Yale Law School: The Founders and the Founders' Collection

By
Frederick C. Hicks

PUBLISHED FOR THE YALE LAW LIBRARY
BY THE YALE UNIVERSITY PRESS
1935
Yale Law Library Publications

Issued from time to time for the Yale Law Library with the cooperation of the Committee on Yale Law Library Patrons of the Yale Law School Association.

Publication No. 1 is issued also as Pamphlet No. XXXIX of the Committee on Historical Publications, Tercentenary Commission of the State of Connecticut.
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Yale Law School: The Founders and the Founders’ Collection

By FREDERICK C. HICKS

I

EXCEPT for manuscript papers, the oldest extant mementos of the early history of the Yale Law School are law books. Professors and students of those days are long since dead; the buildings in which classes are known to have been held have been torn down; but some of the books used by the earliest of its students remain. Curiously enough, these books were not owned by the school until the year 1846, twenty-two years after the names of law students were first listed in the Yale College catalogue, and three years after the degree of Bachelor of Laws was first conferred here. They are books which formerly belonged individually to Seth P. Staples, Samuel J. Hitchcock, and David Daggett, the first, second, and third instructors associated with the private school out of which the Yale Law School

1 In assembling the material for this sketch, the author has had the invaluable help of Miss Elizabeth Forgeus, Assistant Law Librarian. New matter used is drawn largely from the manuscript papers of Staples, Hitchcock, and Daggett.
grew, and they served, in succession, as the law library of both the earlier and the later school.

The segregation of the residue of these books, to form the Yale Law Library Founders' Collection, after more than a century of the school's life, is a belated tribute to these three men, and an event of interest to all Yale men in law, particularly those who are in sympathy with the objects of the Committee on Law Library Patrons of the Yale Law School Association. In the year when Connecticut is celebrating its tercentenary, it is not inappropriate that the school should pay homage to the men and the books that are responsible for its own beginning.

Of the original group of books, only a portion has been salvaged. If henceforth we treat them with reverence, the contrast with their former experiences will be great. They bear the scars of use and misuse, and reflect the lean years through which the law library itself more than once has passed. They have been patched, mended, bound, and rebound until their appearance is pathetic. Now withdrawn from active service, they will nevertheless serve as memorials, not only of their original owners, whose autographs they bear, but also of generations of perspiring students by whom they have been thumbed over, praised, and reviled. Every graduate of the school whose achievements we would emulate has probably given them, by use, an added odor of sanctity.

There is an intimate connection between the careers of the three Founders. All were Yale graduates. Daggett, the oldest, studied law in the New Haven office of Charles Chauncey. Staples studied with Daggett, and Hitchcock with Staples. Daggett, according to the prevailing custom, took into his office a few law apprentices, among whom were Jirah Isham, Elisha Stearnes, and Staples. He did not, however, treat them as a law class. Staples,
on his part, soon after the year 1800, met groups of students, much as Tapping Reeve was doing in the Litchfield Law School. Staples was familiar with Reeve’s methods, and it is nearly certain that he supplemented his studies with Daggett by a short course in Reeve’s school. Hitchcock, in 1820, became Staples’ law partner and his associate in the conduct of his school. When Staples dropped out, and the school was loosely associated with Yale College, in 1824, Daggett joined Hitchcock to carry on the law classes. Daggett was then sixty years old, and Hitchcock was thirty-eight.

The limitation of the Founders’ Collection to the books owned by these three men should not be understood as failure to give credit to their successors, who on several occasions saved the school from dissolution; nor as unwillingness to recognize the fact that Elizur Goodrich was the first professor of law in Yale College. To this office he was appointed in 1801, in accordance with the plan devised by President Dwight of adding professional studies to the academic courses. Mr. Goodrich, however, had no connection whatever with the Staples school, and his lectures to college students embraced only a general outline of the theory of law, with emphasis on the law of nature and of nations. Goodrich entered Yale College in 1775, and was “uninterruptedly connected with the institution, either as student, resident graduate, tutor, assistant to the Treasurer, Professor, member of the Corporation, or Secretary of that Board, for the space of seventy-one years.” He studied law with his uncle, Charles Chauncey, was a member of the Connecticut legislature, a representative in Congress, collector of the Port of New Haven, judge of the Probate Court, and chief judge of the County Court. These public duties and the fact that “the funds of the College would not allow
the Corporation to give an adequate salary to their Professor" (it was $200 per year) prevented him from making law teaching a major interest, and he resigned his professorship in 1810. During most of this period, the Staples classes were in all probability being held, but entirely separate from the College. The law professorship made vacant by the resignation of Goodrich was not filled until 1826, when David Daggett was appointed to it.

II

In the year 1800, Isaac Beers, a New Haven bookseller, imported for Seth P. Staples "a very complete law library, one of the best at that time in New England." This was the first in a series of events which led up to the establishment of the Yale Law School. It is appropriate that books, rather than buildings, or even teachers, should be thought of as the germ of the school, for throughout its early history, as will later be shown, there is constant emphasis on books as the sine qua non of a law school. Ten of the volumes in this first shipment to Staples have been identified in the Yale Law Library.

Seth Perkins Staples was born in Canterbury, Connecticut, on August 31, 1776. He was the third child of the Reverend John Staples (Princeton, 1765), pastor of the Congregational Church in Westminster Society. His mother was Susanna, sister of Enoch Perkins, who graduated from Yale College in 1781. The son entered Yale in 1793 and graduated in 1797, in the same class with Lyman Beecher (father of Henry Ward Beecher), United States Supreme Court Justice Henry Baldwin, and United States Senator Horatio Seymour. In 1801, he was the Phi Beta Kappa orator at the College and received the M.A. degree.

Immediately after his graduation, he began the study
Biographical sketches of Staples do not state that he attended the Litchfield Law School, nor does the published list of members of that school, beginning in 1798, contain his name. This negative evidence is not, however, conclusive, since other men, known to have attended the school, are missing also. That he was a student under Tapping Reeve in the fall of 1798 is suggested by a manuscript notebook of 983 pages, some of which are blank, which is now in the Yale Law Library. It is undoubtedly in the writing of Staples, and bears the inscription, "Lectures on Law by T. Reeve, Esq., one of the Judges of the S. Court in Connecticut. Sept. 10th, 1798." It was the method of instruction at Litchfield to read lectures which students carefully took down as nearly verbatim as possible. Seven sets of such lecture notebooks by other students are in the Yale Law Library. It is possible that Staples had access to someone else's notebook, and made a copy of it, but there is no reason to presume this. His notes are not as extensive as those of some other students, indicating perhaps that his stay was shorter; and at the end of the book is a section made up of his own comment on independent readings in criminal law.

If he did study in Reeve's school, he returned to the office of Daggett to complete his preparations for admission to the bar. This event took place in Litchfield, on September 21, 1799.

An incident connected with it is of interest because of the light which it throws on methods of bar examination, on the intense political feeling that existed, and on the close relationship between Staples and his preceptor, Daggett. Staples went by stage from New Haven to Litchfield, arriving on Monday evening, September 16, 1799. On Tuesday, he delivered to the bar his letters of
recommendation and his certificate of study signed by Daggett. That evening, Mr. Allen proposed that he be admitted to examination. Thereupon, General Tracy (probably United States Senator Uriah Tracy, who was a major general of militia) objected, because (in the words of Staples) "he had been informed that I was a great Democrat and a violent Disorganizer—that on that account I came to Litchfield to apply for examination, and as proof of this I was strongly opposed to the abolition of the QBK Society; & as damning proof Mr. Tutor Day was then in town who would furnish indubitable proof of the whole." Mr. J. C. Smith and several others spoke in opposition to General Tracy, but nevertheless permission to enter the examination was withheld. When these happenings were reported to Staples, who was not present at the meeting, he was "perfectly astonished." "But, it recurring to my mind," he wrote, "that Dr. Dwight had that evening arrived in town, I went immediately to him & stated what had passed in the bar meeting. He laughed very heartily & said he could help me out of that scrape very easily, & wrote me a very full certificate & told me that if Mr. Tracy or any other person wanted any further information either affecting my political or moral character & would call on him in the morning, he would give him or them the fullest satisfaction. Mr. Tutor Day was applied to by Mr. Tracy & others & stated in the fullest manner directly the contrary of every word Mr. Tracy had said." Next day at noon, the bar again took up the matter, but delayed decision because the presence of Mr. Tracy was desired, in order that he might be asked to disclose who was the author of the "vile calumny" against Staples. Mr. Tracy appeared before the bar that evening but refused to give the source of his information, although he said that he was now satisfied.
The above account is contained in a letter from Staples to Daggett written on September 20, 1799, with a postscript dated eight o'clock Saturday morning, September 21, in which he said that he was finally admitted to the examination, was questioned very closely by the Committee of Examiners during two evenings, and that at the opening of the Court on that very morning, he was to be sworn. Earlier in the letter, he wrote that “some give hints as if they thought” General Tracy “objected on account of the good will he bears my instructor” (Daggett), and in the postscript he wrote that “there is a secret in this business, which if I were not under injunctions of secrecy, I would tell you. The obligation of secrecy will not, however, preclude me from being at liberty to tell you a curious story when I see you, for I promised to observe no injunctions of secrecy that would involve me.”

