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THE BEGINNING, FLOURISHING AND DECLINE OF THE INNS OF COURT: THE CONSOLIDATION OF THE ENGLISH LEGAL PROFESSION AFTER 1400

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> Wherever the common law is studied and practiced [the Inns of Court] must be regarded as the original fountainhead of the law, toward which the true lawyer must feel as a Jew does toward Jerusalem and a Mussulman towards Mecca.

The four Inns of Court—Lincoln's Inn, Gray's Inn, the Middle Temple and the Inner Temple—may well be called one single legal university composed of four relatively independent colleges. In their long and illustrious history these Inns have discharged important functions in the domains of legal education and professional discipline. As the depository of splendid professional traditions which date back to the Middle Ages, they were for a long time the guardian as well as the gateway to the higher English Bar.

The origin and history of the Inns of Court, their relation to each other and to the English legal profession, and their subsequent decline, pose some puzzling problems which often do not admit of a precise or uniform answer. This paper, however, will attempt to clarify some of the following questions: When and under what conditions did the lawyers of England move into common dwelling places or Inns? Why did they cluster together in a strip of land which was surrounded on the south by the River Thames, on the east by the old City of London, on the north by the suburban village of Holborn, and on the west by Westminster? When did these common dwelling places assume the character of organized societies or institutions? What were the regulations which bound together the members of each society, and how was the society administered? What was the constitutional position of the Inns of Court towards each other and towards the English Bench and Bar in general? What was the social life in the Inns like and what was their educational system? How did they acquire the right to admit people to practice before the higher courts of England? And finally, what factors contributed to their ultimate decline?

The Coming of the Lawyers

The Royal Rescript of 1292, which is also referred to as *De Attornatis et Apprenticiis,* among other matters had also mentioned *addiscentes* (or *apprenticii*).[1] This reference indicates that outside the small

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1. See the section on "Apprentices" in Chroust, *The Legal Profession During*

circle of practicing *narratores* or *attornati* there existed by the end of the thirteenth century a number of "apprentices" or "learners of the law" whose presence as well as status was duly noticed by the Crown and by the courts. It must be presumed that these apprentices acquired a knowledge of the law by attending court sessions in order to observe what transpired at the Bar. For the study of law was still in its classical stage: a man learned to master a profession by associating with practitioners and by observing practice. But this is only another way of saying that around the recognized and successful legal practitioners of that time there congregated a number of young men who intended some day to become legal practitioners themselves. These were probably the *apprenticii* who by the year 1292 must have been sufficiently numerous and conspicuous to merit official recognition.

During term time, it may be assumed, these apprentices flocked to London (or Westminster) from all parts of the realm in order to attend the sessions. In the beginning they probably lodged in various places in or around London, often with practicing lawyers. Somewhat later, it appears, a party of apprentices, perhaps with the aid of an established legal practitioner, got together and formed a kind of association or club. Sharing a common interest, they might have jointly leased an urban or suburban mansion which they turned into their "headquarters." In this they were probably influenced by the example set by the Chancellor who in 1312 had been enjoined to establish a *hospitium* where the Chancery clerks were expected to live and work together.[2] They may also have followed the practice established at the universities (Oxford and Cambridge), which were only a little their seniors, by taking together "commons" or the principal meal of the day.

These joint dwelling places of the apprentices were soon referred to as *hospitia* (or inns), and it may be assumed that in these *hospitia* there prevailed the same spirit of good fellowship as could frequently be found among mediaeval students in English as well as continental universities. Like the halls of Oxford and Cambridge, these *hospitia* were both living quarters and study centers. Perhaps at the request of the landlord or lessor these associations of apprentices named one of their members as the person responsible for the conduct of all other members. In due course this person might have become the "head" of the society. It is also possible that a group of apprentices formed around a "master" who brought together his charges in one

the Middle Ages: The Emergence of the English Lawyer Prior to 1400, Part 3, to be published in 32 NOTRE DAME LAW. (March 1957.)

2. This particular *hospitium* is probably the basis of the later Inns of Chancery.

dwelling place where he headed the group and directed its studies. Perhaps these associations already devised "readings" and "moots" meant to acquaint the apprentices with the intricacies of contemporary English practice. Thus as early as 1366 Wilby and Skipworth informed counsel in court: "We have never heard that exception being taken, though it is common enough among the apprentices in the Inns."

It is also safe to surmise that from the first there were grades or degrees of legal apprentices. There were older and more experienced men who already might have practiced law. These older men, it seems, would assume the control of the younger men; they would take pupils "whom they housed, educated and controlled." Perhaps even some of the judges dwelled in these *hospitia,* at least during term time. Naturally, there were also younger men or "students" who were taught by their elders, and who in return assisted the elders in some of their work by acting as their clerks. It was at the *hospitia* that the learners and the learned talked law, and it is not improbable that the experienced men occasionally staged a moot for the benefit of the inexperienced men or perhaps for their own amusement or for the purpose of rehearsing a case. From the very beginning, therefore, these *hospitia,* and later the Inns of Court or Inns of Chancery, possessed the main features of the life in a mediaeval university, based upon the procedures observed in the mediaeval guild.

Early in the fourteenth century, in the year 1322 if we are to credit one account, a group of legal practitioners and apprentices, who probably came from Holborn (Thavie's Inn?), rented from Thomas, Earl of Lancaster (he was executed in 1322), part of the old Knights Templars' buildings which later became the Temple. During the reign of Edward III (1327-1377) "certaine of the reverend professors of the Lawes . . . obtained [a further] lease in this Temple . . . to pay yearly ten pounds." Thavie's Inn, from which perhaps the new tenants of the Temple originally came, must have been a very old and probably the oldest lawyers' colony in Holborn. John Thavie, the owner of this mansion, was a reputed armourer who died in 1349, the year in which another group of lawyers and apprentices moved from his house to the Temple. In his will he refers to lawyers who formerly had been his tenants, but had gone away. This might be a reference to that group of lawyers which during the time of Thomas of Lancaster had moved to the Temple. Thavie's Inn, however, as one of the Inns of Chancery attached to Lincoln's Inn, continued to house lawyers and apprentices for another hundred years, and probably longer. Subsequently, during the reign of King Henry VII (1457-1509), "it was purchased for the students and professors of law of chancery by the teachers of Lincoln's [Inn]." A record of the year 1345 states that the widow of Robert Clifford in that year leased her house, which

later was named Clifford's Inn and became attached to the Inner Temple, to a group of *apprentices de banco* for ten pounds annually. It is also known that Furnival's Inn was a lodging place of lawyers and apprentices prior to 1400, as was Staple Inn. It may be surmised that during the fourteenth century a company of lawyers took over the palace of the Bishop of Chichester and the mansions of the Earls of Lincoln and the Barons Grays (or Gray) of Wilton.

It should be noted here that during this period the terms "inn" or "hostel" (*hospitium*) had not yet acquired the narrow meaning attached to the word "inn" (hotel, tavern) in modern times. The designation of inn for tavern dates back to about the year 1500. Hostel or inn formerly meant the grand mansion of a Grandee, or the house of some governmental body. Lincoln's Inn originally was the mansion of a Thomas de Lincoln, a kings' serjeant who rented this place to a law society, while Gray's Inn was the abode of the Barons Gray of Wilton. The Inner Temple[3] and the Middle Temple formerly were the *hospitium* of the Order of the Knights Templars whose property had been sequestrated early in the fourteenth century.

The origin of the Inns of Court, like the origin of many mediaeval universities, however, is still obscure. As early as 1234 or 1235, and probably long before that time, there existed in the City of London "law schools."[4] But we know practically nothing about these schools, how they operated, what they taught, or who attended them. In the year 1235 King Henry III ordered that no master (*regens*) of a law school should in the future be permitted to teach law in the City. This order was not necessarily directed against the teaching of civil (Roman) law or canon law, as some scholars have maintained, and hence, part of Henry's policy to curtail ecclesiastic influences on the English legal profession and the administration of justice in the realm. In 1235 a great famine and pestilence ravaged the City, causing the death of reportedly 20,000 people. The closing of the London law schools, therefore, might have been a sanitary precaution, related to this disaster, rather than a policy move.

Also, about the year 1224 or 1225, King Henry III fixed the Court of Common Pleas at Westminster, a western "suburb" of London which, however, was not a part or a quarter of the City itself. These two incidents, namely, the establishment of a central court near London and the closing of the London law schools may have had something to do with the subsequent emergence of legal *hospitia*, the forerunners of the famous Inns of Court, between London and Westminster. The presence of the court, at least during term time, had

3. The Inner Temple was so called because while in the possession of the Templars it lay inside the London City boundaries.

4. We know also that law (Roman and canon law) was taught at Oxford and Cambridge.

the effect of bringing together in one place the majority of the leading legal practitioners from all parts of the realm, who thus were compelled to find suitable living quarters for the duration of the sessions. Such quarters were probably established in various dwellings between London and Westminster, in a strip of territory which was surrounded on the east by the old City of London, on the west by Westminster, on the north by Holborn, and on the south by the River Thames. At the same time the "masters of law" and the students, who had been disbanded by the fiat of Henry III, also had to find new quarters. Having been driven beyond the boundaries of the City, they established their new abodes outside the city wall where the royal order of 1234 or 1235 apparently had no force, but where they were still as near as possible to the City itself and to the courts at Westminster.

About the year 1300 the country village of Holborn was connected with the Thames River by a lane. This lane was flanked by the mansions of the Bishops of Chichester, one of whom, Ralph Neville, was Chancellor of England. Hence it was called Chancellor's Lane, later corrupted into Chancery Lane. Near Chancery Lane was also the abode of the Knights Templars, while the manor houses of the Barons Gray of Wilton and of the Earls of Lincoln were around Holborn. It was in this vicinity that the earliest legal *hospitia* were established. In the course of the fourteenth century the Earls, Barons, and Templars disappeared. The lawyers and the apprentices, who for some time had been living in and around Holborn, gradually took over their mansions. In this manner the practitioners and the apprentices were brought together in the same location and, probably, in the same living quarters, especially since suitable dwellings outside the city gates were few. Perhaps as early as 1300 there existed already a number of small colonies of lawyers and "law students" midway between London and Westminster. Waterhous has aptly described this situation: "It is probable at first hand that men that studied the Common Laws dwelled and lodged in diffusion, where being far from the Courts of Westminster and uncertain to be found by those who desired their skill and advice, they to avoid that trouble to themselves and to their clients, did associate and join their studies and lodgings . . . all of the Profession resorting to the common residence, and so making one public presence of Law and Lawyers. After they increased, men of name, withdrawing themselves for convenience and better air,[5] as their clients followed them, so also young Students, admirers of them, joined themselves to them, till at last by time and agreement they grew into some proportion of a body, which had so much of

5. Fortescue maintains that these lawyers' colonies were established outside the City limits because within the City "the turmoil of crowds might disturb quiet study."

head and members, Lawes and Servants, as are necessary to the subsistence of Honour and the perpetuation of Being." This description is matched by the statement of Fortescue that the Inns are "set between the place of the . . . Courts [at Westminster] and the City of London which of all things necessary is the plentifullest of all the cities and Towns of the Realm. So that the said place of study is not situated within the City where the confluence of people might disturb the quietness of the students, but somewhat several in the suburbs of the same City and nearer to the said Courts that the students may daily at their pleasure have access and recourse there without weariness."

Coming originally from the City, the earliest societies of lawyers and apprentices probably brought with them the guild system which appears to have flourished in London. The mediaeval guild, as we know, was a voluntary association of persons practicing the same calling for mutual assistance, common worship, and the protection of the craft and its members. Undoubtedly, the Inns or *hospitia* were the abodes of such societies, and their basic constitutions were very similar to that of the Livery Companies for which London was famous. These Companies consisted of a governing body composed of the Masters, Wardens, and the Court of Assistants (who had a right to nominate their successors), liverymen with considerable privileges, freemen with lesser privileges, and apprentices who were learning the trade of the guild.

It has also been suggested that the lawyers and apprentices who settled in these Inns, especially in the Temple, adopted some of the customs and traditions of the old Knights Templars. This would perhaps explain why the life at the Inns fairly bristled with title and ceremonial which recall the ancient Order of the Knights. Like the Templars, the apprentices (barristers) dined two and two in messes of four in the single Hall. They had to keep "commons" which was a sort of monastic life. The waiters at the Inns were called panyer men, a designation which was derived from the *panarius* of the old Knights. And like the Templars the members of the Societies hung up their coat of arms in the Hall where they dined.[6] Also, the sounding of the horn at dinner time in the Temple is said to go back to the Knights Templars who used horn signals to summon the brethren to peaceful commons in the Hall, to set the watch in the field, and to give the signal to charge the enemy. Likewise, the Templar custom of keeping silence during meals was preserved at the Middle Temple.

