

②

LD1342.9

L41

Cornell University Library
LD 1342.9.L41

Report of a Special committee on the est



3 1924 013 404 821

mann

July 17. 1886 0

CORNELL UNIVERSITY. @

LD1342

L41

REPORT

OF A

Special Committee on the Establishment

OF A

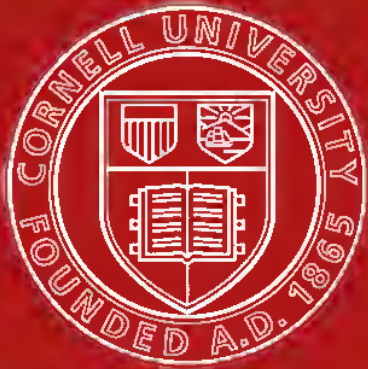
DEPARTMENT OF LAW.

TOGETHER WITH A

PRELIMINARY ANNOUNCEMENT OF THE ACTION OF THE
TRUSTEES IN ESTABLISHING SUCH
A DEPARTMENT.

PUBLISHED BY THE UNIVERSITY.

ITHACA. JUNE, 1886.



Cornell University
Library

The original of this book is in
the Cornell University Library.

There are no known copyright restrictions in
the United States on the use of the text.

CORNELL UNIVERSITY,

REPORT

OF A

Special Committee on the Establishment

OF A

DEPARTMENT OF LAW.

TOGETHER WITH A

PRELIMINARY ANNOUNCEMENT OF THE ACTION OF THE
TRUSTEES IN ESTABLISHING SUCH
A DEPARTMENT.

PUBLISHED BY THE UNIVERSITY.

ITHACA. JUNE, 1886.

M. W

①
LD 1342.9

L41

① 1/3

TABLE OF CONTENTS.

	PAGE.
Duties of the Committee,	5
Importance of Education in the Law,	5
Are Provisions for Legal Education already ample,	8
As to whether a Legal Education, wholly or in part in a Law School, is better than such an Education secured exclusively in a private office,	10
The favorable situation of Cornell University for a Law School, . .	13
As to whether the Establishment of a Law School is compatible with the fundamental laws of the University,	18
As to whether larger results would be likely to follow the expenditure necessary for a Law School than would follow an expenditure of the same amount in any other way,	18
The financial requirements of a Law School,	21
Preliminary Announcement,	28

Report of Committee on Law School.

To the Honorable, the Board of Trustees .

GENTLEMEN :—

The Committee appointed at the November meeting of the Trustees to consider the desirability of the establishment in the near future of a Law Department in this University, beg leave to present the following report :

In our opinion there can be no justification of the founding of a Law School at Cornell University unless it can be shown :

- (1). That the matter of education in the law is of great importance ;
- (2). That provisions for such education are not already ample ;
- (3). That education, at least in part, in a Law School, is better than education procured exclusively in a private office ;
- (4). That Cornell University is so situated as to promise successful results in case a Law School is founded ;
- (5). That the establishment of a Law School is justified by the fundamental laws of the University ;
- (6). That larger results are likely to come from the expenditures necessary for the establishment of a Law School, than would be likely to come from the same expenditures in any other way ;
- (7). That the finances of the University will justify the necessary expenditures.

Let us address ourselves to each of these considerations.

I. *As to the Importance of Education in the Law.* Inquiry on this subject may seem to be common-place and superfluous ; but in a matter of so much importance, it cannot be inappropriate to review the grounds of our impressions. It is certain that from

the earliest history of our independent nationality, lawyers have played a very conspicuous part. They guided the Congress of 1774, and prepared the first address to the American people, exhorting them to secure their independence. From that day to this, they have taken a far more important part than has any other class, in the shaping and in the administering of the government. Thirty of the thirty-five members of the Convention that framed the Federal Constitution were lawyers, and of the twenty-two presidents of the United States, eighteen have been of the same profession. Of all the members of the Cabinet, about five-sixths have been active members of the legal profession, and it is probable that nearly the same relative number have filled the positions of governors of our states, and mayors of our cities. Though the members of the legal profession have not usually been in the majority in our legislatures, it is pretty certain that they have had far more to do with the framing of our laws than has any other class. From the beginning of our government there has not been a Congress in which the influence of lawyers has not been overwhelming. It is probable, therefore, that in the mere matter of legislation there is no country in which the influence of the profession is so great as in the United States. Ours is not a government of precedent, so much as a government of statute; and when we consider the unparalleled activity of our legislatures, we see that even if we limit our considerations to the mere framing of laws, the influence of lawyers is not likely to be over-estimated.

But there is another consideration that should not be overlooked. The power of our courts in determining the constitutionality of our laws is something peculiar to our own government. And yet so potent is the influence of the courts in shaping the legal rules that control society, that what may be called the law-making power of the bench has come to be universally recognized as a matter of the very first importance. The decisions of our great judges, and the commentaries of our great legal writers, have had an enormous influence in giving real shape to some of the most important characteristics of our government.

