

Spring 1955

The Earliest Law School in the South

Merrill G. Christophersen
University of South Carolina

Follow this and additional works at: <https://scholarcommons.sc.edu/sclr>



Part of the [Law Commons](#)

Recommended Citation

Christophersen, Merrill G. (1955) "The Earliest Law School in the South," *South Carolina Law Review*. Vol. 7 : Iss. 3 , Article 2.

Available at: <https://scholarcommons.sc.edu/sclr/vol7/iss3/2>

This Article is brought to you by the Law Reviews and Journals at Scholar Commons. It has been accepted for inclusion in South Carolina Law Review by an authorized editor of Scholar Commons. For more information, please contact digres@mailbox.sc.edu.

THE EARLIEST LAW SCHOOL IN THE SOUTH

MERRILL G. CHRISTOPHERSEN*

A petition addressed to the legislature of South Carolina in 1825 indicates that the earliest Law School in the Southern States was organized in Charleston over a century and a quarter ago. That petition read:

To the Honorable the Speaker and Members of the House of Representatives, the Humble Petition of Richard Yeadon, Jr., Charles S. Strohecker, George Buist, Henry Cochran, Stephen Elliott, and Others, Members of the Forensic Club.

Herewith

That your petitioners have for several years, associated themselves together for the purpose of improvement in Forensic Exercises and Legal Science under the name of the "Forensic Club." That the great majority of the members are above the age of twenty-one years, being either already admitted or students about to be admitted to the Bar. That they have established a Lecture-ship on the Law, which has been accepted by a gentleman of known talents and legal eminence and that they contemplate also the future creation of a regular Law Institute in the City of Charleston and the annexation of a Law Library to their Institution for which purpose they are accumulating a fund—your petitioners therefore humbly deem their object highly important to the rising generation and well deserving the fostering hand of Legislative encouragement, for the promotion of their view and the protection of their funds, pray your honorable body to grant them a charter of Incorporation—and your Petitioners will ever pray as in duty bound and so forth—

November 18, 1825
Charleston

Richard Yeadon, Jr.
Charles C. Strohecker
George Buist¹

*Associate Professor of English, University of South Carolina; B.A. Beloit, 1926; M.A. Northwestern, 1941; Ph.D. University of Florida, 1954.

1. Petition addressed to the House of Representatives of the State of South Carolina, 1825, in Historical Commission of South Carolina.

That the Forensic Club was organized for a serious purpose is evident from the wording of the petition. That the club was sponsored by earnest and responsible persons was indicated by the membership. Yeadon would soon become editor of the *Charleston Courier*; Strohecker was a member of the city council; Buist was the son of the beloved pastor of the Circular Church; and Stephen Elliott would soon be better known as the Bishop of Georgia.

Because such men as these had made the request, the legislature saw no reason not to grant it:

Be it therefore enacted by the Honorable the Senate and the House of Representatives, now meeting and sitting in General Assembly, and by the authority of the same, That the members of the Forensic Club, in the city of Charleston, be, and the same are hereby declared, a body politic and corporate, by the name and style of "The Forensic Club."²

Thus was formed one of the earliest Law Schools in the country and certainly the earliest south of Philadelphia. The first was the famous Litchfield School, founded by Judge Tapping Reeve and James Gould in 1784, which, although it never granted a degree, nevertheless, taught over a thousand students during its fifty-year existence. Although the College of William and Mary had established a professorship of English law in 1782, it was in name only. The second law school (the first to be underwritten by a state supported educational institution) was sponsored by the College of Philadelphia, where Justice James Wilson of the United States Supreme Court lectured in 1790. But the course was discontinued after the first year. The oldest of the existing law schools is, of course, the Harvard Law School; yet even that famous breeding place of lawyers did not exactly antedate the Charleston project. While the Harvard Law School was founded in 1817, it did not operate fully until the great Justice Joseph Story started the Dane Lectureship in 1829. Yale began her school of law in 1824, but again, it was some years before the curriculum was even adequately developed. The only other school which antedated the Charleston group was that conducted by James Kent, who lectured to a small class at Columbia College in New York City in 1794, 1795, 1797.³

Even before 1825 the Forensic Club, as the petition shows, had "for several years, associated themselves together for the purposes of improvement in Forensic Exercises and Legal Science" The