6. It has also been suggested that the designation serjeant was derived from the *fratres servientes* of the Templars. The coif, too, may have been a link with the Templars.

Tradition as well as historical evidence has connected many prominent lawyers of the fourteenth and early part of the fifteenth century with one or the other of the great legal Societies which went under the name of Inns of Court. But the surviving records have little to say about the development of the original lawyers' colonies from the comparatively obscure and humble *hospitia* to the organized institutions of the Inns of Court with their renowned names and recognized authority. This lack of more definite information compels the historian to rely on much conjecture and analogy when discussing the emergence of the Inns of Court. Three facts, however, seem to stand out: first, during the fourteenth century the Common Law of England was becoming more systematic, more scientific, and, hence, could be taught; second, by the end of the thirteenth century a distinct class of apprentices had officially been recognized; and, third, in England as well as on the Continent there existed a number of well-established universities which might have furnished the model for these Inns of Court. When reliable sources become more plentiful and regular, we find that the four Societies already are in a fairly advanced state of development and operation. It should be noted, however, that the four great Inns, as they emerged from relative obscurity during the fifteenth century, were quite different from the earliest *hospitia*. They were, one may surmise, the products of the realization that purely informal associations of practitioners and apprentices in rented houses without much organization were a constant source of disorder and, hence, as at Oxford or Cambridge, stood in need of stricter discipline and better supervision.

When early in the fourteenth century the Order of the Knights Templars was dissolved in England and their property sequestrated, the site of the present Temple passed to the Crown. In 1312 King Edward II granted it to Aymer de Valence, Earl of Pembroke, who in turn surrendered it in 1314 to the King's cousin, Thomas, Earl of Lancaster. Upon the attainder of Lancaster in 1322 it reverted once more to the Crown. The King again granted it to the Earl of Pembroke who held it until his death in 1324. Edward II then bestowed it on Hugh le Despencer. On Hugh's attainder it reverted again to the Crown. As a result of a Papal decree of 1324, these lands were transferred to the Order of the Knights Hospitallers in return for a contribution of one hundred pounds for the French war.[7] The lawyers and apprentices, who about the year 1320 had "made composition with the Earl of Lancaster for lodging in the Temple," apparently had remained there ever since. The Hospitallers seem merely to have

7. Part of the land of the Templars was situated outside the boundaries of the City of London (the Outer Temple), and part inside. Only the latter part was rented to the lawyers and apprentices by the Knights Hospitallers in 1347.

continued to lease the place to this Society. In any event, according to the Patent Rolls of 1347 (20 Edward III), the Temple was leased to "professors and apprentices of the law" who, it appears, had moved in from Thavie's Inn in Holborn. This, in turn, would indicate that a number of "minor inns" or lawyers' colonies (*hospitia*) already had existed some time before they moved into the Temple. When in 1539 the Order of the Knights Hospitallers was dissolved, the Temple once more reverted to the Crown. In 1609 the Crown granted to the two Societies (Inner Temple and Middle Temple) those parts of the Temple which they had occupied since the fourteenth century for an annual rent of ten pounds. In 1673 the two Societies purchased the property outright.

The division of the Temple into Inner Temple and Middle Temple is still shrouded in mystery, and it is impossible to ascertain whether from the first the Temple was leased to two distinct Societies, or whether it was originally occupied by one Society which at a later date split into two separate Societies.[8] The first reference to the Middle Temple dates back to the year 1404; and the so-called Paston Letters refer to the Inner Temple (or Inner Inn) as early as 1440, and to the "Mydill Inne" (Middle Temple) in 1451. William Petyt, the antiquarian who was also Treasurer of the Middle Temple of 1701, places the division of the Temple in the reign of King Henry VI (1422-1461), by which time the lawyers "were multiplied and grown into soe great a bulk as could not conveniently be regulated into one Society . . . whereupon they were forced to divide themselves." Another theory suggests that the rebellion of Wat Tylor in 1381, which did much damage to the Temple, was the occasion for much rebuilding and the commencement of the division. But this partition of the premises was so haphazard that in some buildings the residents of the ground floor were members of one Society, while the occupants of the first floor were members of another. Only in 1732 was an elaborate deed of arrangement and partition between the two Temples prepared. This deed became the lasting and decisive authority in determining what belonged to either Society.[9]

The manor of the Barons Gray (or Grey of Wilton or de Wilton) was close to Holborn, just beyond the western wall of the City of London. It was held by the Grays from the Dean and Chapter

8. The theory that the Temple Society split into two Societies at some later date, is open to challenge. The buildings erected by the Templars originally included two Halls, so that there was always accommodation for two separate societies of lawyers. Also, the Middle Temple and the Inner Temple exhibit serious differences in their constitutions. This would suggest that the two Societies had separate origins. Another theory about the division of the Temple is that in the year 1337 an inquisition was held, and a division made between the consecrated and nonconsecrated lands of the Temple.

9. The official records of the Middle Temple begin in 1501, while those of the Inner Temple date from the year 1505.

of St. Paul's Cathedral. These facts appear from an inquisition made in 1308, after the death of Reginald, the first Baron of Gray, and from a grant by letters of patent to the Prior and Convent of St. Bartholomew, made in 1315 by John, second Baron Gray. An inquisition of the year 1370 shows that the manor house with its appurtenances had been leased by one of the Grays to a tenant or tenants, as a *hospitium.* A further inquisition, held before the end of the fourteenth century, indicates that a number of persons had been enfeoffed of the place under the name of "Greysyn" (Gray's Inn). From all these incidents it appears that at some time between 1315 and 1370 the manor house of the Baron Gray had become a *hospitium* for practitioners and apprentices of the law. This information is further corroborated by a document which divulges that the house of the Grays "was taken in the reign of King Edward the Third [1327-1377] by the gentlemen and professors of the Common Law"; and further support is given by the account of Simon Segar's *Readers of Gray's Inn* which lists Sir William de Skipwith, who died in 1359, as the first Reader at Gray's Inn. Also Yelverton, who had access to documents now lost, stated in 1589 that Gray's Inn was founded "two hundred years ago at least." The Paston letters confirm that the Society was the tenant of the Gray mansion in 1454. In 1456 Reginald, Baron Gray, granted the property to Thomas Bryan, a member of the Inn, and others in fee. Subsequently this Thomas, by deed of release, became its sole owner. In 1493 it was transferred to Sir John Gray of Wilton, Reginald Brudenhall, and others; and in 1506 it passed to Hugh Denys and several members of the Society. After Hugh's death it was sold in 1516 to the Carthusian house at Shene in Surrey; but in 1539, at the dissolution of the monasteries, it passed to the King who leased it in fee farm to the Society.[10]

The origin or origins of Lincoln's Inn are especially difficult to ascertain. One theory suggests that the Earl of Lincoln was, if not the founder, at least the patron of the Society which originally had its abode in Thavie's (Thavies', Davies', or Thavy's) Inn, situated opposite the mansion of the Earl. When Thavie's Inn grew too small, the Society extended first to Furnival's (Furnivall's or Funivall's) Inn and then to the palace of the Bishop of Chichester, retaining, however, the name of its founder or patron. This theory has been rejected by some scholars and replaced by another and probably better theory, namely, that about the middle of the fourteenth century a king's serjeant of the name Thomas de Lincoln owned some property in Holborn, known as "Lyncolnesynne," and that this property was the earliest dwelling place of the Society of Lincoln's Inn. Subsequently this property was

10. It seems that Staple Inn and Barnard's Inn were attached to Gray's Inn in the middle of the fifteenth century.

conveyed to the Abbot of Malmesbury who leased it to the Society for an annual rent of eight pounds. Since the property fell into a bad state of repairs, this rent soon was reduced to four pounds. Perhaps it was the ruinous condition of the property which compelled the Society to move into the mansion of the bishops of Chichester who had abandoned it after 1412. By 1422 the Society of Lincoln's Inn had occupied the episcopal mansion. The freehold of the Chichester property, sold by the Bishop in 1536, was eventually bought in behalf of the Society in 1580.[11]

The Constitution of the Inns of Court

The relation of the four Inns of Court to one another may best be defined as one of absolute equality. No precedence, priority, or superior antiquity, at least not officially, is, or was ever, conceded to or claimed by any one Inn over the others. It is safe to assume that they were of the same or nearly the same age. This conclusion derives much support from the fact that they have always shared equally the exclusive right of admitting men to the Bar. It seems highly probable that, when the Inns acquired this right, they were substantially co-equal in antiquity and prestige: *Nihil prius et posterius, nihil majus et minus.* In their equality they formed a single "legal university" with co-equal jurisdiction, powers, and privileges. They were, as Shirley stated in 1633, "the four equal and honourable Societies of the Inns of Court." The complete equality of the Inns is conclusively pointed to by a dispute which in 1620 arose between the Inner Temple and the Middle Temple. After some discussion it was resolved that there was no difference in the matter of antiquity—"both the Temples being one congregation of gentlemen, between whom there never was any precedence in anything."

There were no royal charters of incorporation of the Inns of Court, such as the universities or colleges were receiving from one sovereign after another to guarantee their future existence through the centuries. Everything connected with the constitution was quite haphazard and tentative. We do not know whether the customs and usages acted upon by the members of the different Societies were ever formulated or reduced to writing. If any code of rules for the government of these Inns ever existed, it is lost to us. Though not incorporated by charter or statute, each Society was a sworn brotherhood; and although the Inns of Court were independent Societies, they had probably gained their powers and influence by the good will of the judges. In a way they remained liable to heed the reasonable orders issued by the judges who, in their desire to organize and regulate

11. The official records of Lincoln's Inn, the so-called Black Books, begin in 1422.

the legal profession of England, exercised a sort of visitorial or supervisory jurisdiction over these Inns. Seldom, if ever, would the Inns object to such orders, for, as a rule, they only contained regulations affecting the conduct, education, and qualification of the members of the Societies. But these orders, which frequently had been made with the consent of the Benchers and Readers, rarely interfered with the customs and traditions of a Society, or with any of its internal affairs. Whenever these directives encroached upon the autonomy of the Inns, especially when they interfered with the freedom of election to the rank of Bencher by the recommendation of favored candidates, these directives were accepted good-humoredly, especially if they had been made in the public interest.

The legal position of the Inns of Court has no exact parellel in the English system of law. In this respect they held a unique place among the other institutions of the Realm. The English courts have always refused to interfere with the relations of each Inn to its members. In *King against the Benchers of Gray's Inn* (1780), brought by one William Hart who moved the Court of the King's Bench for a writ of mandamus to compel the Benchers of Gray's Inn to call him to the Bar, the court held that the Benchers of the several Inns of Court were the sole authority by which the rank of barrister could be conferred. On that occasion, Lord Mansfield, presiding, stated that "the original institution of the Inns of Court nowhere precisely appears, but it is certain that they are not corporations, and have no constitution by charter from the Crown. They are voluntary societies which for ages have submitted to Government analoguous to that of other seminaries of learning."[12]

The independent manner in which each Inn of Court governed itself becomes manifest in the great many orders and rules dealing with either the social life of its members or its educational system. The rules which attempted to regulate the social life among the members were mostly concerned with the payment of commons and other fees, dress, general deportment, and discipline. They also dealt with

12. The earliest reported case concerning the constitution of the Inns of Court is the *Boorman* case. Boorman, a Barrister of one of the Temples, had been disbarred. Subsequently he applied for a writ of restitution. This writ was refused, because, said the court, the Inns of Court are not corporate bodies but only voluntary societies submitting to government. The ancient and usual redress for any grievance in the Inns of Court was by appeal to the visiting judges. It was mentioned in the *Townshend* case as settled law that no mandamus would lie to the Inns of Court. In the case of *Rakestraw v. Brewer,* the principle was recognized that the courts will not interfere with the internal management of the Inns. It was laid down that a bill in equity will not lie to redeem a mortgage of chambers in the Inns of Court, but that the plaintiff must apply to the Benchers of the Societies, though it is otherwise if the Benchers refer the plaintiff to his remedy in equity. When this case was appealed, the court held that all the disputes and controversies which might arise in the Inns of Court concerning chambers must be terminated by the Inns themselves.

the finances of the Inn and the management of its property, as well as with the supervision of its collegiate activities. The orders as to the educational system regulated the Readings, Moots, Bolts, and other exercises, as well as the dates and times when they must be held. There were regulations concerning the duties of Benchers, Readers, Barristers, and students; concerning the persons whose attendance at the Readings, Moots, Bolts, and exercises was compulsory; concerning the penalties for non-attendance; and concerning the conditions which must be satisfied before a person could be called to the Bar. Since the educational system of the Inn to a large extent depended upon the continued residence of its members during Term Time and during Learning Vacations, orders were issued as to the "keeping of commons."