There is another aspect of this profession that ought not to be overlooked. The lawyers by a great authority have been called

“the confidential class in society.” In our personal ailments and perplexities we seek the advice of physicians and of clergymen ; but in our social embarrassments we ask for the help of the legal profession. It is upon the lawyers that we are dependent for the protection and the conveyance of property ; for guidance in the endless variety of contract and consideration ; and for those rules of legal obligation which enable society to carry on its vast interests with skill and with safety. These various considerations were never of more importance than they are to-day. As society becomes more and more complicated, the legal adviser comes more into demand on the one hand, and on the other, his duties exact of him more and more careful education. When society was in a primitive state, the duties of the lawyer were comparatively plain and simple ; but at the present time the magnitude of the literature of the law, the ever increasing complications of society in its various relations, and the commercial intricacies resulting from the vast accumulation of wealth and the growing importance of corporations, give to the profession at the present day not only an importance which it never before possessed, but even an importance which in its influence over our social relations is perhaps unparalleled by any other profession. More than forty years ago, even, when De Tocqueville, wrote on “ Democracy in America,” with that acumen so characteristic of him, he pointed out the vast influence of the profession in our own country. He said :

“The lawyers of the United States form a party which is but little feared and scarcely perceived, which has no badge peculiar to itself, which adapts itself with great flexibility to the exigencies of the time, and accommodates itself to all the movements of the social body ; but their party extends over the whole community, penetrates to all classes of society, acts upon the country imperceptibly, but finally fashions it to suit its purposes. They like the government of democracy, without participating in its propensities and without imitating its weaknesses, whence they derive a two-fold authority from it and over it. The profession of the law is the only aristocratic element which can be amalgamated without violence with the national elements of democracy and which can be advantageously and permanently combined with them. I am not unacquainted with the defects which are inherent in the character of that body of men, but, without this admixture of lawyer-like sobriety with the democratic principle, I question

whether democratic institutions would long be maintained. And I can believe that a republic could not subsist at the present time if the influence of lawyers in public business did not increase in proportion to the power of the people.”

It may be safely asserted that there never was a time when there was so much need of wisdom in the direction of governmental affairs as there is at the present time. And if it be true that what De Tocqueville called “this mixture of lawyer-like sobriety,” is essential to the permanent maintenance of democratic institutions, certainly the thorough education of lawyers should be one of the great interests of the people, and of a true University.

II. *Are Provisions for Legal Education already ample?* According to the latest report of the Commissioner of Education there are in the United States forty-seven law schools. The number in 1873 was thirty-seven. During the ten years that have elapsed since that date, the number of instructors in the law schools has increased from one hundred and fifty-eight to two hundred and sixty-nine, and the number of students from 2174 to 2686. These figures would seem to indicate a considerable measure of prosperity on the part of schools established for the encouragement of legal education. If we look, however, at the geographical location of these schools, we shall find that they are not distributed over the country with a view to accommodating the wants of all the people. We shall further find that a vast majority of these institutions are simply private enterprises without endowment and consequently entirely dependent for their support upon the fees derived from students. It goes without saying that schools of this character will be influenced quite too much by such considerations as will affect the treasury of the school, and quite too little by such considerations as concern the quality of instruction given. The significance of this fact in its relations to the establishment of a law school at Cornell University, is of no little importance.

The law schools in the eastern states that may be said to have an important influence on the general quality of legal education, are not more than three or four in number, and are well known to every observer. In the state of New York there is one Law School

of acknowledged preëminence and importance. This school, situated in New York City, has acquired a position that entitles it to our highest respect, both for the quality of the instruction it gives, and for its influence upon the profession at large. And in considering this phase of the subject, it is pertinent to ask, whether it does not accomplish all that needs to be done in a public way for legal education of a high grade of merit in this state and vicinity.

An examination of the catalogue of the Law School of Columbia College for 1885-6, recently published, shows that in the Senior class of one hundred and forty-six, only twelve students came from the state of New York outside of New York City or Brooklyn. Seventy-three of the one hundred and forty-six are from New York City alone ; one is from Albany ; one from Rochester ; one from Buffalo ; one from Sing Sing ; one from Cohoes ; one from Slaterville, and all the rest are from the metropolis or its suburbs. Of the one hundred and ninety-nine students of the Junior class, while ninety-seven are from New York City, only fourteen are from the whole state of New York outside of New York City and Brooklyn. Thus in the whole college of three hundred and forty-five students, only twenty-six are from the state of New York outside of the cities of New York and Brooklyn, and only fourteen have come from those portions of the state that lie beyond the immediate vicinity of the city.