2. Statutes at Large of South Carolina, 8 (December 20, 1825), 344.

3. THE ENCYCLOPEDIA AMERICANA, 30-vols. (New York, 1951) XVII, 94-97.

quality of its Exercises was indicated by the high calibre of its membership. The breadth of the Legal Science must have been such as could have emanated only from the mind and tongue of Hugh Swinton Legare, whom Justice Story called one who walked triumphantly with Common Law in the one hand and Civil Law in the other in the path of a great jurist.⁴

The law lectures were begun early in February of 1826:

Hugh S. Legare, Esq. has consented to deliver, gratuitously, before the Society, a course of Law Lectures, of which the introductory one was pronounced at the City Hall, on Monday evening last [February 6], to a large and highly satisfied auditory.⁵

The place of the meeting, the large audience, and the praises of the news writer, all show that the enterprise had complete civic backing:

It is the pleasing duty of the Press to notice the increasing anxiety among us to disseminate science and literature — and it is very grateful to find a gentleman of Mr. Legare's sound learning, laborious research, and fine taste, thus usefully and honorably filling up the intervals of his leisure.⁶

Legare, at that time, was already a member of the House of Representatives at Columbia, "and his reputation for learning, talents, eloquence, and scholarship, was very high indeed."⁷ He had, even by his twenty-ninth year, given more study to common and civil law than most lawyers do in a lifetime. He was a member of the Judiciary Committee of the House and also chairman of the special committee appointed to look into the feasibility of codification of the laws of South Carolina. He was, furthermore, chairman of the famous Committee on Unfinished Business which was to voice the state's constitutional position on the great tariff issue.

The choice of such a learned person to lecture to the Forensic Club upon the science of law represented a radical change from the colonial attitude toward the practice of law. The Act of 1785 required judges "to license as attorneys persons whom they found on examination qualified in knowledge and character."⁸ Study or clerk-

4. Boston Daily Observer, June 30, 1843.

5. Charleston Courier, February 8, 1826.

6. *Ibid.*

7. Benjamin F. Perry, *REMINISCENCES OF PUBLIC MEN* (Philadelphia, 1883), 251.

8. David Duncan Wallace, *THE HISTORY OF SOUTH CAROLINA*, 3 vols. (New York, 1934), III, 48n.

ship in the office of an attorney was expected, but was not required. Many felt that entry into the field of law should be "free and open," as it was in the profession of medicine.⁹ If a lawyer-to-be could afford it—and if he were a planter's son he often could—he either topped off his studies at one of the four English colleges or he attended one of them for the full five years' course. But if he could not afford it, he need not attend a law school at all. A degree was not thought necessary for entry into the legal profession as a fully qualified member.

The Forensic Club was tangible evidence of a changing attitude. A study of law was beginning to be thought good, even for itself, aside from the practical end of passing Bar examinations. The lectures of Legare must have gone far beyond the expressions of rudimentary principles, and his influence went far beyond the Charleston club to which he lectured.

Although South Carolina had no state supported law school, nor was it to have one until 1867, an act of the faculty of the South Carolina College curiously complemented the objectives of the Forensic Club. In 1826, shortly after Legare's lecturing began, the college faculty recommended that a three or four-year law course be established for attorneys after they had completed their college undergraduate studies.¹⁰

9. *Ibid.*, 48.

10. *Ibid.* Such a school, however, was not established until 1867 for several reasons. The Forensic Club ceased to exist as a school of instruction in Legal Science some time in 1827. Early in the fall of that year a group of men, most of whom were members of the Forensic Club, held a meeting at the home of Robert Y. Hayne. At that meeting the idea of putting out a learned magazine captured the imagination of these gentlemen. That magazine was to be the *SOUTHERN REVIEW*, intended as a vehicle for presenting Southern thought in literary, scientific, and legal fields. Legare was chosen as its editor because of his great learning and capabilities as a writer. His lectureship at the Forensic Club, of course, ceased immediately, as his new work took all of his nights as well as many of his days during the four years of his editorship from 1828 to 1832. In 1832 Legare left Charleston to become Charge d'Affairs at the newly created country of Belgium.

For a fuller discussion of the *SOUTHERN REVIEW* and of the political struggle over nullification (which also played its part in tearing the Forensic Club asunder), see Merrill G. Christophersen, *A RHETORICAL STUDY OF HUGH SWINTON LEGARE: SOUTH CAROLINA UNIONIST*. (Ph.D. dissertation, Dept. of Speech, University of Florida, 1954).