After the successful outcome of his trip to Litchfield, Staples immediately began the practice of law in New Haven, and in November of the same year he married Catharine, daughter of the Reverend Samuel Wales, Yale 1767, who was Livingston Professor of Divinity in the College. They had six children, three sons and three daughters.

While making his way as a lawyer, he found time to represent the town of New Haven in five sessions of the State legislature (1814-16), and he was a colonel of the militia. At a New Haven military muster on May 7, 1810, making a fine figure riding on a horse, he commanded an artillery company of one hundred men with four pieces of artillery.

In law, his success was rapid. It is said that he ranked with the leaders of the profession in New Haven, including such men as David Daggett, Simeon Baldwin,
Nathan Smith, William Bristol, and Charles Denison. In 1820, he formed a partnership with Samuel J. Hitchcock by means of which he maintained a connection with New Haven for many years after he moved to New York City in 1824.

A famous New Haven case in which he was counsel was that of the Amistad captives, African negroes kidnapped in 1839 by slave traders, sold by them in Cuba to Spanish subjects, shipped on the schooner *Amistad* which they took by force into their own hands, and captured in Long Island Sound when the schooner anchored there. Anti-slavery philanthropists engaged Staples, Theodore Sedgwick, and Roger Sherman Baldwin to represent the negroes, and they were eventually set free. The argument in the United States Supreme Court (15 Peters 518) was made by Baldwin and John Quincy Adams, in opposition to Attorney General Gilpin.

Staples was an expert in patent law, and was for many years counsel for Charles Goodyear in the series of cases over his patent for vulcanizing rubber. From 1837 to 1855 his name appears constantly in litigated cases along with those of Daniel Webster, Rufus Choate, Francis B. Cutting, Charles O'Conor, and James T. Brady. Staples' granddaughter, Mrs. Harriette S. S. Wheeler, possesses as a reminder of this litigation, a cane of vulcanized rubber with gold tip, given to Staples by Goodyear.

Staples' withdrawal from the law school which he had started in New Haven did not end his interest in teaching, for in 1828 he delivered lectures on commercial law at the Mercantile Library in New York City. In appreciation of this gratuitous service, the directors of the library presented to him a silver pitcher, appropriately engraved. His scholarly habit of mind is further attested by his ownership of a share in the New York Society Library,
and by the large law office library assembled by him in New York, which was sold at auction after his death. A copy of Bangs, Merwin and Company’s auction catalogue for April 24–25, 1862, now in the Yale Law Library, lists 1,417 volumes of his law books, including not only the usual type of treatises and American law reports, but also many English law reports, long runs of American, English, and Canadian session laws, sets of legal periodicals, works on Roman and international law, and a special group on patents. Included in the sale are the essential furnishings of a frugal law office, pine wood bookcases, a library table, and two black-walnut office chairs.

He died in New York City on February 15, 1861, at the age of eighty-six, and was buried in the Grove Street Cemetery in New Haven.

III

The story of the Staples law school, as has been said, begins with the importation of a shipment of English law books in 1800. To this first shipment he continued to add both English and American books, so that students deemed it a high privilege to study in his office. They came in sufficient numbers to warrant organization of regular classes. There is a tradition that these were at first held in his own house, before breakfast, and that the students often “assembled before he left his bed-chamber, and awaited ‘patiently’ his appearance.” The earliest of Staples’ several residences was at number 75 (now 155) Elm Street, the building known as the Graduates Club. If he did in fact hold classes there, it is an interesting coincidence that Hendrie Hall, where the Yale Law School was housed from 1895 to 1931, should have been located next door. At a later time, his house was on
Temple Street, on a site subsequently occupied by the house of Ezekiel G. Stoddard, eventually purchased for the use of the Sheffield Scientific School. And later still, he lived on Church Street, opposite the Green, on the site where the law chambers building now stands.

Without doubt Staples' law office was the center of his law school, serving as a library, classroom, and laboratory of practice. Where this office was prior to 1820, has not been discovered. Beginning with that date, when he formed a partnership with Hitchcock, it was located on Church Street near the corner of Court, where Staples leased from William Leffingwell a building of twenty-two feet frontage. The lease, dated November 11, 1820, was for twenty years, and stipulated that Leffingwell was not to build within ten feet of the line, and that he would deed the property to Staples, his heirs or assigns. This lease was, on October 28, 1831, assigned to Samuel J. Hitchcock, and in 1843, an heir of William Leffingwell deeded the property, but without the agreement not to build within ten feet of the line. The twenty-two feet frontage was between the sites later occupied by the City Hall and the Leffingwell building, the latter of which stood on the northeast corner of Church and Court Streets. The present Powell building occupies the site of these two buildings, running from the corner to the City Hall. In this little building, leased by Staples and later known as the Hitchcock building, the Staples law school and its successor in all probability remained until the year 1850 when the Leffingwell building (Heublein’s) was completed.

Here, therefore, we should try to picture Staples and Hitchcock, as carrying on the school, surrounded by books, some of which are now in the Founders’ Collection. We are helped to do this by a description of Staples,
written by a student who attended classes in this building in 1823–24.²

"Those who only saw him in the conflicts of the bar," he said of Mr. Staples, "and heard his bitter sarcasms, could form no true estimate of his character. They saw nothing of his kindlier nature and social qualities, as exhibited in the office and the recitation room. As a teacher he exerted a magnetism over his students unsurpassed by any man I ever knew—a magnetism that drew his pupils into thorough study of first principles. No greater contrast could well exist than that presented by comparison of the formal law lectures of the Litchfield school and the off-hand comments and illustrations of Mr. Staples' class room: Judge Gould read his able and finished lectures with a cold dignity to his students, each seated at his separate desk, intent on copying from his lips the principles laid down and the authorities referred to, embodying a system of law for future reference and use. In the New Haven school, at the time it was made a department of the college, the class recitations superseded in great measure the formal lecture. The student in his study drew the principles from the text book. In the recitation they were sifted, tested and illustrated. It was here that Mr. Staples was perhaps unrivaled as a teacher. His practice at the bar enabled him to illustrate principles and decisions from his own experience and observation, in such a manner as to fix them in the mind in a manner very different from the mere entry of them in a note book. Mr. Staples read few lectures, and they were not of a high order. It was as an off-hand commentator that he impressed himself as well as the law on the minds of his students."

Who were the students whom Staples taught prior to 1820, and whom Staples and Hitchcock taught from 1820 to 1824? Who were the men who fingered the Staples books now in the Founders' Collection?

In 1824, a tenuous connection between the Staples school and Yale College was made by printing the names

²Quoted by Theodore D. Woolsey in his *Historical Discourse* at the Fiftieth Anniversary of the Foundation of the Department of Law, June 24, 1874.
of fourteen law students in the College catalogue. Who were the students who went before them?

From a reading of biographies, a few names have been gleaned of men who studied law in the office of Staples. They are

Samuel Johnson Hitchcock, Yale 1809
Ralph Isaacs Ingersoll, Yale 1808
Thomas Burr Osborne, Yale 1817
Thomas Clapp Perkins, Yale 1818

To this meagre list can now be added something more substantial. It is a list of students in the Staples law school from 1819 to 1824. Written by Staples, the list appears in the Cash and Receipt Book of the firm of Staples and Hitchcock for the period April, 1817 to August, 1827. The comments following some of the names are by Staples. Names preceded by an asterisk appear also in the list of law students printed in the College catalogue of 1824.