The number of students from this state in the Law School at Albany, according to the most recent catalogue, is forty, the most of these being from the vicinity of Albany. Turning to the catalogue of the Law School of the University of Michigan, we find that six students from the state of New York are this year members of the Law School at Ann Arbor. The figures lead us to believe, that outside of the cities of New York, Brooklyn, and Albany, not more than from thirty to forty students of law are now receiving a legal education in the law schools. When we consider the fact that the portion of the state furnishing this small number of students consists of not less than three and a half millions of people, we are brought face to face with the condition of the field that a new law school would occupy. The importance of these

figures will appear in a very striking light, when the fact is noted that the state of Michigan with only one and one-half millions of inhabitants sends seventy-nine students to the Law School at Ann Arbor, while Ohio sends to the same college thirty-three, Illinois twenty-six, Indiana eighteen, and Pennsylvania nineteen. In other words, Ohio, Illinois, Indiana, and Pennsylvania send to the Law School at Ann Arbor, three times as many students as the state of New York, aside from the three cities named, sends to all the law schools combined. These facts lead us irresistibly to the conclusion, that the opportunities for legal education in the state of New York are either extremely meager, or are not of the kind desired by students seeking the legal profession.

III. *As to whether a Legal Education in part or wholly in a Law School is better than such an Education secured exclusively in a Law Office.* In Continental Europe law schools have been in existence for many centuries, and thorough training at them has been required as a condition precedent to admission to the legal profession. This has been required by the laws ; indeed has been a matter of government regulation, and has not been left to private judgment as in England where the lawyers guilds have guarded the entrance to the profession.

In England for several hundred years, and until a comparatively recent period, nearly all legal instruction has been given or acquired in lawyers' offices. Barristers attended or "dined" at the Inns of Court, and at times heard lectures there in a perfunctory way ; but the real legal learning of the barrister was got in the office of some special pleader, to whom liberal pay was given for his services as instructor, or was acquired in the barrister's own chambers, after his call to the bar. Solicitors attained to that degree by means of a long apprenticeship as articled clerks in solicitor's offices. Within the last fifty years, however, both the barristers and solicitors have awakened to the importance of better methods. Agitation and action have been general ; and consequently systematic courses of study are now required of barristers at the Inns of Court, and of Solicitors under the provisions for legal education established by this body through the instru-

mentality of the association, known as "The Incorporated Law Society." Their courses of study and instruction are in character and method like those prescribed in other professional schools at the present time, and include lectures, recitations and examinations.

From the old method of legal instruction in lawyers' offices, doubtless, have come our views and practices upon the same subject in the United States. And here within the past few years, as in England within the past fifty, the want of better methods has been felt, and much attention has been bestowed upon the subject.

A striking illustration of the change of opinion that is taking place in America, is found in the action of the American Bar Association, beginning in 1879. On the whole subject of legal education a committee was appointed, consisting of the Honorable Carlton Hunt, of Louisiana, the Honorable Henry Stockbridge, of Maryland, the Honorable U. M. Rose, of Arkansas, Governor Hoadley, of Ohio, and Edmund H. Bennett, Esq., of Massachusetts. This committee in order to be sure that it was availing itself of the best views of the profession, sent letters to prominent lawyers in different parts of the United States, asking for their opinion in regard to the best methods of legal education. Many of these replies are published in the Transactions of the American Bar Association for 1881, pp. 242-301. It is not necessary to quote from these letters; but so emphatic were they, that the Committee, in giving the gist of the opinions communicated to them, used the following language:

"There is little if any dispute as to the relative merit of education by means of law schools, and that to be got by mere practical training or apprenticeship as an attorney's clerk. Without disparagement of mere practical advantages the verdict of the best informed is in favor of the schools. The benefits which they offer are easily suggested, and are of the most superior kind. They afford a student an acquaintance with general principles, difficult, if not impossible, to be otherwise attained; they serve to remove difficulties which are inherent in scientific and technical phraseology; and they, as a necessary consequence, furnish the student with the means for clear conception, and accurate and precise expression. They familiarize him with leading cases, and the application of them in discussion. They give him the

valuable habit of attention, teach him familiar maxims, and offer him the priceless opportunities which result from contact and generous emulation. They lead him readily to survey law as a science, and imbue him with the principles of ethics as its true foundation."

In addition to these statements in regard to the positive advantages of the kind of instruction afforded by a good law school attention is called to the fact that many a young man who has plodded his solitary way through Blackstone and Kent, in the office of some busy lawyer, who seldom has time to speak to him except to ask him to do an errand or copy a paper, has no adequate equipment for the modern requirements of the profession. If this be regarded as an extreme case it will have to be admitted that even the best advantages of an education in a law office are greatly reinforced by a systematic course of study in a law school.

On this same subject there are some striking statements in the Inaugural Lecture of Mr. Girard B. Finch, the new Law Lecturer at Cambridge in England. The subject of Mr. Finch's Inaugural Lecture was: "Legal Education; its Aim and Method." One passage in his address may well be quoted:

"During my stay in Boston last Spring, men engaged in legal practice spoke to me of the great value of law teaching at Harvard University. Mr. Sidney Bartlett, the father of the Massachusetts Bar, told me that the three years course at Harvard, was equal to seven years work in an office. Mr. Justice Oliver Wendell Holmes, Jr., and Dr. Eliot, President of the University, spoke to the same effect. Dr. Eliot related with pardonable pride, that at the recent dinner of old Harvard men, a prominent young advocate had declared that when he was a student, he had often heard it said that the course at Harvard was equal to ten years of actual work; that he was then incredulous; but that after being in practice for ten years he came to know it as a fact."