In their "constitutions" and functions the four Inns of Court were more or less alike. In practice, the complete powers of self-government were vested severally in each of the four Inns. These powers which, like the Inns themselves, had grown organically, were hallowed by long practice. The Inns had no particular statutory privileges. By a system of joint committees they maintained a common policy for which there was no sanction. In the early days each Society was made up of "Fellows." The governing body of the Inn consisted of the Benchers.[13] This body was self-perpetuating and co-optative, occasionally electing to its exalted ranks as and whom it chose. But, as a rule, it would select some of the most distinguished senior (Utter-) Barristers, who had served as Readers and who were deemed to be "the most ancient, grave, and judicial men in every Inn of Court." All the property of the Inn was vested in the Benchers, and their orders were binding upon all members of the Society. Offenders against their orders could be punished by fine, by forfeiture of their chambers, by expulsion from the Hall, by dismissal from Commons, or by final expulsion from the precincts of the Inn. These punishments, curiously enough, closely resemble those inflicted by the Knights Templars on disobedient brethren.

The Benchers were called "the most worshipful Masters of the Bench (*magistri de banco*)"; they dined at the head table in the Hall on a dais. From whence they derived their powers, and who vested them with their special authority, is not known. Presence on the Bench followed seniority at the Bar. At Lincoln's Inn the meeting of the Benchers for the transaction of official business was called "Council"; in the two Temples it was referred to as "Parliament," while at Gray's Inn it was called "Pension." The meeting of the Benchers, which was also a legislative body, constituted the government of

13. So called because they occupied the top bench in the Hall.

the Society. This government was responsible to none, but in practice it was never unmindful of the wishes and opinions of the general body of members who sat in the Hall below the Benchers. The meetings of the Benchers were held at fairly regular intervals. During the reign of Queen Elizabeth I (1558-1603) we also encounter elected Associates to the Bench, that is, Masters of the Bench who had no voice, place or seat in the assembly of the Benchers, but who took the Benchers' place in the Moots. Associates to the Bench became those Utter-Barristers or Ancients, who after having paid a fine for the omission of their Readings merited this promotion on account of their age, skill and dignity.

The Treasurer *(Thesaurarius)* of each Inn of Court was elected to hold office for one year only by his fellow-Benchers by rotation in order of seniority.[14] As a rule he presided at the meeting of the Benchers,[15] and he was the spokesman and chief official of his Inn. He had the power of admitting members to the Society, although later he had to secure the consent of the Benchers, except during Reading Time when the Reader made the admission. The treasurer also received payment of all admittance charges and fines, and he enjoyed dispensing powers in matters of admission fees and fines, a power which he frequently exercised arbitrarily. In addition, he managed the general finances of the Society, and he paid out the wages of the house servants. He also was charged with the maintenance of the buildings. None of the four Societies was rich or possessed anything in the nature of regular revenues from accumulated funds. There were the receipts from "commons," from admission fees, and from fines levied on members for failure to comply with certain regulations. The Houses just managed to "pay their way" by levying occasional taxes or contributions (pensions) on their members whenever the necessity arose. When special expenditures had to be met, recourse was had to the generosity of individual members who either donated sums of money or advanced the required amount in the form of a loan. Thus Sir Thomas More lent money to his Inn (Lincoln's Inn) to build its great gateway. But in the main the various Houses led a rather precarious hand to mouth existence depending upon the dues payable by the members, dues which were generally in arrears.

At the close of his year of office the Treasurer rendered an account of his receipts, which was audited by two senior Benchers.[16] At Lincoln's Inn the office of Treasurer dates back to the year 1455 when

14. There were instances, however, when this office was held by re-election for a much longer period.
15. It seems that originally the Treasurer had no vote in the assembly over which he presided.
16. In the Inner Temple two Benchers and two Utter-Barristers were chosen for that purpose.

Thomas Umfrey was elected "to receive all receipts of the Treasury." But despite the title of his office, the Society's property was not vested in the Treasurer. Neither was it incumbent on the Treasurer to take proceedings to recover the Inn's property. The Middle Temple also had an Under-treasurer who at first was elected annually, but later became a permanent official.

In the Inner Temple there existed also the special office of Governor *(gubernator)* to which the Benchers appointed three or four of their number. This board acted as a sort of Executive Committee of the Bench in all matters relating to the internal affairs of the Society. The office of Governor, which was abolished after 1566, was unknown at the other Inns of Court.

The chief instructor at the various Inns of Court was the Reader *(lector)*, a personage who was highly important and, at the same time, somewhat mysterious in the collegiate life of the Inn. During his term he had precedence over the Benchers, and enjoyed certain privileges. Among other things, at least during Reading time, he also determined the admission of new members to the Society. He was selected by the Benchers from among the Utter-Barristers, and his office was the immediate step to admission to the governing body of the Benchers. Readers were chosen "for their learning and their duly keeping the exercises of their House, for their honest behavior and good disposition and such as for their experience and practice be able to serve the Commonweal." The chief duty of the Reader, which was an onerous one, was to conduct the official Readings. He was required to read or lecture a specified number of times on legal subjects, and to preside over the Moots. These Readings, which were continued over a period of two or three weeks, were delivered during the Lent *(quadragesima)* and Summer *(autumnalis)* vacations. They were followed by a general discussion and occupied three or four hours every day during vacations. While the Readings continued, the Reader was also expected to give several sumptuous banquets, the staggering expense of which could be afforded by no one but very rich men.[17] Many Barristers shying at these expenses preferred to evade the rank of Reader by paying a heavy fine, the penalty for refusing to accept the appointment to a Readership.

At the Middle Temple an unusual feature of these Readings were the Cupboardmen who attended the Reader. These Cupboardmen, of whom four were appointed for each Reading, were senior Utter-Barristers who had not yet served in the office of Reader. They were stationed at the Cupboard during the Reader's discourses, ready to

17. Originally the cost of these feasts seems to have been borne by the Society, but later the Reader himself had to provide for them out of his own pocket.

argue points of law arising from these lectures. The first or senior Cupboardman seems to have had a claim to be chosen next Autumn Reader. If he refused this office, he had to pay a heavy fine; and the option passed on to the second, and, failing his acceptance, to the others in the order of seniority or "antiquity." A Cupboardman who refused to read ceased to be eligible to serve as Cupboardman in the future and lost the opportunity of becoming a full Bencher. The system of appointing Cupboardmen was adapted to maintain the tradition of Readership, for according to this system any Reader elect had already thoroughly familiarized himself with his forthcoming duties. Cupboardmen were unknown at the other Inns. At the Inner Temple, however, it was a practice to appoint regularly two senior members of the Inn to act as Assistants to the Reader during his Readings. These Assistants, no doubt, discharged a similar duty as the Cupboardmen by debating points of law for the edification of the listeners. Cupboardmen who failed to attend at the Readings for which they had been chosen, were fined. Also, they were not permitted to discharge their duties by proxy.

Below the rank of Reader were the Utter-(Outer) Barristers (or outward barrysters).[18] They were "such that for their learning and continuance[19] are called by the . . . Readers to plead and argue in the said house doubtful cases and questions[20] which among them are called motes [Moots], at certain times propounded and brought in before the said Benchers or Readers, and they are called utter-barristers for that they, when they argue the said motes, sit uttermost on the forms, which they call the Barr; and this degree is the chiefest degree for learners in the house next to the Benchers; for of these be chosen and made the Readers in all the Inns of Chancery, and also the most ancient of these is one elected yearly to read amongst them, who after his reading, is called a Bencher or Reader." It should be noted here that the term "Bar" does not relate to the court, but to a bar in the Hall of every Inn. A "bar" was set in front of the Benchers, who sat at the top of the Hall during a Moot, while the Barristers sat below the bar.

Below the Utter-Barristers were the Inner-Barristers or students (or clerks): "All the residue or learners [*scil.*, all those members of the Society who were not Benchers, Readers, or Utter-Barristers] are called Inner-Barristers, which are the youngest men, that for lack of learning and continuance are not able to argue and reason in these motes; nevertheless, whensoever any of the said motes be brought in

18. The term "barrister" does not come into general use until the sixteenth century.

19. *I.e.*, they had fulfilled all residence requirements, attended the Readings, and excelled in the Moots or other exercises.

20. These men had been called to the Bar.

before any of the said Benchers, then two of the said Inner-Barristers sitting on the said forme with the Utter-Barristers, doe for their exercises recite by heart the pleading of the said mote case in Law French, the one taking the part of the plaintiff, and the other the part of the defendant." The students were also called Clerks-commoners or *apprenticii ad legem* (apprentices of the law), although subsequently the term apprentice was applied to the whole body of lawyers below the rank of Serjeant. Broadly speaking, the position of an Inner-Barrister or Clerk was that of the law student of today. There is reason to believe that each Clerk after admission to the Inn became a kind of apprentice to an experienced senior Barrister. That some of the Clerks were rather uneducated appears from the fact that at one time a sort of grammar school was held at Lincoln's Inn. In 1556 it was decreed that "none was to be at Clerk's Commons unless he exercised himself in the Laws of the Land." The Clerks just described are not to be confused with the Barristers' Clerks who seem to have held a recognized position at the Inn. During the seventeenth century any Barrister of more than eight years standing was entitled to have such a Clerk. In 1523 these Clerks were licensed by the Benchers, none being allowed, however, "unless he can read and understand his Latin tongue, and can also write or intend to write."

In addition, there was a staff of paid servants in each Inn, such as the butler, who, at least at Lincoln's Inn, did most of the clerical work; the steward; the cook; the manciple; the porter; the laundresses; and other hired hands.

During the reign of Queen Elizabeth I (1558-1603) the system of the Inns of Court probably attained its fullest maturity. If the testimony of Sir Edward Coke may be accepted, this period produced a remarkable succession of able lawyers who came from these Inns. On two occasions during this reign orders were issued concerning the government of the Inns. In 1574 a set of rules dealt with the course of studies, calls to the Bar, and the qualifications for pleading in the Courts at Westminster. The second set of orders, which dates from the year 1594, dealt with the Readings, the Moots, and other exercises. The Readings still continued to hold the chief place in the educational system of the Inns, and the practice still prevailed of electing as Summer (Autumn) Reader a member who had not read before, and as Lent Reader one who had already done so.[21] After 1550, at least at the Inner Temple, every Reader was required to attend three Moots, and every Bencher not a Reader five Moots in each term, and six Moots in Michaelmas term. In 1596 final orders were issued concerning the formal Readings. The judges were empowered to direct that the Readers should be chosen for their learning and due keeping of

21. Hence the designation of Single Readings and Double Readings.

the exercises; that the Readers should continue these Readings for three weeks, thrice a week, and that they be assisted in their duties by the Benchers and Utter-Barristers, and that Double Readings should be held.

The Inns of Chancery

Aside from the four great Inns of Court, Fortescue also refers to "ten or more" inferior Inns which were called Inns of Chancery *(hospitia cancellariae)*. The origin of these Inns of Chancery likewise is difficult to ascertain. It may be assumed that when the original *hospitia* of the lawyers and apprentices became too small to contain all members of the society, the latter moved to more spacious quarters and, as in the case of Lincoln's Inn, transferred their old name to their new abode. In several instances the vacated premises were taken over by new societies of legal practitioners and apprentices. Wishing to be connected with the older and already established societies, these newer associations probably attached themselves to one of the four Inns of Court and in the course of time became the dwelling places of younger apprentices or students who expected some day to be admitted to one of the four Inns of Court. This seems to follow from Fortescue's statement that in his time the majority of the students in the Inns of Chancery were "young men, learning or studying the Original and Judicial writs, and . . . the elements of the Lawe, who, . . . after they have made some progress there, are admitted into the greater Innes . . . called the Innes of Court *(hospitia curiae)*."