"LIST OF STUDENTS WHO HAVE ENTERED THE OFFICE"

1819
Edward Chapin (Admitted to Bar Nov. 29, 1821)
Samuel D. Hubbard (Admitted to Bar Nov. 29, 1821)
Hector Humphrey
Rufus Woodward

1820
Apollo D. Bates (June 28. County Court June term took the oath and left)
Horace Foot (Admitted to Bar at Middletown, Sept. 27, 1822)
James S. Huggins (Admitted to Bar Nov. 29, 1821)
Pollard McCormick
Horatio Miller (Admitted to Bar Nov. 29, 1821)
1821
John H. Brockway (Admitted to Bar Mar. 22, 1823)
Asa Child of Woodstock (Admitted to Bar June 24, 1823)
Walter Edwards of Hartford (Admitted to Bar, Hartford, Nov. 1822)
Theodore Hinsdale of Winstead

1822
William Barnes of Tolland
Asa Butts of Canterbury (Sickened with a decline and died 2d year)
Joel Hinman of Southbury
Sam C. Jackson of Dorset, Vermont
Oliver A. Shaw (Studied one year and went to Virginia)
*Isaac Henry Townsend
Ira L. Ufford of Huntington (Admitted to Bar Mar. 22, 1823)
G. Fitch Wheeler of Huntington (Admitted to Bar Nov. County Court, 1823)

1823
Charles Atwood
William Barnes of Tolland (Admitted to Bar Nov. County Court, 1823)
*John Boyd of Winchester
*Sherman Crosswell of New Haven
Simeon F. Dixon of Enfield
*Samuel Hayes of New Haven
Charles F. Johnson
John H. Lathrop, tutor
*Henry E. Peck
*Amasa G. Porter (Admitted to Bar June County Court, 1825)
Edward Rockwell
William Rockwell of Sharon
*Aaron N. Skinner of Woodstock, Conn.
Solomon Stoddard, tutor (Relinquished study and paid nothing)
William G. Verplanck of Mount Pleasant, N. Y. (Broke his leg and never attended)
*Daniel Whiting
*Frederick R. Whittelsey of Southington
*S. J. Andrews of Wallingford
*Linus Child of Woodstock
William Read of Sparta, Georgia (Returned to Georgia, Sept. 1825)
George B. Ripley of Norwich
*Wm. P. Skinner of Marietta, Ohio
*Isaac Webb

Although the above is a list of students “who entered the office,” there is no doubt that they came not as apprentices but as paying pupils. They came, however, not at stated dates, as though for a fixed term, but whenever they could, to stay as long as they could. They paid for the time that they stayed. Many of them remained two years, a fact shown by Staples’ notes, and not usually by the repetition of the name under the date of the second year. They paid in cash when they could; if not, by personal note. That all accounts for the years 1819 to 1824 were eventually cleared is shown in a list headed “Amount due Staples and Hitchcock on Book January 1, 1825.” There, students’ unpaid bills listed by name and amount are classified among “good” debts, and annotations subsequently made give the respective dates of final payment.

IV

The moving spirit in the law school for a quarter of a century was Samuel J. Hitchcock. He became an instructor four years before Staples withdrew, and he continued actively in the work until his death in 1845, that is, from his thirty-fourth to his sixtieth year. It was Hitchcock who carried the chief burden of teaching, who built up the law library, who paid rent to Staples for the law building up to 1831, and after that himself owned the
lease, and who finally brought about the conferring of law degrees by Yale College. His career both in and out of the school is worthy of attention.

He was born on February 4, 1786, at Bethlehem, Connecticut, the eldest of the twelve children of Benjamin and Mary (Johnson) Hitchcock. It was impossible for the father to give his son educational advantages, and his first work was as a mechanic. The love of reading was, however, born in him. It is related that because the father could not "afford young Hitchcock lights to read by so late as he desired, he... accustomed himself to lie down in front of the fire with book in hand, and there gratify his insatiable love of knowledge by studying out the words and sentences from the imperfect light of the dying embers thus afforded. To this is attributed the weakness of his eyes, under which he greatly suffered for years." He attracted the attention of his pastor, the Reverend Azel Backus (Yale 1787), who fitted him to teach school, and eventually gratuitously prepared him to enter the Sophomore class at Yale. He graduated at the head of his class in 1809, appropriately delivering the valedictory oration on the *Wisdom of Aiming at High Attainments.*

For two years after his graduation he taught in the Fairfield Academy and then returned to New Haven to become a tutor in Yale College. At the Commencement exercises of 1812, he became a Master of Arts and delivered an oration on the influence of newspapers. He resigned his tutorship in 1815, the event being marked by a gift of money from a committee of his students. The presentation letter, dated July 20, 1815, concludes with the words, "while we lament your departure, we are consoled with the reflection that you have removed from a circumscribed into a more extensive sphere of action,
where your acquirements and goodness of heart will be more useful and conspicuous."

The sphere of action referred to was that of the law. While serving as tutor, he had also read law in the office of Seth P. Staples. On June 4, 1814, at a session of the New Haven County Court, he was admitted to the bar, the court having before it a certificate from Staples, and one from the bar examination committee consisting of Nathan Smith, Bennet Bronson, Cyrus Clark, Curtiss Hinman, Isaac M. Wales, and Ralph I. Ingersoll. At a later date, April 13, 1821, he was admitted to practice before the United States Circuit Court.

Beginning practice in New Haven in 1815, by 1818 he was ready to embark upon the sea of matrimony. One of the preliminaries to this event throws light on his character. The lady of his choice, Laura, the orphaned daughter of Simeon and Parnel Coan, of Guilford, returned his affection, but hesitated to name the day because, being unable to purchase her "furniture," she feared that she might be a burden to him. To overcome this obstacle, Hitchcock proposed to her uncle in a letter dated January 5, 1818, that they conspire together to practice a pious fraud upon her. The plan was that the uncle, Eliakim Fowler, should make a gift of $300 to Laura, telling her that he knew she needed the money for the purpose above mentioned, and that he had always intended to assist her on the approach of that crisis which he had heard was coming upon her. Hitchcock engaged on his part to repay Fowler with interest at any time and in any way that the donor might point out. "If you will do this," wrote Hitchcock, "I am well convinced you will add exceedingly to her comfort and do much, more perhaps than you are aware of, toward making her a happy bride. . . . You will see, dear Sir, that if you can conveniently and
SETH P. STAPLES

From Jared B. Flagg’s copy, in the Yale Law School, of a portrait by Samuel L. Waldo and William Jewett.
SAMUEL J. HITCHCOCK

From a portrait in the Yale Law School by Jared B. Flagg.
DAVID DAGGETT
From a silhouette made by Samuel Metford, July 5, 1842.
HITCHCOCK BUILDING
(at the extreme lower left), first home of the Law School.

LEFFINGWELL BUILDING
The second floor of the rear extension was the Law School's second home.
consistently comply with the above request, it must never be known to your niece that I made it,—or at least that the secret must not be divulged until some future period." The letter closed with a request for a reply within ninety days. The answer must have been favorable, for the marriage took place on May 18, 1818.

As law partner of Staples, beginning in 1820, he divided his time between teaching and practice. An amusing incident connected with the latter is recorded in his "Waste-book," as follows:

Feby. 26, 1821. Norman Munson called and demanded his Bill of fees of S. P. S. for serving writ, H. D. Sewall v. Miles Pickus, indorsed on writ in office as below:—

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<td>Travel to return, 13 mi.</td>
<td>$0.60</td>
</tr>
<tr>
<td>Attachment</td>
<td>$0.12</td>
</tr>
<tr>
<td>Committing, travel, 13 mi.</td>
<td>$2.60</td>
</tr>
<tr>
<td>2 Keepers 24 hours</td>
<td>$3.00</td>
</tr>
<tr>
<td>Necessary expenses for keepers, meat, drinks &amp; Lodgings</td>
<td>$3.42</td>
</tr>
<tr>
<td>Mittimus</td>
<td>$0.50</td>
</tr>
</tbody>
</table>

$10.44

Mr. Staples offered him fees as below:—

<table>
<thead>
<tr>
<th>Description</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trav. to serve, 4 mi.</td>
<td>$0.20</td>
</tr>
<tr>
<td>Levy</td>
<td>$0.12</td>
</tr>
<tr>
<td>Travel to commit, 13 mi.</td>
<td>$2.60</td>
</tr>
<tr>
<td>Mittimus</td>
<td>$0.25</td>
</tr>
</tbody>
</table>

$3.17

But he demanded the whole and would not take the fees as offered. 4th May gratefully took $3.17 in full.

In later years, Hitchcock’s law practice became extensive, and he took a prominent part in the life of the community. He was a judge of the New Haven County Court from 1838 to 1842, chief judge of the City Court, 1842 to 1844, and mayor of the city from 1839 to 1841.
For more than a decade (1833–45), he was a deacon of Center Church where he conducted a Bible class for young men. According to Professor Woolsey he was "one of the most decidedly religious men to be found in any department of life."

