

## PROFESSOR LANGDELL AND THE HARVARD LAW SCHOOL.

No more interesting event has occurred of late in the world of law than the recent celebration at the Harvard Law School which marked the completion of Professor Langdell's twenty-five years of service in that institution. Professor Langdell's colleagues in the faculty, the graduates of the school, who realize how great a debt they owe to his instruction, the present undergraduates of the school and the University at large gladly embraced the opportunity to do him honor. The assemblage which gathered at Cambridge on June 25th included many eminent lawyers who journeyed thither from a distance. Chief Justice Fuller was ready to add his words of commendation and congratulation to those spoken by the sons of the great University. From across the seas Sir Frederick Pollock had come to deliver the oration of the day, and, as an emissary from the home of the common law, he bore witness to the high esteem in which Professor Langdell's work is held in England. Sir Frederick Pollock must have been impressed by the character of the audience that assembled to greet him. James C. Carter was there, and Joseph H. Choate, side by side with Mr. Justice Brown, of the Supreme Court of the United States, Judge Holmes, of the Supreme Court of Massachusetts, and Secretary of State Olney. Other distinguished lawyers, together with those just mentioned, listened with close attention to the eminent jurist's address on "The Vocation of the Common Law." It has not been, as yet, the writer's good fortune to read the address in its entirety. A more or less complete synopsis of it, with here and there an occasional extract, has appeared in the daily papers, and from this it is evident that the address was worthy of the speaker and of the occasion upon which it was his privilege to speak. Comment upon the address as a whole must be reserved for a future time, but we, at least, may be permitted to point out that there is abundant food for reflection in the circumstance that an Oxford professor was the chief speaker at the anniversary exercises of an American Law School, and that his

address emphasized the unity of common law development in his own country and in ours, while, at the same time, he made most interesting suggestions as to the possibility of securing even greater harmony of development in the future. Those who are familiar with Sir Frederick Pollock's writings will not be surprised that his thought ran along this line. No English legal writer of modern times has made better use of American material or has acknowledged a greater indebtedness to the work of American jurists. It will be remembered that his work on Torts is dedicated to Judge Holmes, (who was himself a colleague of Professor Langdell's before he went upon the bench), and in the letter of dedication prefixed to that work the author seems to have started a chain of thought which he has followed out to its conclusion in the address. In his book on Torts and in his work on Contracts he constantly cites American cases and quotes American authorities, and it may be said with confidence that (unconsciously perhaps) he had done much by his writings to promote that harmony of legal development which he pleads for in his address. It is an interesting subject of speculation as to whether some of the credit for this state of things does not belong to the Harvard Law School and to Professor Langdell. Certainly, it has been from Judge Holmes and other members of the Harvard Faculty, past and present, that Sir Frederick Pollock has drawn what we may speak of as his "American inspiration." If one opens that splendid contribution to the historical literature of English law which he and Professor Maitland have recently published,\* one finds at the very threshold a tribute to the original investigations which have been carried forward in the domain of early legal history by members of the Harvard Faculty. "At other points, again," the authors say in their introduction, "our course has been shaped by a

\* *The History of English Law before the time of Edward I.*, by Sir Frederick Pollock, Bart., M.A., LL.D., Corpus Professor of Jurisprudence in the University of Oxford, of Lincoln's Inn, Barrister-at-Law, and Frederic Williams Maitland, LL.D., Downing Professor of the Laws of England, in the University of Cambridge, of Lincoln Inn, Barrister-at-Law, Cambridge; at the University Press. Boston: Little, Brown & Co. 1895. (Two Volumes.)

desire to avoid what we should regard as vain repetition. When the ground that we traverse has lately been occupied by a Holmes, Thayer, Ames or Bigelow, by a Brunner, Liebermann or Vinogradoff, we pass over it rapidly." Of the four Americans mentioned in this list, the first three are or have been members of the Faculty of the Harvard Law School, and Professor Bigelow is carrying on his work almost under the shadow of Harvard's walls. A closer examination of the history of English law reveals the fact that it is through the pages of the *Harvard Law Review* that much of the most valuable work of these scholars has become known to their English brethren. It is not surprising, therefore, to find Sir Frederick speaking as follows in his recent address :

"There is one product of school, however, that stands apart and can be judged on its independent merits; I mean the *Harvard Law Review*. This review has been in existence only a few years, yet within that time its contributions to the history and science of our law have been of the utmost value. This is so far from being controvertible that it can hardly be called matter of opinion at all. No such record of profitable activity has been shown within recent times by any other law school; and although it is not necessary to commit one's self to the correctness of this statement beyond the range of English-speaking countries, I do not know that there would be any great rashness in making it universal. The singularly full and brilliant number of the review published in honor of Dean Langdell's silver wedding with the school need not fear comparison with the festival collections of essays produced at any German university. The school that commands the services of such teachers and workers is, at all events, a living power."