There were two groups of these Inns of Chancery, one in the neighborhood of the Temple and the other at the Holborn end of Chancery Lane. In the course of time one or several Inns of Chancery became permanently attached to each of the four Inns of Court: to the Inner Temple, Lyon's Inn, Clifford's Inn, and Clement's Inn; to the Middle Temple, Strand Inn, New (or St. Mary's) Inn, and a third Inn of which even the name is now forgotten; to Lincoln's Inn, Thavie's (or Thavy's) Inn and Furnival's Inn; and to Gray's Inn, Staple Inn and Barnard's (or Mackworth's) Inn.[22] The attachment of different Inns of Chancery to one of the four Inns of Court also explains why the latter exercised some control over the former, although the exact nature of this control is difficult to define, as are the general and particular rules which applied to the relationship of the Inns of Court to the Inns of Chancery. This much, however, seems to be certain: the Inns of Court sent Readers, often accompanied by some Utter-Barristers to instruct the junior students in the Inns of Chancery. In addition, the Inns of Court appear to have had visitorial, supervisory and perhaps

22. Fortescue's remark that "there be tenne [ten] lesser houses or Innes and sometimes more" only emphasizes the fact that there was no apparent reason why new societies of this sort could not be foumded spontaneously.

even disciplinary powers over the Inns of Chancery.

The Inns of Chancery seem to have served as a sort of preparatory school for the Inns of Court. Hence it may be said that for some time the Inns of Chancery maintained towards the Inns of Court a position similar to that which Winchester School holds to New College at Oxford or Eton School maintains towards King's College in Cambridge. But the exact nature of this affiliation, as well as the time at which this affiliation took place, is not well known. It appears, however, that it was chiefly through the educational system that the Inns of Chancery were linked with a particular Inn of Court to which they were appurtenant. The Inns of Chancery looked to the Inns of Court for their Readers or Instructors, each Chancery Inn having a choice of three Utter-Barristers put forward by the Benchers who, if the Principal or Ancients of the Inn of Chancery failed to make a selection, themselves proceeded to an appointment. The Utter-Barrister so selected was under a duty to act, unless formerly excused on adequate grounds. As Reader at an Inn of Chancery he took precedence over the Principal of the Inn of Chancery, but he had no jurisdiction over matters of internal discipline of the Inn of Chancery. His duties, as defined in the year 1579, were "to keep the Readings and Moots according to the ancient orders heretofore therein used, that is to say, in the Terme Time to read the Tuesday and the Thursday and to keep the Moots on the Wednesday and Friday and in the Reading Times their Grand Moots and their afternoon Moots according to the ancient customs." Sir Thomas More was appointed by Lincoln's Inn to be Reader at Furnival's Inn, and Sir Edward Coke, a member of the Inner Temple, was made Reader at Lyon's Inn.

In this manner the Inns of Court supervised and directed the training of the inmates of the lesser Inns. Term by term, the most promising students in the Inns of Chancery, on the recommendation of the Reader, were promoted to the parent Inn of Court, although such promotion was by no means a matter of course.[23] This system appears to have lasted to the end of the Tudor period, but by the seventeenth century the Inns of Court ceased to take an active interest in the Inns of Chancery which subsequently were abandoned to the Attorneys. It also seems that by the end of the sixteenth century the habit of studying at an Inn of Chancery before joining an Inn of Court was generally discontinued.

Aside from the students, the Clerks who prepared the original writs for all the King's Courts also resided at these Inns of Chancery. The students copied these writs and thus acquired some elementary

23. Higher admission fees were charged at every Inn to students coming from an Inn of Chancery over which it had no control, than to students who came from one of its "own" Inns of Chancery.

knowledge of English law. With some possible minor exceptions, the Inns of Chancery differed in their constitutions in no essential particular from the Inns of Court. Each had its own Hall for meetings, moots, readings, and festivities, and each was presided over by a Principal. The main distinction between the Inns of Chancery and the Inns of Court was this: the Inns of Court could call men to the Bar and thereby confer upon them the privilege of pleading in the King's courts. This none of the Inns of Chancery could do, but it is not clear why they did not possess this power; for some of the Inns of Chancery seem to have existed before any of the Inns of Court. But the Inns of Court in some way acquired a preferred position, while the Inns of Chancery fell into the second rank. The Inns of Chancery maintained a corporate existence until about the middle of the eighteenth century when they ceased to exist as a legal institution.

In addition to the Inns of Court and the Inns of Chancery there existed two other Inns, one in Chancery Lane and the other in Fleet Street, which were inhabited by the Serjeants and the Judges, called Serjeant's Inns. The Serjeants, who formed a guild of their own, as well as any member of an Inn of Court who was promoted to the rank of serjeanty, ceased to belong to the Inn. Hence they moved to a new and separate abode. The origin of these Serjeant's Inns, like that of the Inns of Court or Inns of Chancery, is lost in the mists of antiquity. The Serjeant's Inn in Chancery Lane was occupied by Serjeants until the dissolution of the Fraternity in 1877.

Life at the Inns of Court

The life in any of the four Inns of Court centered around the Hall. Here their members received their education by attending the Readings, the Moots, and the Bolts. Here they lived in friendly intercourse with one another, sharing the gossip of the day or discussing whatever topic came to their mind, stood the censure of the Benchers for any infraction of a rule, or amused themselves. Here they met for breakfast, dinner, and supper, which they took in common.[24] "Hunting nights" in the Hall were regular institutions. A fox and a cat were chased by dogs amidst a crowd of excited spectators until they were caught and torn to pieces. Scenes of wild disorder occasionally ensued, and upon certain occasions "revels" and masques were held in the Hall. In short, the members of the Society passed a large portion of their lives in the Hall: they went to the Courts in Westminster, and they slept or studied privately in their chambers, as their rooms in the Inn were called, but for the rest of the day they were mainly in the Hall. The old chambers, which originally had no fire place, consisted

24. Later it became a habit to take breakfast in chambers.

of two studies and an inner room which was used as a sleeping place. One Bencher or two Barristers as a rule occupied each chamber. The proper dress was cap and gown, but contemporary fashion also made its influence felt: hats, cloaks, large lace ruffs, long hair, beards, spurs, swords, rapiers and daggers were introduced into the Hall only to be denounced by the Benchers.

To some classes of men the Benchers had a strong objection. Attorneys were soon refused admission, and there existed a strong prejudice against Irishmen. The latter were excluded from the Inns of Court during the fifteenth and sixteenth centuries. When they were finally admitted to the Inns, they were confined, at least at Lincoln's Inn, to a set of dismal chambers called the Dove House. The Inner Temple, on the other hand, seems to have been more favorably disposed to Irishmen. In any event, the records of this Inn show that they were admitted there as early as 1510, and Gray's Inn has long been regarded as the legal home of the Irishmen in London.[25] The loss of the ancient Statutes and records leaves it uncertain when it was first determined to exclude Irishmen from the Inns. It is presumed that this step was taken in consequence of the violent conduct of certain Irish students at Oxford University, resulting in the year 1422 in a petition for their expulsion. In 1437 Lincoln's Inn ordered that none of the "Wylde Irishmen" were to be admitted to the Society, and that those previously admitted were to be expelled. Irishmen were still regarded with suspicion in 1641, when King Charles I ordered the Inns to keep a close watch upon all Irishmen in the Societies. After the lapse of some time, however, the animus of the Benchers against the Irishmen seems to have abated.

Besides the Benchers, Readers, and Barristers, the Inns of Court, at least for some time, housed also Attorneys who by then had become professional men. The rapid increase in the number of Attorneys had made their regulation necessary. These professional Attorneys, who since 1292 were admitted and controlled by the courts, at least during the fifteenth and sixteenth centuries were permitted to plead their client's cases in court, and, throughout this period, to become members of the Inns of Court and Inns of Chancery. Attorneys and Inner-Barristers were often classed together, and the Inner-Barristers frequently acted as Attorneys. As a matter of fact, the old distinction between Attorney and Pleader would gradually have vanished, had it not been for the action of the Inns of Court and the Judges who perpetuated the distinction by first discouraging and then excluding Attorneys from entering the Inns of Court. The effect of this action

25. Irish aspirants to a legal training in the Inns were provided for in the establishment of the King's Inns in Dublin by Henry VIII in the old monastery of the Black Friars.

was to deny the Attorneys the right to plead in court, because, not being members of an Inn of Court, they could no longer receive a "call to the Bar." For the Inns of Court, and they alone, promoted men to the Bar. In 1555 and 1556 the Parliaments (assemblies of Benchers) of the Inner and the Middle Temple, as well as the Council of Lincoln's Inn,[26] decreed that no Attorney should be admitted to these Inns, and that in the future it should be made a condition that if a man ever practices attorneyship he be automatically dismissed from the Inn, but be at liberty to withdraw to an Inn of Chancery. In 1557 the court issued a similar order that the Attorneys should be excluded from all the Inns "from henceforth." No reason was assigned to this exclusion. It seems probable, however, that the limited accommodations afforded by the Inns of Court made it desirable that the Barristers and Benchers should not be crowded by the Attorneys. Also, there was much rivalry between the Attorneys and the Barristers who wished to monopolize the right to plead in the higher courts. The division into Barristers and Attorneys (or Solicitors), which actually goes back to this exclusion, was never altered, although the repetition of this rule through succeeding centuries leads to the suspicion that it was not always observed. In the year 1614 King James I issued an order to the Inns of Court that since these Inns were chiefly ordained for the profession of the law, no person might be admitted to them except those qualified to become Utter-Barristers. Since this order made a distinction between a "Counseller at Lawe which is the principall person next unto Serjeants and Judges in administracion of Justice and Attorneys and Solicitors which are but ministeriall persons and of an inferior nature," it was decreed that "from henceforth no Common Attorney or Solicitor shalbe admytted of any of the fower [four] howses of Court."

In their long history the Inns of Court were visited by a number of vicissitudes. In 1666, for instance, the Great Fire of London did much damage to the Inner Temple, while in 1678 a disastrous conflagration gutted a large part of the Middle and Inner Temple. In 1684 a fire in Gray's Inn destroyed the library and many of the old records. The Inns were also visited by outbreaks of the plague. There are many entries in the records of people having died of "the common infirmity" within the Inns. Whenever this occurred, "everyone was discharged from Commons." In 1603 no Summer (Autumn) Readings were held at the Middle Temple and all members had "to depart and not to be suffered to continue until such time it shall please God to cease the sickness." For the same reason many of the Readings during the fifteenth, sixteenth, and seventeenth centuries were suspended (*causa pestilentiae*) at the four Inns. But enough has been said to show how

26. Gray's Inn adopted this policy at about the same time.

often and how severely the work of the Inns was interrupted by these recurrent visitations. Flight seems to have been the favorite means of protection: whenever the "sickness" broke out, every member simply went home or was sent home.

The Civil War broke up the common life of the four Societies, and during these years the buildings were mostly deserted and fell into a state of disrepair. In consequence, they were appropriated by all sorts of homeless people who simply moved into the premises. Their expulsion proved extremely difficult and troublesome. But by degrees the lawyers managed to recover their chambers, although some townspeople and their families succeeded in remaining on the premises for some time. The Societies were also plagued by a host of infants who had been abandoned by their parents. The records show that again and again children were left on the grounds of the Inns by people who relied, and not in vain, on the charitable instincts of the lawyers. In the Middle Temple these infants at times were so numerous that for many years they became a great expense to the Society. To add to the woes of the Inns, fugitives from justice often invaded their property, especially that of the two Temples, eager to avail themselves of the sanctuary which they had inherited from the Knights Templars of old. Finally, in 1691 the Benchers of the Inner Temple tired of this influx of infants and criminals and walled up the gate leading into Whitefriars.

The Students

According to Fortescue, education at the Inns of Court was costly and, hence, confined to the sons of wealthy noblemen:[27] "Poor and common people cannot bear so much cost for the maintenance of their sons." For "in these greater Inns a student cannot well be maintained under twenty-eight pounds a year." Since the Inns, which were called by Ben Jonson "the noblest nurseries of humanity and liberty in the Kingdom," also taught the "courtly arts" such as singing, "dancing and all the games proper for nobles as those brought up in the King's household are accustomed to practice," it was not surprising that many young aristocrats should have attended them merely to acquire good manners. The average age of persons admitted was about eighteen or nineteen, although applicants who had been studying at Oxford or Cambridge sometimes joined at a more advanced age. Any person seeking admission had to be proposed by either a Bencher, or Serjeant, or Judge who had been associated with the particular Inn. Upon his admission to the Inn careful inquiries appear to have been made into his background. Certain fees were

27. As late as 1603 King James I directed that only gentlemen by descent should be admitted as students to the Inns of Court.

payable upon admission, the sons of Benchers being admitted at a reduced rate. After admission the young men were boarded at "Clerk's Commons."