In developing means of transportation in the State, he played a prominent part for twenty years. From 1825 to 1840, he was concerned professionally with the affairs of the ill-fated Farmington canal. He was a director of the Hartford and New Haven Railroad and its president from 1837 to 1840. These were troubled years. The road, chartered in 1833, was not completed until 1839. The panic of 1837 found the Railroad's treasury completely exhausted, with subscriptions largely unpaid. The cause was not excessive salaries, for Hitchcock received only $1,000 a year. To insure through-service from Hartford to New York City, the road was authorized in 1839 to charter, purchase, and hold steamboats. This development precipitated a rate war in which Commodore Vanderbilt took part. The steamboat fare from New Haven to New York dropped as low as twenty-five cents. In the next year newspaper articles charged official mismanagement of the road. Hitchcock, on July 21, 1840, and again on August 10, replied to the "libelous charges," "industriously circulated among the stockholders," "criminating the officers, and alleging culpable mismanagement." He called upon all stockholders to attend the coming meeting in September, and vote with a knowledge of the "motives and designs" of the accusers. The victory went, however, to the new party, which set about resuscitating the road. They found it useful, nevertheless, to employ Hitchcock professionally, for he was recognized as a specialist in railroad law. Moreover, this was not the end of his official connection with railroads. In
1844, he was one of the incorporators of the New York and New Haven Railroad Company, along with Joseph E. Sheffield, William A. Reynolds, Nathan Smith, and others. Launching the new company was difficult business. After the subscription books had been open ten days, there were only three New Haven subscribers, of whom Hitchcock was one. Sheffield and Hitchcock arranged for the first surveys of the route, and prepared a plan for negotiating the stock of the company through the Barings, in England. This latter project failed as a consequence of Hitchcock’s death. A part of his last winter was spent in Albany seeking to obtain franchises for the proposed road to enter New York City.

At one time, Hitchcock lived in the house now occupied by the Graduates Club on Elm Street, where Staples had lived before him. At the time of his death, his residence stood next to the Tontine Hotel on Church Street, a house which he had built in 1827–28. He died of a “bilious fever,” after an illness of three weeks, on August 31, 1845, being then in his sixtieth year. The funeral service in Center Church was attended by the local bar association and the Common Council of the city, and he was buried in the Grove Street Cemetery. By his wife, Laura, he had two sons and three daughters. She died in 1832, and in 1834 he married Narcissa Perry, widow of Joseph Whittemore of Fredericksburg, Virginia, and daughter of Walter and Elizabeth Burr (Sturges) Perry, of Southport, Connecticut. They had one son. In his will, after providing for his surviving widow and children, he directed that the surplus of his estate should be used by the trustees, to the extent of $1,000 per annum, “for the support of indigent pious young men preparing for the ministry in New Haven.” Concerning this provision there was litigation as late as the year 1851.
In 1824, when Hitchcock took control of the school, he had formidable rivals. Chancellor Kent was lecturing at Columbia College, the law school at Harvard had already begun to grant degrees, and the Litchfield Law School was in the competent hands of James Gould. In New Haven itself, a competing school was opened by Judge Asa Chapman. After graduation from Yale in 1792, studying at the Litchfield Law School, and being admitted to the bar in 1795, Chapman had settled in Newtown, Connecticut, where for many years, in connection with his practice, he instructed students in law. In the fall of 1824, he moved to New Haven and announced in the *Connecticut Journal* of November 11, that he would receive law students at an annual tuition of $75. The failure of his health and his death in 1825 left the New Haven field free for Hitchcock.

Two fortunate circumstances gave prestige to Hitchcock's school—the listing of his students in the Yale College catalogue beginning in 1824, and Judge Daggett's willingness to join him as a law lecturer. The connection with Yale was further strengthened two years later when a statement descriptive of the law school was added to the list of students in the Yale catalogue, and when Daggett took on the separate duties of professor of law in the College. The first of the annual law-school announcements reads as follows:

The Law School is under the instruction of the Hon. David Daggett, a Judge of the Supreme Court in Connecticut, and Professor of Law, and Samuel J. Hitchcock, Esq., attorney and councillor at law.

The students are required to peruse the most important elementary treatises, and are daily examined on the author
they are reading, and receive at the same time explanations and illustrations of the subject they are studying.

A course of lectures is delivered by the Professor of Law, on all the titles and subjects of the Common and Statute Law.

A moot court is held once a week, or oftener, which employs the students in drawing pleadings and investigating and arguing questions of law.

The students are also called upon, from time to time, to draw declarations, pleadings, contracts, and other instruments, connected with the practice of law, and to do the most important duties of an attorney's clerk.

They are occasionally required to write disquisitions on some topic of law, and collect the authorities to support their opinions.

The students are furnished with the use of the elementary books, and have access, at all times, to the college libraries, and to a law library, comprising very important works both ancient and modern.

The terms for tuition and use of library are $75 per annum. The course of study occupies two years, allowing eight weeks vacation each year. Students are however received for a shorter period.

The Professor of Law will also, for the present, occasionally deliver lectures to the Senior class in College, until arrangements are made for a systematic course to be permanently continued. (Yale College Catalogue, November, 1826.)

In this announcement the name of Judge Daggett is put first, since he was a vastly greater public figure than was Hitchcock. He was not, however, in charge of the school, which was, it will be noted, "under the instruction" of both men. In the catalogue of 1828–29, the word "instruction" was changed to "direction," but still the meaning conveyed is that there was joint responsibility. The same form was used after Isaac H. Townsend joined them in 1842, indicating responsibility divided among three men. There appears to be no doubt that Hitchcock for many years bore the weight both of administration
and teaching. The latter was carried on principally by means of textbook reading, lectures, and quizzes. The above announcement states that “students are furnished with the use of the elementary books.” This means that Hitchcock provided students with individual copies of such books, without additional cost to them.

Concerning Hitchcock’s quality as a teacher, fortunately we have the opinion of two of his pupils, quoted in Woolsey’s *Historical Discourse*:

I was a great admirer of Judge Hitchcock (wrote the first). He was a model teacher. He was so clear, you could not fail to understand him fully; so copious in instruction and illustration, that he seemed to exhaust the subject, and you felt that he was master of the principles of law, and of their application and analogies; and yet so compact in style that he never used a word too much. As I had just come from Harvard, I often compared him with Judge Story, and was at a loss to decide which was the most admirable instructor. We recited to him in Cruise’s Digest. It was called a book hard to understand, but under his teaching it was all clear and plain; and we wondered how it had got such a name. Recitations to him were for a full half-hour [with] lectures from him on the subjects we were studying.

Another gentleman, who studied law in the school in the years 1838 and 1839, wrote of him thus:

The mainstay of the school was Judge Hitchcock. Many of the students had studied one year at Cambridge, where the school was much larger, and where Judge Story was the great ornament; but they all gave the palm to Hitchcock over Greenleaf, able and learned as the latter was admitted to be. The introductory lecture of Judge Hitchcock always made a great impression. He dwelt upon the distinction between *reading* and *study*; upon the fact that they had not come there to win prizes in the shape of degrees; that a man might read
law forever, and not be a lawyer; he must study, and he might study much, but it would be to little purpose unless he accustomed himself to feel that he had the responsibility of some future client [in his hands] whose property or rights would depend upon the accuracy with which the books [he had studied] were comprehended. His running comments, as the recitation progressed, were remarkable, not so much for the matter as for the manner of putting them. There was a tinge of cynicism about him which gave much effect and pungency to his utterances. He had an intense horror of shams. The series of questions with which he tested the students' knowledge were what might be described as searching; they gave an interest to the pages of Cruise and Chitty, which the students, on previously reading them, had never suspected to exist.

The recitations in the first volume of Blackstone’s Commentaries had a particular interest for those who did not intend to follow the law as a profession, and many of the theological students were in the habit of coming into the lecture-room at this time.

You are aware there are some chapters relating to subjects which are obsolete or have no possible application to this country. On that account they are not made the subject of recitation in most law schools; but Judge Hitchcock made us [study] them all, as he said that we should find frequent references to them in our future reading, and would better understand some of the influences which had built up the common law. The chapter on the king's royal title, he thought, should be carefully studied by every one who wished to get a clear idea of English history. It was amazing, indeed, to see what stores of illustrations from history, fiction, poetry and the classics were treasured up in the brain of this man, who appeared to the world as nothing but a dry lawyer. (Historical Discourse by Theodore D. Woolsey, pp. 19–20.)

A volume of eighty-four pages which has been preserved, containing notes on Hitchcock’s lectures taken down by Timothy Merwin, from January 7 to March 5, 1828, shows them to be unlikely to cause students to burst into song. Yet such was the effect on one student
who wrote the following in one of the law school’s books:

Oh Thou who hear’st the students’ prayer
How dark with all its witch-talk
Would seem the Law, if puzzled here,
We could not fly to Hitchcock.

