Germany, to a certain extent, and in America. From this class, both in France and Germany, and in America, you select the judges very frequently The fault of the present system in this country is, that you merely endeavour to educate men for advo-

cates and chamber counsel. You should, as it appears to me, give some of the honours and emoluments of the profession to this class, which I think you should create, and which I believe you could create. M. Guizot was a lecturer and a professor, and he is now the head minister of France. M. Savigny was a professor, and a very eminent professor, and he is now a minister of the king of Prussia, or was so very recently *Now I conceive that if you wish to raise the character of the law, you must create that class in this country.* I believe that there is the same material existing in this country, out of which to create it, as there is in France and Germany At present you give the whole of the honours and emoluments of the profession to the advocate. We know very well that advocates are often not the fittest individuals to be made judges, there are qualities required in the judge which are not always to be found in the advocate. I certainly would not give him the whole of the honours of the profession. I do not know why, as in America, the judge should not lecture himself, we know that Mr. Justice Story, to the last moment of his life, went from the judgment-seat to the lecture room."

Mr. Russell, in his tour in Germany, mentions that the law faculty in a German university forms a court of appeal for the whole confederation. This, however, opens a collateral issue which we do not intend to broach. We are satisfied with urging the necessity of an efficient tuition and its concomitant examination, without which it is a mere mockery Some object to this, that the science of the law should be studied beforehand. Where, and when? If by the student at home, unaided by books or teachers, the folly of such a notion is self-evident. At the universities the means are almost equally insufficient. Dr. Bliss observes of the studies at Oxford, and it is equally applicable to Cambridge and Dublin, that—

"Men have quite enough to do in college without being required to study or attend lectures upon law The course of study is now so extensive that it would be difficult to engraft upon it any additional instruction in law, but those who are not intended for the bar, but mean to take a higher degree than that of a bachelor, and are not studying in the medical or theological schools, and who, as country gentlemen, magistrates, or members of parliament, require at least an elementary knowledge of law, might be required to attend lectures upon law in the university as a necessary preliminary to obtaining such higher degree."

Mathematics and classics, both of which are essential to a lawyer, afford ample employment for the years preceding the student's entry at the inns of court.

The examinations should be more frequent than at Cambridge or Oxford, but the result of the final examination need perhaps alone be made public, when the honours would be awarded.

On the question whether the final examination prior to the call to the bar should be compulsory or voluntary, much difference of opinion exists. Mr. Joy thus writes on it —

"One of the resolutions agreed to on conference of the deputations of committees of the societies of Lincoln's Inn, the Inner Temple, and Gray's Inn, is that no compulsory examination should be required as a condition precedent to his call to the bar. The question whether there should be a compulsory and public examination previous to a call to the bar has given rise to conflicting opinions. Whatever advantage may be derived from it, the disadvantages appear greatly to outweigh them. Such an examination must be an unsatisfactory test of merit. If it is meagre and superficial, analogous to that which is deemed just sufficient to pass a man for his degree in a university, it is useless, if it is of a severe and stringent character it is an unsatisfactory test of those merits by which a man often and legitimately obtains success, rank, and reputation at the bar."

This is false reasoning. It is the hackneyed sophism of stating two extremes in order to get rid of the mean, and making your adversary's proposition extravagant in order to refute it. Why must the examination necessarily be either "severe or stringent," or "meagre and superficial?" May it not be a fair test of sufficient acquirements and general competency for the many, and also of the high attainments of the few who choose to try for honours? Why should Mr Joy assume that the examination is to be absurdly stringent or absurdly meagre? He does himself small credit as a logician by these extravagant premises.

"This," he adds, "will be admitted by those who have observed in professional life the various acquirements and character of mind and intellectual capacity which often insure professional usefulness and success, as contrasted with that activity or smartness of mind, too frequently the elements by which a man makes a show at an examination."

Indeed it will not be admitted. It is a false assumption that smartness alone is to pass muster, and that "various acquirements and character of mind and intellectual capacity," calculated to "insure professional usefulness and success," will not be measured or valued at the proposed examination. If so, the examiners must be idiots, and there is surely no ground for such a presumption.

"Making such an examination compulsory" (says Mr. Joy) "would exclude from the profession many country gentlemen, members of the House of Commons, and magistrates, who now attend the chambers of professional men, and are called to the bar, and mutually derive and confer an advantage by associating with the acting members of the profession, and often acquire a practical and useful knowledge," &c. &c.

The short answer to this is, that if such men really take the trouble of acquiring a knowledge of law competent to the discharge of the important functions Mr. Joy alludes to, they will pass the examination, if they do not, the sooner they are debarred from giving the sanction of a professional status to their acts and words the better. The time is past when a learned profession has anything to gain from men of high birth or exalted rank being enrolled among its members. Non sine pulvere decus! is the only reply which it befits the dignity of the bar, or at least the dignity to which it aspires, to give to any such suggestions. There are many men of birth and rank who have gone through the usual routine of labour, and we are no advocates for tuft-hunting or royal roads at the bar. Every lawyer who has done credit either to it or himself has done it by the sweat of his brow, and so let it be for the future.

"To require a compulsory examination, as a test preliminary to admission into the profession, would tend rather to lower than to raise the profession, and would be practically *useless*" (says Mr. Joy) "if attendance upon lectures were not enforced, and oral and written examinations upon the subject of those lectures held from term to term."

Why should they not? Mr. Joy has a wonderful faculty for the supposition of defects and abuses. Surely there are plenty of actual and present evils to employ his pen without conjuring up a phantasmagoria of the most unlikely omissions and abuses in the administration of the system he wisely advocates.

An anonymous writer (surely *alter et idem*!) says

"It would be *necessary* to fix the standard of examination either too high or too low [why?]. If we fix it at such a height as to test the stronger spirits—those destined for the higher departments of business—then we should shut out of the profession all those men who, though but of moderate abilities, are yet quite sufficient for the execution of a large portion of what may be termed the heavy routine business of the bar. If the standard of examination were fixed at such a height only as to suit the average standard of talent that can be expected in any large body of men, however cultivated, then it would be no test at all of superiority, and the men capable of distinguishing themselves, and thereby acquiring reputation, would have no such opportunity"

Has this writer never heard of the general examination for the οἱ πολλοὶ at the Universities, which does test and does not shut out "moderate abilities," and of the Tripos and First Classes, which *are* a test of "superiority, and of men capable of distinguishing themselves?" Is there any conceivable reason why a similar system should not be adopted here? If the ex-

amination is not compulsory it will continue to admit any person who chooses to eat his quantum of dinners and pay his fee. If so it does nothing towards purging the profession of the men who disgrace it. It does nothing towards checking the enormous influx of new men. We are informed that upwards of 500 have entered chiefly with a view to railway business. The number of barristers who were lawyers' clerks, or belonged to various trades and callings which they desired to abandon for something more genteel as well as lucrative, availing themselves of some attorney's patronage, are unhappily very numerous. A list lies before us of men now in practice of this category

We think the time is come for stopping this state of things. It is irremediable as to the past, it is perfectly remediable for the future. We invite suggestions, we will open our columns to discussion, we will in every way advance the cause of legal education, for we regard it as the best means of remedying great evils which are unhappily debasing the Bar and endangering both its character and usefulness.