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REPORT

OF THE

EIGHTEENTH ANNUAL MEETING

OF THE

American Bar Association

HELD AT

DETROIT, MICHIGAN,

August 27, 28, 29 and 30, 1895.

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THE

NINETEENTH ANNUAL MEETING

WILL BE HELD AT

SARATOGA SPRINGS, NEW YORK,

On August 19, 20 and 21, 1896.

TRANSACTIONS

OF THE

EIGHTEENTH ANNUAL MEETING

OF THE

American Bar Association,

HELD AT

DETROIT, MICHIGAN,

AUGUST 27TH, 28TH, 29TH AND 30TH, 1895.

Tuesday, August 27, 1895, 10.30 A. M.

The meeting was held at the Detroit Law School Hall, Y. M. C. A. Building, and was called to order by the President of the Association, James C. Carter, of New York.

The President:

Before proceeding with the exercises which are set down for this first day, I will request the following gentlemen, if they are present, to pass up on the platform and honor us with their presence here, if they will: Mr. Justice Brewer, Mr. Justice Brown, Mr. Justice Taft, Mr. Justice Gowan, of the Dominion Judiciary, Ex-President Alexander R. Lawton, Ex-President Simeon E. Baldwin and Ex-President J. Randolph Tucker.

Gentlemen of the American Bar Association:

It is my first duty to acknowledge the very distinguished honor which has been conferred upon me in my election to the office of President. I esteem it one of the greatest distinctions

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of my life to be placed in this position at the head of this representative assembly of the American Bar.

I congratulate you on the numbers which you exhibit here to-day, and upon the agreeable auspices under which this Annual Meeting opens in this very delightful city, the citizens of which have met us at their very gates as we have already found occasion to know, with their very bountiful hospitality.

The first business in order is the reading by the President of the Annual Address, which is required by the Constitution.

The President then read his address.

(*See the Appendix.*)

The President:

The next business in order is the report of the Executive Committee.

The report of the Executive Committee was then read, accepted and ordered to be filed.

(*See the Report at end of the Minutes.*)

The President:

The next business in order will be the announcement of delegates accredited to this convention.

The Secretary read the list of delegates whose credentials had been received up to this time.

(*See List of Delegates.*)

The President:

These delegates are entitled to all the privileges of the floor, and the chair trusts they will avail themselves of the opportunity to take part in the proceedings of the meeting.

The next business in order is the nomination and election of members.

New members were then elected.

(*See List of New Members.*)

The President:

The next business in order will be the election of the General Council. To that end it will be necessary that a recess of ten minutes shall be had, which will accordingly now be taken.

After the recess the roll of States was called and the General Council was elected.

(*See List of Officers at end of the Minutes.*)

The President:

There are some special committees to be appointed by the chair. I will appoint as the Committee on Reception: Edward W. Pendleton, of Michigan; Henry Wise Garnett, of the the District of Columbia; Walter George Smith, of Pennsylvania; Charles Claflin Allen, of Missouri; John J. Hall, of Ohio; J. M. Dickinson, of Tennessee; James S. Pirtle, of Kentucky, and Edwin Burritt Smith, of Illinois.

As members of the Committee on Publications the following: Charles Borcherling, of New Jersey; Thomas Dent, of Illinois; Sullivan M. Cutcheon, of Michigan; John D. Lawson of Missouri, and Willis Van Devanter, of Wyoming.

The Secretary read an invitation from General R. A. Alger for a reception at his residence this evening in honor of Justices Brown and Brewer of the United States Supreme Court, and James C. Carter, of New York, the President of the Association.

Also letters extending the privileges of the Detroit Club, the Michigan Club and the Detroit Museum of Art to all members of the Association.

These invitations were all accepted by the Association, and the Secretary was directed to acknowledge the courtesies extended, with thanks.

The President:

The next business before us, gentlemen, is the reports of the Secretary and of the Treasurer.

The Secretary, John Hinkley, of Maryland, read his report.

On motion, the report was received, approved and placed on file.

(*See the Report at end of the Minutes.*)

The President:

The report of the Treasurer will now be presented.

The Treasurer, Francis Rawle, of Pennsylvania, then read his report.

(*See the Report at end of the Minutes.*)

On motion, the report was received and referred to an auditing committee to be hereafter appointed by the chair under the by-laws.

The President:

Gentlemen, this concludes the exercises of the morning session, and we will now adjourn until to-morrow morning at 10 o'clock.

There will be a meeting this evening at 8 o'clock, but that is not, strictly speaking, a meeting of the Association. We are to listen to an address of welcome.

The Association then adjourned.

Evening Session.

Tuesday, August 27, 8 o'clock.

The President:

Gentlemen will please come to order. This informal gathering of the Association is for the purpose of meeting our brethren of the Michigan Bar, who, in common with all citizens of Detroit, have been so ready in extending their hospitalities to us.

Don M. Dickinson, of Michigan:

Mr. President and Gentlemen of the American Bar Association: It was with one voice that the Bar of Michigan, intending in the selection to show you the highest consideration in our power, named as our spokesman to greet you and to welcome you to the State our beloved and distinguished leader, George V. N. Lothrop.

It is with regret, therefore, that I am compelled to announce that his condition of health will prevent his appearing before

you in this place, and that the office has been allotted to me to tell you how glad we are to have you here. The State of Michigan opens her great heart to you, and her inland seas send you a smiling welcome on the face of their blue waters that pass our doors on their way to Niagara and the Atlantic.

As a representative here of all our people chosen to speak for them on this occasion, I do most heartily thank you for coming to us and bid you a most cordial welcome. At the same time, whether we say it or not, the most of us feel way down in our innermost hearts that you are to be congratulated because of your happy lot in being in Michigan, even for a short time, and upon your exceptionally felicitous choice of Detroit as a place of meeting. We look about us upon our intelligent people, our peerless system of education, our natural resources, our mighty commerce, our beautiful land and our great waterways, and seeing our possessions and what we have done withal, we reflect that we are not as the rich and effete East, nor as the cruder and sometimes rude and strident West, nor as the full-blooded and impulsive South, and we, admiring ourselves, say that we are the true mean among them all, and that it is good to be truly the mean. Then we thank God, satisfied, and look out upon the rest of the world ready to make allowances for faults, foibles and shortcomings in a spirit of broad christian charity. Nevertheless, we like to be visited, so that those learned in our history and importance may come to an appreciation of their knowledge and so that the unlearned may become wise.

A few days ago a senator of the United States from the great State of New York referred to the City of Detroit as situated on the shores of Lake Michigan.

Now, we would have him know, and all the rest of our friends of the Atlantic coast, who have never been west of Buffalo, know, that a commerce passes the Port of Detroit in but the seven months of open navigation seven times as great in tonnage of merchandise as the entire year's carrying trade of the North Atlantic highway, and more than twice as great

as the combined entries and clearances of the whole world at the ports of New York and Liverpool together. In the summer of 1893 a member of the Supreme Court of the United States—one of the most eminent men produced by this republic and one of the greatest judges who ever wore the ermine—spent a month within sight of the two endless processions of shipping that pass each other on this water-road. Mere statistics had not greatly impressed him, but the actual view of the living facts filled him with astonished conviction. To that visit more than anything else, I believe, does our fresh water Neptune owe his belt and spur of knight, for in December, 1893, the court gave to our lakes and connecting rivers the full legal title and dignity of "high seas," ranking with the oceans and seas of the world. I say, in passing, that now, with our sister States of the northwest, we are asking with more and more urgency—nay, we will soon demand from the United States—a free, and above all, a wholly American outlet to tide water, so that we may ship our goods to every open port on the earth without change of bulk.

In agriculture Michigan's resources can feed all the nations; in building material we can build cottages and palaces for them all; we can gridiron the earth with our iron and steel, and from our manufactories can equip the lines with rolling stock. We produce the most and best iron of any State or nation.

Our copper product is now at least half of the world's supply. Copper mining is remunerative, but I suggest to our fellow-citizens of the United States from abroad, that it would pay us better if the government would open its mints to the free and unlimited coinage of copper as money, impose the legal tender quality, fix a ratio (at any figure—that is not material) with gold and silver, and then maintain the parity of the three metals with all the financial resources of the republic, "independently of and without waiting for the assent of foreign nations." Michigan would like this, and if it should turn out well, we might, following Lycurgus, try it with our iron by and by.

But that's another story, as Kipling would say, and I want to tell you something about your immediate hostess, the fair city of Detroit. You have been introduced—you do not know her.

Some one said, not long ago, that the founders of our town modeled it after the city of Washington, as Washington was modeled from Versailles and Versailles from a cobweb. But before Louis XIV had finished his palace at Versailles—the beginning of the city—before Washington was dreamed of—nay, before the father of his country was born, and while his father Augustine was yet a child of eight years, Detroit was founded.

As English song and story impress one with the mistiness of the long past, by the admixture of Celtic myth with history, when they tell of King Arthur and Sir Lancelot and Guinevere, so the beautiful tale of Evangeline, like another Æneid, relating the expulsion and the wanderings of a people from their country, seems of a time almost lost in an age long gone. Yet Detroit had been a vigorous historic fact for half a century when her citizens opened her gates and their hearts and homes to many of the sad and weary Acadian exiles, driven from their homes by England. Nay more, we

> "Gave them of the corn land
> That was of public right,
> As much as two strong oxen
> Could plow from morn to night."

And they and their descendants have abided with us unto this day.

Before St. Petersburg was founded by Peter the Great—Detroit was.

More than six decades before the birth of Napoleon, when Louis the Grand had turned pious and was in the zenith of his power, when James II of England was living an exile at the court of France, when William of Orange was England's sovereign and Peter the Great ruled Russia and was the dread of Europe, this town had come to stay.

When Cotton Mather published his Magnalia, twenty years before potatoes were known in America, before there was a

newspaper or post-office in the colonies, before the great war of the Spanish Succession, more than forty years before the Highlanders went down with King Charlie before the English at Culloden, nearly sixty years before Wolfe died on the plains of Abraham and Canada became English, fifty years before Washington, in his early twenties, was with Braddock at Fort Duquesne, and fifty years before Franklin flew his kite, long before George III was born—Detroit was receiving visitors within her borders with the same warmth of hospitality with which we greet you. We had passed three score and ten when Boston gave her first successful tea party, when the first cabin was built in Kentucky, when Daniel Boone was first heard of, when the embattled farmers stood and fired the shot heard 'round the world. Before New Orleans was thought of, when Baltimore and Savannah were founded, before there was an English settlement in Vermont—Detroit had twice enlarged her stockade to take in the population for whom there had ceased to be room within it.

Detroit's sons have shed their blood in all the wars of the colonies and of the republic. They have charged for the golden lilies of France, defended the cross of St. George, and been represented in every battle on the side of Old Glory since it first floated.

We take just pride in our ancestors, and their descendants from gallant France; aside from these, Michigan's people are great-grandsons and grandsons of New England, and sons and grandsons of Central and Northern New York—albeit, we are broader and cleverer Americans than our forebears.

Such as we are, Michigan and Detroit salute you with honor. We wanted you to know that we receive you on classic ground, with the influence of nearly two centuries of an always progressive civilization about you. It is fitting that the representatives of the bar of this country should meet in the State of that bench, whose judgments were and are confidently cited as authoritative wherever law in administered—the bench of Campbell, Cooley, Christiancy and Graves. We

greet you in the Federal circuit of such jurists as McLean, Waite, Swayne, and of him who has lately gone to his reward of a life well lived and of a judicial career unexcelled for rectitude, justice and ability by any one of them—I refer to the lamented Howell E. Jackson.

Mr. Chairman and gentlemen, we wish you success in your deliberations in the broadest sense. We would like this meeting to be a memorable one; and while we would not interfere with your labors, we must insist that the best economy of time dictates that you shall occasionally turn aside from the road you are following, for rest, and while you are in this pleasant land, we propose to lead you by the still waters and make you to lie down in green pastures.

The President:

Mr. Dickinson: On behalf of the American Bar Association, I beg to express to you, and, through you, to our brethren of the Bar of Michigan and Detroit, and to the citizens of Detroit, the most grateful acknowledgments of the Association for the hospitality which we have received from the first moment when we entered your gates. This hospitality was not, indeed, altogether unexpected. We were not wholly ignorant of the character of this great State, and of this great and growing city, and we knew that a community which exhibited such a progress in civilization and such a progress in material wealth and resources, could not be indifferent to an Association which had for its principal object the cultivation and the improvement of the law upon which all that progress so much depends. Nor could a community be indifferent to the science of the law or to the labors of those who were endeavoring to cultivate it, which garnered up among its treasures and renown the fame of such men as Cooley, and Campbell, and Christiancy, and Graves.

You have high claims, Mr. Dickinson, for the antiquity of this city in which we now are, and in which we are taking so much enjoyment. It is not for me to dispute the validity of

those pretentions; at the same time, I may be allowed to say that your fellow citizens from other parts of the country are in the habit of attributing your greatness, not to the antiquity of your settlement, but to the boundless resources of your State and to the energy and the enterprise of its citizens, exhibited during the comparatively recent period of the last half century.

We supposed we were somewhat aware of the extent of the wealth and greatness of Michigan, of its commerce, its resources, and its great advantages on land and upon the water, but if our ideas were in any respect inadequate upon this point, they have already been corrected by that magnificent eulogy, in which you have fully presented the glory and renown of your state.

I beg again to say that we fully appreciate, Mr. Dickinson, our good fortune. It has already become manifest to us, and I thank you for the hospitality which we have already received, and I thank you in advance for the hospitality which I know will continue to be extended to us during the entire period of our sojourn.

Second Day's Proceedings

Wednesday, August 28, 1895, 10 o'clock A. M.

The President:

The convention will come to order. I will appoint as the Auditing Committee, P. W. Meldrim and Charles F. Libby.

And now, gentlemen, we will have the pleasure this morning, as the first of our exercises, of listening to the Annual Address from the Honorable William H. Taft, of Ohio.

The Annual Address was then delivered.

(*See the Appendix.*)

New members were then elected.

(*See List of New Members.*)

Louis H. Pike, of Ohio, moved to substitute the name of John J. Hall for Samuel F. Hunt upon the General Council for Ohio.

The motion was seconded and carried.

The President:

The next business in order is the reports of standing committees, and first the report of the Committee on Jurisprudence and Law Reform.

The Secretary:

I would state, Mr. President, that the Secretary has not received a report from that Committee.

J. M. Dickinson, of Tennessee:

The Chairman of that Committee is not present. Therefore we have no report.

The President:

The next committee is the Committee on Judicial Administration and Remedial Procedure.

Thomas Dent, of Illinois:

The written report upon the single matter referred to the Committee happens not to have been received from our Chairman, Mr. Walter B. Hill, of Georgia, whose absence has been necessitated by the unexpected assignment of a cause.

The matter considered relates to a proposition to allow appeals in Federal courts from orders appointing receivers.

The act organizing the Court of Appeals for the District of Columbia has a provision of that character in it. The Act of 1891 for the organization of Circuit Courts of Appeals of the United States has a provision allowing appeals from orders granting injunctions, but no provision for appeals from orders appointing receivers.

May I add, as the report suggests, that a bill passed the House of Representatives embodying the proposed amendment in it, in 1894, and that the matter is receiving the attention of Congress?

The report prepared presents these suggestions with but little elaboration. When received it will be handed to the Secretary.

The President:

The next report is that of the Committee on Legal Education and Admission to the Bar.

Austin Abbott, of New York:

Mr. President and members of the Association. As the report of our Committee is in your hands, perhaps I shall better fulfill my duty if, instead of reading it *pro forma*, I occupy less time in stating its principal points and calling attention to one or two matters on which we ask the co-operation of members of the Association. The report gives first a brief synopsis of the subjects embraced in the field which this Association, and particularly the new section of it, are systematically discussing, and an index which will indicate to you how far the discussion has already proceeded. We desire the Association at large to understand that the question of Legal Education, as we view it, is not merely a matter of interest to schools and instructors. Its object is the elevation of the bar and the appreciation of the value of a standing at the bar, and we conceive that we shall not fulfill our duty unless we survey the whole subject with that objective point in view, the better service of the community by the professional abilities and activities of the bar, reached through improvements in legal education.

After a statement as to the present organization and condition of the schools, so far as we could at this time state it authoritatively, follow some specific recommendations. We desire to complete the statistical information in regard to schools. We invite information bringing these statements down to a later date than 1894.

The main object of the report is to call attention to three practical suggestions. The first is, that the schools should give specific attention to legal ethics. The second is, that as a means of liberalizing the study, there should be adopted a

course in civil law. There was a little barefooted girl in a logging settlement up in Maine, who, when being visited by a gentleman in pursuit of fishing, said that she could get along without a pair of shoes but was suffering for the want of a breast-pin. Now, the average law student when he comes to the law school feels that he can get along without legal history and the civil law, but he is suffering for the want of an opportunity to address a jury. We want gradually to open the minds of the students from the beginning to the fact that they want something of the higher jurisprudence to give significance, definiteness, force and usefulness to their technical knowledge. We, therefore, invite suggestions from those schools which desire to do something in that direction and do not see their way clearly how to do it. If they communicate with us we may perhaps be able to furnish helpful information.

The third practical suggestion is that the schools shall adopt a distinct course in Federal law and jurisprudence. I count it a very happy thing for the work of our committee that I am permitted to speak of this, following such a paper as the one by Judge Taft to which we have just listened, and especially because admission to the bar, the gateway to the legal profession, is not through the Federal courts. It is in the hands of the State courts. The State courts prescribe the subjects on which students seeking admission to the bar shall be examined, and the subjects which they prescribe rarely include any adequate treatment in regard to Federal law and jurisprudence. The schools are engaged in fitting young men for the bar, and the idea of the young man as to what he wants—not what he needs—is limited in a large extent to just the subjects that are required to get him through the examination. Now we desire as one step towards liberalizing the education which the schools afford to bring before the schools and before the young men a better understanding of the Federal law and jurisprudence. In the first place it is the law of our country. It is in force in every State by the side of the State law. Then again the moment we add to the study of State law Federal law and juris-

prudence we have the beginning of comparative jurisprudence, and before they know it they will be getting the intellectual advantages which come from comparing two systems, for I hold that as a cardinal point in education that it is easier to understand two things than one alone. Now, what step can we take towards facilitating this end? We have thought that the best thing would be to ask Congress as part of its promulgation of Federal law to send to all the law schools in the country the Federal statutes, the opinions of the Attorneys General, the reports of the State Department, and all discussions of international law and all the reports of the other departments which will give to all the schools facilities for commencing or for enlarging their work in those respects. Therefore, the last point in the report is the statement that we desire to ask Congress to adopt, under such restrictions as its wisdom may impose, some regulations for that purpose under the new statute which provides a superintendent of publications and a systematic distribution of the government's publications. We have not thought best to offer any resolution on that point, but if no objection be made your committee will feel at liberty to draft and submit to the proper authorities a bill for that purpose. And I would like to go further; it has been suggested by members of the committee that a short petition, stating what we desire and signed by gentlemen of such influence as members of this Association, would forward very much that object. I will have in readiness to-morrow a petition of that kind if no suggestion of objection be made. With these remarks I submit the report.

The President:

Gentlemen, you have heard the statement of the contents of the report, which is already in your hands. What disposition shall be made of the report?

On motion, the report was received and placed on file.

The President:

The next committee from which a report may be expected is that on Commercial Law. Is there any report?

The next committee is that upon International Law. Is there any report?

And the next committee is that upon Grievances. Are there any grievances?

I am informed by the Secretary that he has had no notice of a report from either of these Committees.

Gentlemen, this concludes the regular order of proceedings this morning. An opportunity is now afforded for general business. If there is no business of a miscellaneous nature which any member desires to bring up, a motion to adjourn will be in order.