Others had a different reason for gratitude. “To the needy, he was a friend,” says an account written at the time of his death. “To the poor young man who listened to his instructions without the ability to compensate him at the time, he was not a hard master; but left them to consult their own time in remunerating him for his services.”

In 1830, Hitchcock was made an instructor in the science and practice of law in Yale College. This appointment, it should be understood, gave him merely a title of academic honor, for there is no evidence that he ever taught in the College. The law school, the scene of his constant effort, was still to all intents a separate, private institution. Further recognition came to him in 1842, when the Yale degree of Doctor of Laws was conferred upon him. For some years before his death he was engaged in the preparation of a work on contracts, but despite the desire of Little & Brown to publish it, it never saw the light.

In 1843, the degree of Bachelor of Laws was first conferred by Yale College. The initiative for this step was taken by Hitchcock in the following communication dated August 6, 1842:

To the President and Fellows of Yale College
The undersigned would respectfully represent
That from various sources of Information he has learned and believes that the Law Department of the College fails to secure the attendance of many students who enter Law Schools elsewhere, because other institutions confer the degree of
 Bachelor of Laws upon their students at Law, while Yale College has conferred no degrees in Law except the honorary degree of Doctor of Laws upon distinguished individuals. If equal advantages of Instruction are enjoyed at different Institutions the expected honor of a degree determines the choice of the student. The schools of Law at Yale and Harvard were about equal in numbers until the latter College began to confer degrees, since which time their pupils have rapidly increased, and without any other apparent cause. If it is desirable that a Law Department should be, in any way, connected with the College, it is quite important that such department should not be greatly inferior in numbers and respectability to like Departments in other Colleges. Occasionally also, some restraint upon those who are pursuing professional study, beyond the mere influence of public opinion, or the wish to obtain an instructor's regard, would be salutary. If a favour is sought to be received from the Government of the College, conditions may be prescribed which, while they are not onerous, may secure correct deportment toward all who are officially concerned, and raise the standard of attainments, and of moral conduct, in the candidate for a degree.

With these views I would respectfully present for consideration the accompanying sketch of regulations referring to the above particulars with the wish that the Corporation would act upon the subject at their next meeting.

Samuel J. Hitchcock

On August 16, 1842, referring specifically to Hitchcock's proposal, the Yale Corporation approved the plan, and directed that the specified degree be conferred "on such students in the School, as shall during the year be found to have the qualifications required." The regulations submitted by Hitchcock were given verbal revision during the year, and on August 15, 1843, were adopted by the Corporation as follows:

Voted in regard to the Law Department:
1. Membership. Graduates of a College, or those who have been honorably dismissed therefrom are admitted upon proba-
tion upon satisfactory evidence, that they received their degree or dismissal not more than one year previous to their admission. But no person shall be admitted to attend on the lectures or other courses of instruction in the Law School, who has been expelled or disgracefully dismissed from Yale College. Those who have been graduated or honorably dismissed for more than one year and all other applicants must produce testimonials of good moral character. After a residence of three months, and on proof of regular attendance, commendable proficiency, and continued good moral character, the student may be admitted to matriculation.

2. Degrees. Matriculated Students who attend all the exercises of the department and fall under no censure as to College deportment after eighteen months membership, if liberally educated, or two years if not, and upon passing a satisfactory examination may be admitted to the degree of Bachelor of Common and Statute Laws. Those who are members of the School and perform their duties in like manner for one year after their admission to the Bar may be admitted to the same degree. Those who are members for a period which does not entitle the student to a degree, and perform their duties in like manner, shall be entitled to a certificate signed by the President and the Professor of Law.

College dues. The Graduation fee shall be four dollars [paid] to the President and the common fee to the Secretary beside diploma, to be furnished by the student.

VI

When Staples moved to New York City in 1824, he took with him most of his law books. What he did not take, books especially suited for school work, Hitchcock bought from him. These books, with others which belonged to Hitchcock, supplemented by books loaned by Daggett, made up the school library in 1824. Thirteen years later, Hitchcock bought these latter books from Daggett at a cost of $325.75. Steadily throughout the years until his death in 1845, Hitchcock added to his
collection, always at his own expense. The total cost of the 2,260 volumes which he eventually owned was $7,736.55.

It was Hitchcock's books to which the law school announcement of 1826 referred when it said that “students are furnished with the use of the elementary books, and have access, at all times, to the college libraries, and to a law library, comprising very important works both ancient and modern.” Law books in the Yale College library according to the *Catalogue of Books in the Library of Yale College* (pp. 39–42) published in 1823, numbered about one hundred volumes, most of them books for the general student rather than the lawyer. These could not be depended upon for the regular work of the school. When the announcement refers to “very important works both ancient and modern,” it is distinguishing between law treatises, on the one hand, and law reports and statutes, on the other. Of the latter, Hitchcock at first possessed few. Of treatises he continued to purchase many, but not enough to justify the substitution of the word “every” for the word “very.” This inadvertent typographical change appeared first in the announcement of 1827, crediting the library with possessing “every important work both ancient and modern.”

An announcement which is found in all of the catalogues from 1831–32 to 1837–38, when it was dropped without explanation, is the following:

Arrangements are making and nearly completed, by which the students can at all times examine the Statute Laws of each State in the Union, and all the reported cases which have been published in this country.

“The explanation of this announcement,” wrote Professor Henry Wade Rogers (*The Yale Shingle*, 1912, 27
p. 59), "probably lies in the fact that it was expected that the State Bar Library in the Capitol at Hartford would be removed to the State Capitol at New Haven. But this expectation was doomed to sad disappointment. The union of the New Haven and Connecticut colonies had been reluctantly consented to by the former, and as a measure of conciliation, two Capitols were established, one at New Haven, and one at Hartford. This arrangement lasted from 1701 until 1873, when Hartford was made the sole capitol. But the State Law Library was always at Hartford, although in the early thirties there was a scheme on foot to remove it to New Haven."

This particular plan fell through, but nevertheless, the catalogue of 1843-44 not only offered access to "every important work, both ancient and modern," but said that "the law library contains the Revised Statutes, the Reports and the Digests of all the States in the Union." These new accessions were purchased by Hitchcock.

The library, private as it was, was used not only by students, but by members of the bar, under the following simple conditions:

**LIBRARY RULES**

Members of the Law School cannot be permitted to take the *Reports* and *Digests* from the Library.

Personal application must be made for permission to take away any other book excepting the text books, which are read and recited in the school.

Gentlemen of the Bar who borrow books, are requested to leave their address in the place from which they take a book.

These rules are necessary, to make the Library equally useful to all.

The textbooks referred to were standard works required to be read by students, for whom copies were
provided. They were loaned to the individual students for extended periods, as shown by a receipt, which has been preserved. From this "charge card" we learn that Theodore W. Dwight of the class of 1841, who afterwards became famous as the head of the Columbia College Law School, on January 12, 1841, borrowed from Hitchcock the following books, Blackstone's *Commentaries*, Swift's *Digest*, and Wheaton's *Selwyn*. These he retained until August 15, 1842, when according to the receipt, he returned them. Of such books, when an inventory was taken in 1845, Hitchcock's library contained many copies. For example, he owned of Blackstone's *Commentaries*, thirty sets; of Chitty on *Pleading*, thirty-four sets; of Cruise's *Digest of Real Property*, twenty-five sets; of Starkie on *Evidence*, eighteen sets; of Swift's *Connecticut Digest*, thirty sets; and of Wheaton's Selwyn on *Nisi Prius*, twenty-four sets.

VII

The importance of the part which Hitchcock's library played in the history of the law school cannot well be overemphasized. It was the chief argument by means of which a closer connection with the College was brought about in 1846. After Hitchcock's death, it was frequently said that the school would have to be discontinued unless the library was acquired from his estate for the use of students. The local bar was also vitally interested and took an active part in the events which transpired. Henry White, executor of Hitchcock's will, procured an appraisal of the library, and offered it for $4,227.55, to the instructors then active in the law school, namely William L. Storrs and Isaac H. Townsend. These gentlemen suggested that the offer be made to Yale College. We may surmise that conferences ensued in which the question of
funds was prominent, and that the advice of leading members of the bar was asked. They responded by starting a subscription list for the purchase of the library. Storrs and Townsend then presented to the Prudential Committee of Yale College their formal proposal in writing, dated December 23, 1845. Six days later, December 29, Henry White, the executor, gave the Committee the terms on which he would sell the library. So matters stood until the following August, while the amount of the subscriptions was being augmented. Then, on August 11, 1846, came a resolution adopted by the Corporation of Yale College authorizing its Prudential Committee to proceed with the purchase of the library, applying the subscribed amounts to the purchase price, and setting up a plan for amortizing the sum necessary to be advanced to the law school by the College. On the same date the Corporation adopted a resolution, introduced by the Reverend Leonard Bacon, by which the law school was recognized officially as a department in the College “for special instruction in the science of law.”