King James I in 1609 speaks of the Inns of Court as places to which "many young men, eminent for rank of family and their endowments of mind and body have daily resorted from all parts of this realm, and from which many men in our own times, as well as in the times of our progenitors, have by reason of their very great merits been advanced to discharge the public and arduous functions as well as of the State as of justice, in which they have exhibited great examples of prudence and integrity to the no small honour of the said Profession and the adornment of this Realm and good of the whole Commonwealth."

Later during the seventeenth century the Inns of Court became more strictly schools of law rather than schools of courtly manners, although the continued intimate association with men of high ideals and noble aspirations in the Inns helped to mold the character of the students until our day. Membership in an Inn of Court, aside from the legal training it afforded, has always been a source of inspiration to young Englishmen of ambition and ability. The education and discipline, as a matter of fact, the whole life in the Inns of Court was distinctly collegiate. The technical training was superb, and in a litigious age such training was simply indispensable for people who had large properties. Agnes Paston, when writing to her young son at Clifford's Inn around the middle of the fifteenth century, was quite correct when she stated: "Think only of the day of your father's counsel to learn the law, for he said many times that whosoever should dwell at Paston should have need to know how to defend himself."

But the Inns of Court gave more than mere technical instruction: they provided moral, social, and intellectual training as well: "Religion and morals were cared for as well as learning; and the younger men did not lack the social training which was to be acquired from daily association in an atmosphere of good fellowship and respect for authority with others of their own standing. The members lived to a great extent in community (Commons). In the hall they met for breakfast, dinner and supper, as well as for lectures and disputations. In the chapel they assembled for common prayer and Holy Communion. At Christmas and sometimes at other seasons they shared both in the labour and the expense of presenting masques and plays in the Inn or at Court." For the ordinary member life was cheerful at the Inns of Court, so cheerful, as a matter of fact, that there was constant danger of club life superseding study. Hence in 1630 the

rather gloomy Commonwealth Judges had to lay down explicitly that these Inns "were ordained chiefly for the profession of the law and in a second degree for the education of the sons and youth of riper years of the nobility and gentry of this Realm and in no sort for the lodging and abode of gentlemen of the country, which if it should be suffered would be a disparaging of the said Societies and turn them from Hospitia into Diversoria."

Fortescue, with some exaggeration, describes the Inns of Court as some sort of an academy fit for persons of an exalted station: "There they learn singing and all kinds of music, dancing and such other accomplishments and diversions, which are called revels, and as are suitable to their quality. . . . At other times, out of term, the greater part [of the students] apply themselves to the study of law. Upon festival days . . . they employ themselves in the study of sacred and profane history. Here everything which is good and virtuous is to be learned, all vice is discouraged and banished. So that Knights, Barons, and the greatest nobility of the Kingdom often place their children in these Inns of Court; not so much to make the laws their study . . . but to form their manners. . . . The manner and method how the laws are professed and studied in those places, is pleasant and excellently well adapted for proficiency." No wonder, that subsequent historians should refer to the Inns of Court as "our third University," or that Blackstone should call them "our legal University." In sum, the Inns of Court were schools of manners as well as law, fitting their alumni to take their places later in the life of the Royal Court, and to discharge the many ceremonial duties incident to the government of the realm. They were nurseries for the education of young gentlemen, some for the Bar, others for the judiciary, others for the government, others for the Royal Court, and others again for affairs of State. In this the Inns were in marked contrast to the Universities of Oxford and Cambridge, where training in genteel manners formed no part of the official educational program.

The fact that the Inns of Court were also schools of manners should explain the original meaning and functions of those periodic entertainments "which are called revels," and which for a long time played an important role in the lives of the Inns. These pastimes apparently were encouraged by the Benchers who believed that such activities would greatly improve the literary tastes and the social manners of the students.[28] Revels and masques were usually held at Christmas time or some other feast day, and the King as well as the Queen attended them regularly.[29] Some of these revels were given to celebrate

28. Francis Bacon, however, seems to have had some rather serious doubts as to the educational value of the revels.

29. The revels were presided over by a mock King or mock Prince, who at Gray's Inn was called "Prince of Purpoole" (named after the manor

an important social or political event, and occasionally a renowned artist or poet lent his genius to these entertainments. Shakespeare's *Comedy of Errors* was first played at Gray's Inn in 1594, and his *Twelfth Night* was acted at the Middle Temple in 1602. These revels, like the Grand Christmas, were meant to be a mimic Court to teach proper manners or courtly demeanor to the nobility and gentry. They were a very serious business, and the holding of the various offices attached to these festivities[30] was an important step to being ultimately chosen Reader or a Master of the Bench. During the austere rule of the Commonwealth these entertainments were discontinued, and, although they saw a resurrection during the Restoration, the Glorious Revolution finally put an end to them. The last record of Middle Temple as regards Grand Christmas and revels is an order of November 26, 1669: "No Grand Christmas shall be kept nor gaming suffered in the Hall."

The inmates of the Inns of Court not only employed themselves, as Fortescue observed, in the study of law and of "sacred and profane history," but also in some of the "elegant" accomplishments of the time, including not infrequent recourse to weapons. Disorders, riots, incidents of disobedience, and even assaults, upon one another or upon outsiders, happened occasionally. The members of the Inns of Court, on the whole, were an irascible set of men. They beat their servants on little or no provocation; they had a pronounced dislike for all inferior ministers of the law; they laid hands on one another; and they had many a scuffle with the burghers of London, Westminster, and Holborn. In consequence of these affrays the Star Chamber in 1517 advised the Benchers "that they should not suffer the gentlemen students to be out of their houses after six o'clock at night without very great and necessary causes, nor to wear any manner of weapon." Later in the sixteenth century we hear more of occasional instances of domestic disorder and insubordination. Thus in 1667 a "rebellion" of the Barristers and students broke out at Gray's Inn, and the rebels were outlawed by the Benchers. But ultimately they were all "at peace again." There also were some violent encounters between the students of Gray's Inn and those of Lincoln's Inn and Staple Inn. The Benchers tried to check these outbursts by a series of orders which, however, were frequently ignored. Commons were dissolved several times at Christmas which seems to have been the time of most riots, and the students were sent home while the most serious offenders were simply expelled. A permanently expelled member could

of Portpoole or Purpoole, close to the village of Holborn), at the Middle Temple "Prince d'Amour," at the Inner Temple "Prince of Sophie," and at Lincoln's Inn "Prince de la Grange."

30. These offices were the Steward for Christmas, Marshal, Butler, Constable of the Tower, and Master of the Revels.

never be received into another Society. But the spirit of general leniency which pervaded the Inns soon made itself felt. Men who had been "forever" expelled for assault with a deadly weapon upon a fellow-member, for organized rebellion against the authorities of their Inn, or for felonious assault upon townspeople, usually were readmitted after the lapse of some time and after they had made their public submission and had asked their victim's pardon. The Benchers not only insisted on orderly conduct; they also encouraged mutual respect among the Fellows. The manners of the time indeed were rough. The members often had to be restrained from scrambling for their food, and from dining in their hats. Occasionally they came to blows, and the Hall furniture generally required extensive repairs after the revels. But the murderous encounters with other societies had ceased by the end of the sixteenth century, and there is no more mention in the records of duelling or stabbing. On Ascension Day in 1520 it was ordained at Lincoln's Inn that "every Gentleman of the company geve to others due reverence accordyng to their auncienties, and use due ordre and silence in their comynicacions and arguments within the house." Unfortunately, we possess no information as to how these silent "comynicacions and arguments" were carried on. The Benchers even claimed control over the actions of the Fellows away from their Inn. One sport, a man called Miles Hubbert of Lincoln's Inn, was fined for "breaking the door of the While Herbert in Holborn, and beating the housewife of the same to the scandal of the Society."

One of the difficulties which constantly beset the Inns of Court was the securing of prompt payment of Commons. Thus in the days of King Henry VI (1422-1471) an order was promulgated at Lincoln's Inn "that no persone of the felashippe be behynde of his duytez due to the felashippe, viz. of his commons that it pass not XIII dayez; else he be estraunged from the felaship til he paye." There are constant references to members being in default and to expedients employed to enforce payment. The name of the debtor was publicly proclaimed in the Hall and he was fined unless he satisfied the arrears within a certain span of time. Also, he might lose his chamber. Finally, it was resolved that payment in advance should be made, and that each member had to furnish two sureties. The number and variety of these orders are sufficient proof that they did not achieve their purpose. In 1542 Double Commons were charged against bearded members of Lincoln's Inn, and expulsion was threatened. In 1555 the Judges declared that all Barristers must shave their beards. But in 1557 all orders touching on beards were repealed. Also attempts were made to compel the members to wear round caps in the Hall instead of fashionable hats which often assumed extravagant and menacing

proportions. In its earlier days Lincoln's Inn issued several decrees regulating the hunting and shooting of rabbits on the premises by members of the Society. Other delinquencies recorded were playing cards or dice in the House (at Lincoln's Inn the Parson committed this heinous crime), going to London or Westminster without a gown, eating flesh in Lent, stealing food, being late at meals, departing from the Realm without licence, and failing to communicate once a year. At a later time we hear occasionally of instances involving the breach of professional ethics and even of forgeries and the like.

Legal Education at the Inns of Court

In considering the system of legal education and legal instruction prevailing at the Inns of Court, it must be borne in mind that during this period legal literature hardly existed. Books were few and very expensive, and there were no official court reports save the so-called Year Books.[31] Hence legal instruction at the Inns was chiefly oral: it was imparted by lectures as well as by disputations and debates, which the students attended, first as hearers only, and later as participants in the discussions. To those whose minds were prepared by the Readings, suggestions were thrown out in argument, and the quick repartee often gave hints as to the existence of an involved problem and clues as to its solution. In the beginning, at least, instruction was given not only by the Readers and Benchers, but also by the Serjeants and Judges who attended the Readings and the discussions from time to time, and when present, took part in the debates. Even the senior students or Utter-Barristers played an important role in the instruction of the junior students. During Term Time when the courts sat in Westminster, the students also attended these court sessions.[32]

Legal instruction was given at the Inns during Vacation Time, that is, the period between Term Times when the courts did not sit. These Vacations were divided into "Learning Vacations,"[33] namely, the Lent Vacation beginning the first Monday in Lent and lasting three weeks and three days, and the Summer (or Autumn) Vacation beginning the first Monday after August 1st and continuing for three weeks and three days, and the "Mean" or "Dead Vacations" which comprised "the whole time out of Learning Vacations and Terme."[34]

31. A description of the Middle Temple, dating back to the reign of King Henry VIII (1509-1547), stated that the two Temples "have no library."

32. During the sixteenth century the following terms were observed: Michaelmas (October 9th to November 28th), Hilary (January 23rd to February 21st), Easter (from eighteen days after Easter to Monday after Ascension Day), and Trinity (from Wednesday after Trinity Sunday until Wednesday fortnight after).

33. In the Temple these Learning Vacations were called Grand Vacations.

34. During the Mean Vacations there were further Moots, Bolts and exercises

The legal education which the Inns of Court (and the Inns of Chancery) provided was eminently practical in that it stressed the procedural and argumentative aspects of the law. It also afforded the student an opportunity for "private reading" in the chambers of some senior Barrister. This mode of training began by making men pleaders; it continued by turning them into skilled advocates; and it culminated by making them judges. During the Learning Vacations and in Term Time the Benchers were the judges in the Moots, while during the Dead Vacations, as well as in the Inns of Chancery, the Utter-Barristers played the same role. In this fashion the whole of legal education in the Inns of Court amounted to preparation, practice, and rehearsal for the Bar or the Bench. Every inmate of an Inn was so to speak an "apprentice": the Inner-Barrister learned from the Utter-Barrister, who in turn learned from the Bencher and Reader. The Bencher and Reader, again, were constantly occupied with lectures, discussions, and Moots through which they kept intimate contact with the law and its intricacies. At every stage of his advancement a man's professional ability and personal qualities were rigorously tested by the judgment of his fellows; and the obligation to learn from his seniors merged, as he advanced, with an equally preemptory obligation to instruct his juniors. The educational system observed in the Inns of Court was eminently well suited to the needs of the time. Perhaps it was the only workable system in an age where books hardly existed.

