
Volume 68
Issue 4 *Dickinson Law Review* - Volume 68,
1963-1964

6-1-1964

Law Day

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Recommended Citation

Charles A. Jones, *Law Day*, 68 DICK. L. REV. 419 (1964).

Available at: <https://ideas.dickinsonlaw.psu.edu/dlra/vol68/iss4/5>

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SPECIALS

LAW DAY*

AN ADDRESS BY CHIEF JUSTICE CHARLES ALVIN JONES**

It is indeed fitting, at the outset of this dedicatory ceremony, to acknowledge on behalf of all of us alike, faculty, student body, alumni, and friends of the Law School, our deep sense of gratitude to Dr. Harry W. Lee, under whose capable and inspired leadership as President of the Board of Trustees of the Law School, the new library building was initiated and its construction begun; and, also, to Honorable Dale F. Shughart, under whose leadership of like character, as successor President of the Board of Trustees, the building was successfully carried to timely and complete fruition, and is now in use.

What we dedicate here today is, and for the future will be, a repository of what, in truth, constitutes the very core of the facilities requisite for the proper functioning of any school of law. The importance of such a library can hardly be over-estimated. Academic learning can be, and frequently is, acquired through lectures or other oral teachings or instructions by professors and preceptors. But, a thorough and competent knowledge of the law can be gained only by the individual student's conscientious and persistent study and research of the *books*. Therein are to be found the rules of law as exemplified in reported judicial opinions and in law texts and treatises recognized by legal scholars as authoritative.

The physical structure which is the subject of our current dedication is in complete and felicitous architectural harmony with the Law School proper to which it is conjoined by a broad and well-lighted enclosed passage-way. The ample space, which the first and second floors of the new building affords, has been well apportioned between bookrack requirements and rooms for the student's quiet and undisturbed reading. A room is also set apart for the reception and marking of new books and for the repair of old ones worn by use; another room serves as the librarian's private office. Strongly built wooden tables and sturdy chairs of like material furnish the equipment necessary for the convenient use of the books. The book collection itself, as it now exists in the new library, is comprised of state and federal law reports, statutes, digests, treaties, periodicals and other legal works essential to a well fitted

* Address delivered May 2, 1964 at dedication of the new law library building at Dickinson School of Law, Carlisle, Pennsylvania.

** Former Chief Justice of the Supreme Court of Pennsylvania.

law school library. Together, the Law School and its library constitute a commodious, convenient and attractive center for law study and research.

The constant flow of new volumes of federal and state reports and statutes, the addenda to existing digests and the current textbooks and periodicals, all of which are a *must* if a law library is to be kept up to date, continues not only unabated but in ever increasing volume. Truly, the annual output of new law works and publications is little short of amazing. Some 3,000 years ago, the Preacher, as recorded in the book of *Ecclesiastes*, adverted to the fact that "of making many books there is no end." If the Biblical Divine should return to earth today, one can only wonder what would be his reaction to the annual output of law books and the many other legal writings.

The evolution and development of the law in modern times was figuratively described a few years ago by an eminent English jurist, as follows: "Myriads of rivulets contribute to the deep water of our system of jurisprudence." Most of such contributions reflect general tendencies of the times—political, economic and social—some advanced and some retrogressive. It is certain that such inspirations or agitations were far less numerous some centuries back when wealth to a preponderant extent consisted of land, and when property rights therein and their attendant legal problems revolved around titles and tenures. It was with such matters that the common law of England was then largely concerned.

The beginnings of the English common law, which is the backbone of our own jurisprudence, are to be found in the reign of Edward I, which covered the period from 1272 to 1307 A.D. It was then that there evolved the English constitutional system under which Britain functions to this day; it was then that Parliament finally became established as a legislative body; and it was then that the common law was expanded by the enactment of important statutes.

The foremost of early writers on the English common law were Glanville and Bracton, twelfth and thirteenth century judges. According to Dr. Holdsworth, lately Vinerian Professor of Law at Oxford University, "it is the work attributed to Glanville which is to us the most important, for it is the earliest treatise on the common law." Bracton was no less erudite. To quote Holdsworth again, "his [Bracton's] works have made this period in the history of English law preeminently the age of Bracton." It was he who introduced to the English law certain influences of the Roman law, both civil and canon, such as the law of bailments. Thomas Jefferson, whose wide reading and thorough knowledge of English law was recognized by friend and foe alike, placed Bracton's *De Legibus Angliæ* first out of four specified stages in the progress of the laws of England from the earliest times to the then

present. Recognizing that “[d]oubtless there were others before Bracton which have not reached us,” Jefferson declared that “Bracton’s is the first digest of the whole body of law which has come down to us entire, . . . all records previous to *Magna Charta* having been early lost. . . . Bracton’s [work] is the more valuable because being written a very few years after the *Magna Charta*, which commences what is called the statute law, it gives us the state of the common law in its ultimate form, and exactly at the point of division between common law and statute law. It is a most able work, complete in its manner and luminous in its method.” So wrote Jefferson in his own luminous and inimitable style.