The first three of these documents, telling in detail the story of the purchase of the Hitchcock library, are printed below:

PROPOSAL OF STORRS AND TOWNSEND

The death of Judge Hitchcock, & the consequent necessity of a disposition of his Law Library, present the situation of the Law Institution, which was under his charge, as a matter deserving of the serious consideration of those in any manner interested in the subject, & have suggested to the undersigned (who are now engaged in the instruction of the Law Students,) the propriety of presenting to the Prudential Committee of Yale College their general views as to the course most expedient to be taken.

The Law Library has hitherto been the individual property
of the principal Instructor, & there has been no direct connexion between those engaged as instructors of the Law School & the College. Every thing has thus far been conducted in relation to the School with the best understanding with the College, & it is believed, to the mutual satisfaction of both, as well as for the best interests of Education generally. There is no particular reason to think that this would not be the case in future. Yet it is easy to see that, unless steps are taken to guard against it, embarrassments may possibly arise from the want of a more immediate connexion between the School & the College; and the present is deemed an auspicious time to consider the subject.

As the Study of Law is one of the proper branches of a University education, we deem it very important that facilities for pursuing it should always be at the command of the College, independent of the will or control of any individuals. Those facilities consist mainly of a good Law Library. That is always indispensable. Others in connexion with it may, if not possessed, be supplied by temporary means until permanent ones can be furnished. But without a Library the Law School cannot flourish.

The College, if it owns a Library, can always immediately & properly supply Instructors for any vacancies which providentially or otherwise may occur.

It may also be suggested that a Library would be the foundation for farther endowments, by furnishing a motive for those having the ability, & feeling interested in the welfare of the College generally & the Law department in particular, to add, by donations, to the means of that branch of instruction; while nothing of this kind is to be expected in aid of merely individual enterprize.

It is therefore deemed by us to be of great importance that the College should become the proprietor of a Law Library; & in our opinion none more complete than the present one, as far as it extends, can be procured.

Having obtained a Library, the College, will have the means itself of continuing the Law School in the manner which is considered the most judicious.

The particular manner in which the School should be regulated is left entirely for the decision of the College authorities,
who are fully competent to devise the best plan for conducting the Law Department.

But, without intending to be officious, & having, as we trust, mainly in view the best interests of the College, we would take the liberty of adding a further suggestion on this point.

If the College furnish the use of the Library for the Law Institution, it is proper & just that it should have a supervision of the Institution, including the appointment of its Instructors, the terms of their engagement, the direction as to the course of study & the observances of the Students, with the testimonials to be furnished to them, & the terms on which they are to be granted.

Perhaps this Supervision could best be exercised by a Law Faculty, to be appointed by the College Corporation, to consist of the President, the Professor of Law, & such other Professors of the College or Instructors of the Law School, or both, as it shall be deemed best to associate with them for that purpose.

With the Library & such a Board of Supervision, the College would be in a situation to maintain, improve, & carry forward successfully the Law Department.

If these measures should be accomplished, the minor details connected with the subject, such as the necessary additions from time to time to the Library &c. may be safely left for subsequent adjustment.

New Haven, Dec. 23, 1845.

To the Prudential Committee.

HENRY WHITE TO THE PRUDENTIAL COMMITTEE

Gentlemen,

As executor of the late Judge Hitchcock, it has become my duty to sell his Law Library. As soon as the Inventory of the Library was completed, I thought it my duty to offer it first to the present Instructors of the Law School; and at their suggestion and request I now offer to sell it to Yale College. I am informed that these gentlemen will present a communication to the Prudential Committee which will contain their views of
DAVID DAGGETT'S HOUSE ON ELM STREET
the importance of the Library to the College in its relation to the Law School. I would therefore merely express my own increasing conviction of the value of the Law School to the general interests & standing of the College, and of the necessity of the Law Library to the prosperity of the Law School.

The Library of Judge Hitchcock has the reputation of being the best private law library in the country—and of not being surpassed by any public Law Library in actual utility to the student & lawyer.

It has been selected with much labor and discrimination during the whole course of his professional life and is very complete in all works of practical utility to the student & professional man.

The number of volumes including text books is 2,260 and it has been apprised by Dennis Kimberly Esq. & E. C. Herrick Esq. at $5,227 55/100. I will sell it to the College as a whole at a deduction of 1,000 dollars from the above appraisal, payable at any time within ten years in such instalments and at such periods as the College may prefer—with annual interest on the part of the price unpaid. If there are any books of which the College now possesses copies, such may be rejected at the option of the College and their value diminished from the appraisal in the same proportion, deducted from the above price.

Should the Prudential Committee decline this offer, I wish not to be considered bound by it at any future time, although I do not propose to sell the library as a whole for any less sum than the price above named.

I Remain

Very Respectfully

Your obt. sert.

Henry White

New Haven Decr. 29, 1845

Executor of S. J. Hitchcock decd.
RESOLUTION OF THE CORPORATION
August 11, 1846

Whereas generous subscriptions have been made, chiefly by gentlemen of the legal profession, to purchase the Law Library of the late Honorable Samuel J. Hitchcock, that the same may be the foundation of a Law School in Yale College,

Resolved that the Prudential Committee be authorised to complete the negotiation with the executors of the last will of the late Judge Hitchcock, and to apply the subscriptions which have been or may yet be made for that purpose, to the purchase of said library, at such a price and on such conditions, as may seem to them reasonable and expedient. Provided that the whole income, whether derived from payments made by the students for the use of books, or from subscriptions for the use of books by the members of the legal profession, shall be devoted if necessary to the payment of the interest of the debt contracted by the purchase, and that such portion of the excess of the income over the interest as may be determined on from year to year by the Prudential Committee, shall be applied in payment of the principal till the debt shall be extinguished.

Resolved that when the Library shall become the property of the Corporation it shall be deposited and kept apart from the general library of the College, in a place convenient for both the instructors and students in the Law Department now to be established, and for those gentlemen of the bench and of the bar who by their subscriptions towards the purchase of the library, have acquired the privilege of using it, and that the library with the additions which may hereafter be made to it by purchase or gift shall be known as the Law Library of Yale College.

Resolved that each of those gentlemen who have paid or shall have subscribed and paid not less than one hundred dollars, severally, towards the purchase of the library, shall have during the continuance of his life the privilege of freely consulting the books in the library and of using, in any court in the City of New Haven, during the trial of any cause in which he is engaged as counsel or attorney, such books in said library as may be needed in such trial; and that the same
privilege shall be conceded to annual subscribers of ten dollars each, during the payment of such annual subscription.

Resolved that a committee on the Law Library be appointed, one by the Corporation, one by the Faculty of the Law Department, now to be established, and one by those gentlemen who have subscribed each one hundred dollars or more, for the purchase of the library, which Committee shall devise and recommend to the Corporation such further rules and arrangements as may be requisite to the ends for which the library is purchased and to the convenience of the parties concerned.

Resolved that one-eighth of the fees paid by students in the Law Department annually shall be for the use of the library, and that when the debt contracted by the present purchase shall have been discharged, the entire income from this source, and from the subscription of members of the legal profession, after defraying the necessary expenses of custody, insurance and repairs, shall be appropriated to the enlargement of the library.

The concrete result of these exchanges was, according to the treasurer's report of 1848, that Hitchcock's library was purchased at a cost of $4,188.65, of which sum $2,070 had then been subscribed, the remainder, or $2,118.65, being carried in the report as "balance due the college." In the following years, interest was regularly charged on this balance, by which circumstance and by further borrowings for the purchase of new books, it gradually increased in amount, even though some new subscriptions were made, and even though, at first, one eighth of the receipts from students was credited to the law library account. By 1873, the "balance due to the College," had grown to $4,233.73. The next year it stood at $4,286.38, but then it was recorded in the treasurer's report as a College receipt, being labeled "old debt cancelled." A report to the alumni dated June 1, 1873, gives the probable explanation for this cancellation, when it
acknowledges subscriptions for the benefit of the law school totaling about $12,000. Chief among the contributors were William Walter Phelps and Henry C. Kingsley. This sum is not to be confused with the James E. English fund of $10,000 established in 1873, the income only of which was to be, and still is, used for the support of the law library. The Hitchcock library thus finally became an unencumbered possession of the law school. The estate of Hitchcock had been fully paid in 1846, and the principal and interest of loans by the College had now been discharged.