On motion, the meeting adjourned until 8 o'clock P. M.

Evening Session.

Wednesday, August 28th, 1895, 8 o'clock.

The President:

The Association will come to order. We shall now have the pleasure of listening to the reading of a paper by William Wirt Howe, of Louisiana.

Mr. Howe then read his paper on "The Historical Relation of the Roman Law to the Law of England."

(*See the Appendix.*)

The President:

Gentlemen, we shall next have the pleasure of listening to an address by Richard Wayne Parker, of New Jersey.

Mr. Parker then read his paper on "The Present Scope of the Constitutional Guarantees of Liberty and Private Property."

(*See the Appendix.*)

The President:

Gentlemen: An opportunity is now afforded for a discussion of the papers read. Of course any discussion this evening must be necessarily somewhat heated, but all other heat may be disregarded.

Judson Starr, of Illinois:

Mr. President: Owing to the lateness of the hour, and the generous character of the entertainment which we have had this afternoon, which somewhat incapacitates some of us from entering into the discussion of these excellent papers, I move you in accordance with the practice of the last meeting that the discussion be postponed until to-morrow morning.

The President:

The gentleman making the motion is aware that the regular order of to-morrow cannot be postponed for the purpose of taking up this discussion, though if opportunity is afforded after that order is disposed of, it may then come up.

Judson Starr:

That is my purpose in making the motion, sir.

The motion was seconded, and a vote taken, and the motion was declared lost.

The meeting then adjourned to Thursday, August 29th, at 10 o'clock A. M.

Third Day.

Thursday, August 29, 1895, 10 A. M.

The President:

Our attention this morning, gentlemen, will be given to the reports of special committees, and the first committee which will be called upon for its report is that on Expression and Classification of the Law. Is there a report from that Committee? There seems to be none.

The next is the Committee on Indian Legislation. Has that Committee a report to submit?

James B. Thayer, of Massachusetts:

Mr. President: The Committee on Indian Legislation has had no formal meeting this year, but some correspondence has

taken place, and I find myself the only member of the Committee now present. Therefore, I shall make a report which, it may be assumed, represents the views of the rest of the Committee.

There is but a word or two to say. Two years ago the report from the Committee on Indian Legislation embodied a proposed law to be passed by Congress, which was prepared by General Sanborn and not objected to by either of his associates. There was little time to discuss details and it was thought at any rate to be sufficiently good to amend upon. The bill was referred to the Committee on Jurisprudence and Law Reform. Last year that bill was reported upon by the last named Committee in the manner that the Association undoubtedly knows about. They recommended that a copy of their report and of the bill should be presented to the President and others, and to Congress. This was attended to by the Secretary of the Association, but nothing, so far as I know, has happened as a result of that action. The Indians continue to be just about where they were before, only a little worse off. I was talking very recently with Mr. Frissell, the successor of General Armstrong at Hampton, Va., who had lately come from some of the reservations in the west and who gave me a most deplorable account of the state of things on the Omaha Reservation, for instance, and others, where most of the Indians have received their land and been made citizens of the United States. Although citizens of the United States, they have no courts and no administration of the law among them, and are in a most unhappy condition. This transition period between the condition of a tribal Indian, pure and simple, and a citizen of the United States, pure and simple, one who has shed entirely his skin as a tribal Indian, is an extremely trying one. Now, the Committee on Indian Affairs, if I may venture to report for them, recommends to the Association the following single resolution:

Resolved, That the Committee on Indian Legislation be instructed to ask of the Secretary of the Interior that an early investigation be made into the legal condition of the tribal

Indians and other persons residing on the Indian reservations to the end that a government of law and the administration of justice by courts may be extended to those parts of the country at the earliest practicable moment.

The recent events in connection with the Bannocks may illustrate the need of something or other in the way of Indian legislation. The condition of the tribal Indians of all descriptions, and of all classes of persons living on the reservations, is one that clamors for the introduction of law and of courts, and it appears to us that a resolution of this character would be the best thing that the Association could do at this particular moment.

I move the adoption of this resolution.

The President:

I must call Professor Thayer's attention to the following by-law of the Association:

"All committees may have their reports printed by the Secretary before the Annual Meeting of the Association, and any such report containing any recommendation for action on the part of the Association shall be printed and shall be distributed by mail by the Secretary to all the members of the Association at least fifteen days before the Annual Meeting at which such report is proposed to be submitted.

That would seem to be an objection in the nature of an irregularity to calling for an immediate vote upon this resolution.

James B. Thayer:

The only occasion, Mr. President, on which I ever had the opportunity to say anything on the subject of Indian Affairs to the Association was when I proposed a resolution just as I have proposed this one, and it was adopted by the Association. To be sure it was not a report of a committee. Perhaps, then, it would relieve the situation if I should present this, according to the naked fact, as a proposition from myself as an individual member of the Association. I will, therefore, propose this resolution, as I did the other one which the Association adopted some years ago, as an individual motion.

The President:

That would apparently obviate or avoid the requirement which is made by the by-laws if it does not come from a committee as a report.

James B. Thayer:

Perhaps the Association will be willing to treat it as a matter of substance rather than of form, and will accept the resolution as coming from an individual member of the Association and not from the Committee.

Walter George Smith, of Pennsylvania:

Mr. President: I will second the resolution offered by Professor Thayer.

The President:

The chair will interpose no objection by way of irregularity, and if no objection is made a vote will be taken upon the resolution.

The resolution was adopted.

Austin Abbott, of New York:

I desire to offer a brief resolution germane to this subject.

The President:

We can hardly consider it now as the order is that of hearing reports. An opportunity for general business will be presented after the hearing of reports has been completed.

Has the Committee on Uniform State Laws any report to submit?

Lyman D. Brewster, of Connecticut:

Mr. President: We have a very short report to present.

(*See the report in the Appendix.*)

The President:

Gentlemen, what will you do with this report?

S. M. Cutcheon, of Michigan:

I move that the report be adopted.

The President:

The usual motion is to receive and place on file.

S. M. Cutcheon:

The reason for making the motion in the form I did was, that this is a special committee, and the report recommends the continuance of the Committee. However, if a motion to receive the report and place it on file is sufficient for the continuance of the Committee, that is all I want.

The President:

Simply receiving the report and placing it on file would not continue the Committee, nor would a motion to adopt the report continue the Committee; but a special motion for that purpose would be in order.

S. M. Cutcheon:

Then, sir, I make that motion.

John C. Richberg, of Illinois:

In connection with that report, Mr. President, and at the suggestion of Judge Brewster, and also for the purpose of meeting what Mr. Cutcheon desires, I have a resolution which I have written out, that I will offer.

The President:

There is a motion now pending.

S. M. Cutcheon:

Inasmuch as Mr. Richberg has his resolution in writing, and as he states that it will meet the point I desire to cover, I will withdraw my motion, so that he may offer his resolution.

The President:

Very well; then Mr. Richberg has the floor.

John C. Richberg:

My resolution is as follows:

Resolved, That the Vice-Presidents and Local Councils in the several States and Territories, which have not already appointed commissioners on Uniformity of Legislation, be requested to continue their efforts for the creation of commissions in such States and Territories, until every State and Territory is represented.

S. M. Cutcheon:

That does not seem to me to supersede my motion, and I will therefore renew the motion I made.

The President:

Then, gentlemen, the vote will be taken on Mr. Cutcheon's motion, that the special committee be continued.

The motion was carried.

The President:

Gentlemen, you have heard the resolution offered by Mr. Richberg.

The resolution was adopted.

J. Newton Fiero, of New York:

I have a resolution which I think is proper at this place, but I will not offer it now if the chair holds that it should stand over until the order of miscellaneous business is reached.

The President:

Any resolution which will involve discussion, it seems to the chair, is more properly reserved until all the reports are gone through with.

J. Newton Fiero:

I can scarcely assume that it will or will not involve discussion, and perhaps with that intimation from the chair, I will leave it until the reports are disposed of.

The President:

Has the Committee on Federal Code of Criminal Procedure any report to present?

Charles Claflin Allen, of Missouri:

In the absence of Judge Dillon, the Chairman of our Committee, the Committee has no formal report to make. A minority of the Committee, composed of Mr. Wanty, of Michigan, and myself, desire to report informally that the difficulty involved in the work of this Committee has consisted in getting the matter, at the proper time and in the proper way, to the attention of Congress. The proper time has not been discovered as yet. The matter is, therefore, before the Committee

with a view of having something done when it can be properly done. With that end in view we ask leave to make a report of progress, and, if it be the wish of the Association, that the Committee may be continued.

The President:

The Association hears the request from the Committee. Is it the pleasure of the Association that the leave asked for be granted?

Upon vote the request of the Committee was granted and the Committee continued.

The President:

Has the Committee on Patent Law a report?

Edmund Wetmore, of New York:

Mr. President: At the last meeting of the Association a committee was appointed to report what changes, if any, are desirable in the law and practice relating to patents. I hold in my hand the report of that Committee for presentation. As it is in print in accordance with the rule referred to by the President and has been sent to every member of the Association, I presume it will be unnecessary for me to read it, but I will as briefly as possible state its substance.

The Committee was of the opinion that it was unwise and impracticable to advocate any general amendment or revision of the laws relating to that important branch of our jurisprudence. The Committee does, however, report a small number of specific amendments, the necessity for which has been very generally felt by those who give attention to this particular subject. Two of these are intended to promote diligence in applying for patents and in prosecuting those applications. Two relate to matters of practice, and one relates to the effect of foreign patents upon United States patents subsequently granted to the same inventor or his representatives.

As to the first two, the first one relates to proceedings in the patent office. Under the law as it now stands, framed many years ago, two years may elapse without anything being done

by an applicant for a patent or by the office, without abandoning the application. The consequence of this is that applications for patents may be decidedly delayed in the patent office, inflicting great injustice upon the public and giving rise to mischiefs, attention to which has been frequently called by successive Commissioners of Patents. The amendments which we propose in this instance consist simply in shortening the time from two years to six months. Anybody who applies for a patent must take some action, after a rejection or other action by the patent office, within six months in order to keep his application alive. That period was considered a reasonable one both on the suggestion of the Commissioner of Patents and because it was believed it would enable persons residing in the most distant parts of the Union to communicate with the patent office.

The second amendment, having the same general object in view, is intended to promote diligence in parties applying for patents where the invention has become known to the public. As it stands now an invention may be patented abroad or described in a printed publication for any length of time without interfering with the power on the part of a person in this country to get a patent therefor, if he can show that he made his invention before the publication. The general policy of the law is that when an invention has once become, by patenting or publication, or other means, known to the public, if anybody proposes to claim it and ask a patent therefor he shall do it with reasonable diligence, for as long as it is uncertain whether anybody will claim a patent for it or not, and whether it will or will not be made free to the public to be used, that fact stands as an obstacle to the development of the invention and to the public's receiving the benefit of it. As two years is regarded as a reasonable limit in all analogous cases under the statute, the Committee simply propose the amendment that, in order to get a patent in this country, the application must be made within two years after the invention

has been patented abroad or described in any printed publication.

The next two amendments relate to questions of practice. In the late case of Campbell *vs.* Haverhill (155 U. S., 610), the Supreme Court has decided that, in actions brought on the law side of the court, the State statute of limitations applies to actions brought for damages in a patent case. It has not yet been determined whether that applies to equity suits, but the general opinion is that by analogy it will. But the laws in the States are different, and therefore, and for other obvious reasons, the Committee advocates a statute of limitations to apply to all patent suits; that in all such suits, whether brought in equity or on the law side, there shall be no recovery of profits or damages for any infringement committed more than six years before the commencement of the suit.

The other question of practice may seem a small matter, but to those acquainted with the subject, it relates to what has proved a very serious inconvenience. Patents are assigned by instruments that are not required to be acknowledged, and where it becomes necessary to prove the assignment of a patent and strict proof is required, it is necessary to prove the execution. So that, for instance, if a man in Detroit had to prove the assignment of a patent, he might have to send to Bangor, Maine, in order to get witnesses to prove the execution. Now, in order to remove that difficulty, the amendment proposed is, that a certificate of acknowledgement of the instrument before a proper officer shall be *prima facie* evidence of execution.

The last amendment relates to the effect of foreign patents upon American patents for the same invention. As the law now stands, if an invention which has been patented abroad is subsequently patented here, the United States patent terminates at the same time with the foreign patent; or, if there are more than one, at the same time with the one having the shortest term. This statute has given rise to great difficulty. In foreign countries they do not have the same fixed terms for patents that we have in the United States. Generally, abroad,

patents are granted for a short time, say, five years, with the privilege of an extension of five years on payment of an extra fee, and often with the privilege of a second extension. The consequence is that it is often a matter of great difficulty to know, under the present statute, when a United States patent granted for an invention that has been patented abroad, actually expires, and that uncertainty has given rise to a great deal of trouble in the courts. Another objection to the present statute, which has been the cause of animadversion by judges who have had the statute before them for construction, is that it does not seem to be framed to carry out any logical or supposable theory or reason for framing the statute at all. It is liable, in some instances, to do an injustice to the American inventor, because as the law now stands, he may apply for his patent, and if, through no fault of his own, a long delay takes place in the patent office, his foreign patent may issue before his American patent, and thus cut short its term. For the purpose of obviating all the difficulties that have been urged to this section, the Committee propose this amendment: that any foreign patent applied for within seven months before the application is made for the American patent, shall not affect the term of the American patent; if it is applied for more than seven months before the American patent, then no American patent can be granted. The main object of this statute is to secure for the American public the benefit of the invention as early as it is secured abroad. I say, the main object; I mean the one that by general repute seems to be the principal reason for its enactment. We think that this amendment will obviate all the objections that have been made to the statute. It will require anybody, American citizen or foreigner, who wishes to take out a patent abroad, also to take out his patent here within a reasonable time, and it fixes the date of application as the time that fixes his right. That I am sure, Mr. President, is an amendment which will meet with your approval.

That is the substance of the report, and, if it be in order, Mr. President, I will move its adoption.

The President:

The chair, of course, is not aware how far the motion which has been made might lead to discussion. If it should lead to discussion, it would seem to come more properly after all the work of the committees has been gone through with, when there will be time for it. But it may not lead to any discussion, and, unless objection is made, the report now moved will be put to a vote. There seems to be no objection. Gentlemen, you have heard the explanation of the report of the Committee on Patent Law, and the resolution offered by Mr. Wetmore, of New York, with reference to that report.

The report and resolution were adopted.

Edmund Wetmore:

If it be proper, I should like to supplement that by moving that the present Committee on Amendment of the Patent Law be continued, with power to advocate the amendments proposed by the report adopted before Congress, said Committee to report at the next meeting of this Association.

Wilmarth H. Thurston, of Rhode Island:

I second that motion.

The President:

Gentlemen, you have heard the motion, that the Committee of fifteen be continued with power to lay the amendments before Congress, and to report to this Association at its next meeting.

The motion was carried.

The President:

Has the Committee on Law Reporting a report?

J. Newton Fiero, of New York:

Mr. President and Gentlemen of the American Bar Association. The special committee appointed at the last annual meeting of the Association to ascertain the condition of law reporting in this country, and to report thereon, respectfully submit the following report.

(*See the report in the Appendix.*)

Edward Otis Hinkley:

Mr. President: As a member of that Committee, I desire to add a word. As this is the first report of this, a new Committee, and the material is so great, as may be seen, no apology is necessary, I hope, for the length of this report, which has last been read by the Secretary of the Committee. We have added no resolution, because we have not yet advanced far enough to bring our work down to a definite point. The work of the Committee on Uniformity of the Law of the States applies more particularly to the legislative department. This Committee's work has run a parallel course in regard to such law as is made by the judicial department, the common law of this country. So it may be seen of what use such a Committee may be. We submit whether it is not desirable to continue this Committee, and possibly to make it a permanent committee.

Henry Wise Garnett, of the District of Columbia:

I move that the report be received and the Committee continued.

Marcus Pollasky, of Illinois:

I second that motion.

Simeon E. Baldwin, of Connecticut:

Will the gentleman kindly sever his motion, and simply move that the report of the Committee be received and placed on file, so as to allow me then to make a suggestion in regard to the other part of the motion?

Henry Wise Garnett:

Certainly, sir.

The President:

Then I understand Mr. Garnett's motion to be that the report be received and placed on file?

The motion was carried.

Simeon E. Baldwin:

In regard to the suggestion that the Committee be continued a member of the Committee has already suggested that it might possibly be deemed desirable by us to make this a standing

committee. It seems to me that the suggestion is an excellent one. The importance of the subject of law reporting and law digesting, both to the bar and bench, cannot of course be over-estimated, and a standing committee reporting annually, if they saw occasion, could make recommendations for action from a higher and better vantage ground, and with a broader view of the subject than any special committee. I would like to move that the proper article of our constitution or by-laws —I think it is the third article of the constitution—which provides for certain standing committees, be amended by adding to the list of committees a Committee on Law Reporting and Digesting. The reports submitted by the Special Committee on Law Reporting touch incidentally on the other question, almost equally important, of Law Digesting. It seems to me that if we appoint a standing committee both subjects should be referred to it.

The President:

Has Judge Baldwin so framed his motion as that the part proposed to be introduced will fit appropriately into the proper articles?

Simeon E. Baldwin:

I think so, sir. The Secretary will ascertain by looking at the constitution and by-laws.

Resolved, That Article III of the constitution be amended by adding to the list of committees a committee "on Law Reporting and Digesting."

Edward Otis Hinkley:

It simply requires to be appended to the list that is already there.

The President:

The Secretary will see that it finds its appropriate place. Gentlemen, you have heard the motion of Judge Baldwin, of Connecticut, proposing to amend the constitution. Are there any observations upon that proposed amendment?

James H. McConlogue, of Iowa:

I would inquire, Mr. President, whether the constitution can be amended in that way?

The President:

It can; the only provision being that it shall receive the vote of three-fourths of all the members present, provided thirty members are present. Is Judge Baldwin's amendment seconded?

Charles Clafflin Allen, of Missouri:

I second it.

The amendment was adopted.

S. M. Cutcheon, of Michigan:

I am requested by the Committee on Judicial Administration and Remedial Procedure, which submitted through Judge Dent a brief oral report, to ask leave of the Association now to file the written report which has been forwarded by Mr. Hill, of Georgia, the Chairman of the Committee. In view of the statement made yesterday of the substance of the report, it is not necessary to read it.

The President:

Gentlemen, what will you do with the report of the Committee just handed up?

Amasa M. Eaton, of Rhode Island:

I move that it be received and placed on file.

Louis H. Pike, of Ohio:

I second that motion.

The motion was carried.

The Secretary:

In line with the motion of Judge Baldwin, I move the following amendment to the by-laws:

Resolved, That Article II, Section (*f*), of the by-laws be amended by the insertion at the end thereof of the words "on Law Reporting and Digesting."

Henry Wise Garnett:

I second that motion.

The President:

That will simply make the by-laws conform to the constitution.

The amendment was adopted.

Amasa M. Eaton:

Mr. President: We have now amended our by-laws and have a standing committee on reporting and digesting. I would inquire what position that leaves us in as to the Committee which has read its report. Should we not now pass a motion that the Committee be made a standing committee of this Association?

The President:

That is a very pertinent suggestion.

Edward Otis Hinkley:

I think that is not in order. It is the duty of the President to appoint all committees, and it is to be supposed that in the exercise of his official duty in that respect he will do what is right.

The President:

Well, in the exercise of his official duty and with a view of doing what is right, the President appoints the existing committee as the standing committee.

An opportunity is now afforded for discussion of the reports of the committees which have been read. Are there any observations which any gentleman desires to make upon the report of the Committee on Uniform State Laws?

