

**AN INTRODUCTORY LECTURE ON
THE STUDY OF ENGLISH LAW,
DELIVERED IN UNIVERSITY
COLLEGE, LONDON ON
MONDAY, DECEMBER 17, 1838**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649280902

An introductory lecture on the study of English law, delivered in University college, London on Monday, December 17, 1838 by P. Stafford Carey

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

P. STAFFORD CAREY

**AN INTRODUCTORY LECTURE ON
THE STUDY OF ENGLISH LAW,
DELIVERED IN UNIVERSITY
COLLEGE, LONDON ON
MONDAY, DECEMBER 17, 1838**

AN
INTRODUCTORY LECTURE
ON
THE STUDY OF ENGLISH LAW,

DELIVERED IN
UNIVERSITY COLLEGE, LONDON.

ON
MONDAY, DECEMBER 17, 1838.

BY P. STAFFORD CAREY, M.A.
PROFESSOR OF ENGLISH LAW.

LONDON:
PRINTED FOR TAYLOR AND WALTON,
BOOKSELLERS AND PUBLISHERS TO UNIVERSITY COLLEGE,
28, UPPER GOWER STREET.

1839.

563.



LONDON:
PRINTED BY SAMUEL BENTLEY,
Barrington House, Shoe Lane.

AN
INTRODUCTORY LECTURE,

&c. &c.

GENTLEMEN,

IN undertaking the duties of the office which has been conferred upon me, it is but natural that, however sanguine may have been the anticipations which led me to seek it, I should survey the prospect which it opens to me with some feelings of anxiety.

I cannot but be aware that, although the plan of teaching English law by means of lectures has been adopted for some years, and not without a considerable share of success, still it has not become familiar to the habits and feelings of professional men—it has not yet naturalised itself among us. This circumstance creates a twofold difficulty, inasmuch as there is no particular method of instruction marked out for the professor by the accumulated experience of others; nor, on the other hand, does there exist any very definite notion of the nature or extent of the instruction to be looked for

in his lectures. Hence it can hardly happen but that the expectations of the student should be frequently disappointed, and that the endeavours of the professor should be subject at least to occasional failure.

Notwithstanding these difficulties, I entertain some confidence of success, from a strong conviction that oral instruction is peculiarly well suited to the elementary study of the law; for, although the ultimate questions that arise in practice are complicated and infinite, yet the elements themselves are comparatively simple, and capable alike of systematic arrangement and of familiar illustration.

This is the mode in which legal studies are commenced in every country except our own, in which law is pursued as a profession. True it is that, among us, lawyers have hitherto been formed with little other professional education than what may be gathered in the routine of practice; but are we, therefore, to conclude that there is in English law some peculiarity which renders systematic instruction either inapplicable or superfluous? In answer to this question, it will be enough for me to appeal to the success which has attended the efforts of those whom I may be proud to call our fellow-labourers, in the United States of America.

The law of England is, indeed, in its form and its expression, peculiarly practical. A practical education is therefore more, perhaps, than in any other system, indispensably requisite. The con-

viction of this necessity appears to have led very generally to the conclusion, that all other means of acquiring legal knowledge are at least useless, if not absolutely pernicious. This opinion appears to me to imply a misconception of the nature of elementary instruction, the main object of which is not to supersede practical education, but to be an introduction and a companion to it. In the prosecution of this object, it should be the constant aim of the professor to prepare the mind of the student,—to facilitate his progress,—and to put him in possession of the means of ultimately attaining to a more complete mastery over his subject than he could acquire by any more desultory way of study.

The characteristic of an education merely practical is, that it throws the beginner at once upon matters of detail, and leads him to deal with principles, only in their application to individual cases. The effect which is produced by this training on the mind of the student may, in after-life, be clearly traced in the habits and language of the practitioner. Ask an English lawyer for the definition of a right, and you will generally find that he is embarrassed in his answer; but lay before him a statement of facts, in which the right in question is involved, and no man will be more prompt to advise whether an action will lie. Nay, so entirely are the members of the legal profession in this country absorbed in the consideration of details,

that they do not even aspire to any higher reputation. Willingly conceding to foreign jurists the palm of superior science, it is enough for them to attain the less exalted praise of superior skill.

This circumstance may, no doubt, in part be attributed to the character of the English turn of mind, of which it has justly been observed, that, as in other subjects, so likewise in jurisprudence, it exhibits a fact of a twofold nature—on one side good sense and practical ability; on the other, the absence of general ideas and elevation of mind on theoretical questions.

This peculiarity of the professional character, whatever may be the cause on which it originally depends, is no doubt confirmed and perpetuated by being at so early a period impressed upon the mind of the student.

Supposing however, for a moment, that all higher views are beyond the scope of a practical lawyer, and supposing that there is, in truth, no object to be sought for in legal education beyond that of training up a skilful advocate, still I think it will require but little consideration to perceive that even this object would not only be more easily, but more effectually attained by the help of elementary instruction.

One of the faculties most important to the formation even of a practical lawyer, is the power of systematic arrangement. By this faculty it is that when a question is proposed, he is enabled to view

it, not merely as an isolated point, but also in all its various and complicated relations. His mind thus lights, as if by intuition, on the perception of real analogies, rejecting all such as are false, accidental, or merely apparent. The way in which this faculty assists the practitioner in the exercise of his profession, is by enabling him to form his opinion with superior strength and correctness of judgment, and to support this opinion, when formed, with a combination of arguments at the same time so various in detail, and so harmonious in principle, as to present a general consistent view of the relations between the point in question and the other portions of the system, and to determine at once the place to be assigned to it in that system, considered as a whole. The effect that this mode of treating a subject will produce on the minds of those to whom it is addressed will, I believe, be almost invariably found to be, beyond all measure, greater than any that can be brought about by the most consummate skill and astuteness in the employment of desultory topics.

There are, indeed, men of minds so strong and clear, that, under any circumstances, they will attain to this power of arrangement. Although their knowledge consisted originally in a mere accumulation of details, they will yet create some kind of classification; they will acquire something like a perception of the mutual relations and coherency of the several parts of the system; and thus be