Numbered among other illustrious writers on the English common law during the five centuries succeeding Glanville and Bracton were Britton, Fleta, Fortescue, Littleton, Coke, Hale and Blackstone. Of these it was, first, Sir Edward Coke and, a century and a half later, Sir William Blackstone, whose monumental works had the greatest impact upon the study of law in America.

Coke’s *Institutes of the Law of England*, particularly the first, *A Commentary on Littleton’s Treatise on Tenures*, published in 1628 and popularly referred to as *Coke on Littleton* or *Coke-Littleton* became the chief source of legal learning for the American student-at-law. Jefferson, who became an ardent advocate of the *Institutes*, wrote years later that “*Coke-Littleton* was the universal law book of students.” However, Coke’s *Institutes* were by no means easy reading, and many able and eminent lawyers who had been trained on them, recalling in later life their student days, spoke bitterly of the difficulty they had experienced in trying to master the *Institutes*. Their depression in their pursuit of a legal education at times amounted to despair and desperation, but they persistently read and re-read, ultimately “seeing the light” or “breaking through,” as they expressed it, and in the end were rewarded with a fundamental knowledge of the law which served them well throughout their professional lives. Save for the relatively few early American lawyers who had received their legal education at the Inns of Court in London, Coke’s *Institutes* furnished the basis of the legal training of many of that eminent galaxy of colonial lawyers whose notable service in the formation and establishment of our national government is well known.

It was just a decade before the American Revolution that Sir William Blackstone, the first professor of law at Oxford University, published his *Commentaries on the Law of England*, a work in four volumes, which was at once recognized for what it was, a sound exposition of English laws and customs and a ready source of instruction for students. For a time thereafter both *Coke on Littleton* and Blackstone’s *Commentaries* were required reading

for law students; but gradually Coke was read less and less and Blackstone more and more. This trend continued as long as the custom of reading in an attorney's office prevailed.

Incidentally, even when the office system of training lawyers obtained, some students did not read under the tutelage of a practicing attorney, a notable example being none other than Abraham Lincoln. He procured the necessary law books and, without instruction from anyone, perfected himself in a knowledge of the law sufficient to qualify him for admission to the bar of Illinois, where he was quick to achieve success. He read Blackstone's *Commentaries* and a few other authors on special subjects. In counselling a friend with respect to a young man who desired to read law in his office, he wrote: . . . "[M]y judgment is, that he read the books for himself without an instructor. Let [him] read Blackstone's *Commentaries*, Chitty's *Pleadings*, Greenleaf's *Evidence*, Story's *Equity* and Story's *Equity Pleadings*, get a license, and go to the practice, and still keep reading." To another young man, applying directly for admission to his office as a law student, Lincoln wrote: "I am from home too much of my time, for a young man to read law with me advantageously. . . . It is but a small matter whether you read *with* anybody or not. I did not read with any one. Get the books, and read and study them till you understand them in their principal features, and that is the main thing."

By the close of the 19th century, law schools had largely superseded the attorney's office as a place for the study of law. The reasons for this are evident and need not be detailed here. With the advent of the twentieth century, our political, economic and social problems have increased in number and complexity, so as to require an expansion or extension of legal rights and remedies to fields wholly unknown to the common law. As to these areas also, the present day student of law must, of course, acquire a sufficient knowledge to be useful to him in the practice of his profession.

From my all too sketchy tracing of the study of law from ancient times to the present, at least, as between the paucity of law books which the student of old was required to master and the virtual plethora of books, treatises and recurrent periodicals with which a law student today must familiarize himself, the contrast is patent. But at all times, the extent of a student's acquisition of a knowledge of the law has depended primarily upon his own desire and industry. The sincere student of Coke and Blackstone read and re-read to know and to understand, reading again and again until he did understand. The present day law student would be well advised to be no less industrious.

In dedicating the new library building here today, may we indulge the hope that the students who enter its portals will dedicate themselves to the

conscientious and unremitting search for the knowledge which the *books* will reveal. For the common welfare, they will have need of it. The public issues with which they will be confronted will be no less important than those with which our country has been faced in times of greatest national stress. Democracy will never survive once it succumbs to mobocracy. Brute force can not be permitted to trample upon lawful order. The constitutional rights of the individual are not absolute. Mr. Justice Holmes wisely observed a number of years ago that the right of free speech does not protect against an individual's false cry of fire in a theatre. Nor does an overly-long delayed recognition of the constitutional rights of any citizen or group of citizens justify conduct which, if tolerated, would before long nullify the constitutional guarantees that must ever be the impervious shield of all.