J. Newton Fiero:

I have a resolution which is germane to the report of that Committee, and which, after consultation with the Chairman and some members of the commissions of the different States and also after consultation with the Chairman of our Committee on Uniform State Laws and the acting Chairman of our Committee on Remedial Procedure, that I propose to offer. I take it that the Association is aware of the fact that during the past few months a very active movement has been on foot in England with a view to bringing about what is termed a

Uniformity in Methods of Procedure in English-speaking countries, and I have been communicated with by persons interested in that movement abroad with a view to learning whether it would not be well, by way of correspondence, to take up the matter and ascertain what could be done. I am further led to this view by the suggestions which were made in the admirable address of the President with reference to the present state of procedure, and I need not say by my own experience with regard to the matter as embodied in the results of the tables which, used in the matter of reporting, indicate the condition of affairs. I therefore suggest, and shall offer a resolution as to the desirability of appointing a committee for the purpose of entering into a correspondence and ascertaining the views of our English brethren upon that subject, and also one suggestion of the Chairman of the Committee on Uniform Laws—another subject which is cognate to that—and that is as to the study of comparative legislation upon that point. This is for the purpose merely of ascertaining the views of our brethren throughout this country and also abroad, and relates to the action of this committee, but upon consultation with the Chairman, and also with the Chairman of the Committee on Remedial Procedure where it might seem to belong, it was stated by those gentlemen that their committees had all they desired to take up and do justice to, and they suggested the propriety of a special committee. Therefore, I offer the following resolution:

Whereas, It is desirable that this Association inquire into and collate the facts relative to the movement now in progress to further a uniform system of legal procedure, and the study of comparative legislation on that subject throughout the English-speaking world.

Resolved, That a committee of five be appointed for that purpose.

Frederic P. Fish, of Massachusetts:

I second that resolution.

The President:

Gentlemen, you have heard the resolution. Are there any remarks to be made upon it?

The resolution was adopted.

The President:

There appears to be a rule that that committee shall be appointed by the chair, and I will appoint it hereafter.

Edward J. McDermott, of Kentucky:

I wanted to make a suggestion, Mr. President, in regard to the report of the Committee on Law Reporting and Digesting, which has been received and adopted.

The President:

That will come in later.

Edward J. McDermott:

It was partly in reference to the matter now before the meeting that I wished to speak. I wanted to suggest that the same committee which made such an admirable report ought, at the next meeting of the Association, to give us a similar report on the subject of the statute laws of the various States, their publication, their indexing and their digesting, and, not only the State statutes, but the Federal statutes as well.

The President:

Has the gentleman communicated with the Committee to ascertain whether it is agreeable to them to have their labors thus extended?

Edward J. McDermott:

I have not, sir; but I make this motion if it is in order at this time.

The President:

Will you kindly put your motion in writing? While the gentleman is writing his motion, we will pass to the report of the Committee on Law Reporting. Are there any further observations upon that?

Austin Abbott, of New York:

I have a resolution to offer, Mr. President, in regard to Indian legislation.

It appears probable that it may advance the purpose of that resolution if some of the members of this Association should visit Washington in regard to the matter, and I move, with the approval of members of the Committee, this resolution:

Resolved, That the Committee on Indian Legislation be authorized to add to their number and to fill any vacancy in their number until the next Annual Meeting.

Bradley M. Thompson, of Michigan:

I second that motion.

The President:

It is moved and seconded that the Committee on Indian Legislation be authorized to add to their number and to fill any vacancy that may occur in it prior to the next annual meeting.

The motion was carried.

Edward J. McDermott:

Mr. President: I have put my motion in writing, and it reads as follows:

Resolved, That a committee be appointed to make a report on the publication, digesting and indexing of state and federal statutory laws.

Frank J. Smith, of Illinois:

I second it.

Charles Claflin Allen, of Missouri:

The number of the Committee is not stated, and I would like to ask the mover of the resolution what number he desires to have inserted?

Edward J. McDermott:

Any number that you suggest.

Charles Claflin Allen:

I have no suggestion to make.

Edward J. McDermott:

Then I will say five.

Frank J. Smith:

I would suggest that before the word "Committee" there should be added the word "Special."

Edward J. McDermott:

I will accept that suggestion.

Myron H. Beach, of Illinois:

I would offer an amendment that the resolution be referred to the Committee on Law Reporting and Digesting. It will add to the duties of that Committee, but at the same time it is appropriately connected with their work.

Edward J. McDermott:

I will gladly accept the amendment. That was my first idea, but out of regard to the labors of the Committee, I changed it.

The President:

The amendment suggested has been acquiesced in, as I understand it, by the mover of the resolution, and the Secretary will see that it is put in proper shape.

The resolution was then put in the following form:

Resolved, That the Committee on Reporting and Digesting be requested to make a report on the publication, digesting and indexing of State and Federal Statutory Law.

The resolution was adopted.

The President:

Some months since it was intimated to me by members of a recently formed association in England for the prosecution of the study of comparative law, that they conceived that our objects were, in great part at least, similar to those which were made the basis of their Association, and they thought it extremely desirable that there should be some communication between us, and it was also suggested that perhaps, as we were going to hold an annual meeting in the course of a few months, a delegate from their Association might not be unacceptable to us. After consultation with the Executive Committee, I addressed a note to Lord Herschell, the late Lord Chancellor, and President of the society, extending a cordial invitation that his Society should send a delegate to this meeting. That delegate, as you are aware, has not been present, but I have a reply from Lord Herschell which the Secretary will read.

The Secretary (reading):

"DEAR MR. CARTER:

Pray convey to the American Bar Association my best thanks for the invitation they have been kind enough to convey, through you, to a representative of the Society of Comparative Law, of which I am the President.

I hope some representative of that Society may be able to avail himself of it. I only wish I could do so myself.

Believe me,

Yours very sincerely,

HERSCHELL."

The President:

The Society has evidently made some effort to have a delegate present here. It was at first thought that Lord Davey might come, and then an effort was made by the British Association to secure the attendance of some one of their members who happened to be in Canada, and we have received a letter from a gentleman, whose name neither the Secretary or myself have been able to make out, expressing his thanks for the invitation extended and regretting his inability to attend owing to a previous engagement.

Lyman D. Brewster, of Connecticut:

It seems to me, as a matter of courtesy, that we should authorize our President to appoint a delegate to meet with this Society in England——

The President:

If an invitation should be extended to us.

Lyman D. Brewster:

Of course, if an invitation is extended to us.

Thomas Dent, of Illinois:

I second that motion.

The President:

Gentlemen, you have heard the motion.

The motion was carried.

New members were then elected.

(*See List of New Members.*)

The President:

Discussion is now in order if any member has any observations to make.

J. Newton Fiero, of New York:

The Committee on Law Reporting and Digesting would feel very much obliged to members of the Association if they would express their views on that subject, particularly in view of the continuance of the committee.

The President:

Gentlemen, you hear the suggestion of Mr. Fiero from the Committee on Law Reporting and Digesting. It is desirable that that Committee should be favored with a full expression of the sentiments of members of the Association.

J. Newton Fiero:

If there is to be no suggestion here, I would state that either the Chairman or Secretary of the Committee would be obliged to any member who would furnish us with any suggestions in writing, because it is a subject upon which we need the views of members of the profession from all sections of the country.

Simeon E. Baldwin, of Connecticut:

While we are all together ready to compare views with each other, it is easier to make suggestions than to do it by correspondence. I therefore accept Mr. Fiero's invitation for suggestions, by suggesting this: That if that Committee could frame a skeleton index for statutes, and for reports, and for digests, giving the best title, in the best arrangement, and report it to the Association, it might be a very desirable thing. Of course, no index could be adequate to the wants of every State, but we all know in consulting the indexing of the reports that they are of very unequal merit, and that there are many heads which should always be found in every index of that character. I believe that with some attention to that matter, the Committee might report something of permanent value to the bar.

The President:

The chair begs leave to suggest, with the indulgence of the Association, that the same thought had come into its mind, and at the same time to suggest the supreme importance and delicacy of that work. If such a common index could be agreed upon, under which the various decisions could be classified and arranged, it would be *pro tanto* a digest of the law, and, of course, what sort of a digest we shall have of the law is of the utmost moment. Nothing can be of greater assistance to a lawyer than to have all the topics of the law scientifically classified and arranged. If there could be such a classification and arrangement, that should be the one obviously, as it would seem to me, which should be adopted by reporters, and it would be of vast utility, not only in consulting books of reports, but it would tend in a manner to govern the arrangement of text-books, if there should be any general acquiescence in it. I think the subject is a very important one.

Edward Otis Hinkley, of Maryland:

I would state that at a meeting of this Committee, held here, we agreed that that would be the first subject calling for our attention.

The President:

I am glad to hear that announcement from the Committee.

Amasa M. Eaton, of Rhode Island:

Since we have been called upon for our suggestions, I venture to throw out another one for the consideration of the Committee, and that is the very different practice in the reports of the States and of the United States with regard to the citation of authorities from the briefs of the different parties. Now, in this regard, the greatest difference exists in different States, as we all know from an examination of the volumes of the State reports. Some reports are made up without any reference whatever to the briefs that have been used in addressing the court, and without citing in any way the cases which have been used in the argument. The consequence is, that upon reading that report, although we have the decision of the

court, we have not before us in any way any report of what was put before them in order to influence them in arriving at a decision. Other reports include—and it seems to me that it is preferable without going into any great length—the citations of the authorities in the briefs on the opposite side. But in a general way I think they should be indicated, and especially is this desirable in the case of the losing side, because we often find that although the case may be decided against us, yet among the citations of the party that lost the case, we may find exactly what we want in the view we wish to present in some other case. Therefore, it seems to me that this Committee should recommend that the reports should, in a general way, state briefly the points made by counsel on both sides, and state the authorities on which they have relied; for we shall often find upon looking over the authorities cited on both sides, that the opinion of the court is made up without reference to the cases that have been cited. In order to understand the full presentation of the case before the court, it is therefore necessary that we should know, at least substantially, what the authorities were that were cited on both sides. I hope the Committee will take this matter into consideration.

Edward Otis Hinkley:

In the State of Maryland we have changed our reporter. The last one put in nothing at all about the cases cited by counsel. I have promised the reporter that I would write a brief for the reports of my cases, being a brief of the brief in which only the points should be stated without any argument, and the authorities cited under them. That would save him trouble, and I intend to do that hereafter, and I think if other lawyers would adopt the same plan it would be a good thing.

William Wirt Howe, of Louisiana:

I beg leave to suggest the practice in Louisiana. The rules of court in our State require each counsel to add to his brief a very careful syllabus arranged in paragraphs which shall contain a citation by name and volume of every case cited in

his brief, and a syllabus, of course, of all the points. The reporter then puts both of those syllabi in his report.

Frank C. Smith, of New York:

As illustrating the desire of the profession on that point, Mr. President, I would mention that the reporter of the State of Virginia wrote me that at the request of members of the profession there he left all that out of his reports. It seems that what the profession wants in Maryland, the members of the bar in Virginia do not want.

Myron H. Beach, of Illinois:

Mr. President: I desire to offer the following resolution:

Resolved, That the American Bar Association recommends that Congress, in aid of the better promulgation of Federal law and jurisprudence, provide that the publications of the government, especially Acts of Congress, the opinions of the Attorney General and all other official documents which may aid a better legal education, be regularly furnished to all the incorporated law schools and the law departments of incorporated colleges and universities in the United States.

I move the adoption of this resolution.

Julian W. Mack, of Illinois:

I second it.

Edward J. McDermott:

I would suggest that the resolution include the highest courts of each State so that the courts also may have the benefit designed to be conferred.

The President:

We may load this resolution so heavily that Congress will hesitate to accept the suggestion.

Myron H. Beach:

I will accept the amendment.

Burton Smith, of Georgia:

It occurs to me that the resolution as originally offered is preferable. I think the courts of last resort in each State are probably able to obtain such publications themselves.

The President:

There is no amendment pending; the suggested amendment having been adopted by the mover of the resolution.

Myron H. Beach:

I will withdraw my consent to the amendment.

The President:

Then the question will be upon the amendment proposed by Mr. McDermott.

Edward J. McDermott:

Then I will state the reason for making it, Mr. President. I know that the statutes at large are furnished to the principal libraries of the different States, but in the libraries of the courts of last resort you will not find them. Now, if our law schools need to have these books furnished to them, why not the courts? The courts are no better able to get them than are the law schools. You will find nine-tenths of the reports of the various States not in the libraries of the courts, and certainly they should be there.

Charles Borcherling, of New Jersey:

I would ask whether the gentleman would not accept the amendment that the Government furnish these reports to the State libraries of each State.

Edward J. McDermott:

The librarian of the court of the last resort of each State would be better.

The President:

There may not always be a librarian of each court.

Edward J. McDermott:

Well, to the State librarian.

Austin Abbott, of New York:

I would ask our friend to withdraw his amendment, much as I sympathize with the resolution, for this purpose: I think we will be more likely to accomplish our purpose if we confine the resolution to the subject which gave rise to it, especially as Congress has by a recent Act appointed a Superintendent of

Publication, and any member of Congress can, I understand, designate the depository to which the publications shall be sent. Therefore, the gentleman's object can be readily accomplished in a way that our object for a better education of young men entering the profession cannot be.

Edward J. McDermott:

In view of Mr. Abbott's statement, I am perfectly willing to withdraw my amendment.

The President:

Then the question will be upon the resolution as originally offered.

The resolution was adopted.

The President:

As it stands now it is a resolution that the American Bar Association recommends this, but the resolution itself, as the Secretary suggests to me, provides no method by which any step can be taken. It would seem to call for an instruction to the Secretary to communicate the resolution to some proper officer of the Government.

J. Newton Fiero:

I would suggest that the proper way would be to let the Committee on Legal Education take charge of the matter and communicate it in such way as may seem to them proper.

Wm. H. Robertson, of New York:

I second that motion.

The motion was carried.

The President:

Is there any further business before the Association this morning?

J. Newton Fiero:

There is something I would like to bring up, viz: that there should be a form of index prepared. If that is to be done by Committee, it seems to me that we ought to have the aid of the man most competent in the United States for that purpose, and

I want to move that this Association request Austin Abbott, of New York, to act with the Committee in that purpose.

Wm. H. Robertson:

I second that motion.

The President:

The motion is that the Association request Mr. Austin Abbott to co-operate with the Committee on Law Reporting and Digesting in the preparation of the skeleton digest mentioned in the resolution passed to-day.

The motion was carried.

Everett E. Ellinwood, of Arizona:

This is the first meeting of the American Bar Association, Mr. President, at which there has been an attendance from the Territory of Arizona. At the meeting of Tuesday, when the General Council was chosen, none of the delegates from Arizona were eligible. Since then they have been elected members of the Association, and I now move you that John C. Herndon's name be placed upon the roll as a member of the General Council from Arizona.

S. M. Cutcheon:

I second that motion.

The motion was carried.

The Association then adjourned to Friday, August 30th, 1895, at 10 A. M.

Fourth Day.

Friday, August 30, 1895, 10 A. M.

The President:

Gentlemen, the report of the deliberations of the General Council will now be laid before you by its Chairman, Mr. Wanty, of Michigan, the first business being the nomination of officers.

George P. Wanty, of Michigan:

Mr. President and gentlemen of the American Bar Association: The General Council report recommending the election of the following officers for the ensuing year:

Moorfield Storey, of Massachusetts, for President; John Hinkley, of Maryland, for Secretary; Francis Rawle, of Pennsylvania, for Treasurer.

For members of the Executive Committee: George A. Mercer, of Georgia; Alfred Hemenway, of Massachusetts; Charles Claflin Allen, of Missouri.

The President:

Gentlemen, it is customary to defer action upon these nominations until after our other business has been concluded. There is a list of other nominations to be read by the Secretary, also a part of the report of the General Council.

The Secretary then read list of Vice-Presidents and members of the Local Councils nominated in the various States.

(*See List of Officers Elected.*)

The President:

These nominations also will be disposed of after the rest of our business has been finished.

Is there anything now under the head of Unfinished Business.

New members were then elected.

(*See List of New Members.*)

The President:

Is there anything under the head of Miscellaneous Business.

Samuel F. Hunt, of Ohio:

Mr. President: I desire to offer the following resolution:

Resolved, That the American Bar Association highly appreciates the courtesy of the Michigan State Bar Association, the Detroit Bar Association, General Russell A. Alger and other citizens of Detroit, and desires to enter on the minutes of the Association an expression of acknowledgement for the hospitalities received during this Annual Meeting of the Association.

The President:

I am sure, gentlemen, that nothing could be more agreeable to us than the unanimous passage of that resolution.

The resolution was unanimously adopted.

J. M. Dickinson, of Tennessee:

Mr. President and gentlemen of the Association: Since I reached Detroit I have received some communications addressed to the Association from the Chamber of Commerce, the Board of Public Works, the Mayor and others of the City of Nashville inviting this Association to hold its next annual meeting in that city. In behalf of the bar of the State of Tennessee I join most earnestly in that request, and I will assure you all that we will do everything in our power to make your sojourn both pleasant and profitable if, in your wisdom, it shall be deemed wise to select that city as the place of the next meeting.

The invitations referred to by Mr. Dickinson were read by the Secretary.

The President:

Gentlemen, you have listened to these very cordial invitations from the City of Nashville, what is your pleasure?

Levi L. Barbour, of Michigan:

Mr. President: I move that the invitations be properly acknowledged by the Secretary, and that the subject to which they refer be referred to the Executive Committee.

A. J. McCrary, of Iowa:

I have a resolution to offer that is pertinent to the matter before the convention, and it is as follows:

Resolved, That it is the sense of this Association that the rule of holding alternate sessions of the American Bar Association at Saratoga Springs be not adhered to.

In support of this resolution I desire to say that it is apparent to every member of the Association that our interests are greatly augmented by meeting with the bar of various cities from year to year. The good of this Association is in its extended strength and force. We have had at this meeting 109

accessions from the State of Michigan. Now, if we meet at Nashville, or at Indianapolis, or at Cincinnati, or at any of our central cities, its strength will be increased equally as much from those localities. We know that at Saratoga we do not receive any additions to our ranks. Nobody at Saratoga knows that we are there, and much less do they care.

Henry Wise Garnett, of the District of Columbia:

Mr. President: I rise to oppose that resolution. This Association was started in Saratoga. There is no place in the East that is better for a meeting of a large national body than is Saratoga. Those of us who have been in the habit of attending the meetings of the Association regularly, have combined business and pleasure, and surely there is no spot in the United States better adapted for a combination of business and pleasure than Saratoga. Moreover, this Association has now reached its eighteenth year, and surely it is not in a position that requires it to go from place to place soliciting members of the bar in those places to become members of it. I think it ill becomes the Association to recognize the argument that it has to strengthen itself by traveling over the country in order that it may bring itself to the convenience of those who have not seen fit to join it until the Association comes and knocks at their doors. But independently of that, the Association has met one year in the East and one year in the West. As regards a meeting in the South, on one occasion we passed a resolution to go to the White Sulphur Springs of Virginia. Now, if we meet in the South, we want to meet at some place where we can combine relaxation with our business. I think there is no place that combines the advantages of Saratoga, and certainly to say that this Association shall meet there every alternate year is not asking too much. That is the spot where this Association had its birth, and it is a place where lawyers from all sections of the country go annually. I hope, sir, in view of the history of this Association, that we shall not violate our precedent and go to unknown fields in order to ask members of the bar to come in and join this Association.

Louis H. Pike, of Ohio:

It seems to me that the resolution last put, as well as the previous one, ought to be referred to the Executive Committee; that is, the motion ought to be framed in that way, and when the motion is presented then the subject is open for discussion. These resolutions have been offered, but there has not been a motion to refer them anywhere.

