The Law School

W.H. Hitchler
EDITORIAL

THE LAW SCHOOL

In law schools attended by students from many states, it may be found impracticable to teach the Anglo-American system of law as it is developed and administered in any one jurisdiction. Certainly the great majority of such law schools do not attempt to do so.

Instead, however, of admitting that their failure to teach a realistic jurisprudence is due to its impracticability in the particular case, they disingenuously insist that it is undesirable in any case.

It seems to be quite obvious that students who intend to practice in Pennsylvania, for instance, after learning that at common law contracts for the sale of lands need not be in, or be evidenced by, writing, and the requirements for such
contracts prescribed by statutes of fraud of the orthodox type, should learn also the intensely unique rules on this subject which exist in Pennsylvania as a result of statute and decision, and that the law school should help students to learn them. Certainly a student who has learned how equity was administered by the High Court of Chancery, and how it is administered in the code states, but who is unfamiliar with the Pennsylvania system of administering equity in common law forms of action, is not adequately prepared to practice law in Pennsylvania. These examples may be multiplied indefinitely.

In justification of their attempt to teach a jurisprudence in vacuo and not as an operating mechanism for the promotion of the public welfare, the so-called "national" law schools are wont to assert that if a student in law school is taught the general principles of the common law concerning a certain subject and the general trends of the statutory law relative thereto, he may learn without law school instruction the idiosyncratic rules of his own jurisdiction. It is also true, of course, that a law school student who has been thoroughly instructed in the law of contracts can learn the peculiar rules of agency without law school instruction. Indeed, one who has received an adequate preliminary training can learn any branch of the law without law school instruction. But the so-called "national" law schools would probably be the last to admit that the law school training is not highly desirable or that it should not include intensive instruction in specific subjects.

Instruction should be given where it is most needed, and the need for it is greater in regard to principles and rules which have not been discussed in scholarly books by learned writers. The so-called local principles and rules of a particular jurisdiction usually have not been so expounded.

The purpose of the Dickinson School of Law is to equip its students for undertaking the practice of law. It therefore endeavors to familiarize them with the law of the jurisdiction in which they intend to practice. In doing so it requires that "the primary rules and fundamental principles therein developed should be carefully weighed," and that "when the first great sources have been exploded, and the courses of the various streams discovered, they should be carefully pursued through their devious windings, marking well in the progress of the derelictions and alluvions, islands and embankments, the depth and face of the current, how the waters have been appropriated, and the design of every change and modification," for, "in this way only can a general map of the law be duly impressed upon the mind in all its forces and with all its complicated delineations."

The Law School is thus true to its tradition, for when it was founded over one hundred years ago its course of study consisted of "a minute inquiry into the science of the law and the technical details involved in the practice of it," and such a course of study was prescribed by its illustrious founder because he knew that because of "the inappropriate means furnished for their instruction students are
frequently admitted to the bar who are altogether unacquainted with the laws which they stand pledged to expound and profess to practice," who "are generally better acquainted with the forms and technicalities of the King's Bench and the High Court of Chancery in England than with those of the various courts of the Commonwealth" and who are "unaware of the numerous and radical changes introduced into the law by our constitution and acts of assembly."

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NOTES

JOINDER OF CAUSES OF ACTION FOR INJURIES SUSTAINED BY THOSE STANDING IN FAMILIAL RELATIONSHIP

Prior to the Act of 1895, P. L. 54, it was held consistently that separate actions had to be brought by a husband and wife for their respective damages growing out of an injury to the wife. This practice of submitting the same issue to two different juries often resulted in duplication of damages, to say nothing of the multiplicity of suits. Ordinarily, the husband's suit was tried first. To establish his injury and the extent of his deprivation of her services, the injury and suffering of the wife were naturally part of the evidence. Such necessary evidence often unconsciously influenced the husband's measure of damages. Later, the wife would bring her action, and the jury would be carefully told that her husband's verdict did not include any recovery for her. As a result, she generally was granted a liberal amount by another and usually sympathetic jury. This evil of duplication was real and substantial. Again, juries were often passing upon the findings of other juries involving the claims of husband and wife. For instance, the jury in the husband's action would grant him damages, thus finding the defendant negligent. Later, another jury in the wife's suit might find that the defendant was not negligent or that the wife was contributorily negligent. This latter finding in effect not only reflected upon the action of another jury but also irrevocably granted damages to the husband who may not have been really deserving of them. Consequently, the Act of 1895 was enacted to obviate these evils. For the same reasons, the Act of 1897, P. L. 62 was passed also.

112 P. S. 1621.
312 P. S. 1625.