The reference is to the May number of the *Harvard Law Review*, which was issued as the "Langdell Twenty-fifth Anniversary Number," each of Prof. Langdell's colleagues upon the Faculty making a contribution to it. The writer ventures the assertion that never before within the brief scope of ninety pages have essays of equal merit been given to the public. The list of essays, with their authors, is as follows:

“A Chapter of Legal History in Massachusetts,” J. B. Thayer ;  
“The Use of Maxims in Jurisprudence,” Jeremiah Smith ;  
“Judicial Precedents: A Short Study in Comparative Jurisprudence,” J. C. Gray ; “Executors,” O. W. Holmes ;  
“Specialty Contracts and Equitable Defences,” J. B. Ames ;  
“A Problem as to Ratification,” Eugene Wambaugh ; “The Risk of Loss after an Executory Contract of Sale in the Civil Law,” Samuel Williston ; and “Recovery for Consequences of an Act,” J. H. Beale, Jr.

The Dedication is as follows :

TO  
C. C. LANGDELL,  
in honor of  
HIS GENIUS AS A LAWYER,  
HIS ORIGINALITY AS A TEACHER OF LAW,  
HIS SAGACITY AS A LAW-SCHOOL ADMINISTRATOR,  
and  
HIS DEVOTED AND SUCCESSFUL SERVICES AS DEAN AND PROFESSOR  
DURING THE LAST TWENTY-FIVE YEARS.  
The following essays  
ARE INSCRIBED, WITH CORDIAL REGARD, BY HIS PRESENT  
AND FORMER COLLEAGUES IN THE FACULTY  
OF THE HARVARD LAW SCHOOL.

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But after all, this celebration of Professor Langdell's twenty-fifth anniversary has its deepest significance for those who have made the methods of legal education the subject of anxious study. They cannot fail to hear in the praises which are echoing and re-echoing about Professor Langdell the triumph song of the system of legal instruction of which, in this country, he has been the champion. It is not to be expected that there could be a serious difference of opinion among those who deserve to be called scholars as to the true method of investigating historical problems, and of studying progressive developments in the domain of law. At the same time, it is gratifying to have a specific statement on this subject from Sir Frederick Pollock, and we therefore commend the following extract from his address to the consideration of our readers :

“Mr. Langdell has insisted, as we all know, on the importance of studying law at first hand in the actual authorities. I am not sure whether this is the readiest way to pass examinations: that is as the questions and the examiners may be. I do feel sure it is the best way, if not the only one, to learn law. By pointing out that way, Mr. Langdell has done excellently well. But the study he has inculcated by precept and example is not a mere letter-worship of authority. No man has been more ready than Mr. Langdell to protest against the treatment of conclusions of law as something to be settled by mere enumeration of decided points. For the law is not a collection of propositions, but a system founded on principles; and although judicial decisions are in our system the best evidence of the principles, yet not all decisions are acceptable or ultimately accepted, and principle is the touchstone by which particular decisions have to be tried.

“Decisions are made; principles live and grow. This conviction is at the root of all Mr. Langdell’s work, and makes his criticism not only keen, but vital. Others can give us rules; he gives us the method and the power that can test the reason of rules. And, therefore as it seems to me, his work has been of a singularly fruitful kind, and profitable out of proportion to its visible bulk. Probably several of us have dissented, now and again, from this or that opinion of Mr. Langdell. We may have been unable to concur in his deduction, or we may have thought that his reasoning was correct, but the received authorities were too strongly against him, and that he must be content as standing as the Cato of a vanquished cause. But none of us, I think, has ever failed to learn something even when he could not follow. For my own part I have considered and reconsidered much of Mr. Langdell’s criticism; I have more than once, on a second or third time or reflection, come round to think with him; at all times, whether going side by side with Mr. Langdell or withstanding him, I have felt, and the feeling has grown upon me with riper acquaintance, that appreciation of his point of view was sure to bring one nearer the heart of the common law.”