The President:

The last resolution came after another one which has priority over it, and when that has been disposed of then we will resume the discussion of this and dispose of it. The first motion in order is that of Mr. Barbour, of Detroit, that the Secretary be instructed to acknowledge the several invitations received from Nashville and that the same be referred to the Executive Committee.

The motion was carried.

The President:

Now what does the chair understand to be the motion of Mr. Pike?

Louis H. Pike:

My motion is that the resolution offered by Mr. McCrary be also referred to the Executive Committee.

Henry Wise Garnett:

I second that motion.

The President:

As many as are in favor of the motion will say aye, and those opposed no.

The result being in doubt, a division was called for.

A. J. McCrary:

Mr. President: Before a rising vote is taken I desire to say a word. I am not seeking to take any power from the Executive Committee, but I think it would hardly bring about the result I desire if this resolution is referred to them. The object of the resolution is to get the sense of this body as to whether we shall adhere to the rule of going to Saratoga in alternate years.

John D. Milliken, of Kansas:

I desire to say, for the information of the gentleman, that I think we need have no fear of the fate of his resolution if it is referred to the Executive Committee, for, from the expressions I have heard in the last couple of days, I believe it will prevail by a large majority in the Executive Committee.

The President:

The question is upon the motion offered by Mr. Pike.

John H. Hamline, of Illinois:

It seems to me, Mr. President, and gentlemen——

The President:

Do you arise to a point of order, or to discuss the question?

John H. Hamline:

It occurs to me that if the Executive Committee is to get the benefit of the views of the Association this resolution should be discussed right now, and it occurs to me that the remarks of Mr. Garnett may be taken as representing one side of the case and the remarks of Mr. McCrary as representing the other. At the same time, they alone are not sufficient to enlighten the members of the Executive Committee as to the sense of this Association. This Association met in Chicago a few years ago for the purpose of increasing your membership. Now there are present to-day perhaps a dozen gentlemen from Chicago. This Association went to Milwaukee two years ago, and perhaps it received a large accession to its roll, but I fail to recognize any considerable number of members of the Wisconsin Bar at this meeting. So that it seems to me that by going around the country you may, as you have to-day, receive large accessions to your membership, but you do not necessarily secure the attendance of the members at your annual meeting. On the contrary, it seems to me that you will secure the attendance of a larger number of the members of the American Bar Association if, to a certain extent, you had the meetings at a certain definite place; and, while I believe it is a good idea every alternate year to go around the country and seek to add to

your membership, yet I do think, with Mr. Garnett, that Saratoga is a good place. What is needed is not more members on our rolls, but a fuller representation of the active American Bar convened every year and discussing questions that press upon the profession.

Edward Otis Hinkley, of Maryland:

While I had the honor of being Secretary of this Association and *ex officio* a member of the Executive Committee, this same matter came up eight years ago, and the house was about evenly divided, with some little preponderance perhaps in favor of Saratoga because those who were then present were those who preferred that place, and the matter showed such a diversity of opinion that it was referred to the Executive Committee. The Executive Committee referred it to me, as Secretary, with the direction that I should take a vote by postal card of all the members of the Association, I did so, and the result was a tie vote between Saratoga and any other place. The Executive Committee thereupon supposed that the solution of the problem was that we should meet at Saratoga every other year, and that plan has been followed for the last eight years with very pleasing results, so far as our visits to Chicago, Boston, Milwaukee and Detroit are concerned. It is like many other problems,—one that is incapable of solution without accepting the advantages to be derived from both methods. There is no rule on the subject at all. It was simply a convenient solution of the problem as it then stood. There are many members, and particularly those who live in the eastern part of the country who would prefer to go to Saratoga every year, while the western members find it more agreeable to have us meet nearer their own homes, and certainly we have been very cordially received whenever we have met in the west. I think it is not saying too much that our coming to this city has done us all good, and possibly it may be stated that we hope we have done the local bar good by coming here and showing them what this Association is. Therefore, I still contend that the question is evenly balanced and that we

ought to let it alone. The Executive Committee, I am sure, will consult the best interests of the Association.

Frank C. Smith, of New York:

Mr. President: the only argument that has been advanced thus far in this discussion is the question of adding to our membership. Now it seems to me that there is another reason which might govern us in our action and that is the practical service that we can be to our profession and the cause that this Association represents. Last year at Saratoga we had an attendance of 156, and here we have an attendance of 172, according to the list of those registered. Therefore, it seems to me that the argument as to the attendance of members is one that is not controlling in this matter, and for one I shall vote in favor of the resolution of Mr. McCrary.

S. M. Cutcheon, of Michigan:

Many of the members of the Association who have been in attendance here have already left for their homes. There are, I think, something like 1300 members of this Association. On this notice the presentation of a resolution to this body at this late hour would seem to prejudge the question by a very small number. Now, for myself I have entire confidence in our Executive Committee. The Executive Committee can judge of this matter better than I can, I believe, and I think it better to refer this question to them. They will know from this discussion the sentiments of the members here present.

Marcus Pollasky, of Illinois:

Mr. President: I think this is a matter which rests in the discretion of the Executive Committee. I do not think that the question to refer is debatable, but since much latitude has been given, it is, perhaps, desirable for others to be heard, but, if not, I move you the previous question.

The President:

The chair has indulged debate upon this question for obvious reasons, although, on a motion to refer, really the whole subject is before the house, and it is best for many reasons that there should be an expresston of the different views that may

be taken in reference to it. The question will, however, now be put, and it is upon a reference of the resolution to the Executive Committee.

It is very obvious upon the face of this resolution that a reference of it to the Executive Committee is substantially defeating it, because what the resolution calls for is for the sense of this meeting and that it is tantamount to saying that we will not express it.

One vote has been taken upon it, and the result was so doubtful that a division was called for. As many as are in favor of referring the resolution to the Executive Committee will rise and remain standing until they are counted. As many as are opposed will now rise.

The President:

The motion is carried, and the resolution stands referred to the Executive Committee.

Austin Abbott, of New York:

We were privileged last evening to hear a paper fertile in suggestive and instructive points, and among them is one which attracted much attention and is, I believe, deserving of the fullest consideration, and more appropriately in the Association than in the Section on Legal Education before which, in form at least, the paper was read. I refer to Mr. Justice Brewer's paper and to his suggestion as to the evils resulting from delays in criminal procedure. Without discussing the paper I will only say that it appears to me on reflection that we shall most of us agree that Mr. Justice Brewer was right. I do not understand that he made any objection to the review of specific errors of law, but his condemnation was of the right of appeal in criminal cases and we all understand the difference—that appeal brings up the whole record and that it is not necessarily the same thing as a writ of error. To give one illustration. Last year a record on appeal from a conviction for murder in a western State was brought before the court. The attorneys for the defense got the stenographer's minutes, a huge record, and one of them went through it and took out

every leaf which contained language showing the *corpus delicti*, identifying the body of the deceased and substituted pages which filled the hiatus of the testimony after a fashion without any mention of the *corpus delicti* and offered the record thus altered as their proposed case on appeal. The Judge asked the stenographer if the record was all right, and the stenographer knowing nothing of this substitution said yes. The District Attorney looked at that immense record, I suppose, thought it not necessary to go through and verify it, and he assented, and so the record was certified. The attorney for the defense then predicted that the appellate court would reverse the conviction because there was no proof of the *corpus delicti*, and that result followed. The attorney has since been disbarred, but the case illustrates very pointedly the distinction between rectifying the whole case by appeal and excepting to a specific error of law. I therefore offer this resolution:

Resolved, That the Committee on Judicial Administration and Remedial Procedure be requested to consider the subject of delays in criminal cases resulting through existing systems of review by appeal or otherwise, so clearly brought to view by the paper of Mr. Justice Brewer before the Section of Legal Education, and that the Committee be requested to present, at a future meeting of the Association, such recommendations as to a remedy therefor, or arrange for such further discussion upon the subject, as they may deem best.

The President.

Gentlemen, you have heard the remarks of Mr. Abbott, of New York, and the resolution which he has offered. Are there any observations?

James S. Pirtle, of Kentucky:

As a member of that committee, I would suggest that while the matter is in the hands of this convention, that the committee be instructed to report at the next meeting of the Association, so that we may all come to the next meeting ready to discuss the subject. If the committee is so instructed by

this convention, I am quite confident that we shall all perform our duty and have a report to submit at the next meeting.

Austin Abbott:

I will accept the suggestion of the gentleman:

The President:

Then the words "at a future meeting" will be replaced by the words "at the next meeting of the Association."

The Secretary read the resolution as thus amended.

George M. Forster, of Washington:

If I understand the sense of this resolution, and, as prefaced by the remarks of the mover, it is intended that we express our approval of the suggestion made by Judge Brewer.

James S. Pirtle:

Not at all, sir.

George M. Forster:

I think the resolution as read would give one that impression, and I think that the paper of Judge Brewer if left where it stands now, would give to the country the idea that we endorse his views on that point. I do not believe the time has come, Mr. President and gentlemen, and I hope the time will never come, when this Association shall say by implication that it is in favor of abolishing appeals in criminal cases, I therefore move, as an amendment, that it is the sense of this Association that it is not in favor of abolishing appeals in criminal cases.

Austin Abbott, of New York:

It appears to me that the gentleman has misconceived the use of words when he intimates that that resolution can in any be considered as foreclosing the question. It is a recommendation for inquiry and consideration, and an opposition to that recommendation is a declaration of opinion that this Association ought not to consider the subject.

J. Randolph Tucker, of Virginia:

Mr. President: I do not intend to combat the general purport of the resolution and the reference which is proposed. I simply mean to say that there is an expression in it which, I

think, subjects it to the criticism which has already been made by the gentleman from the State of Washington. It seems to me when the resolution states: "the views that were so clearly presented by Mr. Justice Brewer last night," it mis-states the fact, for that address, delivered before this Association, eloquent and able as it was, did not produce clearness of apprehension on the minds of the members who heard it, as to the particular point to which the resolution refers. I did not hear it myself, for I was late in getting here from the excursion which we enjoyed yesterday afternoon, but I asked a great many who did hear it and all differed in opinion about what Mr. Justice Brewer had said. Therefore, I do not think that this body should assume, that the Committee is to consider "what was so clearly stated by Mr. Justice Brewer" when we really do not clearly understand what he did state. Therefore, I would suggest to the gentleman from New York that he strike out that phrase and say: The subject which was brought to the consideration of the Section of Legal Education by the address of Mr. Justice Brewer.

And while I am on my feet, Mr. President, I beg to be permitted to say that I sympathize entirely with the remark made by the gentleman from the most northwestern State of the Union. God forbid that in America we should ever have a case where a man shall be tried for his life or his liberty and no appeal be allowed. Why, sir, shall we give appeal in cases involving merely questions of property, and yet not allow an appeal where the liberty or the life of a citizen is involved? I do not mean that the whole of the *evidence* shall be spread upon the record and the appeal made upon that, but if a motion is made for a new trial and a bill of exceptions is taken which spreads the *facts* upon the record, why should not that motion, if over-ruled in the court below, be considered in the appellate court and the defendant be allowed a new trial, where injustice has clearly been done?

Therefore, with this preliminary statement, if my friend from New York will strike out those words that I have

referred to, I am perfectly willing to vote for his resolution; and in asking him to strike out those words I do not mean to express any disrespect for the learned Justice; on the contrary, I have a very profound regard for Mr. Justice Brewer, but I simply wish it so stated that it shall not look as if we were saying to the committee: "Now, these views so clearly stated, we mean in some way to sanction." Let the resolution read: "The subject brought to the attention of the Section by Mr. Justice Brewer," and then let the committee consider it, without any intimation of opinion by the Association.

Austin Abbott:

I will accept Mr. Tucker's amendment.

The President:

Perhaps, if I may be allowed to suggest to Mr. Abbott, as he does not himself propose in any manner to foreclose any question, but merely to refer the subject, that he might possibly re-frame this resolution in some manner which will clearly present it in that light.

Austin Abbott:

Certainly Mr. President, I will re-write it and get it in proper shape.

E. B. Sherman, of Illinois:

While Mr. Abbott is re-framing his resolution, I desire to say that I am very glad this subject has been brought to the attention of the Association, for if there is any subject in the whole range of jurisprudence that ought to be considered by this Association and its influence brought to bear upon public sentiment and upon the legislature of the different states it is this. As the gentleman from Missouri stated last night, the very fact of the delays in the administration of the criminal law are very largely responsible for the acts of lawlessness that are perpetrated all over the country.

Austin Abbott:

I am inclined to think, Mr. President that the want of clearness which has been spoken of here was the fault of my

resolution, for I did not attribute clearness to any statement of the law made by Mr. Justice Brewer, for he did not go into that subject, but I simply said that he had brought clearly to our view that subject. Now, I have amended my resolution, and I will read it. You will see that it simply invites consideration and discussion without, which was furtherest from my thought, foreclosing it. It reads:

Resolved, That the Committee on Judicial Administration and Remedial Procedure be requested to consider the question whether there are any mischiefs or abuses caused by delays in criminal cases resulting through existing systems of review by appeal or otherwise, and to present at the next meeting of the Association such recommendations as to a remedy therefor, or arrange for such further discussion upon the subject, as they may deem best.

The reason why I referred at all to the paper of Mr. Justice Brewer, was that it was a paper not read before the Association, but before the Section on Legal Education, which suggested to my mind the propriety of such a resolution.

James G. Day, of Iowa:

Mr. President: I thought I understood Mr. Justice Brewer's remarks, but I have now come to the conclusion that perhaps I did not quite understand what he said. We all know that before the statute creating Circuit Courts of Appeals, there was no mode of review in a criminal case by the United States District Courts. The right of appeal was granted by that statute. The mode of review before that was not by appeal but by writ of error. I certainly did understand the Justice to mean that in criminal cases no appeal, or review, which is synonymous with the recommendation, should be allowed. He said that a jury might be relied upon in all cases to protect the rights of a defendant. That certainly is an overdrawn statement. Sometimes the sympathies of a jury will lead them into excesses in a desire to protect a criminal, but quite as frequently a jury allow their prejudices to run the other way, and sometimes it results in the conviction of a man as to whose

guilt, at least there is very grave doubt. Now, if no review is to be allowed, what will be the result of the questions of fact? What is to be done with a case in which the court, by a misapprehension, misdirects the jury as to the law, or improperly admits incompetent testimony, and the jury acting upon that convict a man? I recall very distinctly a case which I had in the United States District Court where a judge charged the jury that while they must find the fact of guilt beyond a reasonable doubt, still they were authorized to find each distinctive element of fact which entered into the case by a bare preponderance of testimony; and I have always been in doubt as to which branch of the charge the jury followed. The charge was so inconsistent that I obtained a new trial.

I do not think the illustration referred to by Mr. Abbott ought to be entitled to any great consideration, from the fact that the right of appeal may sometimes be employed for an improper purpose. If the District Attorney had done his duty, that juggled record would never have been certified. It was his duty to see what was in that record. That is what the State paid him for. I do not understand that any court of last resort has ever undertaken to determine a criminal case as an equity case is determined *de novo* upon the bare preponderance of the evidence.

Stephen S. Brown, of Missouri:

Since the admirable paper of Mr. Justice Brewer came up for discussion, my own State has been referred as furnishing an illustration of the delay in criminal proceedings in the courts. The reference made last night by Professor Lawson, I shall not notice any further than to say that our State has created a right of appeal in such cases by its Constitution, and its people seem to be well satisfied with it. In respect to the other reference made by Mr. Abbott this morning, it is necessary that a correction should be made. Mr. Abbott stated a famous case from Missouri, which has been creating a great deal of remark lately, with the observation that a reversal of the conviction was had upon the ground that the attorneys for the defense

falsified the records of the official stenographer. The fact is that the action of the attorneys in that case was promptly corrected by the Supreme Court without a reversal, and the defendant in that case was promptly and decently and efficiently hung.

Austin Abbott:

You misapprehended what I stated. I simply stated the action of the attorneys and the certification of the record by the court below. I did not state what the final result was.

William Wirt Howe, of Louisiana:

It seems to me, Mr. President, that there has been a misapprehension all the way through in this discussion. Is it perfectly clear what we are talking about? If we are talking about writs of error in criminal cases, or proceedings equivalent to writs of error, that is one thing. If we are talking about appeals, in the nature of chancery appeals, in criminal cases, that is quite another thing. Now, if it would throw any light upon the question, I would like to mention the experience in Louisiana. Before that State was admitted to the Union it was thought important by Congress that a territory which had been for over a hundred years under French and Spanish domination should not come into the Union with the system of criminal jurisprudence which prevailed, say, in Spain, and it was understood that Louisiana would never be admitted until she had made some provision by which the common law of England could be followed in criminal cases. Accordingly, in 1805, the Territorial Legislature passed an Act, which is still in force, declaring that criminal proceedings should be according to the common law. Now, we have never had an appeal in criminal cases, although Louisiana had existed for a hundred years under the domination of the French and Spanish law, by which in every case an appeal took up all the fact and all the law. We have had a writ of error, which took up all the questions of law, which protected the defendant by presenting those questions of law, properly reserved by bill of exceptions,

to the Supreme Court. But it never entered into the imagination of a Louisiana man that we were to have chancery appeals in criminal cases, and that the Supreme Court should be called upon to act as a jury of five to overrule a jury of twelve men. Now, at the proper time, I shall protest against this idea of having criminal appeals tempered by lynch law. When I say appeals, I mean appeals on the facts as well as on the law. I think writs of error protects every man who requires protection.

The resolution was adopted.

The President:

Gentlemen, the election of officers is now in order. The nominations for President, Secretary and Treasurer will first be acted upon, and they will be acted upon separately.

The gentlemen nominated by the General Council for these offices were then separately elected.

The President:

The nominations for members of the Executive Committee will next be acted upon. The vote upon those will be taken together.

The gentlemen nominated for members of the Executive Committee were then elected.

Merrill Moores, of Indiana:

Mr. President: The gentlemen nominated for members of the Local Council for Indiana have never been at a meeting of this Association. Now, we have had here during this meeting six or seven gentlemen from Indiana thoroughly representative lawyers of the State, and I, therefore, move that the names of Edgar A. Brown, Samuel O. Pickins, William F. Elliott and William L. Penfield be substituted for the four names heretofore nominated for members of the Local Council for Indiana.

The motion was seconded and carried.

Helm Bruce, of Kentucky:

Mr. President: After consulting with other gentlemen from our State, I would nominate, as additional members

of the Local Council for Kentucky, J. R. Morton and E. J. McDermott.

The motion was seconded and carried.

B. S. Ladd, of Massachusetts:

Mr. President, I beg to present the name of Frederic P. Fish, of Massachusetts, for Vice President, from that state, in place of Moorfield Storey, now elected president of the Association.

The motion was seconded and carried.

G. A. Finkelnburg, of Missouri:

The election of Charles Claflin Allen, of Missouri, as a member of the Executive Committee, has created a vacancy in the General Council. I have been requested by my associates from Missouri to nominate James Hagerman, as a member of the General Council from that state.

The motion was seconded and carried.

The President:

Gentlemen, the record of nominations is now complete and a vote will be taken upon them.

On motion, the Secretary cast the ballot of the Association in favor of all the gentlemen named, and they were declared elected.

(*See List of Officers.*)

Samuel F. Hunt, of Ohio:

I understand that the rules of this Association forbid a vote of thanks to the retiring officers.

The President:

They do, sir, very rigidly.

Samuel F. Hunt:

If they did not, sir, I should move that the thanks of this Association be tendered to our presiding officer.

The President:

The rules forbid it, sir. Gentlemen, is there any further business before the Association? If not, a motion to adjourn would be in order.

