

GEORGE SHARSWOOD—PROFESSOR OF LAW¹

By EDWIN R. KEEDY †

On April 2, 1850 the Trustees of the University of Pennsylvania appointed George Sharswood to be Professor of Law.² Sharswood at this time was an Associate Judge of the District Court of Philadelphia and was thirty nine years of age. In his letter of acceptance he stated "I accept the appointment with the determination to devote the best of my humble abilities to the faithful performance of the duties of the office."³

Sharswood's first lecture, which was delivered on September 30, 1850, was preceded by the following announcement which he inserted in the *Legal Intelligencer*:

"UNIVERSITY OF PENNSYLVANIA
"Law Department.

"The subscriber, having been elected Professor of Law in this Institution, proposes to form a class for a course of legal studies and exercises, to be composed of Lectures, Recitations, Essays, and Forensic Discussions.

"The subjects embraced in the course will be:—International Law, Constitutional Law, Personal Rights and Relations, Corporations, Real Estate Law, Mercantile Law, Practice Pleading and Evidence at Law and in Equity, Criminal Jurisprudence. It is intended to be strictly professional; but while adapted principally to those who have already devoted one or more years to the study, it will be the aim of the subscriber to render it as purely elementary and useful to others as possible.

1. The substance of this article was delivered as an address to the members of the Sharswood Law Club on March 3, 1950.

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2. Minutes of Meeting of Trustees for April 2, 1850. See Hampton Carson, *An Historical Sketch of the Law Department of the University of Pennsylvania* (Pamphlet, 1882).

3. Original letter in Archives of University.

"The class will meet in the University on Tuesday and Friday Evenings of each week. A Public Introductory Lecture will be delivered in the Hall of the University on Monday, September 30th, at 8 o'clock, P. M., when the course will commence.

"The course will be divided into four sessions of four months each. The fee to the Professor will be \$10 for each session. The sessions will extend from the first of October to the first of July in each year, allowing an intermission of one month in the winter, and three months in the summer.

"Gentlemen desirous of joining the class will please call upon or address the subscriber at his residence, No. 3 Dugan Row, Spruce Street, between 12th and 13th streets.

GEO. SHARSWOOD."⁴

It will be noted that the course of study covered the whole field of the law and that the fee for the course was paid directly to the Professor.

Sharswood continued his lectures for two years.⁵ At the beginning of this period he spoke of the possibility that the Trustees would establish what he described as "a regular law school". This action was not long delayed for on May 4, 1852 the Trustees passed a resolution that "A Faculty of Law is hereby established,"⁶ and on September 10, 1852 the following announcement by the Trustees appeared in the *Legal Intelligencer*:

4. 7 *Legal Intelligencer* 151 (Sept. 20, 1850).

5. At the completion of Sharswood's lectures for the first year the following resolutions were presented to him by the members of the Class:

"At a meeting of the Class who have attended Professor Sharswood's Law Lectures during the present term, held on Friday Evening April 11, 1851, upon motion of Jas. B. Beers, Esq., John D. Bleight, Esq. was called to the chair and Samuel C. Perkins, Esq. appointed Secretary.

"Upon motion, A. J. Fish, John B. Gest, and J. Mitcheson, Esqs. were appointed a Committee to draft Resolutions expressive of the sense of the meeting; whereupon the Committee reported the following, which were unanimously adopted:

"*Resolved*,—That in the re-establishment of the Law Professorship of this University, the Trustees have conferred a substantial benefit upon the Philadelphia Bar.

"*Resolved*,—That the series of Lectures delivered during the present term, by Professor Sharswood, have been listened to by the class with equal pleasure and profit, and have been marked by a sound, practical, useful and liberal character, eminently designed to aid the practitioner in his daily professional duties.

"*Resolved*,—That the thanks of the Class are justly due to Professor Sharswood, for the faithful, laborious and effective discharge of his duties.

"University of Pennsylvania, April 11, 1851.

John D. Bleight
Chairman"

"Sam C. Perkins

"Secretary

Original copy in Archives of the University.