Supervision of legal education and the preparation for the practice of law in the higher courts of the realm was one of the principal cares of the Benchers. The average student, as a rule, began his legal studies by entering one of the Inns of Chancery. Upon admission he took an oath of obedience to the rules of the Society of which he was about to become a member, and he gave sureties for the payments of fees. Not until he was graduated to one of the four Inns of Court could he expect to become a junior (or Inner-) Barrister.[35] An Inner-Barrister had to study for seven[36] years before he could qualify as a senior (Utter-) Barrister. The Utter-Barrister had to continue his legal training for another five years before becoming an Ancient and thus permitted to practice regularly in the royal courts. During his tenure as Utter-Barrister he was permitted, and even expected, to assist in the training of Inner-Barristers as well as students in the Inns of

presided over by the Utter-Barristers. These exercises were called Mean Moots (mean motes) or "Chapell motes."

35. Tradition has it, however, that during the reign of King Henry IV (1399-1413) a member of Clifford's Inn was made a serjeant. This would suggest that at one time Clifford's Inn was an Inn of Court. It also appears that the term "Inner-Barrister" did not come into general use until the middle of the sixteenth century.

36. Before 1596 eight years were required.

Chancery. Hence only after having spent some time in the Inns of Chancery and at least twelve years in the Inns of Court as Barrister could an "apprentice" qualify as a full fledged lawyer.

The primary method of training men for the Bar at the Inns of Court consisted of the Readings and the Moots. Sir Edward Coke notes the following qualities of the ancient Readings. "First, they declared what the Common Law was before the making of the statute; secondly, they opened the true sense and meaning of the statute; thirdly, their cases were brief, having at most one point at the Common Law and another upon the statute; fourthly, they were plain and perspicuous, for the honour of the Reader was to excell others in authorities, arguments, and reasons for proof of his opinions and for confutation of the objections against it; fifthly, they read to suppress subtile inventions to creep out of the statute."

The office of Reader is probably as old as the Societies themselves. Two Readers were elected annually by the Benchers, one for the Lent and one for the Summer (or Autumn) Reading. Originally, the office of Reader qualified the holder for admission to the Bench or governing body of his Inn, but later no one was eligible for the office of Reader except a Master of the Bench. The regular Reader, as a rule, was required, though often on short notice, to read on some legal topic. He was also expected to continue where his predecessor had left off, thus completing the cycle of a prescribed program of instruction. But in exceptional cases he was permitted to read "out of course." An extraordinary Reader, that is, a Serjeant or a person holding to office of Reader for a third or fourth time, apparently was permitted, if he selected to do so, to read on any statute or topic that pleased him. But otherwise personal preferences were not easily permitted prior to the reign of King Henry VIII (1509-1547), when it first became possible to read on "old" as well as "new" statutes, or in the time of Queen Elizabeth I, when the primary purpose of the Readings was to impress the audience with the Reader's learning rather than to instruct the students who by then had begun to read by themselves. During the fifteenth century the Readers taught in a straightforward and direct manner the content and the effect of the basic English statutes, without elaborate preparation, but with due attention to disputed points and subsequent modifications: " . . . the first day after Vacation, about eight o'clock, he that is so chosen to read openly in the Hall . . . shall reade some one such Act or Statute as shall please him to ground his whole reading on for all that Vacation, and that done, doth declare such inconveniences and mischiefs as were improvided for . . . and then reciteth certain doubts and questions which he hath devised, that may grow upon the said statute, and declareth his judgment therein."

The "old" statutes on which the Reader lectured were usually the statutes prior to Edward III (1327-1377), such as the Magna Charta, the Statute of Merton, Marlborough, Westminster I, Gloucester, and Westminster II. These materials constituted the bulk of the Readings during the fifteenth century. To the student of law such an introduction to English law was fundamental. But if this rather comprehensive introduction was to be completed during a student's normal term at the Inn, a discretionary selection or repetition of topics could not be permitted. A topic or statute once begun was systematically pursued chapter after chapter to its conclusion, except those parts which did not need, or were thought not to need, explanation. But once expounded, it would not be considered again until the cycle had run its course, perhaps eight or ten years later.

Originally, a Reader called upon for a Reading either during Lent or Autumn Vacations seems not to have been expected to do more than repeat the lectures of some of his predecessors. If these old lectures did not contain everything he knew about the subject or all he expected his audience to learn, he was at liberty to add, delete or alter whatever he saw fit. But such alterations were relatively rare and the additions few. Since the Readings thus remained substantially the same, it mattered little who the particular Reader was. What mattered, however, was that the students or apprentices took note of the names and arguments of those who agreed with the Readings, and that they understood any new points or arguments made by the "dissenters." This pattern of repetitious cyclic Readings gradually began to disappear towards the end of the fifteenth century.

The Readings, in the main, must have been rather wearisome if the Reader confined himself to the mere exposition of a statute, for statutes have neither humanity nor humor. Nevertheless, these Readings served their purpose. When in 1642 the Civil War broke out, the whole system of education in the Inns of Court was upset. At Lincoln's Inn there was no Reader until 1649; and as late as 1659 it was decreed that the holding of Commons in Vacation, intended by the Benchers to revive the Readings, was a charge "besides the fruitlessness thereof, too great for the Revenue of the House." Readings were eventually abandoned because in the opinion of the times the purpose for which they had been devised was better met by other means. It may be assumed that the Benchers did their best to keep these Readings alive against the hostility of the Bar and the students who doubted their practical usefulness. The increase in the publication of law books probably dealt the death blow to the Readings. Thus, during the second half of the seventeenth century and throughout most of the eighteenth century, they somewhat fell into contempt and were

finally discontinued, only to be revived again towards the end of the eighteenth century.

When the Readings ended, one of the junior Utter-Barristers rehearsed one of the questions propounded by the Reader, and by way of argument tried to show that the Reader's opinion was against the accepted law. After the Utter-Barrister had spoken, the rest of the Benchers and Barristers voiced their opinion, while the Reader endeavored, by refuting all objections, to confirm his original position. Then any of the Serjeants or Judges who might have been present, stated his views.[37] This whole procedure was but a reflection of what went on in the Courts at Westminster, where, as Bolland points out, "the Justices intervene occasionally to give a ruling, . . . to tell a story, . . . to quote the Bible, the classics or a continental brocard. They all have the resources of the highest culture of the Middle Ages to draw upon and in that Hall [at Westminster] . . . the most highly cultured life of the Middle Ages is finding its fullest expression in argument and repartee, in illustration and criticism, in apt quotation, in gibe and sarcasm. . . ." The Readings and subsequent disputations, which should not be confounded with the Moots or Bolts, were held daily and lasted for about two hours. For the first two years after admission to the Inn (Clerk's Commons) attendance at the Lent and Autumn Readings and exercises seems to have been compulsory, unless excused for a fine. But after that "probationary" period attendance was at the discretion of each student. But any student or apprentice who aspired to become an Utter-Barrister was practically under compulsion of attending, for otherwise he might not be promoted or "called to the Bar."

Besides the Readings and discussions, the principal mode of legal education in the Inns of Court consisted in the holding of Moots and Bolts in the Hall. During Term Time the Moots began after the common supper, while during Vacation Time they were held after dinner. The Moots were attended by a large number of Barristers and students than the Bolts. It has been suggested that the bar which separated the presiding Reader or Bencher from the disputants only ran some way across the Hall. The junior students sat behind this bar and thus were called Inner-Barristers, while the senior Barristers, stretching to right and left beyond the bar, were referred to as Outer or Utter-Barristers. An Utter-Barrister put up for discussion some controversial case which had been selected by a committee, and references to two cases were usually given. The case was usually put in the following form: Wednesday, May 14th. Is a freeholder civilly

37. No doubt, the manner of conducting these debates upon the Readings varied in different Inns. In the Middle Temple, for instance, the senior Utter-Barrister opened the discussion.

liable for a forcible entry on his own freehold? Newton v. Harland, 1.M. and G.644; Harvey v. Lady Bridges, 9 Jur. 759. Affirmative: John Doe, Richard Roe; President: James Coe; Negative: Adam Fleet, Amos Street. This case was then argued by one or two of the Benchers. Then followed a kind of mock trial or law suit, in which the Inner-Barristers recited the pleadings (in Law French), while some Utter-Barrister argued for the plaintiff or the defendant respectively. Opinions and judgments were delivered by the presiding Reader and Bencher (or Benchers). In 1557 it was settled that there should be no more than two points of law or issues in any Moot, and that the Bench should not argue more than two points. From this injunction it may be gathered that originally the cases put up for argument in the Moots contained too many issues or arguable points, and that in their zeal the Readers and Benchers too often became so engrossed in these arguments that they argued among themselves, very much to the disadvantage of the students.

The Bolts may be called a more elementary form of the Moots. They consisted of simpler cases debated among the Inner-Barristers or students. An ancient Utter-Barrister presided, sitting on the dais. Below him, behind a bar were two students prepared to argue, while between these two students stood a person, called the "put-case," who as his name implied, stated the point or points at issue. His presence was also deemed most useful in case the disputants should come to blows. The presiding Utter-Barrister restated the case at bar with particulars. Then the students argued it, and the president gave a final decision.

In the conduct of these Moots or Bolts much importance was attached to proper pleadings being drawn up for the case to be debated. Under a rigid and highly technical system of pleading, thorough familiarity with its rules was essential for those intending to practice law in the King's courts. During the seventeenth century members of the Inn were required to draw pleadings to the case before the Moots and submit them two days in advance of argument.

What were the subjects which came up for discussion in the Moots? Did the students and Barristers discuss the cases which had recently been decided in the King's courts? Did they inquire into and comment upon the customs of the Realm, or reason together as to why some laws had been altered by statute? In view of the fact that practically no records exist or, at least, are available, it is idle to speculate on these matters.[38] We may reasonably surmise, however, that members of

38. The Selden Society plans to publish two volumes on Readings and Moots at the Inns of Court in the Fifteenth Century. Volume I, edited by Samuel E. Thorne of Harvard and published in 1954, contains the Readings. Volume II, which has not yet appeared in print, will contain a general account of late mediaeval legal education, as well as the Moots argued at Gray's Inn and the Inner Temple.

the Society did not always confine themselves to the exposition and discussion of some dry point of law. Cheerfulness and humor are bound to creep in wherever lawyers congregate, whether to discuss their profession or argue a point of law.

The Moots and Bolts reflected the typical mediaeval belief in the virtues and advantages of disputations for educational purposes. Men thought that argument fostered alert and original minds. Considering the general mode of education during that period, it is easy to understand why it was so important for students as well as Barristers "to keep their vacations." Failure to attend Moots regularly could have had disastrous consequences for the student in that he might be denied a "call to the Bar." In order to enforce more regular attendance at Moots, the names of all gentlemen attending them were taken down in the so-called Exercise Book and certified to the Treasurer at the beginning and the end of every Term. In the year 1523 it was recorded at Lincoln's Inn that a certain "Meynell, one of the Utter-Barristers, was neclygent, and toke lytyll study in his laste moote, and was not conformabyll to the sayng and order of the Benche in his lernyng and motyng, but presumptuously seyd to the Benche 'that they coude not brynge in the lernyng better than it was brought in.' He was put out of Commons."

Notestein has well summarized the system of legal education in the Inns of Court: "As men were at dinner or supper one of the older men might put a case and draw out all those at the table as to what action should be taken and what pleading used. Young men walking about the quadrangles were encouraged to put cases to one another, and those who were skilled became known as put-case men. Law, said Serjeant Maynard, was a bablative art; men should study all morning and talk all afternoon. A plan for a new building in one of the Inns was opposed because it would cut down the walking space and so interfere with the put-case men."

The free and independent life of the Societies not only made their members many-sided men, but also increased their efficiency as lawyers. The excellent training which the Inns of Court provided for their members was by itself sufficient to guarantee the continued existence of the Common Law. As organized bodies of professional men, the Inns of Court were the only institutions in the Realm which gave a truly practical training in the law. The lawyers whom they turned out were, on account of the practical nature of their training, eminently qualified for the practice of law in the English courts. It was therefore natural that they should be employed by litigants as counsel, by the government as councillors, and by the courts as judges. It is also worthwhile to remember that the powerful and

constant influence of these trained Common Law lawyers strongly counteracted any tendency to introduce into England principles of the civil law.