It seems to us that there is no answer that will counterbalance evidence of this kind, although it is doubtless a fact that in studying in an office a student acquires a certain readiness in what may be called the "technique" of the law, that cannot be acquired very well in connection with a law school. The force of this objection—surely not very strong in itself—is entirely broken by the fact that any student of aptitude is likely to have ample time to ac-

quire such details in the first years of his practice in the profession. Even if that were not the case, the objection would be fairly met by recommending that a portion of the time of study before admission to the bar, be spent in an attorney's office, as is now required in this state. The objection can in no way disturb the overwhelming advantage of such scientific training as can only be obtained where scientific instruction is given. To suppose that any education can be as well gained at haphazard, as at a school where effort is made to impart instruction in the most approved manner, is to suppose what on the face of it, is nothing less than an absurdity.

IV. *The Favorable Situation of Cornell University for a Law School.* After what has been observed above, it goes without saying that the geographical situation of Ithaca is very favorable for the location of a new law school. The figures that have already been given, show that there are at present no very conspicuous advantages for the most thorough study of the law between the banks of the Hudson and the Detroit River. The simple fact that nearly as large a number of students from the state of New York outside of the metropolis and its immediate suburbs, go to Ann Arbor as go to New York City, is enough to show that there is room for a new and well-equipped school in the heart of this great state. It is plain to see that a school at Ithaca would come into no rivalry with the law schools in New York City; and it is almost equally plain that such a new school would draw to itself chiefly from those students, who at the present time receive their legal education in the law offices. The only question, therefore, that can be of any moment under this head, is the question whether Ithaca itself, aside from all geographical considerations, is so situated as to make the establishment of a good school practicable.

The first question that suggests itself under this head is, whether it is desirable or necessary that a law school should be situated in a large city; in other words, whether it is necessary or desirable that a law student should have access to the courts, and should have the facilities for at least the occasional observation of the trial of great causes. In the catalogues of the schools situated in the

cities considerable stress is laid upon the facilities thus presented. The catalogue of the law school at Yale, for example, calls attention to the fact that the lectures of the school are given in the building occupied by the courts in New Haven, and, therefore, that students of law in that school will have every facility for observing the trial of causes as they are going on. Similar advantages are claimed for the schools in New York. At the University of the City of New York, the hours of the classes are so arranged that students can, while attending the school, perform the duties of a clerkship in an attorney's office, during the business hours of the day. By the law school at Albany it is claimed, that "the local advantages of the city of Albany as the seat of a professional school cannot be overstated. Attention is called to the fact that the seat of this school is not only the capital of one of the leading states of the Union, whose legislature is in session for a third part of every year, but also to the fact, that in the Court of Appeals there is opportunity for witnessing all the varieties of legal practice and styles of argument, and that, in consequence, the opportunities of this kind are much greater in the city of Albany, than in any other place of the same size." One would almost be led to suppose from these statements, if they are to be taken seriously, that the business of acquiring an education in the law consists, to a very considerable extent at least, of sitting about in a court room and observing the trial of causes. And, if anything is lacking in this method of education, it may be supplied by an occasional visit to the halls of the legislature.

These recommendations, seriously considered, are of course to be regarded merely as advertising devices. When we come to contemplate the serious business of acquiring an education in the great profession of the law, it is extremely doubtful whether any time whatever ought to be devoted by the law student to the attendance of courts. His hours of study can be vastly better employed over his books and the studies suggested by the lecturers of a school. The reason of this is undoubtedly found in the fact that until a student is far advanced in his studies, he is not in a condition to gain anything whatever from observing the presentation of causes at the bar. It has been well said that to understand

what is done in a trial in such a way as to gain any advantage from the process it is necessary also to have an idea of what is not done ; what might, or could, or should have been done. It is necessary that one should know the inside as well as the outside of a cause. If one is on the plaintiff side of a case, he must know what the plaintiff and the plaintiff's witnesses said to the counsel as to the facts of the case in behalf of the plaintiff, and in behalf of the defendant as well. In short, he should know all the elements which go to make up the trial brief. "When he shall have heard the statements of parties and of witnesses in consultation, and then in court, seeing the discrepancies, with no implication cast upon the honesty or the integrity of those testifying ; and when he shall have made a thorough study of the law as bearing upon the case in every conceivable aspect of it, and thus fitted himself for the occasion, he will then, and not until then, be prepared to derive benefit from attending the courts." After admission to the bar, he may find it to his advantage to attend court and observe the progress of the proceedings ; although even then it is extremely doubtful whether very great advantages are gained in the way of a legal education. It is extremely improbable that any lawyers of experience would confess that they have ever gained any appreciable advantage from observing the trial of causes in which they themselves had not had a part. If these observations are true, it may safely be affirmed that the presence of courts is of no consequence whatever in the study of the law. The absence, therefore, from Ithaca of many courts holding frequent terms can be regarded as no obstacle in the way of the establishment of a successful law school.