6. Minutes of meeting of Trustees for May 4, 1852.

“UNIVERSITY OF PENNSYLVANIA.—LAW DEPARTMENT.—On the 4th day of May, 1852, a Faculty of Law was established by the Trustees of the University of Pennsylvania, and Professors were appointed as follows:

“Honorable George Sharswood, Dean of the Faculty, Professor of the Institutes of Law, including, *inter alia*, International, Constitutional, Commercial and Civil Law.

“Peter McCall, Esq., Professor of Practice, Pleading and Evidence at Law and in Equity.

“E. Spencer Miller, Esq., Professor of Real Estate, Conveyancing and Equity Jurisprudence.

“The course will consist of two years. There will be two terms in each year. The first term will begin on the first of October, with a public introductory lecture by one of the Professors, and will continue four months. The second on the first of February, and will continue four months. From the first of June to the first of October will be vacation.

“Students who have attended four terms with each Professor may, upon the recommendation of the Faculty, proceed Bachelors of Laws.

“Students who have attended any one or two of the Professors only, may receive from such Professors certificates of proficiency.

“It is the design of the Faculty to make the course thorough and faithful. The plan of the Department embraces lectures upon all branches of law; moot Courts for discussion of legal questions; the writing of essays upon legal subjects, and frequent and rigid examinations.

“It is believed that Philadelphia has peculiar advantages as a place for legal instruction. It has Courts constantly open, where the students may see the law administered. It is filled with offices of practising attorneys in which he may acquire a knowledge of the daily routine of business. It has a bar which has always been distinguished for its high tone and professional integrity, among the members of which he will find a pleasant and profitable society.

“Each student will pay to the Dean of the Faculty, for the Treasurer of the University, a matriculation fee of five dollars, and a fee of ten dollars for each term, to each Professor, whom he shall attend.

“Arrangements will be made for providing respectable board and lodging for Students, at reasonable prices.

GEO. EMLEN,

“Secretary of the Board of Trustees of the University of Pennsylvania.”⁷

On July 5, 1852 Sharswood addressed the following letter to Hon. Joseph R. Ingersoll, Chairman of the Board of Trustees:

“Philadelphia July 5, 1852.

“My Dear Sir,

“I have joined my colleagues of The Faculty of Law in a letter to the Board of Trustees of the University acknowledging the honour of the appointment and enclosing a Prospectus for their consideration. The Prospectus is founded on the plan adopted by the Board. There are however two matters left undecided in the Plan and Prospectus—one of them affecting the School—and the other relating to myself personally, in regard to which I desire the board to express an opinion.

“The first is whether the School shall be held forth as a National or State Institution? The Course to be pursued by all the Professors must it appears to me be dependent in a great measure upon the determination of this question. I communicated to the Board at the close of my First Course—that I had prepared and delivered Lectures exclusively on the Laws of Pennsylvania. For the general principles of Law—the class were expected and directed in the study of approved and elementary textbooks by oral examinations connected with class Lecture—which the necessity of regular clerkship in the office of a practising Attorney was inculcated and insisted on as indispensable. My special aim was to familiarise the student with the leading cases and peculiarities of the law of Pennsylvania. Three fourths of my whole course at least was of this character. It would evidently not be in good faith to invite young men from other states to attend the

7. 9 Legal Intelligencer 145. Following their election the three professors comprising the Faculty of law addressed the following letter to the Trustees of the University:

“At the first meeting of your Board after our election as Professors of Law, we beg leave to present our thanks for the honor which you have conferred upon us, and to assure you of our earnest desire to carry your views in respect to the new Institution into effect and to promote its success by every means in our power.
“July 2, 1853

George Sharswood
Peter McCall
E. Spencer Miller”

Original letter in Archives of the University.

School—if so prominent a part of the instruction is to be devoted in this way. The gentlemen composing the Board are entirely competent to form a judgment as to that course which will be best for the interests of the School. My wish is that their decision may be guided by that consideration alone without reference to me personally—to my opinion or my convenience. It is very evident however that it will not do to have it undecided. While it might be inferred from the clause in the plan about *board & lodging* that a National School was intended—yet it is entirely consistent with the other system—to invite young gentlemen from other parts of the State to make Philadelphia the seat of their legal studies and preparation for the bar. . . .

“It occurs to me also that as the plan requires the payment of a matriculation fee of \$5 from each student for the use of the University—the professors should be relieved from the charge of paying the Janitor or Attendant.