The Call to the Bar

Perhaps illogically, though with that common sense which distinguishes the British people, the Inns of Court were entrusted with the exclusive power of admitting students of the law to the Bar of England. On these four Societies, which King James I in 1608 had called the "four colleges, the most famous in all Europe," at some unknown time had been conferred the right and the duty of selecting those who should be called to the Bar, and so enjoy the monopoly of audience in the major courts of England. In other words, the Royal Justices and the Serjeants, wishing to maintain some control over the legal profession, permitted only those to practice in the higher courts who had received the call to the Bar of an Inn of Court by the recommendation of the Benchers. This seems to have been the origin of the absolute and exclusive power of the Inns to qualify a student for the practice of law. In this the Inns seem to have floundered along, making the same rules again and again, generation after generation, as though no one ever took the least notice of them. The following fact, however, stands out boldly: the call to the Bar actually was a call to the Bar of the Inn of which the candidate was a member. Those men who had been recommended by the Readers[39] or Benchers to be admitted to the Bar of the Inn, were tacitly permitted by the Judges to practice in the courts. Conversely, a man who for some reason had failed to become a member of one of the four Inns of Court, could not be admitted to the Bar. But, at least during the sixteenth century, Judges who by virtue of their visitorial powers seem to have had some control over the Inns, could issue orders as to the conditions under which a man might be called to the Bar. That the Readers or Benchers, however, did not always discharge their duty of calling people to the Bar in a satisfactory manner may be gathered from the fact that in 1565 an order was issued at the Middle Temple that no Reader (or Bencher) shall promote any person without the assent of the committee (or Parliament of the Benchers). As early as 1558 examinations also were held to test the fitness of the candidate.

On June 22, 1557, Queen Mary issued certain regulations concerning the admission to the Bar which applied to the four Inns of Court as well as to the Inns of Chancery. New rules were established as to attendance of Readings and Moots before a man could be promoted to the rank of Barrister or be called to the Bar. Any apprentice

39. "Calls to the . . . Bar are to be made by the most ancient, being a Reader, who is present at supper on call night . . . ."

was required to be an Utter-Barrister for at least twelve years before he could plead in any royal court. But he was permitted to advise clients. A practicing Barrister had to retain chambers in one of the four Inns of Court. In addition, a student in the Inns of Chancery had to meet certain requirements before he could be admitted to an Inn of Court.

The order of Queen Elizabeth I of 1574 contained the following direction with regard to calls to the Bar: "Item, none to be called to the Utterbarre but by the ordinarie Counsell of the House in their generall ordinarie Counsells in the terme tyme." This order ushered in much confusion, until the year 1594 a regular policy was established, at least in the Middle Temple, that all calls to the Bar made by a Reader had to be confirmed by the assembly of the Benchers. Also, in 1580 and again in 1594, the obtaining of the degree of Utter-Barrister by letters of recommendation alone was prohibited: "none shall be called to the Barre by any letters, corrupcion, or reward." In 1610, the Benchers at Middle Temple resolved that only those candidates might be called to the Bar who had complied with all the academic regulations of the Inn. Subsequently this resolution was repeated several times, an indication of the importance which was attached to regular attendance of Readings and Moots. At the same time the power of the Readers to make this promotion was sharply curtailed. And in 1611 it was decided to put all Utter-Barristers on probation for two years after they had been called to the Bar of their Inn. All this was done in order to compel regular study and consistent attendance at the Readings, Moots and other exercises.

In the year 1733, Lincoln's Inn and Gray's Inn set up the following qualifications for admission to the Bar: a minimum of five years of membership in an Inn, which included sixteen Terms and four Vacations. Each member had to have his own chambers, and had to hold them at least three years after his call to the Bar (or pay twelve pounds to the Society). He had to perform six Moots and discharge all his outstanding debts to the Society. It seems also that members of an Inn called to the Bar were sworn as early as the reign of Queen Elizabeth I. Barristers had to take an oath of the Queen's spiritual and temporal supremacy. Subsequently all members of the Inns of Court had to take an oath of obedience and allegiance to the Crown. There is also evidence of the strict control by the Benchers over all calls to the Bar. Thus in 1603 at the Middle Temple five calls were stopped and referred to the next Term, when they were finally disallowed. In 1606 two candidates, who had been denied admission to the Bar by the Benchers, unsuccessfully appealed the Benchers' decision to the courts.

In 1606, the Inner Temple passed a resolution that "whereas hereto-

fore it hath beene used in this House to have a call of Barresters but once in three or fower [four] years . . . it is therefore ordered . . . that from henceforth in the first Parliament of every Hillarye and Trinity Terme there shall be a call of Barresters and at every of those calles not to call to the Barr above the number of fower. . . ." But this resolution met with scant regard. In 1614, a Royal Order, deploring the "excessyve number of lawyers" which led to "multiplying of needless sutes [law suits]," decreed that "there shall not be called to the Barr in any one yeare by Readers or Benchers in any one Societye above the number of eight. . . ." In addition, a man admitted to the Bar may not practice publicly in Westminster "untill he hath bynn three yeares at the Barr. . . ." But the practice in these matters did not remain fixed and settled. Soon afterwards there was a melancholy sequel to the judges' regulation of 1596 that no more than two men should be called to the Bar at each Reading. It was discovered that the excess number of candidates who had been admitted to the Bar of Gray's Inn had bribed the Reader. The indignant Benchers revoked the calls and expelled the guilty men from the Society "because they have dared insolently and corruptly . . . to lay so great a scandal upon the House as if the Bar should be bought by money."

Some Famous Members of the Inns of Court

To mention all the legal luminaries which have emerged from the four Inns of Court is well-nigh impossible. But a few outstanding men deserve mention. From the Inner Temple came Sir John Littleton, who was called to the degree of Serjeant in 1453. Sir Edward Coke (1551-1634) was called to the Bar of Inner Temple in 1578, became Reader of Lyon's Inn in 1560 where his lectures "so spread forth his fame that crowds of clients sued him for his counsel." It was said about him that there "never was a man so just, so upright, so free from corrupt solicitations of great men and friends." John Selden, who came to the Inner Temple from Clifford's Inn in 1604, was called to the Bar in 1612, and became a Bencher in 1633. His learning and his wisdom were acclaimed universally as was his intrepid stand for freedom against the arbitrary and capricious rule of King Charles I. A great credit to the Inner Temple was also Heneage Finch, Earl of Nottingham, who was praised by Westminster Hall as the "Father of Equity."

The Middle Temple likewise produced a great many outstanding lawyers. Edmond Plowden (1518-1584 or 1585) entered the Middle Temple in 1538, became Autumn Reader in 1557, Double Lent Reader in 1560-61, and Treasurer of the Society in 1561. John Popham, Chief Justice of the King's Bench (1592-1607), probably attended Plowden's

Readings in 1557. Edward and Henry Montagu, grandfather and grandson, both became Chief Justices of the King's Bench. Edward was Autumn Reader at the Middle Temple in 1524. William Blackstone was called to the Bar of the Middle Temple in 1746. Also famous alumni of the Middle Temple were Lord Hardwicke, of whom it was said that "when he pronounced his decrees, wisdom herself might be supposed to speak"; and Lord Eldon whose great learning and superior judicial qualities were acclaimed by the whole of the English legal profession.

Lincoln's Inn can proudly claim the membership of Sir John Fortescue, who was one of the four Governors of his Inn between 1425 and 1430. He entered Lincoln's Inn before 1420, and was its Treasurer in 1437. Sir Thomas More or St. Thomas More became a student at Lincoln's Inn in 1496. He began his law studies at New Inn in 1494, and became Reader at Lincoln's Inn in 1516. He was "a man of singular virtue and of clear unspotted conscience." He died a martyr of his faith on Tower Hill July 6, 1535. Sir Matthew Hale (1609-1676), whose professional integrity, knowledge, and industry were universally recognized, was admitted to Lincoln's Inn in 1628. Lord Mansfield, "the just and intrepid," likewise was a member of Lincoln's Inn.

The most outstanding members of Gray's Inn were probably Chief Justice Gascoigne who is said to have laid the foundation of an independent and impartial English judiciary; Chief Justice Holt, a consummate jurist free of all prejudice, who did much to retrieve the tarnished reputation which the English judiciary had acquired under the last Stuarts;[40] Sir William Skipworth, one of the outstanding lawyers of his time who was a Reader at Gray's Inn during the reign of King Edward III (1327-1377); Sir Robert Ashton, a man of a most unusual career who was at one time military commander in France, Admiral of the Narrow Seas, Chief Justiciary of Ireland, Lord Treasurer, and Chancellor of the Exchequer; John Markham, who was King's Serjeant in 1390 and Judge of the Common Pleas in 1396; Sir William Cecil, afterwards Lord Burghly, a great statesman under Queen Elizabeth I; and Francis Bacon, afterwards Lord Verulam, who was admitted to Gray's Inn in 1577, became a Bencher in 1586, and Treasurer between 1608 and 1616. And it was at Gray's Inn that Bacon wrote most of his great philosophical works. Obviously, this list of outstanding men who have emerged from the Inns of Court is illustrative rather than exhaustive.

Also some famous literary men have been connected at one time or another with each of the four Inns of Court. The Inner Temple claims Geoffry Chaucer (?); Sir Thomas Sackville who wrote, or

40. One of Holt's great achievements was to put an end to trials for witchcraft.

had a share in writing, the first English tragedy, *Gorboduc;* Francis Beaumont, the dramatist; Henry Hallam, the historian and Arthur Henry Hallam, the friend of Tennyson; William Browne, whose *Pastorals* are said to have influenced Milton; Thomas Hughes, the author of *Tom Brown's Schooldays;* and James Boswell, the biographer of Samuel Johnson. Dr. Johnson himself resided at Staple Inn in 1758, where he wrote *Rasselas.* In 1759 he moved to Gray's Inn, and afterwards, in 1760, to the first floor of No. 1, Inner Temple Lane, living, as has been described, "in poverty, total idleness, and the pride of literature."

The Middle Temple can boast of the membership of Henry Fielding, the man who created the English novel; Edward Hyde, the author of the *History of the Rebellion in England;* John Evelyn, William Congreve, William Cowper, Oliver Goldsmith, Thomas de Quincy, Charles Lamb, Thomas Noon Talfourd, William Makepeace Thackeray, and Charles Dickens. Also Edmund Burke, Henry Grattan, Charles Molloy, Theobald Wolfe Tone, and Tom Moore were connected with the Middle Temple.

Lincoln's Inn had its St. Thomas More who published his *Utopia* in 1518; William Prynne; Thomas Babington Macaulay, the historian, critic and poet; Jeremy Bentham, the great reformer who was probably the most outstanding English author on legal and constitutional subjects since Coke; and Edward Lytton-Bulwer.

Gray's Inn claims Francis Bacon, whom Tennyson describes as "large browed Verulam, the first of those who know," a learned lawyer, a brilliant philosopher and essayist, and an active statesman; Sir Philip Sidney, the poet; William Camden, the well-known antiquary and historian; George Gascogne, the poet and dramatist; and Bryan Waller Proctor. Here too, the list is illustrative rather than exhaustive.

The Decline of the Inns of Court

The sixteenth century, it could be maintained, was probably the golden age of the Inns of Court and, especially, of the educational system of these Inns. Towards the end of the century, this system of education, however, began to show symptoms of gradual decline. Thus as early as 1591 the courts issued orders to the effect that "whereas the Readings in Houses of Court have tinne out of mind continued in every Lent and every August yearly, by the space of three weeks at the least, till of late years . . . diverse Readers in the same Houses have made an end of their reading in farr shorter time, and have read fewer Readings, than by the ancient Orders of the said Houses they ought to do; to the great hindrance of learning . . . by reason that the Exercises of Moots, very profitable for study, are by occasion thereof cut off almost the one half thereof or more . . . which, if it should

be permitted, would be almost an utter overthrow of the learning and study of the law . . ."—therefore it is ordered "that all Single Readers . . . shall continue every of their Readings by the whole space of three weeks . . . at the least. And that there shall be as many Readings, in every of the said three weeks, as by Antient [ancient] Orders of the same Houses have been accustomed . . . ."

This order, which indicates that the Readings and Moots had been gradually neglected or, at least, were no longer considered an important aspect in the training of lawyers for several reasons, however, had no lasting effect. The introduction of printing, it seems, not only brought about the rapid growth and distribution of legal literature, but it also made access to law books easier. The Inns themselves started to acquire law libraries, and the students began to buy their own law books. Coke, for instance, conceded that "timely and orderly" private reading was an important part of legal training, as was attendance of the Readings, attendance of the Courts in Westminster, and practice of Moots. But he also warned students that they should not neglect the Readings and Moots in favor of private reading. The majority of the students, however, seem to have ignored Coke's timely advice. More and more the printed book attracted the student of law who believed that books were the ideal as well as safe short-cut to legal learning. As a result they began to avoid the Readings, Moots, and other exercises which were a part of the training system established at the Inns. The records of Lincoln's Inn, to cite just one example, show that at least for a while some efforts were made on the part of the Benchers to counteract this growing trend. Thus in 1615 it was ordered that in the case of those who "doe the graunde moots by deputyes, the deputyes shalbe entered into the Book of Exercises, and not those that take them up." In other words, the students, in order to avoid the toilsome participation in Moots and other exercises, were sending "deputyes" in their place, hoping thereby to acquire the necessary "credits" for a call to the Bar. In 1628 Lincoln's Inn issued the following order: "Forsomuch as it is generally observed that very many of the Utter-Barristers and students . . . liable to be charged with the exercises of the House, put themselves out of commons when they should be charged . . . althoughe such as so continue out of commons remayne in the House or Towne; it is ordered that such shall so doe shall be nevertheless lyable to exercise. . . ." Hence it seems that some "clever" students, whenever they were up for Moots, simply absconded, that is, put themselves voluntarily though officially "out of commons" under one pretext or another. All this goes to indicate that by the early seventeenth century the disinclination of the students to attend the official Readings, Moots, and exercises had waxed not only strong, but was becoming a general practice.