Samuel F. Hunt, of Ohio:

The rules of the Association prevent a vote of thanks to the President. But with a sense of appreciation for the eminent services rendered by the President and which I am sure will be shared by every member of the Association, I do now move that the Association adjourn without day.

The Association then adjourned *sine die*.

JOHN HINKLEY,

Secretary.

SECRETARY'S REPORT.

DETROIT, August 27, 1895.

The Report of the proceedings at our last meeting at Saratoga Springs, in August, 1894, has been printed and distributed to all members, and also to the large number of libraries and Bar Associations on our free mailing list.

There were 1,144 members at the close of the last meeting. Twenty-seven members have been elected by the Executive Committee between meetings under the 4th Article of the Constitution as amended.

All of the States, except Nevada, and all of the Territories except Arizona and New Mexico are represented.

Invitations were sent to all State Bar Associations, to send three delegates to this meeting, and to all City or County Bar Associations in States having no State Bar Association, to send two delegates.

The attention of the Vice-Presidents and Members of the Local Councils was again called by a circular letter from the Secretary, to the resolution charging them with the duty of endeavoring to secure by legislation the appointment of Commissioners of Uniform State Laws.

In compliance with a resolution passed at the last meeting, copies of the report of the Indian Committee in the United States were sent to members of Congress and others named.

The report of the Patent Law Committee for this year was printed and distributed by the Secretary fifteen days before the meeting, in accordance with the By-Law.

The register of those in attendance is kept on the table at the hall of meeting during the sessions, and it is at the recep-

tion room in the Hotel Cadillac in the intervals. This list is valuable for reference, and every member or delegate present is requested to sign it as early as convenient. A list of those present will be printed for distribution at the meeting, and will also be included in the report.

There are copies of the constitution, lists of the members of committees and forms of nomination on the table for distribution.

Respectfully submitted,

JOHN HINKLEY,

Secretary.

REPORT

OF THE

TREASURER.

1894–95.

Dr.

To balance from last report, ...		$3,162 57
" cash received—dues of members, ...		5,415 00
" " " —interest on deposit, ...		25 00
" " " —sale of Transactions, ...		51 00
		$8,653 57

Cr.

1894.			
Aug. 23.	By cash paid—H. W. Rogers, expenses as member of Committee on Legal Education, . .	$75 00	
24.	" " " —Janitor Convention Hall, 17th meeting, ...	10 00	
24.	" " " —Messenger, 17th meeting,	3 00	
24.	" " " —Incidental expenses, 17th dinner, ...	20 00	
25.	" " " —"Saratogian," printing, etc., 17th meeting, . . .	37 00	
30.	" " " —Expenses of Clerk to Treasurer to attend 17th meeting, ...	44 80	
31.	" " " —Balance expenses of Secretary for year ending, Aug. 1894, ...	124 29	
Sept. 8.	" " " —Grand Union Hotel, 17th dinner, ...	621 40	
8.	" " " —Type-writing, 17th meeting, ...	3 25	
	Amount carried forward . . .	$938 74	$8,653 57

1894.			By amount brought forward, . .	$938 74	$8,653 57
Sept. 22.	By cash	paid	—L. D. Brewster, Ch'n, expenses of Committee on Uniform State Laws, .	50 00	
Oct. 5.	"	"	—C. A. Morrison, Stenographer, 17th meeting, . .	150 85	
16.	"	"	—Six month's rent of storage room, ...	25 00	
Nov. 14.	"	"	—Murphy's Sons Co., record of members, ...	16 00	
Dec. 8.	"	"	—G. M. Sharp, account expenses of Committee on Legal Education, . .	47 37	
1895.					
Jan. 15.	"	"	—G. M. Sharp, account expenses of Committee on Legal Education, . .	50 00	
16.	"	"	—Jno. Hinkley, account expenses of Secretary for current year, ...	150 00	
Feb. 2.	"	"	—G. M. Sharp, account expenses of Committee on Legal Education, . .	50 00	
4.	"	"	—J. H. Raymond, expenses as member of Patents Committee, ...	11 75	
20.	"	"	—2,000 printed 2c. stamped envelopes, ...	43 60	
20.	"	"	—U. S. Express Co., delivering part of edition of 17th Report, ...	232 39	
April 2.	"	"	—U. S. Express Co., delivering 17th Report, . . .	24 75	
27.	"	"	—G. M. Sharp, account expenses of Committee on Legal Education, . .	150 00	
			Amount carried forward, . . .	$1,940 45	$8,653 57

1895.		By amount brought forward, . .	$1,940 45	$8,653 57
May 3.	By cash paid—U. S. Express Co., delivering 17th Report, . . .	16 21		
4.	" " " —Prevost & Herring, insurance on books, ...	4 00		
22.	" " " —Geo. M. Sharp, account expenses of Committee on Legal Education, . .	138 12		
22.	" " " —Dando Printing & Publishing Co., printing and binding 17th Report, . .	1,510 40		
22.	" " " —Dando Printing & Publishing Co., printing extra copies of papers, addresses, Section proceedings and boxes for Reports, ...	505 76		
22.	" " " —Dando Printing & Publishing Co., printing stamped envelopes, circulars and general printing to date, ...	49 70		
22.	" " " —Dando Printing & Publishing Co., binding volumes 1 to 7 of Reports, .	126 79		
24.	" " " —Frank C. Smith, expenses of Committee on Law Reporting, ...	52 50		
June 5.	" " " —Expenses in distributing 17th Report, ...	28 89		
July 12.	" " " —Six months' rent of storage room, ...	25 00		
23.	" " " —G. M. Sharp, account expenses of Committee on Legal Education, . .	25 00		
27.	" " " —Murray Hill Hotel, account Patent Committee,	11 20		
	Amount carried forward, . . .	$4,434 02	$8,653 57	

1895.			By amount brought forward, . .	$4,434 02	$8,653 57
Aug. 1.	"	"	" —Murphy's Sons Co., receipt book, ...	6 00	
5.	"	"	" —E. M. Rowe, clerical services, etc., to Patent Committee, ...	41 75	
19.	"	"	" —Dando Printing & Publishing Co., binding volume 8 of Reports, and general printing and stamped envelopes to date, ...	129 70	
19.	"	"	" —Treasurer's clerk, one year's services, ...	300 00	
19.	"	"	" —Sundry expenses, telegrams, expressage, stationery, etc., for one year,	41 47	
			Balance, ...	3,700 63	$8,653 57

Which balance consists of—

Amount to credit of Treasurer in Seventh National Bank, Philadelphia, ...	3,183 32
Of special deposit in Union Trust Company, Philadelphia, subject to 10 days' notice, interest at 3 per cent., . . .	500 00
Cash on hand, ...	17 31
	$3,700 63

Respectfully submitted,

FRANCIS RAWLE,

Treasurer.

DETROIT, Mich., *August 27, 1895.*

Audited and found correct.

P. W. MELDRIM,

CHARLES F. LIBBY,

Auditing Committee.

REPORT

OF THE

EXECUTIVE COMMITTEE.

August 27th, 1895.

The Executive Committee respectfully reports that under the last clause of Article IV of the Constitution, providing for election of members by the Executive Committee between meetings, when nominated by a majority of the Local Council, the following twenty-seven members were elected:

COLORADO.

BARTELS, G. C., ... Denver.
BLOOD, JAMES H., ... Denver.
CAMPBELL, CHARLES M., ... Denver.
SHAFROTH, JOHN F., ... Denver.

DISTRICT OF COLUMBIA.

FOSTER, CHARLES E., ... Washington.
MONTAGUE, WILLIAM P., ... Washington.

FLORIDA.

RINEHART, C. D., ... Jacksonville.

INDIANA.

DAVIS, SYDNEY B., ... Terre Haute.

IOWA.

SELLS, CATO, ... Vinton.

KENTUCKY.

BRUCE, HELM, ... Louisville.

MASSACHUSETTS.

KILDUFF, RICHARD G., ... Holyoke.
SCHOULER, JAMES, ... Boston.

NEW YORK.

JOHNSTON, THOMAS J., ... Schenectady.
OSGOOD, HOWARD L., ... Rochester.
POOLE, MURRAY E., ... Ithaca.

PENNSYLVANIA.

PATTERSON, ROSWELL H., ... Scranton.
WILCOX, WILLIAM A., ... Scranton.

TEXAS.

GARWOOD, T. F., ... Gonzales.

UTAH TERRITORY.

SUTHERLAND, J. G., ... Salt Lake City.

WYOMING.

BROWN, MELVILLE C., ... Laramie.
BURKE, TIMOTHY F., ... Cheyenne.
CLARK, CLARENCE D., ... Evanston.
CONOWAY, ASBURY B., ... Cheyenne.
CORTHELL, NELLIS E., ... Laramie.
FOWLER, BENJAMIN F., ... Cheyenne.
KNIGHT, JESSE, ... Evanston.
SCOTT, RICHARD H., ... Cheyenne.

Your Committee further report that in accordance with the 12th By-Law, appropriations were made for the use of certain committees on their application, as will appear by the Treasurer's report.

All committees for the ensuing year, whose work may entail expense, are requested to conform to this By-Law, which requires "previous application in advance of expenditure." Such application should be made to the Executive Committee through the Secretary.

Respectfully submitted,

JAMES C. CARTER, *Pres.*,
ALFRED HEMENWAY,
JOHN HINKLEY, *Sec'y.*,
FRANCIS RAWLE, *Treas.*,
Executive Committee.

MEMBERS REGISTERED

AT THE

EIGHTEENTH ANNUAL MEETING.

1895.

JAMES C. CARTER, ... New York.
JOHN HINKLEY, ... Maryland.
FRANCIS RAWLE, ... Pennsylvania.
ALFRED HEMENWAY, ... Massachusetts.
W. W. HOWE, ... Louisiana.
R. W. WILLIAMS, ... Florida.
EDWARD OTIS HINKLEY, ... Maryland.
P. W. MELDRIM, ... Georgia.
ADOLPH MOSES, ... Illinois.
MERRILL MOORES, ... Indiana.
JOHN D. MILLIKEN, ... Kansas.
ROBERT S. TAYLOR, ... Indiana.
J. J. HALL, ... Ohio.
HENRY WISE GARNETT, ... District of Columbia.
J. H. RAYMOND, ... Illinois.
C. H. REMY, ... Illinois.
GEORGE M. FORSTER, ... Washington.
FREDERIC S. HEBARD, ... Illinois.
JOHN I. DILLE, ... Oklahoma.
W. V. SULLIVAN, ... Mississippi.
GEORGE P. WANTY, ... Michigan.
CHARLES F. LIBBY, ... Maine.
AUGUSTUS C. BALDWIN, ... Michigan.
JOHN C. RICHBERG, ... Illinois.
W. H. ROBERTSON, ... New York.
FRANK C. SMITH, ... New York.
CASS E. HERRINGTON, ... Colorado.
ALFRED RUSSELL, ... Michigan.
J. NEWTON FIERO, ... New York.
CHARLES BORCHERLING, ... New Jersey.
EDWARD W. PENDLETON, ... Michigan.
MORRIS GOODHART, ... New York.
G. A. FINKELNBURG, ... Missouri.
WALTER GEORGE SMITH, ... Pennsylvania.
JOHN C. TALCOTT, ... Ohio.

ALEXANDER R. LAWTON, ... Georgia.
JOHN D. LAWSON, ... Missouri.
W. W. LEAKE, ... Texas.
J. M. DICKINSON, ... Tennessee.
TELFORD BURNHAM, ... Illinois.
F. J. STINSON, ... Massachusetts.
CHARLES N. POTTER, ... Wyoming.
HENRY WADE ROGERS, ... Illinois.
C. A. KENT, ... Michigan.
E. W. HUFFCUT, ... New York.
JOHN DEERY, ... Iowa.
EDGAR A. BROWN, ... Indiana.
W. F. ELLIOTT, ... Indiana.
SAMUEL O. PICKENS, ... Indiana.
L. G. KINNE, ... Iowa.
JAMES G. DAY, ... Iowa.
EDWARD TAGGART, ... Michigan.
JOHN MARSHALL SMEDES, ... Ohio.
HARSEN D. SMITH, ... Michigan.
J. H. MCCONLOGUE, ... Iowa.
THAYER MELVIN, ... West Virginia.
W. P. HUBBARD, ... West Virginia.
BURTON SMITH, ... Georgia.
CHARLES CLAFLIN ALLEN, ... Missouri.
ROBT. R. BALDWIN, ... Illinois.
JOHN W. MCLOUD, ... Indian Territory.
AUSTIN ABBOTT, ... New York.
FRANCIS FORBES, ... New York.
WM. L. WEBBER, ... Michigan.
BENTON HANCHETT, ... Michigan.
E. S. B. SUTTON, ... Michigan.
EDWIN BURBITT SMITH, ... Illinois.
J. D. SULLIVAN, ... Ohio.
WILLARD F. KEENEY, ... Michigan.
T. ELLIOTT PATTERSON, ... Pennsylvania.
HELM BRUCE, ... Kentucky.
M. R. PATTERSON, ... Ohio.
JULIAN W. MACK, ... Illinois.
JAMES S. PIRTLE, ... Kentucky.
E. P. ARVINE, ... Connecticut.
E. D. MCGUINNESS, ... Rhode Island.
A. J. MCCRARY, ... Iowa.
SIMEON E. BALDWIN, ... Connecticut.
RICHARD WAYNE PARKER, ... New Jersey.
JUDSON STARR, ... Illinois.

BURR W. JONES, ... Wisconsin.
MORRIS F. TYLER, ... Connecticut.
MARCUS POLLASKY, ... Illinois.
JAMES B. THAYER, ... Massachusetts.
E. A. HARRIMAN, ... Illinois.
GRANT FELLOWS, ... Michigan.
L. H. PIKE, ... Ohio.
B. S. LADD, ... Massachusetts.
JAMES D. ANDREWS, ... Illinois.
JAMES A. JACOKES, ... Michigan.
C. A. GRAVES, ... Virginia.
ROBT. H. PARKINSON, ... Illinois.
P. L. WILLIAMS, ... Utah.
MYRON H. BEACH, ... Illinois.
WILLARD KINGSLEY, ... Michigan.
KELLY S. SEARL, ... Michigan.
LUTHER R. SMITH, ... District of Columbia.
W. L. PENFIELD, ... Indiana.
JOHN C. PATTERSON, ... Michigan.
JOHN H. HAMLINE, ... Illinois.
W. P. WILLEY, ... West Virginia.
ALFRED L. CARY, ... Wisconsin.
WARNER M. BATEMAN, ... Ohio.
GILBERT D. MUNSON, ... Ohio.
C. D. RINEHART, ... Florida.
FRED. H. ALDRICH, ... Michigan.
J. B. BURROWS, ... Ohio.
CHAS. M. WILSON, ... Michigan.
N. E. CORTHELL, ... Wyoming.
C. E. WEAVER, ... Michigan.
C. D. ROBERTSON, ... Ohio.
S. M. CUTCHEON, ... Michigan.
F. A. DURBAN, ... Ohio.
ISAAC VAN DEVANTER, ... Indiana.
WILLIS VAN DEVANTER, ... Wyoming.
STEPHEN S. BROWN, ... Missouri.
WILMARTH H. THURSTON, ... Rhode Island.
E. B. SHERMAN, ... Illinois.
J. R. TUCKER, ... Virginia.
WM. L. JANUARY, ... Michigan.
A. R. ROOD, ... Michigan.
JAY P. LEE, ... Michigan.
FREDERICK P. FISH, ... Massachusetts.
LEONARD E. WALES, ... Delaware.
J. C. KNOWLTON, ... Michigan.

SAMUEL F. HUNT, ... Ohio.
RALPH WHELAN, ... Minnesota.
E. E. ELLINWOOD, ... Arizona.
BLEWETT LEE, ... Illinois.
JAMES HAGERMAN, ... Missouri.
THOMAS DENT, ... Illinois.
FRANK O. LOVELAND, ... Ohio.
AARON A. FERRIS, ... Ohio.
C. A. GEOFFRION, ... Canada.
CHARLES M. CAMPBELL, ... Colorado.
AMASA M. EATON, ... Rhode Island.
WILLIAM E. TALCOTT, ... Ohio.
JOHN H. DOYLE, ... Ohio.
TAYLOR E. BROWN, ... Ohio.
THOMAS J. KERNAN, ... Louisiana.
JOHN C. AVERY, ... Florida.
WILLIAM A. REDDING. . . . . New York.
LOUIS C. MASSEY, ... Florida.
WILLIAM B. CREW, ... Ohio.
WALTER B. DOUGLAS, ... Missouri.
JAMES O. TROUP, ... Ohio.
W. P. BARTLETT, ... Wisconsin.
THOMAS F. FRAWLEY, ... Wisconsin.
ALEXANDER L. SMITH, ... Ohio.
E. ERSKINE MCMILLAN, ... Illinois.
W. A. SUDDUTH, ... Kentucky.
EDWARD J. MCDERMOTT, ... Kentucky.
LYMAN D. BREWSTER, ... Connecticut.
E. CALLAHAN, ... Illinois.
GEO. H. DURAND, ... Michigan.
MARTIN CLARK, ... New York.
SIDNEY C. EASTMAN, ... Illinois.
J. G. PARKHURST, ... Michigan.
AARON BLACKFORD, ... Ohio.
FRANCIS G. RUSSELL, ... Michigan.
JOHN J. CARTON, ... Michigan.
IRVIN BELFORD, ... Ohio.
EDMUND WETMORE, ... New York.
J. G. SUTHERLAND, ... Utah.
JOHN W. CHAMPLIN, ... Michigan.
NOAH W. CHEEVER, ... Michigan.
SAM T. DOUGLAS, ... Michigan.
H. H. HATCH, ... Michigan.
ALEXIS C. ANGELL, ... Michigan.
GEORGE A. SANDERS, ... Illinois.

ANDREW HOWELL, ... Michigan.
EDMUND D. BARRY, ... Michigan.
HARRISON GEER, ... Michigan.
C. A. BEARDSLEY, ... Michigan.
H. J. HOYT, ... Michigan.
LOYAL E. KNOPPEN, ... Michigan.
S. S. TROWBRIDGE, ... Michigan.
EDWARD A. GOTT, ... Michigan.
WM. V. MOORE, ... Michigan.
MICHAEL BRENNAN, ... Michigan.
AUG. C. STELLWAGEN, ... Michigan.
JOHN C. HERNDON, ... Arizona.
EMORY T. WOOD, ... Michigan.
BRADLEY M. THOMPSON, ... Michigan.
EDWARD D. KINNE, ... Michigan.
MARK NORRIS, ... Michigan.
JACOB F. BURKETT, ... Ohio.
TRACY C. BECKER, ... New York.
GEO. H. HOPKINS . . . . . Michigan.
FREDK. W. STEVENS, ... Michigan.
HENRY M. CAMPBELL, ... Michigan.
JOS. N. WOLFSON, ... Louisiana.
J. W. BAKER, ... Tennessee.
THOS. H. FRANKLIN, ... Texas.
CHAS. H. CAMPBELL, ... Michigan.
HERBERT L. BAKER, ... Michigan.
JOHN H. BISSELL, ... Michigan.
HOYT POST, ... Michigan.
LEVI L. BARBOUR, ... Michigan.

Total registered, 199.

DELEGATES, 1895.

ALABAMA STATE BAR ASSOCIATION.

JAMES E. WEBB, ... Birmingham.
DANIEL P. BESTOR, ... Mobile.
TENNANT LOMAX, ... Montgomery.

BAR ASSOCIATION OF ARIZONA.

JNO. C. HERNDON, ... Prescott.
E. E. ELLINWOOD, ... Flagstaff.
WM. H. BARNES, ... Tucson.

BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA.

HENRY WISE GARNETT, ... Washington.

GEORGIA BAR ASSOCIATION.