“I have preferred addressing this to you personally in order that the action of the Board on these subjects may originate with themselves—but of course you may make what use you please of this letter.

“Very truly and respectfully

“Yr obn svt

Geo. Sharswood”⁸

“Hon Joseph R. Ingersoll.

The Trustees met the suggestion of the Dean, that the payment of a matriculation fee should relieve the professors from the charge of paying the janitor, by repealing the requirement for the matriculation fee.⁹

The question as to whether the School should be “held forth as a National or State Institution” was answered by the following statement, which appeared in the catalogue of the University for 1854-55:

“The Professors do not presume to embrace in their course the peculiar laws and rules of procedure in all parts of the Union. Their design is so to discipline and prepare the mind, by instruction in the principles of jurisprudence and their application in Pennsylvania, that other local codes can be acquired with facility and advantage.”

Sharswood was elected to the Supreme Court of Pennsylvania in 1867 but continued his lectures until April 30, 1868.¹⁰ During the

8. Original letter in Archives of the University.

9. Catalogue of University of Pennsylvania for 1852-53, p. 26.

10. The subjects covered by Sharswood as Professor of the Institutes of Law were the following, which were presented in the order indicated: General Jurisprudence,

period of his Professorship he delivered a number of introductory lectures, some of which were later collected and published as a volume.¹¹

In his first lecture following the date of his appointment Sharswood discussed preparation for the study of the law. He particularly emphasized the need for Latin and mathematics. With regard to Latin he said "the mind of a professional man requires that strict discipline and close exercise of its power which this study is calculated to produce."¹² He evidently assumed that his students were well grounded in Latin for his nine Introductory Lectures contain thirty-seven Latin quotations, some of considerable length,¹³ besides many other Latin words and phrases. Next in importance to Latin and mathematics he listed history and mental philosophy.¹⁴ At an early stage of his teaching experience Sharswood envisaged the desirability of a college education as preparation for the study of law, for in 1854 he inserted the following paragraph in the Regulations of the Law Department appearing in the annual Catalogue of the University:

"Students are not examined for matriculation, nor is it possible to require, peremptorily, a college degree, or any previous line of study. This must be left to circumstances, to the views of the student, and to the influences which control him."

Sharswood's lecture on Legal Education is particularly interesting. He stated that legal education should be sound, thorough and liberal.¹⁵ For a sound education he said that it was essential to dis-

International Law, Sources of Municipal Law, Constitutional Law, Law of Persons and Personal Property, Mercantile Law, Law of Debtor and Creditor, Criminal Law and Conflict of Laws.

One of Sharswood's former students, writing in 1884, described his last lecture as follows:

"The occasion was both impressive and interesting. At the conclusion of the lecture the classes of 1867 and '68 presented to the lecturer . . . a series of resolutions expressive of the appreciation, not only of the instruction they had received, but of the uniform courtesy and kindness he had ever extended to them. These were received in a most feeling manner, coupled with the request that he might be permitted to clasp the hand of each one present before parting. So closed his professional connection with the University of Pennsylvania." Charles Henry Hart, *Memoir of George Sharswood*, 5 (Pamphlet reprinted from the Proceedings of the Numismatic and Antiquarian Society for 1883).

11. Sharswood, *Lectures Introductory to the Study of Law* (1870).

12. *Id.* at 31.

13. For example the following:

"*Certe cognitio ista ad viros civiles proprie spectat, qui optime norunt, quid ferat societas humana, quid salus populi, quid aequitas naturalis, quid genium moros, quid rerum publicarum formae diversae, ideoque possunt de legibus, ex principis et preceptis tam aequitatis naturalis quam politices decernere.*" *Id.* at 43.

14. *Id.* at 32.