When we come to consider the positive advantages of Cornell University as the site of a law school we shall find that there are many things to be said in its favor. In the first place it is of inestimable advantage to have such a school in connection with a great and prosperous University. Too much can hardly be said in favor of the stimulating influence of large numbers of students congregated together in academic pursuits. This consideration doubtless accounts for the fact that the most permanently success-

ful law schools in this country have been associated with Universities of acknowledged eminence.

If we enter upon more specific considerations, we find that a very great advantage is likely to accrue from the studies that are carried on at this University in History and Political Science, and such other studies as have a more or less direct bearing upon the study of the law. It is well known that there can be no adequate understanding of the importance and meaning of our laws without an understanding of the history from which those laws have been derived. Nobody can appreciate the significance of the English common law without a somewhat complete understanding of English history. Nobody can even have a thorough knowledge of the fundamental principles of English law as they are presented in Blackstone's Commentaries without a very considerable acquaintance with the events in which those principles had their origin. The same may be said, with even more emphasis perhaps, in regard to the history of American law. For a complete understanding of the spirit that has entered into the great body of American law something ought to be known of those constitutional tendencies which have been intimately connected with the development of our nationality, and are in fact an essential part of it. A thorough knowledge of such works as those of Kent and Cooley, involves something more than a superficial acquaintance with our historical and political development. But there are considerations which go even deeper than this. A knowledge of those finer distinctions upon which the highest success depends can only result from a most careful study of some of the subtlest influences that have been felt in our national life. Without a very intimate acquaintance with the course of American history, it is impossible to understand the full significance and the far reaching effects of the legal decisions of Marshall, or the constitutional positions taken by Calhoun or Webster. We may go even further than this, and say that since Sir Henry Maine's masterly paper on "The Significance of the Roman Law," no great writer has ventured to assert that there can be a complete understanding of the principles that lie at the bottom of all systems of jurisprudence, without a more or less careful study of the Roman code. It is for this reason that

the Inns of Court in England, and the most eminent Law Schools of America as well, have within the last twenty years, deemed it necessary to provide for at least the possibility of instruction in the Roman law. This instruction need not and probably should not be a necessary part of the instruction of a law school. But it ought to be given in some department of the University, and students of law ambitious to make the most of their opportunities, ought at least to have access to such instruction. Now it is obvious that such advantages as those here outlined, can be had only in connection with an institution of higher learning ; and in view of the facilities offered at Cornell University for the study of History and Political Science it is equally apparent that the advantages here are altogether exceptional. Cornell undoubtedly has facilities and will possess attractions unapproached by those of any other institution west of the Hudson with the possible exception of the University at Ann Arbor.

There are some other considerations that ought not to be entirely overlooked, though they are so obvious as scarcely to need mention. There are fewer influences to distract the student from the true purposes of a University life ; there are fewer amusements to entice him away from his work ; there are fewer temptations to dissipation in its more serious forms ; and, finally, the necessities of life and instruction at the University are far less expensive than they would be in any of our larger towns and cities.

These considerations lead irresistibly to the belief that if a law school should be established at Ithaca, and should be wisely organized and properly manned for instruction, it would meet with a hearty and appreciative response on the part of the people. The location may indeed be said to have three supreme advantages, which, if turned to proper account, could not fail to insure success. First, it is in the heart of a region abounding in students desiring instruction ; secondly, it is in a situation to give the best quality of that instruction which is desired ; and, thirdly, it is in a situation to give this instruction on the easiest terms to the student.

V. *As to whether the Establishment of a Law School is compatible with the Letter and Spirit of the Fundamental Laws of the University.*

The object of the land grant on which this University rests, in very large measure at least, for its prosperity, is expressed in the words “in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.” This expression of purpose on the part of the fundamental law must be interpreted as including and justifying instruction in the important profession under consideration. The Charter of the University takes the same view, but goes a step further. After repeating this declaration from the Congressional Act of 1862, it adds: “But such branches of science and knowledge may be embraced in the plan of instruction and investigation pertaining to the University, as the Trustees may deem useful and proper.” From these statements two conclusions must be drawn: The first, that the establishment of a law school is amply justified by the Congressional Act and by the Charter of the University; and the second, that the Charter leaves the establishment of such a school entirely to the discretion of the Trustees. This is in strict accordance with the view that has been held from the earliest history of this University. In the “Report of the Committee on the Plan of Organization of the University,” a Department of Law was recommended to be established at an early day. It may fairly be said that that purpose has never been lost sight of, although up to the present time all the resources of the University have seemed to be needed in other directions.

It is enough, therefore, to say in concluding under this head, that in establishing the law school the Trustees will be simply making provisions for perhaps the most important of those professions provided for in the fundamental law, and will be carrying out the policy that from first to last has been held without interruption by the Board of Trustees.