WM. H. FLEMING, ... Augusta.
BURTON SMITH, ... Atlanta.

ILLINOIS STATE BAR ASSOCIATION.

E. H. GARY, ... Chicago.
GEO. A. SANDERS, ... Springfield.
JUDSON STARR, ... Peoria.

INDIANAPOLIS BAR ASSOCIATION.

MERRILL MOORES, ... Indianapolis.
SAMUEL O. PICKENS, ... Indianapolis.

IOWA STATE BAR ASSOCIATION.

L. G. KINNE, ... Des Moines.
EMLIN MCCLAIN, ... Iowa City.
JAMES G. DAY, ... Des Moines.

BAR ASSOCIATION OF THE STATE OF KANSAS.

JNO. E. HESSIN, ... Manhattan.
R. T. THOMPSON, ... Minneapolis.
JNO. W. ROBERTS, ... Hutchinson.

HAMPDEN BAR ASSOCIATION, MASSACHUSETTS.

GEO. D. ROBINSON, ... Chicopee.
CHAS. C. SPELLMAN, ... Springfield.

MICHIGAN STATE BAR ASSOCIATION.

EDWARD CAHILL, ... Lansing.
GEO. H. DURAND, ... Flint.
RALPH STONE, ... Grand Rapids.

MISSISSIPPI STATE BAR ASSOCIATION.

G. D. SHANDS, ... Oxford.
CHAS. SCOTT, ... Rosedale.
E. J. BOWERS, ... Bay St. Louis.

MISSOURI STATE BAR ASSOCIATION.

WELLS H. BLODGETT, ... St. Louis.
WALLACE PRATT, ... Kansas City.
STEPHEN S. BROWN, ... St. Joseph.

OMAHA BAR ASSOCIATION, NEBRASKA.

HERBERT J. DAVIS, ... Omaha.
JOHN P. BRUN, ... Omaha.

MONMOUTH COUNTY BAR ASSOCIATION, NEW JERSEY.

R. W. DAYTON, ... Matawan.
H. S. TERHUME, ... Long Branch.

NEW YORK STATE BAR ASSOCIATION.

J. NEWTON FIERO, ... Albany.
TRACEY C. BECKER, ... Buffalo.
EDWARD G. WHITAKER, ... New York.

OHIO STATE BAR ASSOCIATION.

WARREN M. BATEMAN, ... Cincinnati.
W. B. CREW, ... McConnellsville.
F. F. D. ALBERY, ... Columbus.

PENNSYLVANIA STATE BAR ASSOCIATION.

CHARLES H. NOYES, ... Warren.
T. ELLIOTT PATTERSON, ... Philadelphia.
EDWARD W. BIDDLE, ... Carlisle.

TENNESSEE STATE BAR ASSOCIATION.

W. D. BEARD, ... Memphis.
H. M. WILTSE, ... Chattanooga.
CHARLES D. PORTER, ... Nashville.

TEXAS BAR ASSOCIATION.

THOS. H. FRANKLIN, ... San Antonio.
T. F. HARWOOD, ... Gonzales.
T. S. HENDERSON, ... Cameron.

TERRITORIAL BAR ASSOCIATION OF UTAH.

PARLEY L. WILLIAMS, ... Salt Lake City.
J. L. RAWLINS, ... Salt Lake City.
A. G. NORRELL, ... Salt Lake City.

VIRGINIA STATE BAR ASSOCIATION.

JOHN PICKRELL, ... Richmond.
B. B. MUNFORD, ... Richmond.
JAMES L. BUMGARTNER, ... Staunton.

WASHINGTON STATE BAR ASSOCIATION.

GEORGE M. FORSTER, ... Spokane.

WEST VIRGINIA STATE BAR ASSOCIATION.

THAYER MELVIN, ... Wheeling.
W. P. WILLEY, ... Morgantown.
GEO. E. PRICE, ... Charleston.

STATE BAR ASSOCIATION OF WISCONSIN.

E. E. BRYANT, ... Madison.
F. C. WINKLER, ... Milwaukee.
H. O. FAIRCHILD, ... Green Bay.

LIST OF MEMBERS ELECTED.

ARIZONA.

ELLINWOOD, EVERETT E., ... Flagstaff.
HERNDON, JOHN C., ... Prescott.

COLORADO.

O'DONNELL, THOMAS J., ... Denver.
STEVENSON, ARCHIE M., ... Denver.

CONNECTICUT.

ARVINE, E. P., ... New Haven.

DISTRICT OF COLUMBIA.

BREWER, DAVID J., ... Washington.
LEIGHTON, BENJAMIN F., ... Washington.

FLORIDA.

AVERY, JOHN C., ... Pensacola.
MASSEY, LOUIS C., ... Orlando.

ILLINOIS.

BANCROFT, EDGAR A., ... Chicago.
BEALE, WILLIAM G., ... Chicago.
BOYESEN, INGOLF K., ... Chicago.
BURRY, WILLIAM S., ... Chicago.
GREEN, A. W., ... Chicago.
HERRICK, JOHN J., ... Chicago.
ISHAM, EDWARD P., ... Chicago.
JACKSON, HUNTINGDON W., ... Chicago.
JUDAH, NOBLE B., ... Chicago.
KNICKERBOCKER, JOHN J., ... Chicago.
KREMER, CHARLES T., ... Chicago.
LOWDEN, FRANK O., ... Chicago.
MACK, JULIAN W., ... Chicago.
MARTIN, HORACE H., ... Chicago.
MASON, WILLIAM E., ... Chicago.
MATHER, ROBERT, ... Chicago.
MCMILLAN, E. ERSKINE, ... Chicago.
NORTON, JAMES P., ... Chicago.

ILLINOIS—Continued.

PARKINSON, ROBERT H., ... Chicago.
PINGREY, D. H., ... Bloomington.
ROBBINS, HENRY S., ... Chicago.
SANDERS, GEORGE A., ... Springfield.
SCOTT, FRANK H., ... Chicago.
SHOPE, SIMON P., ... Chicago.
SMITH, FREDERICK A., ... Chicago.
STAR, MERRITT, ... Chicago.
TENNEY, HORACE KENT, ... Chicago.
WINSTON, FREDERICK S., ... Chicago.

INDIANA.

BAKER, ALBERT, ... Indianapolis.
CARSON, JOHN F., ... Indianapolis.
CHAMBERS, SMILEY N., ... Indianapolis.
DYE, JOHN T, ... Indianapolis.
HEROD, WILLIAM PIRTLE, ... Indianapolis.
HOLTZMAN, JOHN W., ... Indianapolis.
KORBLY, CHARLES A., ... Indianapolis.
MONTGOMERY, OSCAR H., ... Seymour.
MCBRIDE, ROBERT W., ... Indianapolis.
OGLESBEE, ROLLA D., ... Indianapolis.
PENFIELD, W. L., ... Auburn.
PICKENS, WILLIAM A., ... Indianapolis.
REINHARD, GEORGE L., ... Indianapolis.
SMITH, ALONZO GREENE, ... Indianapolis.
TAYLOR, WILLIAM L., ... Indianapolis.
VAN DEVANTER, ISAAC, ... Marion.

IOWA.

COLE, CHESTER C., ... Des Moines.
CRAIG, JOHN E., ... Keokuk.
DAVIS, JAMES C., ... Keokuk.
DAY, JAMES G., ... Des Moines.
KINNE, L. G., ... Des Moines.

KENTUCKY.

HARRIS, W. O., ... Louisville.
HELM, JAMES P., ... Louisville.
MCDERMOTT, EDWARD J., ... Louisville.
THUN, WILLIAM W., ... Louisville.

LOUISIANA.

WOLFSON, JOSEPH N., ... New Orleans.

MAINE.

HAMLIN, HANNIBAL E., ... Ellsworth.
HIGGINS, FRANK M., ... Limerick.

MASSACHUSETTS.

OLNEY, RICHARD, ... Boston.

MICHIGAN.

ALDRICH, FREDERICK A., ... Cadillac.
ANGELL, ALEXIS C., ... Detroit.
BAKER, FREDERICK A., ... Detroit.
BARBOUR, LEVI L., ... Detroit.
BEARDSLEY, CARLTON A., ... Detroit.
BEAUMONT, JOHN W., ... Detroit.
BISSELL, JOHN H., ... Detroit.
BOUDEMAN, DALLAS, ... Kalamazoo.
BOWEN, HERBERT, ... Detroit.
BOYNTON, HERBERT E., ... Detroit.
BRENNAN, MICHAEL, ... Detroit.
BUTTERFIELD, ROGER W., ... Grand Rapids.
CAMPBELL, CHARLES H., ... Detroit.
CAMPBELL, HENRY M., ... Detroit.
CARPENTER, WILLIAM L., ... Detroit.
CARTON, JOHN J., ... Flint.
CHEEVER, NOAH W., ... Ann Arbor.
CLARK, F. O., ... Marquette.
COLLIER, GEORGE X. M., ... Detroit.
COOLEY, EDGAR A., ... Bay City.
COWLES, ISRAEL T., ... Detroit.
CRANE, ALBERT, ... Grand Rapids.
CROCKER, T. M., ... Port Huron.
CROCKER, MARTIN, ... Mt. Clemens.
DENISON, ARTHUR C., ... Grand Rapids.
DOUGLAS, SAMUEL T., ... Detroit.
DOUGLAS, SAMUEL T., 2ND, ... Detroit.
DRAPER, CHARLES, ... Pontiac.
DRIGGS, FREDERICK E., ... Detroit.
DURAND, LORENZO T., ... Saginaw, E. S.
DURANT, GEORGE H., ... Flint.
ELDREDGE, J. B, ... Mt. Clemens.
FELLOWS, GRANT, ... Hudson.
GEER, HARRISON, ... Detroit.
GOTT, EDWARD A., ... Detroit.
HALL, EDMUND, ... Detroit.
HALLADAY, GEORGE E., ... Detroit.

MICHIGAN—Continued.

HANCHETT, BENTON, ... Saginaw, W. S.
HARMON, HENRY A., ... Detroit.
HARSHA, WALTER S., ... Detroit.
HATCH, HERSHEL H., ... Detroit.
HATCH, REUBEN, ... Detroit.
HAYDEN, GEORGE, ... Ishpeming.
HENDERSON, EDWIN, ... Detroit.
HOPKINS, GEORGE H., ... Detroit.
HOWELL, ANDREW, ... Detroit.
HOYT, HIRAM J., ... Muskegon.
JACOKES, JAMES A., ... Pontiac.
JANUARY, WILLIAM L., ... Detroit.
JEROME, THOMAS SPENCER, ... Detroit.
JOHNSON, ELIAS F., ... Ann Arbor.
KELLY, RONALD, ... Detroit.
KILBOURNE, S. L., ... Lansing.
KINGSLEY, WILLARD, ... Grand Rapids.
KINNEY EDWARD D., ... Ann Arbor.
KLEINHAUS, JACOB, ... Grand Rapids.
KNAPPEN, LOYAL E., ... Grand Rapids.
LATHAM, CHARLES K., ... Detroit.
LEE, JAY P., ... Lansing.
LIGHTNER, CLARENCE A., ... Detroit.
LILLIS, MICHAEL F., ... Pontiac.
LODGE, FRANK T., ... Detroit.
MECHEM, FLOYD R., ... Ann Arbor.
MONTGOMERY, MARTIN V., ... Lansing.
MONTGOMERY, RICHARD A., ... Lansing.
MOORE, WILLIAM A., ... Detroit.
MOORE, WILLIAM V., ... Detroit.
MCDONALD, CHARLES S., ... Detroit.
MCMILLAN, JAMES H., ... Detroit.
NORRIS, MARK, ... Grand Rapids.
PARKHURST, JOHN G., ... Coldwater.
PATTERSON, JOHN C., ... Marshall.
PATTERSON, JOHN H., ... Pontiac.
PERKINS, WILLIS B., ... Grand Rapids.
PHELPS, RALPH, JR., ... Detroit.
POND, ASHLEY, ... Detroit.
POST, HOYT, ... Detroit.
RADFORD, GEORGE W., ... Detroit.
ROBSON FRANK E., ... Detroit.
ROOD, ARTHUR R., ... Grand Rapids.
RUSSELL, CHARLES T., ... Mt. Pleasant.

MICHIGAN—Continued.

Russell, Francis G., ... Detroit.
Russell, Henry, ... Mt. Pleasant.
Searl, Kelly S., ... Ithaca.
Shearan, William S., ... Detroit.
Smith, Harsen D., ... Cassapolis.
Smith, Vernon H., ... Ionia.
Smith, William Alden, ... Grand Rapids.
Sprague, William C., ... Detroit.
Stellwagen, Augustus C., ... Detroit.
Stevens, Frederick W., ... Grand Rapids.
Stevenson, Elliott G., ... Detroit.
Stone, J. W., ... Marquette.
Stuart, William J., ... Grand Rapids.
Sutton, Elmer L. B., ... Sault Ste. Marie.
Swan, Henry H., ... Detroit.
Swift, Charles M., ... Detroit.
Thompson, Bradley M., ... Ann Arbor.
Thurber, Henry T., ... Detroit.
Trowbridge, Luther S., ... Detroit.
Van De Mark, Stewart O., ... Detroit.
Weaver, Clement E., ... Adrian.
Webber, William L., ... Saginaw, E. S.
Weiss, Joseph M., ... Detroit.
Wells, William H., ... Detroit.
Wheeler, Harrison H., ... Manistee.
White, Peter, ... Marquette.
Wood, Emery T., ... Detroit.

MISSOURI.

Eliot, Edward C., ... St. Louis.
Ward, Hugh C., ... Kansas City.

NEBRASKA.

Thurston, John M., ... Omaha.

NEW YORK.

Carter, Walter S., ... New York.
Choate, Joseph H., ... New York.
Clark, Martin, ... Buffalo.
Davies, William Gilbert, ... New York.
Dwight, Edward F., ... New York.
Huffcut, E. W., ... Ithaca.
Hughes, Charles E., ... New York.

NEW YORK—Continued.

MILLER, W. W., ... New York.
ORDRONAUX, JOHN, ... New York.
SEYMOUR, HENRY H., ... Buffalo.
STETSON, FRANCIS LYNDE, ... New York.
WHITTAKER, EDWARD G., ... New York.

OHIO.

BATEMAN, WARNER M., ... Cincinnati.
BELFORD, IRVIN, ... Toledo.
BLACKFORD, AARON, ... Finlay.
BURROWS, J. B., ... Plainsville.
CREW, W. B., ... McConnelsville.
DURBAN, FRANK A., ... Zanesville.
FORAKER, JOSEPH BENSON, ... Cincinnati.
HARMON, JUDSON, ... Cincinnati.
HOADLY, GEORGE, JR., ... Cincinnati.
HOPKINS, E. H., ... Cleveland.
HURD, FRANK H., ... Toledo.
JOHNSON, HOMER H., ... Cleveland.
LOVELAND, FRANK O., ... Cincinnati.
MOORE, JOHN J., ... Ottawa.
PATTERSON, M. R., ... Columbus.
PECK, HIRAM D., ... Cincinnati.
PINNEY, ORESTES C., ... Cleveland.
ROBERTSON, C. D, ... Cincinnati
SMITH, ALEXANDER L., ... Toledo.
SPEAR, WILLIAM T., ... Warren.
TAFT, WILLIAM H., ... Cincinnati.
TROUP, JAMES O., ... Bowling Green.

OKLAHOMA TERRITORY.

ASP, HENRY E., ... Guthrie.
SHARTEL JOHN W., ... Guthrie.

PENNSYLVANIA.

BAYARD, JAMES WILSON, ... Philadelphia.
BIDDLE, EDWARD W., ... Carlisle.
BROWN, J. HAY, ... Lancaster.
CHAMBERS, FRANCIS T., ... Philadelphia.
CHRISTY, GEORGE H., ... Pittsburgh.

TENNESSEE.

BAKER, J. W., ... Nashville.
RAMAGE, B. J., ... Sewanee.

UTAH.

WILLIAMS, P. L., ... Salt Lake City.

VIRGINIA.

CONRAD, HOLMES, ... Winchester.
GILMORE, JAMES H., ... Charlottesville.
PICKRELL, JOHN, ... Richmond.

WASHINGTON.

FORSTER, GEORGE M., ... Spokane.

WEST VIRGINIA.

HUBBARD, WILLIAM P., ... Wheeling.

WISCONSIN.

FRAWLEY, THOMAS F., ... Eau Claire.

Number elected at meeting, 227.

ELECTED BY EXECUTIVE COMMITTEE BETWEEN MEETINGS 1894–1895.

COLORADO.

BARTELS, G. C., ... Denver.
BLOOD, JAMES H., ... Denver.
CAMPBELL, CHARLES M., ... Denver.
SHAFROTH, JOHN F., ... Denver.

DISTRICT OF COLUMBIA.

FOSTER, CHARLES E., ... Washington.
MONTAGUE, WILLIAM P., ... Washington.

FLORIDA.

RINEHART, C. D., ... Jacksonville.

INDIANA.

DAVIS, SYDNEY B., ... Terre Haute.

IOWA.

SELLS, CATO, ... Vinton.

KENTUCKY.

BRUCE, HELM, ... Louisville.

MASSACHUSETTS.

KILDUFF, RICHARD G, ... Holyoke.
SCHOULER, JAMES, ... Boston.

NEW YORK.

JOHNSTON, THOMAS J., ... Schenectady.
OSGOOD, HOWARD L., ... Rochester.
POOLE, MURRAY E., ... Ithaca.

PENNSYLVANIA.

PATTERSON, ROSWELL H., ... Scranton.
WILCOX, WILLIAM A., ... Scranton.

TEXAS.

HARWOOD, T. F, ... Gonzales.

UTAH.

SUTHERLAND, J. G., ... Salt Lake City.

WYOMING.

BROWN, MELVILLE C., ... Laramie.
BURKE, TIMOTHY F., ... Cheyenne.
CLARK, CLARENCE D., ... Evanston.
CONOWAY, ASBURY B., ... Cheyenne.
CORTHELL, NELLIS E., ... Laramie.
FOWLER, BENJAMIN F., ... Cheyenne.
KNIGHT, JESSE, ... Evanston.
SCOTT, RICHARD H., ... Cheyenne.

Number elected by Executive Committee, 27.

RECAPITULATION.

Arizona,	2	New York,	15
Colorado,	6	Ohio,	22
Connecticut,	1	Oklahoma Territory,	2
District of Columbia,	4	Pennsylvania,	7
Florida,	3	Tennessee,	2
Illinois,	28	Texas,	1
Indiana,	17	Utah,	2
Iowa,	6	Virginia,	3
Kentucky,	5	Washington,	1
Louisiana,	1	West Virginia,	1
Maine,	2	Wisconsin,	1
Massachusetts,	3	Wyoming,	8
Michigan,	108		
Missouri,	2	Total,	254
Nebraska,	1		

MEMORANDUM.

The Annual Dinner was given on Friday, August 30th, at the Hotel Cadillac. James C. Carter, of New York, presided. One hundred and sixty-eight members were present.

LIST OF PRESIDENTS.

1. 1878–79–James O. Broadhead, ... St. Louis, Missouri.
2. 1879–80–Benjamin H. Bristow, ... New York, New York.
3. 1880–81–Edward J. Phelps, ... Burlington, Vermont.
4. 1881–82–*Clarkson N. Potter, ... New York, New York.
5. 1882–83–Alexander R. Lawton, . . . Savannah, Georgia.
6. 1883–84–Cortlandt Parker, ... Newark, New Jersey.
7. 1884–85–*John W. Stevenson, ... Covington, Kentucky.
8. 1885–86–William Allen Butler, . . . New York, New York.
9. 1886–87–Thomas J. Semmes, ... New Orleans, Louisiana.
10. 1887–88–George G. Wright, ... Des Moines, Iowa.
11. 1888–89–*David Dudley Field, . . . New York, New York.
12. 1889–90–Henry Hitchcock, ... St. Louis, Missouri.
13. 1890–91–Simeon E. Baldwin, ... New Haven, Connecticut.
14. 1891–92–John F. Dillon, ... New York, New York.
15. 1892–93–J. Randolph Tucker, ... Lexington, Virginia.
16. 1893–94–Thomas M. Cooley, ... Ann Arbor, Michigan.
17. 1894–95–James C. Carter, ... New York, New York.
18. 1895–96–Moorfield Storey, ... Boston, Massachusetts.