15. *Id.* at 38.

tinguish between principles of law and legislation.¹⁶ He expressed a strong dislike for judicial legislation pointing out that, while constitutions restrained the actions of legislatures, there was no constitutional control over judicial legislation.¹⁷ He further stated:

“The act of assembly, if carefully worded, is at least a certain rule. The act of the judicial Legislature is invariably the precursor of uncertainty and confusion.”¹⁸ By a thorough legal education he meant training in the office of a practicing lawyer supplemented by lectures, recitations and discussions in a law school.¹⁹ He expressed the opinion that these would be most valuable to those who had just been admitted to the bar. He also stated that there should be lectures devoted particularly to the law of the state where the law school is situated.²⁰ With regard to liberal legal education he stated the following: “A blind attachment to principles of jurisprudence or rules of law because they are ancient, when the advancement of the useful arts, the new combinations of business, and the influence of more rapid and general intercourse call for their repeal or modification, is as much to be deprecated as rash innovation and unceasing experiment. True conservatism is gradualism—the movement onward by slow, cautious and firm steps, but still movement, and that onward.”²¹

Sharswood announced further views on education in an address before the Society of the Alumni on December 10, 1856. In his first Introductory Lecture he had stated that the motto for legal education should be “*non multa sed multum.*”²² In his address to the Alumni he expanded this idea by saying:

“It may be depended upon as a certain truth, paradoxical though it seem, that it is a greater error to undertake to teach too much than too little. The inevitable tendency is to confuse, oppress, and weaken, instead of strengthening and maturing the mental faculties.”²³

Regarding the purpose of education he said:

“It is a perfectly just observation that the great art of instruction lies not so much in communicating knowledge, as in teaching young men how to study, and exciting them to love to study. The main object is to make students.”²⁴

16. *Id.* at 44.

17. *Id.* at 47.

18. *Id.* at 48.

19. *Id.* at 60.

20. *Id.* at 61.

21. *Id.* at 40.

22. *Id.* at 34.

23. Pamphlet (University of Pennsylvania), 22.

24. *Id.* at 21. In an address to the Society of the Alumni delivered on January 18, 1869 Sharswood said: “Most of our educational institutions, I am persuaded, attempt to teach too much on too many subjects. They seem to emulate the German professor, who advertised to lecture *de omnibus rebus et quibusdam aliis.*” Pamphlet (University of Pennsylvania), 9.

Sharswood emphasized to his students the opportunities and obligations of the legal profession. The following paragraph from his first Introductory Lecture is singularly applicable to the problems of government to-day:

"It is its (the legal profession's) office to diffuse sound principles of government among the people, that they may intelligently exercise the controlling power placed in their hands in the choice of their representatives in the legislature, in the exertion of their influence and direct power over other departments of government, in deciding, as they are often called upon to do, upon the most important changes in the fundamental laws; and, above all, in the formation of that public opinion which may be said in these times, almost without a figure, to be the sovereign everywhere—determining the principles and course of policy of the government."²⁵

At the opening of the session of the Law School in October 1854 Sharswood delivered an Introductory Lecture on the Aims and Duties of the Profession of the Law. At the request of those who attended this lecture he expanded it somewhat and published it as a volume. He dedicated this volume to "My honored master, Joseph R. Ingersoll," in whose office he had studied. This volume on professional ethics had great influence with the legal profession, not only in Pennsylvania but throughout the country, to the extent that the American Bar Association in 1907 published it in a volume as the annual report of the Association.

All of Sharswood's lectures exhibit the breadth of his learning. In his lecture on professional ethics he mentioned Thucydides, Herodotus, Demosthenes, Solon, Homer, Tacitus, Pliny, Augustus, Cicero, Horace, Justinian, as well as Bacon, Coke, Hale, Fox, Burke, Fearne, Sugden, Gibbon, Erskine, Brougham and Blackstone. One cannot help wondering to what extent his students were familiar with all the great names mentioned in this lecture.²⁶

25. *Op. cit. supra* note 11, at 27.

26. In 1854 Sharswood prepared a list of readings for his students, which was in part as follows:

"Lord Hale's History of the Common Law; Reeve's History of the English Law; Dalrymple's Essay; Sullivan's Lectures on Feudal Law; Sir Martin Wright's Introduction; Robertson's History and Hallam's History; Sir Henry Finch's Nomotechnia; The Doctor and Student.

