

Arthur Linton Corbin

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During the long period of Arthur Corbin's active association with the Yale Law School, he unquestionably was more continuously and effectively responsible than any other person for its forward progress and general welfare. His influence was first felt as a student from 1897 to 1899, when he achieved athletic as well as scholastic distinction. In view of the part that his superb physical condition played in his life, it does not seem frivolous to refer to the former. In those days, under liberal eligibility rules, law students were members of the University crews and football, track, and baseball teams. They also had athletic organizations of their own. The Yale Law School baseball team of 1893 climaxed a successful season by winning the intercollegiate championship at the Chicago World's Fair. Except for a rather disastrous expedition in 1896, when the team lost every game and could not meet expenses, the next venture was a southern trip in 1898.¹ "On this team was Arthur L. Corbin, 1899L., who still in the year 1936 represents the school at first base in the annual game between the faculty and the *Law Journal* Board. Permission to arrange for a similar trip in 1899 under the management of Samuel E. Hoyt, 1899L., was obtained largely on the assurance that Corbin would be a member of the team and would serve as tutor in law during the trip . . . and on the trip . . . besides playing a good game of baseball, he did what else was expected of him. 'Owing to the fact that an examination was to be held on the morning of their return' wrote Hoyt (*Yale Shingle*, 1899, p.85), 'Corbin, the "shark," held daily quiz clubs until information on the statute of uses and other legal matter issued from their brains with great readiness.' They won four out of six games and came back without a deficit."²

In 1896, after long deliberation, the regular course at the Yale Law

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1. Hicks, *Yale Law School: 1869-1894*, 4 YALE LAW LIBRARY PUBLICATIONS 76-84 (1937).

2. *Id.* at 83-84.

School was extended from two to three years, but this was then such a novel development in legal education that, until 1902, according to the official announcements, the course could be completed in two years by "Bachelors of Arts of approved colleges . . . if they are able to do so . . . and . . . any others who in the judgment of the Faculty are qualified by their natural abilities or previous training to undertake so arduous a labor."³ Corbin, having received a bachelor's degree from the University of Kansas in 1894, qualified under the first clause, and, despite athletic and self-support activities, apparently did not find it too "arduous a labor" to graduate in two years magna cum laude. But the very system that facilitated this acceleration also left him with a feeling of intellectual dissatisfaction, because it consisted mainly of memorization and repetition of "rules" learned from lectures, textbooks, and a few reported decisions.⁴ This no doubt was the foundation for his vigorous and successful efforts for educational improvements when, after four years of practice, he returned to join the faculty in 1903.

From 1903 on, Corbin joined with other members of the faculty in gradually making changes that would raise the quality of the student body and of the instruction given at the School. One of these was the "combined course," under which seniors in Yale College could take courses in the Law School. This started in a limited way in 1901, but after 1911 it took its final form of having the entire first year in the Law School credited to both the B.A. and the LL.B. degrees. There were some rationalizations of this course in terms of it being consistent with the concept of a University, but, in practical terms, both its avowed objective and its most important ultimate effect were, as stated by the Governing Board of the Law School in 1898, "to control the increasing annual exodus of Yale graduates to Harvard Law School."⁵ This combined course was abolished in 1930 because, since it would automatically admit any Yale senior, it was totally inconsistent with the competitive system of limitation of numbers that had been adopted; if it had continued, the group of Yale College students desiring to enter the Law School would alone have exceeded the quota set for the entering class. But there is no question whatever that the combined course, while it lasted, attracted many excellent men to the Law School, either because they personally took advantage of it or because of the favorable comments of friends who had done so.

3. Hicks, *Yale Law School: 1895-1915*, 7 YALE LAW LIBRARY PUBLICATIONS 37-38 (1938).

4. Corbin, *Sixty-Eight Years at Law*, 13 U. KAN. L. REV. 183-84 (1965).

5. Hicks, *supra* note 3, at 40.

There were two other developments during this period that were presumably delayed more by financial considerations than by any differences of opinion about their educational value. One was the increase in the requirements for admission to two years of college in 1909 and to four years of college (subject to exceptions for the combined course and some other cases) in 1911. These changes of course reduced student numbers and tuition receipts, but this was later counterbalanced by the great increase in the popularity of the School from 1919 on, when their beneficial effects became apparent.⁶ The other was the gradual but continuous effort during the period starting with the appointment of Corbin and two other men in 1903 to acquire full-time teachers for the faculty, which came to real fruition immediately after World War I.⁷ There had been many fine members of the bench and bar willing to serve as part-time teachers, but, however excellent his qualifications may be, a man for whom teaching is an avocation is necessarily limited in his contributions.

Arthur Corbin was no doubt a leader in these decisions, but his greatest personal achievement in the years before World War I was the use of casebooks instead of texts as the preferred material for instruction. This was not a black and white issue of choice between mutually exclusive alternatives, since cases had been used with texts for some time and at least some text material is essential under the case method. This was an evolutionary process of a gradual shift in major emphasis, which called on all of Corbin's persuasive powers, since it was opposed by older members of the faculty accustomed to the previous methods, including that extraordinary gentleman Simeon E. Baldwin, to whom the Law School was incalculably indebted and for whom Corbin had the most profound admiration. When Corbin joined the faculty, the dissatisfaction that he had felt as a student was increased as he attempted to teach from textbooks, and he initiated the study of reported decisions in his own classes. His example was later followed, at first by younger members of the faculty. By the year 1912-1913, nearly all the courses in the School were being taught with casebooks, thus bringing it up to date with a system that had been successfully employed at the Harvard Law School since the 1870's.⁸

In September, 1913, the United States Senate confirmed the nomination of Dean Henry Wade Rogers as a Judge of the Circuit Court of

6. *Id.* at 42-43.