VIII

The public career of David Daggett, the third of the men whose books are included in the Founders’ Collection, is so well known that only a brief summary of it is needed to serve as a background for his law-school activities.

Born at Attleboro, Massachusetts, on December 31, 1764, he entered the Junior class of Yale College in 1781, at the age of sixteen. While a student, he supported himself by serving as butler for the College, and by holding a preceptorship in the Hopkins Grammar School. After his graduation in 1783, he studied law in the office of Charles Chauncey in New Haven, and was admitted to the Connecticut bar in 1786. He was a representative in the Connecticut legislature from 1791 to 1797, and again in 1805; from 1797 to 1804, and from 1809 to 1813 he was a member of the Council. From 1811 to 1813, he was state’s attorney for New Haven County, and from 1813 to 1819, United States senator. All of these accomplishments were to his credit when he joined Hitchcock in the conduct of the law school in 1824. During the twenty-three years of law lecturing that followed, he also was associate justice of the Connecticut Superior Court.
(1826–32), mayor of New Haven (1828–30), and chief justice of the Connecticut Supreme Court of Errors (1833–34). He was twice married, first to Wealthy Ann Munson (daughter of Dr. Eneas Munson), by whom he had nineteen children; and second, to Mary Lines, daughter of Captain Major and Susanna (Mansfield) Lines. He died in New Haven, on April 12, 1851, at the age of eighty-seven.

Daggett really lived four separate careers, that of lawyer, judge, statesman, and teacher. The purposes of the present sketch permit dealing in detail with the last only, although nothing could be more fascinating than the story of the bitter political quarrels in which his strong Federalist views embroiled him. Despite this emotional bias, it is said by Lynde Harrison (Atwater's *History of New Haven*, p. 244) that

his success as a lawyer was due to his innate knowledge of human nature, his sound judgment, and his strong common sense. He abounded in wit and humor, and had at command a fund of anecdotes to illustrate his positions and arguments. His manner of speaking was calm and deliberate. His knowledge of the law was thorough and eminently practical. He had no patience with hair-splitting technicalities, which were the delight of many lawyers in the days of the older common law practice. His punctuality was extraordinary, and his integrity was thorough, stern and exact. He was very familiar with the Bible, and frequently used its strong and popular language in his arguments, and even in his charges to the jury when he was a Judge.

Only three men taught in the Staples–Hitchcock–Yale law school from its inception to the year 1842. The periods of their respective service in the school were:

Staples, 1800 (?)–1824
Hitchcock, 1820–1845
Daggett, 1824–1847
Between 1842 and 1847, three other men served as teachers, Isaac H. Townsend (1842–47), William L. Storrs (1845–47), and Henry White (1846–47). Daggett, antedating them by many years, and ending his service by retirement when they did in 1847, was the connecting link between the school of the founders and the school which is now Yale Law School.

On November 10, 1824, Samuel J. Hitchcock wrote as follows to Staples, just established in his new quarters at 35 Pine Street, New York City:

Mr. Daggett began his labours in the School on Monday. He takes hold well. We hope you will send us some students from N. York by and by. There will be one, and perhaps two lectures a week delivered.

Staples and Hitchcock may well have wondered whether Daggett would “take hold” in the way that they knew to be necessary, for he was already sixty years old and to him teaching was a new venture. Apparently it was intended to break him in gradually, and in as comfortable surroundings as possible, for his one or two lectures a week were at first given in his own residence. This house stood on Elm Street, not far from the corner of Temple, where the Trowbridge house later stood, between the present Public Library and the Court House. Later he took on more work and shared substantially in the financial returns of the school. Hitchcock’s account books show that payments of $50 and $80 were made to him from time to time, and that in March, 1837, it was agreed that thenceforth he should receive $700 a year. Since he continued to lecture until his eighty-third year, it is not surprising that his lectures became stereotyped, but even then the fascination of his personality carried him through. Evidence of this fact is contained in
the recollections of one of his later law students, quoted by Woolsey:

He lectured every morning immediately after Judge Hitchcock's recitation, and the lectures on constitutional law (which were also delivered before the seniors in college) were made very interesting, because his experience in the Senate and intimacy with many of the founders of the Republic, supplied him with many anecdotes which he told with much gusto. He had been a decided federalist, and delighted in giving an occasional slap to Mr. Jefferson, whose character and career were at that time the subject of much discussion in the debating societies of the college and the law school.

His good humor, readiness at repartee and crusty mode of summing up his sentiments in a few words, made him always more interesting in conversation than in the lecture-room. His lectures on the common law, which were read from well-worn manuscripts, were not as interesting. He had been so long out of practice that he had not kept up with the later decisions, and the substance of them was contained in Swift's Digest. *(Historical Discourse, pp. 17-18.)*

**IX**

It will be recalled that from 1801 to 1810, Elizur Goodrich was professor of law in Yale College. After Daggett had been an instructor in the law school for two years, the professorship of law in the College was revived, and he was, in 1826, appointed to fill it. He signaled that honor by notifying President Day, on October 30, 1826, that he proposed to "attend worship at the College Chapel at least in part. I presume I can be accommodated with a pew," he wrote. "In mentioning it this morning to Mr. Twining, he observed that it belonged to the President to direct. The seat which I have occupied occasionally for the last two years would accommodate me in future. With your permission, I will occupy it hereafter as one of the officers of the College."
The new academic professorship in no way affected his connection with the law school. The only relation between the two activities was that, as has been seen, he gave the same lectures on constitutional law to both bodies of students. As a College officer, he received no compensation. The announcement of the law school in the College catalogue for 1826 (see ante), and in later catalogues to 1830–31, states that "the Professor of Law will also for the present, occasionally deliver lectures to the Senior Class in College, until arrangements are made for a systematic course to be permanently continued." In 1831–33, the announcement says that he will lecture to Seniors during the first and second terms, once in each week, and in the 1833–34 catalogue, the information is added that he will also hear recitations in Kent's Commentaries. This latter was a welcome task to Daggett, for he said of Kent's Commentaries, "this work I cherish with more affection than any other except the Bible and Shakespeare." There was, however, another reason for taking on more regular duties in connection with the College.

This reason is set forth in the following letter dated April 4, 1833:

To the President and Fellows of Yale College.

The Subscriber respectfully represents, that in September 1826, he had the honor to receive the appointment of Professor of law in the College. Since that time, he has delivered lectures to the Senior Class, once in each week, during the principal part of the fall and winter terms in each year. It was then understood that the funds of the College would authorize no salary, and he has, of course, received no emolument. At the Commencement in August last, it was known that a subscription was on foot to raise $100,000 for the College; and it was then suggested that there ought to be some emolument provided for this professorship, as the subscriber has understood,
but it was thought not expedient, as the project might fail of success. The subscription was completed on the first of December last: and as that day occurred near the middle of the time of rendering the services, he presumes the Corporation will deem it just that whatever emolument shall be allowed, it ought to be considered payable at that period. The subscriber further represents that there is appropriated by direction of the donors, to this fund the sum of seven thousand five hundred dollars. absolutely, and the further sum of Fifteen hundred dollars. if the Corporation should approve of the destination, for the professorship of law.

The undersigned is a subscriber to that fund of $1000, payable in four equal annual payments, commencing on the first of January last. He presumes that the first payment ought to be considered as made on that day by his services the current year. He is not desirous to receive any money from that fund for past or future services, but is willing to perform the duties of the office, & to add recitations to his lectures, as the Corporation or faculty may direct, so long as he shall continue in office & shall be able to officiate in the College, & on those terms he believes it reasonable that no part of his subscription should be demanded of his estate, in case of his inability to perform those duties. The subscriber would further take the liberty of suggesting that the Professorship thus established should be called the KENT Professorship of law in Yale College: and that some gentleman be requested to deliver an address on an early day of the next term on its establishment.

David Daggett

The fund of $100,000 referred to is the Centum Millia Fund, still carried in the University treasurer's annual reports with a principal of $82,950, and with the following description:

Established in 1832 from subscriptions received in the first movement for raising a large amount for general endowment. Of the $100,000 subscribed, the above amount ($82,950) was given on condition that the Corporation should hold the amount and use the income only for the general purposes of
Yale College. The balance has been distributed among the various departments for which it was subscribed.