VI. *As to whether larger Results are likely to come from the Expenditure necessary for the Establishment of a Law School than would be likely to come from the same Expenditure in any other Way.* It may safely be said that there is no lack of lawyers at the present

moment in the United States. And if the members of this profession were as well fitted for their work as the members of so important a profession ought to be, there would perhaps be no general need in the country at large for the multiplication of law schools. There might indeed be localities that would not afford the needed facilities for higher instruction, and perhaps on that ground alone, the establishment of a school at Ithaca would be justifiable. But it is probable that very few would have the boldness to claim that the mass of those now crowding the profession are what may be called fairly well educated in the law. The lower ranks of the profession are undoubtedly crowded almost to suffocation. But those entitled to the respect of the community for their legal acquirements and their understanding of the more difficult characteristics of legal knowledge are by no means very numerous. It may, therefore, well be doubted whether the necessities of thorough education are in any vocation more keenly felt at the present time than in the profession of the law. Another matter that must be kept constantly in mind is the fact, that in every civilized community the amount of business to be done by lawyers is very great. The number going into the profession will, therefore, always be large, whatever may be their opportunities for a good legal education. It is doubtful whether any other one of the professions gives occupation to so large a share of the brightest intellects of our land.

The importance of these general considerations appears in a far stronger light when we think of our own geographical situation. This University has already made provision for the most thorough education of persons in the various branches of civil and mechanical engineering. It also offers large opportunities for those who desire to study agriculture. From the first it has been thought that these provisions should be supplemented at an early day with a provision for the teaching of everything that pertains to the great industry of mining. It is unquestionably true that the Sibley College will never be complete until the varied appliances of a mining school are added to its equipment. But however necessary such equipment may be to the completion of that school, we should not lose sight of the fact that the number

of those persons desiring to study mining engineering, is vastly smaller than the number desiring to fit themselves more perfectly for the legal profession. It is certain that we need a mining school to round out and make complete the various branches of the Sibley College; but however complete we might make our equipment, it is certain that the number of students who would desire to take studies in mining would be very much less than the number who would desire admission to a law school. While these considerations ought not to prevent us from desiring to complete the means of giving a good mining education to those of our students who desire it, they ought at least to enable us to see that the call is less imperative than is the call for the establishment of a School of Law.

The same considerations might be urged with still greater force in regard to the establishment of other new departments. While a University can never be quite complete without the establishment of a Medical Department, yet there are difficulties in the way of establishing such a department in this University which do not confront us in attempting to establish a Law School. Another reason that may fairly be urged, is the fact that no other professional school requires so small an outfit in the way of material equipment as a law school. Almost everything that is needed is the necessary supply of books and the necessary supply of teachers. The library already purchased contains nearly all the books that would at present be needed. It is probable that for \$1000, the Merritt King library could be put in such condition that it would from the very first be inferior to, not more than five or at most six of the largest law school libraries in the country.

The housing of the law school for some years to come could be amply provided for in the upper story of White Hall. The large lecture room hitherto used by Professor Shackford and one or two of the other professors could be set aside for the use of a Law School without any considerable inconvenience. The walls should be cut through into the rooms north and south of this lecture room, and the other rooms on this floor should be devoted exclusively to the uses of the school. These at present are partly unoccupied and partly occupied by students. There are

eight suits of rooms each affording a sitting room and a bed room. These at a trifling cost could be put into such condition as to serve the new department amply for a considerable time to come. In case a law school is established, it will probably be thought best to devote two of these eight rooms to the use of the library two of them to a room for examinations, and the other four to offices for professors and instructors. Should the school be attended by a large number of students, the necessity of a separate building would, of course, within a few years be somewhat pressing. But it would undoubtedly be a far wiser policy to wait for such a demand than to attempt to create it by the erection of a building before it is needed.

VII. *The Financial Requirement of a Law School.* As a law school requires no apparatus, the problem of expense is very simple. The matter turns on these two questions: What kind of Professors should we have; and how many would be necessary? An answer to these questions involves the following considerations.

There are two theories which, either singly or in united form, we might adopt in making up the Faculty of a law school. The one would be to secure a man for Dean of the School, of universally acknowledged preëminence in the legal profession, trusting very largely to his reputation for such guarantees of thoroughness as would satisfy the demands of the public in regard to the character of the instruction that would be given. If such an appointment should be made, the other members of the teaching corps might be younger men who have their reputation yet to make, but who at least should be so familiar with the technicalities of practice as to make them entirely at home in all the details of professional work. The other theory would have for its method the selection of men as resident professors of unquestionable ability and learning, who, without perhaps having yet attained exceptional distinction at the law, still have such natural gifts and aptitudes for writing and teaching as to give every reasonable promise of the highest success. If this method should be adopted it would probably be desirable to supplement the work of the resident pro-

fessors with courses of lectures by the most distinguished non-resident professors that might be secured.