This disinclination on the part of the students to attend the Readings and partake in the Moots was somewhat matched by a like disinclination on the part of the Benchers, Readers, and senior Barristers who for a variety of reasons apparently shared the view held by the students that an adequate legal education could be acquired by recourse to the printed book. Had the men in control of legal training in the Inns been strongly determined to carry on the old system of education, they probably would have succeeded in overcoming the student's attitude. The educational system of the Inns, no doubt, had become somewhat antiquated; but if the Benchers had really and energetically insisted on doing their duty as governors of the Inns, they could easily have reformed and rejuvenated this system. The Benchers, who often were, and more often considered themselves to be, too busy or too important to bother with the education and supervision of students, however did not care to undertake such reforms. On the contrary, it seems that they fully sympathized with the student's view of completely doing away with the old educational system. They probably felt that the time and effort required for the preparation and delivery of the Readings or spent listening to Moots could be employed more profitably in the practice of law. Hence they tried by all sorts of subterfuge to evade these onerous tasks. But when the Benchers themselves ceased to perform their administrative and educational duties, they could not very well expect or demand that the Readers, Barristers, and students would perform theirs.

In consequence, the four Inns of Court found it more and more difficult to find a willing Double Reader or even a Single Reader, and in some instances the Inn had to resort to what amounted to outright bribery in order to secure the services of a reluctant Reader. And if the Reader could finally be prevailed upon to assume his office, he often found no audience. The same situation existed in the Inns of Chancery. It is no surprise, therefore, that frequently the Readings themselves were poorly prepared, and that the students on the whole found them dull and uninspiring—in short, a complete waste of time: They were the typical performances of reluctant teachers addressing equally reluctant students.

On several occasions the courts tried to counteract this general tendency by a series of orders and regulations. In 1591 and again in 1594 Lincoln's Inn officially was singled out for its laxity in holding Readings and Moots. Also Gray's Inn came in for much criticism in 1594. Additional orders were issued by the Judges and Benchers of the four Inns in 1595, 1614, and 1627. In 1630 the Judges, at the request of the Privy Council, once more repeated their orders. It seems that the Inns half-heartedly tried to enforce these orders by detailed regulations of their own. But the very need for such orders, as well as the

frequency with which they were issued, is a strong indication that they were ineffective in arresting the general trend of discarding a system of education which, while it had been magnificent once upon a time, now no longer satisfied the requirements of the day.

The Revolution apparently spelled the final doom of the old system of legal education at the Inns. It led not only to the suspension of much of the activities in the Inns, but compelled many of the members to abandon the houses. When finally order was once more restored, it was probably too late to undertake the proper adjustments and reforms. In 1646 the situation had grown so bad at Gray's Inn that the students themselves issued a complaint stating that they had no opportunity of performing the required exercises and thus were prevented from qualifying for a call to the Bar. Some luke-warm efforts were made to remedy this situation which by the year 1651 had reached such a lamentable state of affairs, especially at Lincoln's Inn, that the Royal Courts at Westminster had to take public notice of this situation. But in spite of the recommendations and orders of either the courts or Parliament, some of which were neither intelligent nor in keeping with the particular needs of the time, the decline of the Inns and their educational system went on relentlessly: the Readers simply refused to read or hold Moots, and the students fiatly refused to attend. The Restoration, like the Commonwealth, was unable to cope with this state of affairs: ". . . the holding up of the Commons in Vacation, intended by the Bench for reviving exercises in the Vacations . . . is a charge, besides the fruitlessness thereof, too great for the Revenue of the House." This was the answer of the Inns of Court to an attempt at reviving the old system of legal training during the Restoration.

Not only Parliament, the Privy Council, and courts tried to revive the old educational system, but also lawyers and authors added their voice and offered their advice. In 1669 Prynne, in the Preface to his *Animadversions* on Coke's *Fourth Institute,* attempted to "inopportunately intreat all Benchers . . . to gratifie both themselves, their posterities, yea, the King and whole Kingdom, by their unanimous cordial endeavours to support [and] encourage the declining diligent study and publicke exercises of the Common law . . . especially Readings in all the Innes of Court and Chancery, now over much neglected, discontinued, or perfunctorily performed, through sloathfulness, selfishness, or pretended novel Exemptions. . . ." But the appeal of Prynne went unheeded. The Inns, to be sure, again made some desultory attempts to remedy the situation, but little came of these efforts. In 1664 the Lord Chancellor and all the Judges issued a set of orders, intended to reform and improve the government and the legal education in the Inns of Court. The Benchers were to supervise

their Inns more carefully; only genuine students of the law were to be admitted to the Inns or permitted to reside there; no student was to be called to the Bar unless he had been a member of the Inn for at least seven years, had been regularly in commons, and had diligently kept his exercises; and no Barrister was to be admitted to practice in the Royal Courts at Westminster unless he was of three years standing. Benchers and Readers who refused to read were to be fined; the Readings were to continue for the periods heretofore observed; all members of the Inns were to attend and argue three Reader's cases; and the Benchers were to see to it that commons were kept in Term Time as well as in Vacation Time, and that the usual exercises were performed on the proper occasion.

Despite these orders and recommendations the opponents of any revival of the old system of legal education won out. All efforts at some restoration from the outset seem to have been doomed to failure. The last Reading at Lincoln's Inn was held in 1667, while the Readings at the other Inns of Court were permanently discontinued at about the same time. In his *Discourse on the Study of Law,* Roger North (1653-1734) complained that in his day the Inns of Court "have the outward show, or pretense of collegiate institution; yet in reality, nothing of that sort is now to be found in them; and whereas, in more ancient times there were exercises used in the Hall . . . these are shrunk into mere form and that preserved only for conformity to rules, that gentlemen by tale of appearances in exercises, rather than any sort of performances, might be entitled to be called to the Bar. But none of these called Masters, and distinguished as Benchers . . . ever pretended to take upon them the direction of the students. . . ." Thus it appears that not only the students, but also the governing bodies of the various Inns of Court had become totally indifferent to their educational and disciplinary duties which they probably considered both burdensome and distasteful.

In 1686 a proposal was made to hold "a visitation intended by the Lord Chancellor into the several societies belonging to the law, and that there will be a great regulation made amongst them." But apparently nothing came of this plan. At the same time the Crown began seriously to interfere with the self-government and traditional system of the Inns of Court, at least in an indirect manner, very much to the further detriment of these Societies, when it established the rank and order of King's Counsel. The members of this new order, as a rule, were selected from among persons who had incurred the King's favor rather than from those who had distinguished themselves as legal practitioners. With their appointment these men demanded as a matter of right to be made Benchers in one of the Inns, thus interfering with the ancient privilege of the Inns to recruit by co-optation

their governing bodies from among the ablest and most meritorious members who had given a certain number of Readings. In 1668, in the case of Francis North who insisted to be raised to the Bench of his Inn on his appointment to the office of King's Counsel, it was held that such an appointment automatically gave him a right to be a Bencher. As a matter of fact, the court reprimanded the reluctant Benchers "for their insolence, as if a person whom his majesty had thought fit to make one of his counsel extraordinary was not worthy to come into their company. . . ." During the seventeenth century it was also becoming customary to promote to the rank of Bencher persons whom the King had appointed to some high post in the administration of the Realm.

The Benchers, as might be expected, resisted this novel development which deprived them of much of their former privileges. But in the end they had to yield. The election of King's Counsel or some other persons of prominence to the Bench of an Inn of Court strongly affected the whole character of these Inns. The new Benchers frequently were ambitious politicians or extremely busy practitioners who took little, if any, interest in the educational work and collegiate tasks of the Inns. Also, the admission of King's Counsel to the Bench of an Inn removed any further need and, consequently, every inducement to do the prescribed Readings in order to be promoted to the rank of Bencher. In many instances this new class of Benchers was totally unfit to take its place in the traditional system of legal education established by the Inns. Hence the decline of the Inns of Court no less than the collapse of their educational methods to a large extent must be ascribed to the fact that especially during the Tudor period advancement in the legal profession often was no longer the reward for accomplishment, but the result of royal favor. To have been a successful Reader or a conscientious student no longer enhanced a man's chances for promotion.

Under these circumstances the collegiate life at the Inns of Court likewise deteriorated progressively. As long as the Benchers and Readers had been the advisors, supervisors, and teachers of the junior Barristers and students—as long as they had lived in their midst guiding and controlling the training and daily life of the students, the relation between the various classes or grades within the Inn on the whole had been excellent. But when the Benchers ceased to take a real interest in the House, this spirit of good fellowship came to an end. The decline and ultimate disappearance of the old educational system also made it unnecessary to insist upon regular residence of the students. A great many rules concerning "commons" simply became meaningless and, hence, were completely disregarded. In this fashion also the collegiate life of the Inns disappeared or, at least,

was seriously disrupted. Several serious disorders broke out at the Inns which at times assumed rather violent forms. In 1678 and 1679 the disciplinary situation at the Middle Temple had deteriorated so much that for awhile the Benchers did not dare to enter the Hall, while in 1680 there were grave disorders at Lincoln's Inn. In 1681 a student rebellion at the Inner Temple could be appeased only by the intervention of the Judges. These recurrent difficulties induced the Benchers not only to discontinue the Readings and Moots (or, what was left of them), but also to suppress the collegiate life of the Inns or, at least, to acquiesce in the constant breach of the rules as to residence studies.

Conclusion

Men imbued with the spirit of the Inns of Court and efficiently trained in the law as it was taught at the Inns supplied the English Bench and Bar with their most outstanding members. It was at the Inns that young men became permeated with a sense of the greatness of their calling. This mode of training, acquired in close association with people of identical pursuits and ideals, fostered a high sense of professional honor and professional competence. The control over legal education no less than over the practice of the English Common Law was entrusted to the Inns of Court. By the manner in which they taught the law of the Realm they cast themselves in the immortal role of guardians of the Common Law. The men who made and carried the Inns were, as Maitland puts it, worldly men, some of whom became as noble as any in the land. They were in their way learned and cultivated men, linguists, logicians, tenacious disputants, true lovers of the nice case and the moot point. They were gregarious people, grouping themselves in *hospices,* which became schools of law, multiplying manuscripts, arguing, learning, and teaching—the great mediators between life and logic and a reasoning as well as reasonable element in the life of the Common Law.

The Inns of Court were schools of "national law"; they were distinctly English, and they appear to have existed nowhere else: unchartered, unprivileged, unendowed, without remembered founders, these associations of lawyers formed themselves and in the course of time evolved a system of legal education, embracing not only an academic scheme of the mediaeval sort, oral and disputatious, but also a practical method by which their duly qualified members alone had audience in the Royal courts. The unrivalled authority of these Inns in all matters of legal education saved the English Common Law from being superseded by the Civil Law during the Renaissance. As it was, the Common Law had a narrow escape, but the peril was averted. In the hands of such men as Plowden, Coke, Selden, Prynne, and Hampdon those cherished and hard-won principles of English

liberty were rescued. With a past that is unique in history, and with institutions and traditions older than those of British Parliament, the Inns of Court truly were the first legal University of the English speaking world.

By the end of the sixteenth century the educational system of the Inns of Court, and with it the Inns themselves, began to display signs of decline. During the Commonwealth this system nearly completely collapsed, and despite some vigorous attempts to revive it after the Restoration, it never fully recovered. By the eighteenth century the Inns of Court had ceased to be educational institutions. The main cause for this phenomenon was probably the fact that the system in a way had become antiquated with the introduction and distribution of printed law books. Also, due to a number of reasons both the "teachers" and "students" at the Inns no longer believed in the effectiveness of the old system of legal education and, hence, were disinclined to continue it further.