As indicated by Daggett, part of this fund was subscribed to support the professorship of law, and it is interesting to note that it was Daggett's suggestion, after the money had been raised, that the professorship of law should thenceforth be known as the Kent professorship. Consequently the treasurer's annual reports still list the James Kent Professorship of Law in Yale College, supported by a principal sum of $6,600. According to the arrangement suggested by Daggett, he took on additional duties in the College, thus paying off his subscription of $1,000 to the Centum Millia Fund; but at the same time he agreed to serve without any further compensation while he retained the professorship. His final suggestion was that some gentleman be requested to deliver an address on the establishment of the professorship under its new name. The gentleman selected was Judge Daggett himself, as shown by a letter to him, dated August 3, 1833, from Professor Benjamin Silliman, then secretary of the Centum Millia Fund. The date set for the address was the evening of August 20, 1833, the day before Commencement, and the occasion was the annual meeting of the alumni of the College. "As we have no longer to detail our poverty," wrote Silliman, "a short statement from the Pres. of our success and of the general condition of the college will suffice, and we should hope that your address may be the first in a series to go on at that meeting year after year, upon appropriate topics." The address, containing an eulogium of Chancellor Kent, was accordingly made by Daggett. Despite its subject and the nature of the occasion, it provoked a bitter editorial attack in the *Columbian Register* of August 24.
Judge Daggett made a great impression on his students. Woolsey refers to his striking features, aquiline nose, small clothes and silk stockings, "his courtesy toward all, and that expectation of respect from others which belonged to the gentlemen of the former time." Donald G. Mitchell (Ik Marvel) remembered him on the streets of New Haven, "serene in his top boots." In another place, he affectionately described him more in detail. After referring to other professors of his own college days, he wrote in 1882:

Still more distinctly ... I have in mind the lithe old gentleman with the springy step and the eager, eagle-like look, which his great Roman nose made vivid, who talked to us of Kent, his Commentaries, and of the wide realms of law. He was fast verging on eighty in those days, yet erect and agile, and his voice sonorous. He was bravely outspoken, too, and his political affiliations—for he brought senatorial dignities with him—shone out in little swift gleams of satire that garnished his law talk. He had been judge, senator, and chief justice, and we stood in great awe of him. "Young gentlemen," I think I hear him say—he was always courteous—"Young gentlemen, for more than fifty years I have been engaged in courts and offices of law, and in all that long period I have met with many and many an instance where parents have despoiled themselves for the benefit of their children; but scarce one child, scarce one [a little louder] who has despoiled himself for the benefit of his parents." No figure of the old college days is more present to me than that of this active, brisk, erect old gentleman, in small clothes and in top boots, he being the last, I think, to carry these august paraphernalia of the past along New Haven streets. He picked his way mincingly over the uneven pavements, tapping here and there with his cane, rather to give point to his reflections, I think, than from any infirmness; bowing pleasantly here and there with an old-school lift of the hat; full of courtesies, full of dignity, too; and a perfect master of deportment.


43
When Judge Daggett was eighty years old, he attended the sixty-first anniversary of his graduation from college. This was on June 4, 1844. In a class album for the year 1844, someone made a sketch of Daggett as he then was. An enlarged reproduction of this sketch now hangs in the office of the Yale law librarian. The original sketch was signed by Daggett, and provided by him with a maxim which perhaps should be taken as the guiding rule of his life. It reads: *Via trita est via tuta*, the beaten path is the safe way.

The story of the Founders’ Collection—that is, of the extant volumes which formerly belonged to the Hitchcock library—is, as has been seen, inseparable from the history of the law school, as well as from the lives of the Founders, Staples, Hitchcock, and Daggett. Thus the narrative has reached the year 1847. The subsequent history of the school is another story, as is also that of the Yale Law Library developing from the nucleus provided by Hitchcock. The migrations of the books from the year 1847 to the present should, however, briefly be traced.

After the death of Hitchcock in 1845 and the retirement of Daggett in 1847, the books, having been purchased for the school, as has been related, remained in the Hitchcock building, until the completion of the Leffingwell building, on the adjoining lot, on the northeast corner made by the intersection of Church and Court Streets. This building, the first floor of which was occupied by Heublein’s Cafe, was completed in 1850. In this structure, beginning in that year, the law school rented quarters on the second floor in the rear, paying a rental of $300 annually. To this place, therefore, the Hitchcock
library was moved. There it remained until the year 1873, when the school moved into specially equipped rooms on the third floor of the Superior Court House, now known as the City Hall annex. In April, 1895, it moved again, with the school, to Hendrie Hall, and from there, in May, 1931, to its present resting place in the Sterling Law Buildings.

In these many years, the school passed through great vicissitudes, in all of which Hitchcock’s books shared and suffered. That they should have dwindled in number from the original 2,260 volumes is therefore not surprising. It has been noted that the library contained multiple copies of those books which were used as texts and which were loaned to students year after year for their required reading. Such books received hard usage and for the most part were worn out and discarded. Only a few of them have come down to us.

Other classes of books suffered for other reasons. The charging system by means of which members of the bar took away books, leaving their names and addresses on the shelf where the volumes had stood, was subject to great abuses. There was little money to spend on binding, and unsupervised use of books led to injuries that could not be repaired. In 1869, as recorded by Professor Woolsey, “it was found that many sets had become mutilated, that quite a number of books had disappeared, and that others were hardly fit to be used.” In later years, many of the Hitchcock volumes were reconditioned, in which process the flyleaves containing marks of original ownership were removed. To identify these positively, so that they may be added to the present Founders’ Collection, is difficult. Enough remain and have been identified, nevertheless, to make an interesting collection. Undoubtedly more volumes will eventually be found, as
checking is continued, by means of Hitchcock’s own
catalogue, which fortunately has been preserved.

The Founders’ Collection, in April, 1935, including
forty-eight volumes which have not physically been
transferred to it, subdivides itself, according to the
criterion of original ownership, into the following groups:

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<td>International law</td>
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| Total               | 386 volumes |

Included among them are Grotius’ *De Jure Belli ac Pacis*, 1650; Bracton’s *De Legibus*, 1569; five folio Year Books containing cases for Ed. II, i–19, Ed. IV, i–22,
H. IV, H. V, Ed. V, Rich. III, H. VII, H. VIII; Rolle’s *Abridgment*, 1668; Viner’s *Abridgment*, 1791–1806; Beawes’ *Lex Mercatoria Rediviva*, 1761; and Domat’s *Civil Law*, 1722. Valuable as are these and other volumes in the collection, it is not chiefly for their intrinsic value that we now prize them. Rather it is because of their associations with the Founders and with the long succession of students that have used them. Evidence of wandering thoughts, of budding poetical fancy, of the incipient artist among the students of long ago, appears in them, contrary to approved library regulations, in the form of scribblings, sophomoric verse, and pencil sketches of professors and fellow students. There are dated lists of students present at classes, names of students who read some of the textbooks, anecdotes probably jotted down while listening to lectures, and comments on the professors themselves. All these notations are now preserved as records of voices which spoke in the past, sometimes giving advice to students of the future. Such was the intent of a member of the class of 1867, when he wrote the following in Hoffman’s *Chancery Practice*:

Gentle Reader:

Peruse this volume well. It is somewhat old, but nevertheless it is sound law. The immortal class of ’67 went through it in one week.

_Sic gloria transit mundi._
The Printing-Office of the Yale University Press
Patrons of the Yale Law Library

The Executive Committee of the Yale Law School Association, on June 18, 1934, created a Committee on Yale Law Library Patrons, the objects of which are:

(1) To promote the interests of the Yale School of Law through development of its Library, both as a working collection for students and as a research center for legal scholars.

(2) To promote the interests of all other schools and departments of the University, by providing in the Law Library legal materials useful in their respective fields.

(3) To promote the interests of law alumni throughout the United States, by providing in the Law Library sources of information on the history and development of international law, foreign law, and Anglo-American law.

In recognition of contributions of money for Law Library purposes, and of books and manuscripts for the Law Library, the Committee will form honor lists of those interested in the Law Library, designating them as:

(a) Patrons of the Yale Law Library, when they give $100 or more to the Yale Law School Association for Law Library purposes, or give to the Law Library needed books of approximately the value of $100 or more.

(b) Sustaining Patrons, when they choose to give to the Yale Law School Association, for Law Library purposes, from $25 to $50 annually.

(c) Contributing Patrons, when they choose to give to the Yale Law School Association, for Law Library purposes, from $5 to $25 annually.

Sustaining and Contributing Patrons will become Patrons when their annual contributions amount to $100.

Funds contributed to the Committee are kept by the Treasurer of the Yale Law School Association in a special account deposited with the Treasurer of the University.

Checks, made payable to Yale University, should be sent to the Secretary of the Committee.

Frederick L. Perry, LL.B. 1897, Chairman*
James W. Cooper, LL.B. 1929, Secretary*
John A. Hoober, LL.B. 1891
Edwin F. Blair, LL.B. 1928
Sidney W. Davidson, LL.B. 1918

*205 Church Street, New Haven, Conn.