"The preface to Lord Coke's Reports; Littleton's Tenures and the First Institute; Preston on Estates; Fearne's Contingent Remainders, not always read by the American student and more rarely comprehended; Sheppard's Touchstone; Preston on Abstract of Title, and Preston's Treatise on Conveyancing; Ballow's Equity; Jeremy's Treatise on Equity, and Story's Commentaries on Equity; Powell on Mortgages; Bacon's Reading on the Statute of Uses; Sanders on Uses and Trusts; Hill on Trustees; Lewis on Perpetuities; Sugden on Powers; Chance on Powers; Sugden on Vendors and Purchasers; Woodfall on Landlord and Tenant; Roscoe on the Laws of Actions; Cruise on Fines; Pigott on Common Re-

Sharswood in his lectures frequently used quotations on a wide variety of subjects.²⁷ To qualify himself for this practice he kept a series of common-place books²⁸ in which he entered quotations from many authors. These books have been preserved and it is interesting to discover that they contain quotations in five languages—Greek, Latin, French,²⁹ Spanish as well as English. The extent of his knowledge of, and interest in, classical languages is shown by the following paragraph from the remarks made at his funeral by the pastor of his church:

“He read Horace more or less every year. He habitually read the Greek Testament, and would frequently discuss with a clerical friend eminent for his Biblical learning, the precise meaning of particular passages. When coming death had sealed his mind with unconsciousness his Greek testament was found upon the couch at his side. Some twenty five years ago he studied Hebrew and went so far as to read the Old Testament through in the original.”³⁰

coveries; Powell's Essay, and Jarman on Wills. In Practice, Pleading and Evidence; The Introduction to Compton's Practice; Tidd's Practice; Stephen on Pleading; Broom's Parties to Actions; Greenleaf on Evidence; Selwyn's Nisi Prius; Leigh's Nisi Prius, which he has enriched with valuable notes; Mitford's Pleading in Equity; Story's Equity; Barton's Historical Treatise; Newland's Chancery Practice; Gresley on Evidence and the fourth part of the Institute. In Crimes and Forfeitures; Hale's History of the Pleas of the Crown; Foster's Crown Law; Yorke's Consideration on the Law of Forfeiture; The Third Part of the Institutes; Chitty on Criminal Law and Russell on Crimes; this work with its notes and it has passed through eight editions. In National and International Law, Burlamaqui's Natural and Political Law; Grotius de Jure Belli et Pacis; Rutherford's Institutes; Vattel's Law of Nations; Bynkershoek's de foro Legatorum; McIntosh's Discourse; Wicquefort's Ambassador; Wheaton's International Law; Robinson's Admiralty Reports and Cases in the Supreme Court of the United States.” Hon. George Sharswood, the Nominee for Judge of the Supreme Court of Pennsylvania by a Member of the Philadelphia Bar (Pamphlet in the Library of the Historical Society of Philadelphia).

27. Such as Eloquence, Gout, Judge, Lawyers, Money, Music, Politics, Pride, Style, Truth, Vanity, War, Wine, Woman. The quotation under the last title is as follows: “When a woman once appeared in the forum to plead her own cause, it is reported that the Senators ordered the oracles to be consulted, what this strange event portended to the city.” 2 PLUTARCH'S LIVES 227.

28. In one of his common-place books is the following outline for an address:

“The Philosophy of Life

“1. Its picture. 2. Marius. 3. Its realities. Conclude with an address to the Angel of Death—‘Come—lead me onwards to the sky.’ Trace the history and tenets of the principal sects and compare them with Christian philosophy.”

29. Apparently Sharswood studied French in middle life. In one of his common-place books, along with philosophical discussions in Spanish, are French exercises like the following: *L'oiseau et la cage. Le fils et la fille. Le portail de la maison. Les éventails des demoiselles. Le chevaux vont dans les prairies. Les vœux du Prince.*

30. Rev. Henry C. McCook, Pastor of Tabernacle Presbyterian Church, *Remarks at Funeral of George Sharswood* (Pamphlet in Library of Historical Society of Pennsylvania).

One of Sharswood's friends, writing in 1907, closed his article with the following paragraph:

"Judge Sharswood died without leaving a male descendant; but the students of this Law School may, if they will, inherit 'the images of his mind' and heart, and prove their right of succession by emulating and transmitting the ideals of learning and duty, which he portrayed in his teachings and exemplified in his life."³¹

31. Samuel Dickson, *George Sharswood—Teacher and Friend*, 55 AM. LAW REG. (O. S.) 401, 427 (1907).