7. *Id.* at 45-47.

8. *Id.* at 43-45, 75-78, 81.

Appeals for the Second Circuit. Rogers submitted his resignation as Dean, but was asked to remain in office until his successor could be appointed. The latter did not occur until Thomas W. Swan was named Dean to take office on July 1, 1916. During the long interim, administrative problems were of course caused by the fact that Rogers was required to devote most of his time to his judicial duties, and many of the daily obligations of the Dean's office were handled by Arthur Corbin. At Yale, the power to appoint a Dean is in the President of the University, subject to approval by the Corporation. When Corbin learned of President Hadley's difficulties in filling the position satisfactorily, he persuaded the President that the law faculty could be of assistance and, in any event, should be consulted before an appointment was made. This action had two important results. One was the selection of Tom Swan, a great Dean during whose administration the School made extraordinary progress. The other was the initiation of a procedure always followed thereafter that the President should carefully consider the opinions of all the members of the law faculty before appointing a Dean. This has been done partly in individual conferences but mainly through a faculty committee, of which Corbin was always the chairman until his retirement. This is a difficult and potentially harassing job, since faculty feelings tend to become unreasonably impassioned on this issue, but he handled it with his customary patience and objectivity of judgment. He himself could have been Dean at any time, but he refused to be considered for the position. This was probably wise, since the incessant and demanding obligations of the office (especially with the comparatively small administrative staff existing when he was on the faculty) would probably have impaired his exceptional contributions as teacher and scholar and also his unique and really basic services to the School as an institution. His talents were not needed for minor decisions on daily details. On any significant issue, every Dean relied on his steadfast personal loyalty (whether or not he happened to agree with the Dean at the time) and his wise and experienced counsel.⁹

Since my own work has had only incidental connections with the law of contracts, I will not comment on Corbin's universally acclaimed publications in that field, and will conclude with a few reminiscences that are intended as an expression of personal indebtedness.

9. Remarks about Corbin's activities from 1913 to 1919 are based on the writer's recollections of conversations with him. References to events occurring after 1919 are based on the writer's personal observation.

When I entered the Yale Law School as a student in 1919, we had a small but fine faculty (many of them recent acquisitions) of gentlemen of great personal and intellectual integrity and outgoing friendliness. It is no reflection on the unusual teaching abilities of others to say that Corbin's Contracts, which then ran for seven units, was generally regarded as the backbone of the First-Year Curriculum. This of course gave us a careful, detailed and critical exposure to the cases and concepts of this basic area of the law. But its values went beyond the limitations of any specific subject-matter. One of these was exceptional training in clarity of thought, precision of analysis, and complete intellectual honesty. Another was an introduction to the ideas that underlay Corbin's legal philosophy, which he summarized in the inscription carved on the Sterling Law Buildings: "Law is a living growth, not a changeless code." His thinking was dramatically reinforced when he persuaded Judge Cardozo to deliver the lectures that became famous when published with the title "The Nature of the Judicial Process." These lectures not only had an extraordinarily impressive human and intellectual effect on the audience, but also opened up a whole new world of thought for those of us who attended them as students.

When I returned in 1927 as Assistant Professor, with no teaching experience of any kind, many members of the faculty helped me in various ways to make the marked transition from five years of New York practice. This was natural for those who had recently been teaching the courses to which I was assigned, but I did not expect as much from those who had not, like Arthur Corbin. But, after the first visits to his office (during one of which he said with characteristic directness: "It is now time for you to call me Arthur."), I never hesitated to go to him with anything that was on my mind, and he always seemed to welcome these talks. Several times, he went over something that I had written and returned it with detailed and incisive longhand comments. During the inevitable period of uncertainty before my promotion to a full professorship, while I had complete confidence in Charlie Clark, who was then Dean, it was a great source of comfort to me that Arthur's influence on the Governing Board would further insure fair and objective consideration. During my own term as Dean, which involved unusual difficulties due to war conditions, Arthur was always standing by with a helping hand, even after he retired. Whether in connection with the Law School or in other associations with him, he was a wise, stalwart, and loyal friend.

The fiftieth anniversary banquet of the *Yale Law Journal*, held in April, 1941, in the ballroom of the New Haven Lawn Club, was an

unusually distinguished and memorable occasion for which Arthur Corbin was the obvious and unanimous choice as guest of honor. As I was Dean at the time and also asked to preside at this affair, I recall the problem of limiting the number of speakers (finally fixed at six in addition to the editors-in-chief and Arthur himself) from among Arthur's friends, distinguished members of the bench and bar and teaching profession, who attended. Owing to careful preparation of the speeches, it was possible to adjourn at a reasonable hour at the conclusion of an exceptionally impressive and convincing testimonial to Arthur.

Another tribute on a more limited scale occurred when Arthur reached the retirement age of 68 in 1943, and the entire student body (sufficiently reduced in numbers by the war to be accommodated in one room) attended his final class and presented him with a gift in an informal ceremony. Since his physical and intellectual powers were then entirely undiminished, the inflexible retirement rule seemed arbitrary in his case. However, his publication since then of his great Treatise with annual supplements and his draft of a revision of the Contracts Restatement show the benefits that can accrue from being relieved of the duties of classroom work.

Arthur Corbin was a man of great stature in every respect. His powerful physique, which accounted for his extraordinary longevity and continued creativity, was kept in fine condition, not merely by abstaining from the common habits of smoking and drinking, but, far more affirmatively, by his great enthusiasm for competitive sports, including golf in his later years, and for other forms of outdoor physical activity. His great intellectual qualities are matters of common knowledge. As a person, he was a tower of strength, patient, kindly, always dependable, and direct and absolutely honest in every way. It is difficult to imagine how such a man could be replaced, but his influence will endure for a great many years to come.