Each of these methods has its advantages and its dangers. It would certainly at first thought seem highly desirable to secure a man for the head of the school of such wide reputation as to afford good security that the instruction given will be of the highest quality. But there are unquestionable dangers and difficulties in the way of carrying out such a plan. A man of widely acknowledged preëminence in the profession is unlikely to be willing to abandon the place where he has acquired distinction for what would possibly be the less congenial, and certainly the less remunerative work of a teacher. Then, too, the excitements and the triumphs of what would be called an eminent practitioner are such as to make the less exciting, if not the less stimulating, work of the teacher somewhat uncongenial. It is probably true that the peculiar qualifications for great success as an advocate, are not the qualifications that are apt to ensure the highest order of success in a teacher. Undoubtedly the two characteristics may be, and in rare instances are combined in one person. But the work of a successful teacher of the law is not to persuade, perhaps not even to convince, but is rather to expound, and, above all, to inspire with that peculiar characteristic which we recognize as the special quality of what is distinctively called a legal mind. This is at least enough to show that it is possible to be a very successful advocate, nay, even an eminent practitioner in a large sense of the term, without having the still higher qualities that are necessary in the really great teacher. When this fact is united with the pecuniary considerations involved in this method of procedure, the difficulties and dangers are seen to be by no means inconsiderable.

When we look at the other method of making up the Faculty of a law school, we see that, although it does not at first glance reveal so many attractive features, it has some advantages to recommend it. The history of law schools undoubtedly shows that the most eminent teachers have been men who have not been conspicuously eminent at the bar. Blackstone, whose commentaries were prepared when he was a professor, was a briefless barrister. Story, although an eminent judge, was never distinguished as an

advocate. Of those who would generally be regarded as the greatest teachers of the law at the present day, not one had any conspicuous reputation at the bar before he acquired fame as a teacher. Langdell at the head of the Harvard Law School, Cooley at the head of that of the University of Michigan, and Dwight at Columbia College, have made their reputation almost or quite exclusively as teachers and writers; and it is doubtful whether a single instance can be named in the history of law schools where a man of special preëminence in practice has had great eminence as a teacher. Even Story and Kent are no exception to this general statement. Though Story was thirty-four years Justice of the Supreme Court of the United States, his fame rests chiefly, and ever will rest, upon those Commentaries that were written as Dane Professor of the Law School at Harvard College. Kent's Commentaries were also written while he was professor of the Columbia Law School. Although the decisions of both of these eminent jurists are undoubtedly of importance, yet no one will venture to compare them in significance with the writings that had their motive and their inspiration in the university class room. The judicial decisions of Judge Cooley, extending through his eighteen years upon the bench of the Supreme Court of Michigan, are entitled to high rank among the best decisions of modern time; but it is probable that his fame rests even more largely upon his "Constitutional Limitations," and his other works, that were first prepared for use in the lecture-room.

Of course the dangers in adopting this method are very great. It would be so easy to be led into the appointment of men of common-place talent, who by no possibility could arrive at distinction, that nothing but the most careful circumspection would ensure us against the liability of very serious mistakes. No appointments ought to be made without at least informal consultation with such members of the bar and the bench, as have large opportunities for judging of the ability, the tastes, and the aptitudes of the members of the profession.

It seems to us not probable that either of these methods can safely be adopted to the exclusion of the other. As to which should predominate, depends entirely upon the uncertain possibili-

ties of procuring the men we might desire ; and hence it is impossible to predict in advance with any confidence which would ensure the best results.

Fortunately, in this connection, such a decision is unnecessary. The draft upon our treasury, would probably in either case be essentially the same as in the other. After looking at the matter with such detailed care as we have been able to bestow upon it, we are of the opinion that the addition to our salary expense by the appointment of the necessary corps of instruction, including non-resident lecturers would be about twelve thousand dollars (\$12,000) a year. Of this amount we believe that we might reasonably expect that from one-third to one-half would very soon, if not at once, be returned in the form of tuition. Taking this sum at the lowest amount (\$4,000), there would be left \$8,000 as the annual cost of the law school. It is probable that not all of this sum would be necessary the first year ; but if the school were to open with such an outfit as to justify the immediate confidence of the public the full corps of instructors should be appointed at the earliest practicable date, after it is definitely determined to establish the school.

In addition to the amount above indicated, there would be a small annual expense for keeping up the library, and for making additions to the library, of perhaps \$500. This sum it is supposed would ultimately be provided for by the general library fund.

It is not easy to foresee precisely what the expense of putting the rooms in order for the law school would be, but as above estimated, probably \$1,000 would be a generous allowance. An addition should also be made to the King Library, in order to supply works of more recent date, and to bring the reports down to the present time. It is our opinion that for this purpose \$1000 would be sufficient. The whole expense involved, therefore, would be a preliminary outlay of \$2000, and a draft upon our income over and above what we might reasonably expect from tuition, or from \$6000 to \$8000 a year.