*Deceased.

CONSTITUTION.

NAME AND OBJECT.

ARTICLE I.—This Association shall be known as "THE AMERICAN BAR ASSOCIATION." Its object shall be to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the Union, uphold the honor of the profession of the law, and encourage cordial intercourse among the members of the American Bar.

QUALIFICATIONS FOR MEMBERSHIP.

ARTICLE II.—Any person shall be eligible to membership in this Association who shall be, and shall, for five years next preceding, have been a member in good standing of the Bar of any State, and who shall also be nominated as hereinafter provided.

OFFICERS AND COMMITTEES.

ARTICLE III.—The following officers shall be elected at each Annual Meeting for the year ensuing: A President (the same person shall not be elected President two years in succession); one Vice-President from each State; a Secretary; a Treasurer; a Council, consisting of one member from each State (the Council shall be a standing committee on nominations for office); an Executive Committee, which shall consist of the President, the last ex-President, the Secretary, and the Treasurer, all of whom shall be *ex officio* members, together with three other members, to be chosen by the Association; and the President, and in his absence the ex-President, shall be the Chairman of the committee.

The following committees shall be annually appointed by the President for the year ensuing, and shall consist of five members each:

On Jurisprudence and Law Reform;

On Judicial Administration and Remedial Procedure;

On Legal Education and Admissions to the Bar;

On Commercial Law;

On International Law;

On Publications;

On Grievances;

*On Law Reporting and Digesting.

A majority of those members of any committee, including the Council, who may be present at any meeting of the Association, shall constitute a quorum of such committee for the purpose of such meeting.

The Vice-President for each State, and not less than two other members from such State, to be annually elected, shall constitute a Local Council for such State, to which shall be referred all applications for membership from such State. The Vice-President shall be, *ex officio*, Chairman of such Council.

A committee of three, of whom the Secretary shall always be one, shall be appointed by the President at each Annual Meeting of the Association, whose duty it shall be to report to the next meeting the names of all members who shall, in the interval, have died, with such notices of them as shall, in the discretion of the committee, be proper.

It shall be the duty of the Vice-President from each State and Territory to report the deaths of members within the same to the said committee.

ELECTION OF MEMBERS.

ARTICLE IV.—All nominations for membership shall be made by the Local Council of the State to the Bar of which

*By amendment passed August 29, 1895.

the persons nominated belong. Such nominations must be transmitted in writing to the Chairman of the General Council, and approved by the Council, on vote by ballot.

The General Council may also nominate members from States having no Local Council, and at the Annual Meeting of the Association, in the absence of all members of the Local Council of any State; *Provided*, That no nomination shall be considered by the General Council, unless accompanied by a statement in writing by at least three members of the Association from the same State with the person nominated, or, in their absence, by members from a neighboring State or States, to the effect that the person nominated has the qualifications required by the Constitution and desires to become a member of the Association, and recommending his admission as a member.

All nominations thus made or approved shall be reported by the Council to the Association, and all whose names are reported shall thereupon become members of the Association; *Provided*, That if any member demand a vote upon any name thus reported, the Association shall thereupon vote thereon by ballot.

Several nominees, if from the same State, may be voted for upon the same ballot; and in such case placing the word "No" against any name or names upon the ticket shall be deemed a negative vote against such name or names, and against those only. Five negative votes shall suffice to defeat an election.

During the period between the Annual Meetings, members may be elected by the Executive Committee upon the written nomination of a majority of the Vice-President and members of the Local Council of any State.

ARTICLE V.—All members of the Conference adopting the Constitution, and all persons elected by them upon the recommendation of the committee of five appointed by such Conference, shall become members of the Association upon payment of the annual dues for the current year herein provided for.

BY-LAWS.

ARTICLE VI.—By-Laws may be adopted at any Annual Meeting of the Association by a majority of the members present. It shall be the duty of the Executive Committee, without delay, to adopt suitable By-Laws, which shall be in force until rescinded by the Association.

DUES.

ARTICLE VII.—Each member shall pay five dollars to the Treasurer as annual dues, and no person shall be qualified to exercise any privilege of membership who is in default. Such dues shall be payable, and the payment thereof enforced, as may be provided by the By-Laws. Members shall be entitled to receive all publications of the Association free of charge.

ANNUAL ADDRESS.

ARTICLE VIII.—The President shall open each Annual Meeting of the Association with an address, in which he shall communicate the most noteworthy changes in statute law on points of general interest made in the several States and by Congress during the preceding year. It shall be the duty of the member of the General Council from each State to report to the President, on or before the first day of May, annually, any such legislation in his State.

ANNUAL MEETINGS.

ARTICLE IX.—This Association shall meet annually, at such time and place as the Executive Committee may select, and those present at such meeting shall constitute a quorum.

AMENDMENTS.

ARTICLE X.—This Constitution may be altered or amended by a vote of three-fourths of the members present at any

Annual Meeting, but no such change shall be made at any meeting at which less than thirty members are present.

CONSTRUCTION.

ARTICLE XI.—The word "*State*," whenever used in this Constitution, shall be deemed to be equivalent to *State*, *Territory*, and the *District of Columbia*.

BY-LAWS.

MEETING OF THE ASSOCIATION.

I.—The Executive Committee, at its first meeting after each Annual Meeting, shall select some person to make an address at the next Annual Meeting, and not exceeding six members of the Association to read papers.

II.—The order of exercises at the Annual Meeting shall be as follows:

(*a*) Opening Address of the President.
(*b*) Nominations and Election of Members.
(*c*) Election of the General Council.
(*d*) Reports of Secretary and Treasurer.
(*e*) Report of Executive Committee.
(*f*) Reports of Standing Committees:
  On Jurisprudence and Law Reform;
  On Judicial Administration and Remedial Procedure;
  On Legal Education and Admissions to the Bar;
  On Commercial Law;
  On International Law;
  On Publications;
  On Grievances;
  On Law Reporting and Digesting.
(*g*) Reports of Special Committees.
(*h*) The Nomination of Officers.
(*i*) Miscellaneous Business.
(*j*) The Election of Officers.

The address, to be delivered by a person invited by the Executive Committee, shall be made at the morning session of the second day of the Annual Meeting.

The reading and delivering of essays and papers shall be on the same day, or at such other time as the Executive Committee may determine.

III.—No person shall speak more than ten minutes at a time or more than twice on one subject.

A stenographer shall be employed at each Annual Meeting.

IV.—Each State Bar Association may annually appoint delegates, not exceeding three in number, to the next meeting of the Association. In States where no State Bar Association exists, any City or County Bar Association may appoint such delegates not exceeding two in number. Such delegates shall be entitled to all the privileges of membership at and during the said meeting.

V.—At any of the meetings of the Association, members of the Bar of any foreign country or of any State who are not members of the Association may be admitted to the privileges of the floor during such meeting.

VI.—All papers read before the Association shall be lodged with the Secretary. The Annual Address of the President, the reports of committees, and all proceedings at the Annual Meeting shall be printed; but no other address made or paper read or presented shall be printed, except by order of the Committee on Publications.

Extra copies of reports, addresses, and papers read before the Association may be printed by the Committee on Publications for the use of their authors, not exceeding two hundred copies for each of such authors.

The Secretary and the Chairman of the Executive Committee shall endeavor to arrange with the Smithsonian Institution, or otherwise, a system of exchanges by which the *Transactions*

can be annually exchanged with those of other associations in foreign countries interested in jurisprudence or governmental affairs; and the Secretary shall exchange the *Transactions* with those of the State and Local Bar Associations; and all books thus acquired shall be bound and deposited in the charge of the New York City Bar Association, subject to the call of this Association, if it ever desires to withdraw or consult them, if the former Association agrees to such deposit.

The Secretary shall send one copy of the Report of the proceedings of this Association to the President of the United States, and to each of the Judges of the Supreme Court thereof, and to the Library of the State Department, and of the Department of Justice thereof, and to the Library of Congress, and the Library of the Supreme Court thereof, and to the Governor, and to the Chief Judge of the court of last resort of each State, and to the State Librarian thereof, and to all public law libraries, and other principal public and college libraries in the United States, and to such other persons or bodies as the Executive Committee may direct.

No resolution complimentary to an officer or member for any service performed, paper read, or address delivered shall be considered by the Association.

OFFICERS AND COMMITTEES.

VII.—The terms of office of all officers elected at any Annual Meeting shall commence at the adjournment of such meeting, except the Council, whose term of office shall commence immediately upon their election.

VIII.—The President shall appoint all committees, except the Committee on Publications, within thirty days after the Annual Meeting, and shall announce them to the Secretary, and the Secretary shall promptly give notice to the persons appointed. The Committee on Publications shall be appointed on the first day of each meeting.

IX.—The Treasurer's Report shall be examined and audited annually, before its presentation to the Association, by two members to be appointed by the Chairman of the Executive Committee.

X.—The Council and all standing committees shall meet on the day preceding each Annual Meeting, at the place where the same is to be held, at such hour as their respective Chairmen shall appoint. If at any Annual Meeting of the Association any member of any committee shall be absent, the vacancy may be filled by the members of the committee present.

The Secretary of the Association shall be the Secretary of the Council.

XI.—The Committee on Publications shall also meet within one month after each Annual Meeting, at such time and place as the Chairman shall appoint.

XII.—Special meetings of any committee shall be held at such times and places as the Chairman thereof may appoint. Reasonable notice shall be given by him to each member by mail.

The traveling and other necessary expenses incurred by any committee, standing or special, for meetings of such committee, during the interval between the Annual Meetings of the Association, shall be paid by the Treasurer, on the approval and by the order of the Executive Committee, out of such appropriation, as to the Executive Committee may seem necessary in each case, on previous application in advance of its expenditure.

All committees may have their reports printed by the Secretary before the Annual Meeting of the Association; and any such report, containing any recommendation for action on the part of the Association, shall be printed and shall be distributed by mail by the Secretary to all the members of the Association

at least fifteen days before the Annual Meeting at which such report is proposed to be submitted.*

It shall be the duty of each Vice-President and member of the General Council of this Association to endeavor to procure the enactment by the legislature of their State of each and every law recommended by the Association, and the Secretary shall furnish them with copies of each and every recommendation and draft of bill, when there shall be such draft; and whenever this Association shall by resolution recommend the enactment of any law or laws, the Secretary shall, as soon as possible, furnish a copy of the resolution to the President of each State Bar Association, with the request of this Association that such State Bar Association shall co-operate with the local Vice-President and member of the General Council of this Association in having a bill introduced in the legislature of its State containing the subject-matter recommended by such resolution, and use proper means to procure the enactment of the same into law. In every State where there is no State Bar Association, a copy of such resolution with a similar request, shall be sent to the President of the Bar Association of the principal city in such State; and in every instance where the form of bill has been recommended with the resolution, a copy of such form of bill shall also be sent with the resolution.

ANNUAL DUES.

XIII.—The Annual Dues shall be payable at the Annual Meeting in advance. If any member neglects to pay them for any year at or before the next Annual Meeting, he shall cease to be a member. The Treasurer shall give notice of this By-Law, within sixty days after each meeting, to all members in default.

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*The following resolution was adopted on August 30, 1889:

"*Resolved*, That any standing or special committee hereafter reporting necessary legislation, shall prepare a bill embodying their views, for the approval of the Association.

A member who has been dropped from the roll for non-payment of dues may be restored to membership by the Executive Committee upon the payment of all back dues. *Provided*, such restoration shall be recommended by a member of the Local Council of his State, or in their absence, at an Annual Meeting, by any two members of the Association.

XIV.—A Section of the Association, to be known as the Section of Legal Education, is hereby established, which shall meet annually in connection with the Meeting of the Association, but not during such hours as the Association is in session.

Its object shall be the discussion of methods of Legal Education, and it may make recommendations to the Association, which shall be referred by the Association to the Committee on Legal Education.

The proceedings of the Section may be published from time to time, at the discretion of the Executive Committee, and on the recommendation of the Committee on Publications.

All members of the Association, who desire, may enroll themselves as members of the Section, and persons not eligible for membership in the Association, but who are engaged in teaching law, may be admitted to the privilege of the floor at any meeting of the Section, by vote of the Section.

The Section shall be organized by the appointment of a Chairman and Secretary, at its first session; and a Chairman and Secretary shall thereafter be elected annually by the Section.

A Section of the Association, to be known as the Section of Patent Law, is hereby established, which shall meet annually in connection with the meeting of the Association, but not during such hours as the Association is in session.

Its object shall be to discuss the subject of the law and practice relating to patents. It may report to the Association; and matters relating to patents may be referred to it.

The proceedings of the Section may be published from time to time, at the discretion of the Executive Committee, and on the recommendation of the Committee on Publications.

All members of the Association, who desire, may enroll themselves as members of the Section.

The Section shall be organized by the appointment of a Chairman and Secretary by the Section, and a Chairman and Secretary shall be thereafter annually elected by the Section for the year commencing upon the final adjournment of its meeting.

OFFICERS.

1895-96.

PRESIDENT,

MOORFIELD STOREY,

Boston, Massachusetts.

SECRETARY,

JOHN HINKLEY,

215, North Charles Street, Baltimore, Maryland.

TREASURER,

FRANCIS RAWLE,

328, Chestnut Street, Philadelphia, Pennsylvania.

EXECUTIVE COMMITTEE.

EX OFFICIO.

MOORFIELD STOREY, PRESIDENT.
JAMES C. CARTER, LAST PRESIDENT.
JOHN HINKLEY, SECRETARY.
FRANCIS RAWLE, TREASURER.

ELECTED MEMBERS.

GEORGE A. MERCER, *Savannah, Georgia.*
ALFRED HEMENWAY, *Boston, Massachusetts.*
CHARLES CLAFLIN ALLEN, *St. Louis, Missouri.*

GENERAL COUNCIL.

ALABAMA,	D. S. TROY,	Montgomery.
ARKANSAS,	M. M. COHN,	Little Rock.
CALIFORNIA,	JAS. A. GIBSON,	San Diego.
COLORADO,	CASS E. HERRINGTON,	Denver.
CONNECTICUT,	MORRIS F. TYLER,	New Haven.
DELAWARE,	IGNATIUS C. GRUBB,	Wilmington.
DISTRICT OF COLUMBIA,	HENRY WISE GARNETT,	Washington.
FLORIDA,	R. W. WILLIAMS,	Tallahassee.
GEORGIA,	P. W. MELDRIM,	Savannah.
IDAHO,	HENRY STUART GREGORY,	Wallace.
ILLINOIS,	HENRY WADE ROGERS,	Evanston.
INDIANA,	R. S. TAYLOR,	Fort Wayne.
IOWA,	A. J. MCCRARY,	Keokuk.
KANSAS,	JOHN D. MILLIKEN,	McPherson.
KENTUCKY,	HELM BRUCE,	Louisville.
LOUISIANA,	WILLIAM WIRT HOWE,	New Orleans.
MAINE,	CHAS. F. LIBBY,	Portland.
MARYLAND,	JOHN T. MASON, R.,	Baltimore.
MASSACHUSETTS,	LEONARD A. JONES,	Boston.
MICHIGAN,	GEORGE P. WANTY (*Ch'n*),	Grand Rapids.
MINNESOTA,	RALPH WHELAN,	Minneapolis.
MISSISSIPPI,	R. H. THOMPSON,	Brookhaven.
MISSOURI,	JAMES HAGERMAN,	St. Louis.
MONTANA,	WILBUR F. SANDERS,	Helena.
NEBRASKA,	JAMES M. WOOLWORTH,	Omaha.
NEW HAMPSHIRE,	JOSEPH W. FELLOWS,	Manchester.
NEW JERSEY,	R. WAYNE PARKER,	Newark.
NEW YORK,	WM. H. ROBERTSON,	Katonah.
NORTH CAROLINA,	JOHN L. BRIDGERS,	Tarboro.
NORTH DAKOTA,	BURKE CORBET,	Grand Forks.

Ohio,	John J. Hall,	Akron.
Oregon,	Charles H. Carey,	Portland.
Pennsylvania,	Walter George Smith,	Philadelphia.
Rhode Island,	Amasa M. Eaton,	Providence.
South Carolina,	Clarence S. Nettles,	Darlington.
South Dakota,	J. W. Wright,	Clark.
Tennessee,	J. M. Dickinson,	Nashville.
Texas,	J. Z. H. Scott,	Galveston.
Vermont,	S. C. Shurtleff,	Montpelier.
Virginia,	James Lyons,	Richmond.
Washington,	Charles E. Shepard,	Seattle.
West Virginia,	J. B. Sommerville,	Wheeling.
Wisconsin,	Burr W. Jones,	Madison.
Wyoming,	Chas. N. Potter,	Cheyenne.
Arizona Territory,	Jno. C. Herndon,	Prescott.
Indian "	J. W. McLoud,	South McAlester.
Oklahoma "	Henry E. Asp,	Guthrie.
Utah "	R. B. Shepard,	Salt Lake City.

VICE-PRESIDENTS

AND

MEMBERS OF LOCAL COUNCILS.

ELECTED 1895.

ALABAMA.

Vice-President,	THOMAS N. McCLELLAN,	Montgomery.
Local Council,	J. J. WILLETT,	Anniston.
	JOHN W. A. SANFORD,	Montgomery.

ARIZONA.

Vice-President,	E. E. ELLINWOOD,	Flagstaff.
Local Council,	J. C. HERNDON,	Prescott.

ARKANSAS.

Vice-President,	HENRY C. CALDWELL,	Little Rock.
Local Council,	U. M. ROSE,	Little Rock.
	BEN. T. DuVAL,	Fort Smith.

CALIFORNIA.

Vice-President,	STEPHEN M. WHITE,	Los Angeles.
Local Council,	DAVID L. WITHINGTON,	San Diego.
	R. Y. HAYNE,	San Francisco.

COLORADO.

Vice-President,	MOSES HALLETT,	Denver.
Local Council,	C. M. CAMPBELL,	Denver.
	C. J. HUGHES, JR.,	Denver.
	G. C. BARTELS,	Denver.
	A. M. STEVENSON,	Denver.
	PLATT ROGERS,	Denver.

CONNECTICUT.

Vice-President,	JULIUS B. CURTIS,	Stamford.
Local Council,	WASHINGTON F. WILCOX,	Deep River.
	LEWIS E. STANTON,	Hartford.
	TALCOTT H. RUSSELL,	New Haven.
	CHARLES E. SEARLES,	Putnam.
	GEORGE D. WATROUS,	New Haven.
	DONALD T. WARNER,	Salisbury.

DELAWARE.

Vice-President,	GEORGE GRAY,	Wilmington.
Local Council,	LEONARD E. WALES,	Wilmington.
	WILLARD SAULSBURY,	Wilmington.

DISTRICT OF COLUMBIA.

Vice-President,	SAMUEL R. BOND,	Washington.
Local Council,	J. HUBLEY ASHTON,	Washington.
	TALLMADGE A. LAMBERT,	Washington.
	JAMES G. PAYNE,	Washington.
	GEORGE E. HAMILTON,	Washington.
	CHAS. W. NEEDHAM,	Washington.
	CHAS. C. LANCASTER,	Washington.

