METHODS OF INSTRUCTION IN THE LAW SCHOOLS.

The following article, written by Dean Henry Wade Rogers, was read at a meeting in December of the men in all classes at Yale University who are interested in or expect to study law:

I am asked to state for the benefit of undergraduates of the Academic and Scientific Departments at Yale the methods of law instruction used in the Yale, Harvard, and Columbia Law Schools. I take pleasure in complying with the request.

The law schools of the United States have used three methods of instruction. The earliest method employed was that of lectures. In the famous old Litchfield Law School, which was founded in 1782 in this State and was the first law school established in this country, the instruction was by lectures. In those days there were few law books that were suitable to put into the hands of law students. Such books as there were had been written for practicing lawyers and not for those who were beginning the study of law. Instructors had to lecture because of the lack of suitable books. The lecture system continued to be very generally used for many years, and as late as 1876 it was the sole method of instruction in many of the important law schools of the United States. To-day there are very few schools which use it as the exclusive method, and not many in which any great use is made of it even in connection with other methods. Lectures are used to some extent still in many law schools. Lectures are given in the Yale, Harvard, and Columbia Law Schools. The practice of these three schools is not materially different in this respect. There are few distinctive lecture courses in either of them.

A second method of instruction is that through text books. This method was employed years ago both at Yale, Harvard, and Columbia. It came in time to be known as the "Dwight method," getting the name from Theodore W. Dwight, who was the head of the Columbia Law School for many years. That school was really built up by him, and while it was not nearly as old as either the Yale or Harvard school, dating only from 1838, it became for a time the largest law school in the East. But the so-called "Dwight method" did not originate with Dwight. He was trained in the Yale Law School and adopted the method of instruction used here, and his admirers gave his name to it.

A third method of instruction is known as the "case system." The law is studied through the study of cases which have been decided by courts of last resort. The decisions of the courts and the statements of facts are taken from the official reports and put into the form of case books for the use of students. The case method originated with Professor Langdell, being introduced into the Harvard Law School by him in 1870 when he became the dean of that school. It was at first known as the "Langdell system." It was not received with much favor at first and it made its way slowly. The Harvard Law School was not large when Langdell took hold, and for a number of years afterwards it continued small. But when Harvard University celebrated its two hundred and fiftieth anniversary, the Harvard men united to push the law school into prominence, and the case system was heralded as the ideal method for students of the law. That much can be said in its favor is now undisputed. It has decided merits. A comparatively small number of students, but good ones, use it as an exclusive method of instruction. A larger number, also good, use it in combination with either lectures or text books.

When Seth Low became the head of Columbia University he introduced the case system into the law school of that institution about 1892, and it has been employed ever since at Columbia, as at Harvard, and to the exclusion of text books. The reorganization of the Columbia Law School which this involved caused a great loss in the number of its students—a loss which has never since been made up.

The system of instruction now used at Yale cannot be said to be either the case or the text book system. It is a combination of both. It differs in this respect from that used at Harvard and at Columbia. The two latter schools make no use of text books in the classroom work. The Yale law faculty by no means deny the value of the study of cases, and they make a very considerable use of case books. They do not, however, concede that the case system should be employed to the exclusion of text books. Men trained under the Yale system, we believe here, acquire a more extensive knowledge of the law than men can secure by simply studying individual cases. But we concede that the case system has great merit in that it develops the legal mind and teaches the student to reason and to draw him in becoming a philosophical lawyer. For that reason we make use of it at Yale, and a very free use of it; and we claim that a man trained under the combined text book and case system of Yale obtains the benefit derived from both sys-
Observations Here and There.

“Even in the law, the whole generally includes its parts,” said Mr. Justice Holmes, in Western Union Tel. Co. v. Kansas, 216 U. S. 53.

“There are endless diversities in the opinions of men.” Per Mr. Justice Wayne, in Dodge v. Woolsey, 18 How. (U. S.) 331, 357.


“The mere fact that a witness was in the habit of drinking beer does not affect his credibility.” Lockard v. Van Alstyne, 155 Mich. 507, 518, 120 N. W. Rep. 1, 5, per Montgomery, J.

“Every judicial as well as political system has its disadvantages, as well as advantages.” Per Yeates, J., in McCausland v. McCausland, 1 Yeates (Pa.) 372, 378.

“In some cases, marriage likens itself to the veritable mouse trap, which is ‘easier to get into than out’.” Per Mr. Justice McCadam, in Keyes v. Keyes, 6 N. Y. Misc. 355, 26 N. Y. Supp. 910.


“The lawyer who temporarily leaves an established business to take a wedding journey does not cease ad interim to be a lawyer.” Per Weaver, J., in Niemeyer v. Chicago, etc., R. Co., 143 Ill. 129, 133, 121 N. W. Rep. 521, 522.

“Ninety-five reasons are given why a new trial should have been granted the appellant in the court below.” Indianapolis St. R. Co. v. Taylor, 30 Ind. App. 592, 80 N. E. Rep. 436, affirming the judgment of the court below.

“If a joint-keeper in any city thinks the jail there worse than in other cities, the law will permit him to move his business to wherever he can find a jail that is satisfactory.” Per Mr. Justice Graves, allowed in Wichita v. Murphy, 78 Kan. 859, 861.

“A fleshy woman has a right to ride on a train and to have a valise and parcels, and she is entitled to more time for alighting than might be required for a foot-racer or a greyhound.” Per Mr. Justice Scofield, in Pierce v. Gray, 69 Ill. App. 153.

“The latter day system of reporting merely the decisions of the court, without the arguments of counsel, is not a good one. The great value of the old reports is that the arguments of counsel were fully reported.” Per Meredith, M. R., in In re Abbeyleix R. D. C., and White, (1909) 1 Ir. Rep. 217.

Many of our readers will probably feel that some judges less eminent than Lord Chief Justice Alverstone might profitably follow the example set by him in the Guildhall, L. R. Prob. Div., (1908) 29, 34, where he said: “This case has given me a great deal of difficulty; but I think it is important that I should give judgment whilst I have a clear recollection of the arguments and the facts.”

“If attorneys have not yet learned of this obvious proposition by its wearisome repetition in so many cases, it would seem to be of no use to state any principle of law in the decisions of the court.” Smith v. Chicago, etc., R. Co., 236 Ill. 369, 86 N. E. Rep. 151, per Chief Justice Cartwright.

“Experience has shown that the failure to call as a witness in his own behalf a defendant charged with crime, so far from being evidence of neglect or lack of professional skill in counsel, is usually founded upon considerations of prudence which are too obvious to require justification.” Per Werner, J., in People v. Bowser, 198 N. Y. 286, 28 N. E. Rep. 818.

“If I had to give an account of a transaction six years old, and I gave a particular date as certain, I should begin to suspect myself. No doubt if a transaction is alleged to have taken place on a festival, such as Lady Day, Patrick’s Day, Christmas Day, Easter Sunday, or Good Friday, it would be different.” Per O’Brien, L. C. J., in McCarthy v. Fitzgerald, (1909) 2 Ir. Rep. K. B. D. 457.

“It is not right that the lives of hundreds of persons should be placed in peril for the convenience of a single foolhardy man, who desires to walk upon the track. In England it is a penal offense to be found unlawfully upon the track of a railroad. It would add materially to the public safety were there a similar law here.” Per Mr. Justice Paxson, in Mulherrin v. Delaware, etc., R. Co., 81 Pa. St. 365, 375.

In North Chicago St. R. Co. v. Louis, 36 Ill. App. 477, 478, Judge Gary carried an hypothesis of contributory negligence back somewhere near the Tristam Shandy’s starting point.