We are thus brought to the important question as to whether the University is in a condition to incur this expense.

At the beginning of the present financial year, August 1st, 1885, there was in the treasury accumulated from the incomes of previous years about \$38,000. From this surplus, and from the surplus of the present year nearly \$50,000 have been expended for permanent improvements. Of this the largest items have been the enlargement of the mechanical engineering department, the statue of Mr. Cornell, the construction of the vault in Morrill Hall, the enlargement of the President's house, the purchase of the Merritt King library, and the construction of the sidewalks on East avenue. After deducting the expenditures for these equipments there will still be a surplus sufficient to justify such permanent improvements as seem to be imperatively called for. These expenditures for permanent improvements will not have to be repeated ; and although we are fully aware that calls from time to time upon our treasury are sure to be made, we yet entertain the belief that such large sums as those expended within the last year will not be called for in the years immediately to come.

After looking at the matter with considerable care, we believe that the expenditures for permanent improvements may in the next few years, without seriously hindering the efficiency of the University, be so much less than they have been in the past few years, as to enable us to devote the necessary sum for the establishment of a Department of Law. In coming to this conclusion, we have gone into a careful analysis of the financial condition of the University, making an itemized examination of the accounts, and considering the large addition to our salary list made by the changes authorized at the November meeting of the Board. We have considered the expense involved in all the changes recommended by the Committee on Re-organization, and the necessary strengthening of the departments effected by the recommendations of that Committee. We have taken into account also the probable income of the University in the future. Our calculations are based upon the supposition that the income will remain where it is at the present time. Of course, if the recent decision of the McGraw-Fiske Suit should not be disturbed by a superior court, if we should receive any assistance from private beneficence, or if any considerable amount of our land should

be sold, the condition of the University would be correspondingly improved. In any event, it seems to us probable that the income of the University next year will be somewhat greater than it has been during the year now approaching its close.

It ought, perhaps, in this connection to be said that, if such action is taken, it may involve the holding of the various departments of the University very nearly in their present condition. Unless from some source the income of the University should be materially increased, it will be impossible to make any considerable appropriations to any of the departments for permanent improvements. While this would undoubtedly be a source of some inconvenience, we are glad to believe that the departments of the University are generally in such a condition that their prosperity and efficiency would not in any way be interfered with.

The Board may be interested in knowing that we have taken pains to compare the proportion of our salary account to the income of the University, with the proportion of similar accounts in other institutions in the country. We find that at the present time our salary account is proportionately smaller than that of any other University in the country. The increase of the salary account provided for by the action taken early in the present University year makes an important addition to this percentage. If a law school is established on the basis contemplated in this Report, the proportion of the salary account to the income of the University, would be raised to between fifty-three and fifty-four per cent. From such statistics as we have been able to gather, we learn that the percentage at Harvard for some years past has been about fifty-seven per cent ; that of Yale last year was sixty-three and seven-tenths per cent ; that of the University of Pennsylvania sixty-three and five-tenths per cent ; that of the University of Michigan about sixty-seven per cent. It will thus be seen that even with the additional draft made upon our treasury by this contemplated action, the University will still, even without any further income, have a larger percentage of its resources for the care of its material equipment than that possessed by any of the other large universities of the country.

In view of all these considerations, your committee are unanimous in recommending the early establishment of a Department of Law in this University. We are of the opinion that such a department should be ready for the admission of students in the fall of 1887. The policy of the Board should, in our judgment, be announced to the public, in order that the proposed opening of the school may be widely known, and in order that students desiring to avail themselves of the advantages we shall offer may be making the necessary preparations and arrangements. We recommend that such preliminary action as may be necessary, be taken at the present meeting of the Board, to provide for the early making up of the corps of instructors, in order that ample time may be given to such professors as are appointed, to make all necessary arrangements for entering upon their work. And, finally, we recommend that the public be assured that in the founding of a law school it is the purpose of the Trustees to establish it upon a basis of such breadth and excellence of scholarship, as will recommend it to the immediate favor of the profession.

Respectfully submitted.

C. K. ADAMS,
D. BOARDMAN,
STEWART L. WOODFORD,
JAMES F. GLUCK,
GEO. R. WILLIAMS,

Committee.

PRELIMINARY ANNOUNCEMENT.

At a meeting of the Trustees of Cornell University, held June 16th, 1886, the foregoing report was accepted, and its recommendations were unanimously adopted. The public are therefore officially advised that it is the purpose of Cornell University not only to establish a Department of Law, but also to have it in readiness for the admission of students in the autumn of 1887. It is the purpose of the Trustees to provide such facilities and opportunities for a legal education as will commend themselves to the most favorable judgment of the members of the profession. It is expected that the organization of this new department will be so far completed as to justify an announcement in more detail early in the collegiate year of 1886-7.

C. K. ADAMS,
President.

CORNELL UNIVERSITY,
June 17th, 1886.

Gaylord Bros., Inc.
Makers
Syracuse, N. Y.
PAT. JAN 21, 1908