FLORIDA.

Vice-President,	J. C. AVERY,	Pensacola.
Local Council,	L. C. MASSEY,	Orlando.
	C. D. RINEHART,	Jacksonville.
	GEO. P. RANEY,	Tallahassee.
	B. S. LIDDEN,	Marianna.
	WM. A. BLOUNT,	Pensacola.

GEORGIA.

Vice-President,	A. R. LAWTON,	Savannah.
Local Council,	N. J. HAMMOND,	Atlanta.
	FRANK H. MILLER,	Augusta.
	F. G. DuBIGNON,	Savannah.
	WALTER B. HILL,	Macon.
	CHARLES L. BARTLETT,	Macon.
	BURTON SMITH,	Atlanta.

IDAHO.

Vice-President,	HENRY STUART GREGORY,	Wallace.

ILLINOIS.

Vice-President,	THOMAS DENT,	Chicago.
Local Council,	HARVEY B. HURD,	Chicago.
	E. B. SHERMAN,	Chicago.
	EDWIN BURRITT SMITH,	Chicago.
	JOHN S. MILLER,	Chicago.
	JAMES H. RAYMOND,	Chicago.
	JUDSON STARR,	Peoria.
	JOHN C. RICHBERG,	Chicago.
	BLEWETT LEE,	Chicago.

INDIAN TERRITORY.

Vice-President, J. W. McLOUD, ... South McAlester.

INDIANA.

Vice-President, BENJAMIN HARRISON, . . . Indianapolis.
Local Council, EDGAR A. BROWN, ... Indianapolis.
WM. F. ELLIOTT, ... Indianapolis.
WM. L. PENFIELD, ... Auburn.
SAMUEL O. PICKENS, ... Indianapolis.

IOWA.

Vice-President, JOHN DEERY, ... Dubuque.
Local Council, L. G. KINNE, ... Des Moines.
JAMES G. DAY, ... Des Moines.
J. H. McCONLOGUE, ... Mason City.
JAMES C. DAVIS, ... Keokuk.
J. J. McCARTHY, ... Dubuque.

KANSAS.

Vice-President, M. B. NICHOLSON, ... Council Grove.
Local Council, J. H. GILLPATRICK, ... Leavenworth.
WM. C. PERRY, ... Fort Scott.
CHARLES B. SMITH, ... Topeka.
CHARLES S. GLEED, ... Topeka.
T. F. GARVER, ... Salina.

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CHICKERING, W. H., ... San Francisco, Cal.
CHOATE, JOSEPH H., ... New York, N. Y.
CHRISTIE, GEORGE H., ... Pittsburg, Pa.
CHRISTIE, HARVEY L., ... St. Louis, Mo.
CLARK, CLARENCE D., ... Evanston, Wyo.
CLARK, F. O., ... Marquette, Mich
CLARK, I. R., ... Boston, Mass.
CLARK, JAMES GARDNER, ... New Haven, Conn.
CLARK, MARTIN, ... Buffalo, N. Y.
CLARK, WILLIAM H, ... Dallas, Texas.
CLEMENTSON, GEORGE, ... Lancaster, Wis.
CLIFFORD, CHARLES W., ... New Bedford, Mass.
CLIGGETT, JOHN, ... Mason City, Ia.
CLINTON, HENRY L., ... New York, N. Y.
COCHRAN, ALEXANDER G., ... St. Louis, Mo.
COHEN, EMANUEL, ... Minneapolis, Minn.
COHN, M. M., ... Little Rock, Ark.
COLBY, FRANCIS T., ... Chicago, Ill.
COLBY, JAMES F., ... Hanover, N. H.
COLE, CHARLES J., ... Hartford, Conn.
COLE, CHESTER C., ... Des Moines, Iowa
COLIE, EDWARD M., ... Newark, N. J.
COLLIER, GEORGE X. M., ... Detroit, Mich.
COLLIER, M. DWIGHT, ... New York, N. Y.
COLLINS, PATRICK A., ... Boston, Mass.
COLMAN, ELIHU, ... Fond du Lac, Wis.
COLSTON, EDWARD, ... Cincinnati, Ohio.
CONANT, GEORGE A., ... Hartford, Conn.
CONARROE, GEORGE M, ... Philadelphia, Pa.
CONAWAY, ASBURY B., ... Cheyenne, Wyo.
CONELY, EDWIN F., ... Detroit, Mich.
CONELY, JOHN D., ... Detroit, Mich.
CONRAD, HOLMES, ... Winchester, Va.
COOK, CHARLES SUMNER, ... Portland, Me.
COOK, WILLIAM W., ... New York, N. Y.
COOLEY, EDGAR A., ... Bay City, Mich.
COOLEY, THOMAS M., ... Ann Arbor, Mich.
COOLIDGE, WILLIAM H, ... Boston, Mass.
COOPER, EDMUND, ... Shelbyville, Tenn.
COOPER, JOHN S., ... Chicago, Ill.
COPELAND, ALFRED M., ... Springfield. Mass.
CORBET, BURKE, ... Grand Forks, N. D.
CORCORAN, JOHN W., ... Boston, Mass.
CORTHELL, NELLIS E., ... Laramie, Wyo.

COSTE, PAUL F., ... St. Louis, Mo.
COTTER, JAMES E., ... Boston, Mass.
COTTON, JOHN B., ... Washington, D. C.
COWEN, JOHN K., ... Baltimore, Md.
COWIN, J. C., ... Omaha, Neb.
COWLES, ISRAEL T., ... Detroit, Mich.
COX, L. B., ... Portland, Oregon.
CRAIG, JOHN E., ... Keokuk, Iowa.
CRANE, ALBERT, ... Grand Rapids, Mich.
CRAPO, WILLIAM W., ... New Bedford, Mass.
CRAWFORD, ANDREW, ... Chicago, Ill.
CREW, W. B., ... McConnelsville, O.
CROCKER, GEORGE G., ... Boston, Mass.
CROCKER, MARTIN, ... Mt. Clemens, Mich.
CROCKER, T. M., ... Port Huron, Mich.
CROSS, DAVID, ... Manchester, N. H.
CROSS, E. J. D., ... Baltimore, Md.
CROVATT, A. J., ... Brunswick, Ga.
CULVER, M. EUGENE, ... Middletown, Conn.
CUMING, JAMES R., ... New York, N. Y.
CUMMING, GEORGE M., ... New York, N. Y.
CUMMING, JOSEPH B., ... Augusta, Ga.
CUMMINS, A. B., ... Des Moines, Ia.
CUNNINGHAM, FREDERIC, ... Boston, Mass.
CUNNINGHAM, HENRY C., ... Savannah, Ga.
CURTIS, JULIUS B., ... Stamford, Conn.
CURTIS, RUSSELL H., ... Chicago, Ill.
CUTCHEON, SULLIVAN M., ... Detroit, Mich.
DABNEY, L. S., ... Boston, Mass.
DALE, RICHARD C., ... Philadelphia, Pa.
DANA, SAMUEL W., ... New Castle, Pa.
DANA, WILLIAM S., ... Turner's Falls, Mass.
DANIELS, FRANCIS B., ... Dubuque, Ia.
DART, HENRY P., ... New Orleans, La.
DAVIE, GEORGE M., ... Louisville, Ky.
DAVIES, WILLIAM GILBERT, ... New York, N. Y.
DAVIS, JAMES C., ... Keokuk, Iowa.
DAVIS, JOHN, ... Lowell, Mass.
DAVIS, SIMON, ... Boston, Mass.
DAVIS, SYDNEY B., ... Terre Haute, Ind.
DAVISON, CHARLES A., ... New York, N. Y.
DAY, JAMES G., ... Des Moines, Iowa.
DEAN, BENJAMIN, ... South Boston, Mass.
DECKER, WESTBROOK S., ... Denver, Col.
DEERY, JOHN, ... Dubuque, Ia.

DeLacy, John F., ... Eastman, Ga.
Denégre, George, ... New Orleans, La.
Denégre, Walter D., ... New Orleans, La.
Denison, Arthur C., ... Grand Rapids, Mich.
Dent, Thomas, ... Chicago, Ill.
Derr, Andrew F., ... Wilkesbarre, Pa.
Desty, Robert, ... Trenton, N. J.
Dickinson, Don M., ... Detroit, Mich.
Dickinson, J. M., ... Nashville, Tenn.
Dickinson, M. F., Jr., ... Boston, Mass.
Dickinson, S. Meredith, ... Trenton, N. J.
Dillaway, W. E. L., ... Boston, Mass.
Dillie, John I., ... El Reno, O. T.
Dillon, Hiram P., ... Topeka, Kan.
Dillon, John F., ... New York, N. Y.
Dinneen, John H., ... Richmond, Va.
Dobson, Charles L., ... Kansas City, Mo.
Dodge, Frederic, ... Boston, Mass.
Donaldson, John J., ... Baltimore, Md.
Donaldson, William R., ... St. Louis, Mo.
Dos Passos, John R., ... New York, N. Y.
Doty, Spencer C., ... New York, N. Y.
Dougherty, J. Hampden, ... New York, N. Y.
Douglas, Samuel T., ... Detroit, Mich.
Douglas, Samuel T., 2nd, ... Detroit, Mich.
Douglas, Walter B., ... St. Louis, Mo.
Doyle, John H., ... Toledo, Ohio.
Doyle, Louis F., ... New York, N. Y.
Doyle, Peter, ... Milwaukee, Wis.
Draper, Charles, ... Pontiac, Mich.
Drew, C. H., ... Boston, Mass.
Drew, Franklin M., ... Lewiston, Me.
Driggs, Frederick E., ... Detroit, Mich.
duBignon, Fleming G., ... Savannah, Ga.
Duffield, Henry M., ... Detroit, Mich.
Duncan, John S., ... Indianapolis, Ind.
Duncombe, John F., ... Fort Dodge, Ia.
Dunham, Charles, ... Geneseo, Ill.
Durand, Lorenzo T., ... Saginaw, E. S., Mich.
Durant, George H., ... Flint, Mich.
Durban, Frank A., ... Zanesville, Ohio.
DuVal, Ben. T., ... Fort Smith, Ark.
Dwight, Edward F., ... New York, N. Y.
Dye, John T, ... Indianapolis, Ind.
Dyer, Richard N., ... New York, N. Y.

EASTMAN, SAMUEL C., ... Concord, N. H.
EASTMAN, SIDNEY C., ... Chicago, Ill.
EATON, AMASA M., ... Providence, R. I.
EATON, SHERBURNE B., ... New York, N. Y.
EDMONSTON, WILLIAM E., ... Washington, D. C.
EDWARDS, TRYON H., ... Harrisburg, Pa.
EGGLESTON, ARTHUR F., ... Hartford, Conn.
ELDER, SAMUEL J., ... Boston, Mass.
ELDREDGE, J. B, ... Mt. Clemens, Mich.
ELIOT, EDWARD C., ... St. Louis, Mo.
ELLINWOOD, EVERETT E., ... Flagstaff, Arizona.
ELLIOTT, BYRON K., ... Indianapolis, Ind.
ELLIOTT, WILLIAM F., ... Indianapolis, Ind.
ELY, JOSEPH C., ... Providence, R. I.
EMERY, LUCILLIUS A., ... Ellsworth, Me.
EMERY, WOODWARD, ... Cambridge, Mass.
ENDICOTT, WM. C., ... Salem, Mass.
ENNIS, ALFRED, ... Chicago, Ill.
ENSIGN, JOSIAH D., ... Duluth, Minn.
ERNST, GEORGE A. O., ... Boston, Mass.
ERWIN, FRANK A., ... New York, N. Y.
ERWIN, R. G., ... Savannah, Ga.
ESTABROOK, GEORGE W., ... Boston, Mass.
ESTES, BEDFORD M, ... Memphis, Tenn.
EVANS, THOMAS G., ... New York, N. Y.
EVARTS, WILLIAM M., ... New York, N. Y.
EVERETT, WILLIAM, ... Quincy, Mass.
FAIRBANKS, CHAS. W., ... Indianapolis, Ind.
FAIRCHILD, H. O., ... Green Bay, Wis.
FALL, GEORGE HOWARD, ... Boston, Mass.
FALLIGANT, ROBERT, ... Savannah, Ga.
FARQUHAR, GUY E., ... Pottsville, Pa.
FARRAR, EDGAR H., ... New Orleans, La.
FEARONS, GEORGE H., ... New York, N. Y.
FELKER, CHARLES W., ... Oshkosh, Wis.
FELLOWS, GRANT, ... Hudson, Mich.
FELLOWS, JOSEPH W., ... Manchester, N. H.
FENDALL, REGINALD, ... Washington, D. C.
FENN, AUGUSTUS H., ... Winchester, Conn.
FENTON, HECTOR T., ... Philadelphia, Pa.
FENTRESS, JAMES, ... Chicago, Ill.
FERGUSON, E. A., ... Cincinnati, Ohio.
FERRIS, AARON A., ... Cincinnati, Ohio.
FIELD, HEMAN H., ... Chicago, Ill.
FIERO, J. NEWTON, ... Albany, N. Y.

FINKELNBURG, G. A., ... St. Louis, Mo.
FISH, FREDERICK P., ... Boston, Mass.
FISH, JOHN T., ... Chicago, Ill.
FISHBACK, W. P., ... Indianapolis, Ind.
FISHER, WILLIAM A., ... Baltimore, Md.
FISHER, WILLIAM RIGHTER, ... Philadelphia, Pa.
FISSE, WILLIAM E., ... St. Louis, Mo.
FITCH, EDWARD H., ... Jefferson, Ohio.
FITZGERALD, JOHN C., ... Grand Rapids, Mich.
FLANDERS, JAMES G., ... Milwaukee, Wis.
FLANDRAU, CHARLES E., ... St. Paul, Minn.
FLEISCHMANN, SIMON, ... Buffalo, N. Y.
FLETCHER, NIRAM A., ... Grand Rapids, Mich.
FLOWER, JAMES M., ... Chicago, Ill.
FOLLETT, MARTIN D., ... Marietta, Ohio.
FORAKER, JOSEPH BENSON, ... Cincinnati, Ohio.
FORBES, FRANCIS, ... New York, N. Y.
FORMAN, BENJAMIN RICE, ... New Orleans, La.
FORSTER, GEORGE M., ... Spokane, Wash.
FOSTER, ALFRED D., ... Boston, Mass.
FOSTER, CHARLES E., ... Washington, D. C.
FOSTER, REGINALD, ... Boston, Mass.
FOSTER, ROGER, ... New York, N. Y.
FOWLER, A. C., ... St. Louis, Mo.
FOWLER, BENJAMIN F., ... Cheyenne, Wyo.
FOX, AUSTEN G., ... New York, N. Y.
FOX, TIMOTHY J., ... New Haven, Conn.
FRALEY, JOSEPH C., ... Philadelphia, Pa.
FRAWLEY, THOMAS F., ... Eau Claire, Wis.
FRENCH, WILLIAM B., ... Boston, Mass.
FREY, PHILIP W., ... Evansville, Ind.
FROST, EDWARD W., ... Milwaukee, Wis.
FULLER, GEORGE, ... San Diego, Cal.
FULLER, HORACE W., ... Boston, Mass.
FULLERTON, JOSEPH S., ... Washington, D. C.
GAGER, EDWIN B., ... Birmingham, Conn.
GALLAGHER, CHARLES T., ... Boston, Mass.
GANS, EDGAR H., ... Baltimore, Md.
GANTT, JAMES B., ... Jefferson City, Mo.
GARGAN, THOMAS J., ... Boston, Mass.
GARLAND, AUGUSTUS H., ... Washington, D. C.
GARLAND, SPOTTSWOOD, ... Wilmington, Del.
GARNETT, HENRY WISE, ... Washington, D. C.
GARNETT, THEODORE S., ... Norfolk, Va.
GARRARD, WILLIAM, ... Savannah, Ga.

GARRETSON, A. Q., ... Jersey City, N. J.
GARTSIDE, JOHN M, ... Chicago, Ill.
GARVER, T. F., ... Salina, Kan.
GAUT, JOHN M., ... Nashville, Tenn.
GEER, HARRISON, ... Detroit, Mich.
GIBBONS, JOHN, ... Chicago, Ill.
GIBSON, JAMES A., ... San Diego, Cal.
GIBSON, WILLIAM K., ... Milwaukee, Wis.
GILBERT, LYMAN D., ... Harrisburg, Pa.
GILLIAM, MARSHALL M., ... Richmond, Va.
GILLPATRICK, J. H., ... Leavenworth, Kan.
GILMORE, JAMES H., ... Charlottesville, Va.
GILSON, N. S., ... Fond du Lac, Wis.
GLEED, CHARLES S., ... Topeka, Kan.
GLEZEN, EDWARD K., ... Providence, R. I.
GOBLE, L. SPENCER, ... Newark, N. J.
GOEBEL, WILLIAM, ... Covington, Ky.
GOODHART, MORRIS, ... New York, N. Y.
GOODWIN, FRANK, ... Boston, Mass.
GOTT, EDWARD A., ... Detroit, Mich.
GOULD, ROBERT S., ... Austin, Texas.
GOULDER, HARVEY D., ... Cleveland, Ohio.
GRACE H. H., ... West Superior, Wis.
GRAHAM, GEORGE S., ... Philadelphia, Pa.
GRANT, ALEXANDER, JR., ... Newark, N. J.
GRAVES CHARLES A., ... Lexington, Va.
GRAY, GEORGE, ... Wilmington, Del.
GRAY, JOHN C., ... Boston, Mass.
GREEN, A. W., ... Chicago, Ill.
GREEN, BENJAMIN W., ... Emporium, Pa.
GREENE, CHARLES J., ... Omaha, Neb.
GREENE, GEORGE G., ... Green Bay, Wis.
GREGG, MAURICE, ... Baltimore, Md.
GREGORY, CHARLES N., ... Madison, Wis.
GREGORY, HENRY STUART, ... Wallace, Idaho.
GREGORY, STEPHEN S., ... Chicago, Ill.
GREY, SAMUEL H., ... Camden, N. J.
GRIFFIN, LEVI T., ... Detroit, Mich.
GRIFFIN, S., ... Bedford City, Va.
GRINNELL, W. MORTON, ... New York, N. Y.
GROESBECK, HERMAN V. S., ... Laramie, Wyo.
GROSS, CHARLES E., ... Hartford, Conn.
GRUBB, IGNATIUS C., ... Wilmington, Del.
GUERNSEY, NATHANIEL T., ... Des Moines, Ia.
GUNCKEL, LEWIS B., ... Dayton, Ohio.

GUTHRIE, GEORGE W., ... Pittsburgh, Pa.
GUY, JACKSON, ... Richmond, Va.
HAGERMAN, FRANK, ... Kansas City, Mo.
HAGERMAN, JAMES, ... St. Louis, Mo.
HAGNER, RANDALL, ... Washington, D. C.
HAHN, WILLIAM J., ... Minneapolis, Minn.
HALE, CLARENCE, ... Portland, Me.
HALE, GEORGE S., ... Boston, Mass.
HALL, BORDMAN, ... Boston, Mass.
HALL, EDMUND, ... Detroit, Mich.
HALL, HARRY H., ... New Orleans, La.
HALL, JOHN J., ... Akron, Ohio.
HALL, THOMAS W., ... Baltimore, Md.
HALLADAY, GEORGE E., ... Detroit, Mich.
HALLETT, MOSES, ... Denver, Col.
HALSEY, JEREMIAH, ... Norwich, Conn.
HAMILTON, ALEXANDER, ... Petersburg, Va.
HAMILTON, GEORGE EARNEST, ... Washington, D. C.
HAMLIN, CHARLES, ... Bangor, Me.
HAMLIN, HANNIBAL E., ... Ellsworth, