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# The Shortcomings of the Machinery for Pauper Litigation,

AND

*A CERTAIN DEFECT OF LEGAL EDUCATION  
AND THEIR JOINT AMENDMENT.*

BY

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‘Purses are the weapons.’

HERBERT SPENCER [v. p. 35].

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## PREFACE TO THIS EDITION.



SINCE September, 1891, there have been changes both in the law and in circumstances, making some of the statements in the last edition no longer accurate. I have altered the text and notes to make them fit the present time. I do not claim for myself credit for having had any hand in beneficial alterations which may have occurred, or in reforms which may have been attempted, though, of course, it would please me to discover that I set the ideas afloat. I just point out, though, that in the short time this book has been published how many and valuable have been the alterations or reforms it has suggested which have, accidentally or otherwise, either been made or attempted. I mention this matter rather as claiming *credit and attention* for the suggestions of other parts of this book, in the showing that what was pointed out in these cases has been in so short a time recognised by others to be matter for reform, rather than as claiming that the reforms or attempts were due to my suggestions.

The following are the principal matters suggested in the last edition which have since *happened* to receive attention :—

i. On page 22 there are some remarks about officialism, which were made before the matter had been largely dealt with. I have since read the Incorporated Law Society's report on the subject, which document would have had a great deal more weight if its statement had been dispassionate, and without the assumption at once of prejudice, which its question-begging expressions convey. I have also read the report of one of the administrative departments of the Board of Trade objected to. The fault is not confined to the Law Society. As, however, the Incorporated Law Society stands in a better and freer position in making its report than a departmental literary hack does when defending the bread of himself and his colleagues, more was to be expected. The real answer to the inquiry about whether or not officialism was not better than the independent check system of other litigation *in matters of administration* was to be found in the best system of the different systems of other civilized states, or in a combination of the best efforts of several—surely. In any event (I do not say the Law Society's conclusions are wrong—far from it, I hope they are right) the Incorporated Law Society would have a proper claim for compensation to existing solicitors, a much better case than the clergymen of the Irish Church had on its disestablishment. This ought to be made in the shape of some immediate reduction of certificate duty to all articulated *before* the Companies Act, 1890, and in the shape of a greater reduction to those articulated before the Bankruptcy Act, 1883, and the Act to Permit the Appearance of Patent Agents.

ii. On pages 27 and 28 will be seen certain remarks about the employment of unqualified men to do solicitors'

work. The attempts to prevent the appearance of such men in chambers and elsewhere, and its failure, are still fresh in the minds of practitioners. The note appended to pages 27 and 28 in this edition is intended to suggest what ought to be done.

iii. The note about time bargains in dealing with stocks and shares on pages 41 and 42 has been dealt with (apparently inefficiently as regards the main grievance) by Act of Parliament.

I have added a chapter between the third and the last containing another, and, I think, *very* important argument for the hospital.

It may be thought that the abstruse argument (*a*) of Chapter II. was hardly required, or if required, the form of it is too minute and cumbersome. These accusations must be risked. It may be that the matter is one for legislative redress, though it will be seen it is contended that it is better left to private voluntary beneficence. But if the matter be one for legislative redress at all, *as* it savours of charity, the objections and *very* commendable hesitation of *those opposed to anything like charity legislation* have to be met. It is the more necessary because *some* of the objections to this sort of legislative action apply to the doings of organized benevolent institutions.

This has been attempted to be done by showing that the legal pauper's condition is such, remotely from the cause of *injury*, and that if the injury be too remote, the legislative redress is more owing than it is for pauper sustenance and pauper education, *because the legal pauper belongs to the wage-earning class, with certainty.\**

\* Pp. 45, 47 and 80.

This little book was reviewed in the January number of *Law Notes* for last year, and the ideas were characterized as Utopian. They may be so in appearance, but that they are not really so can be gathered from Mr. A. H. Jessel's article in the April number of the *Law Quarterly*, 1891. I have nothing to add to what he has said; except my Appendix B. This appendix will make the matter concrete. The 1892 report of the Students' Society and Legal Hospital of Denmark shows that its benefits are increasingly appreciated. When I wrote the first edition of this book with the head note as it stands, I had not the least notion that that which I recommended actually existed.

A recent speech has suggested that an organization, such as this book recommends, would afford the best means for the representation of the interests of poor persons, at that stage of Acts of Parliament when persons outside, who are affected by them, are heard.

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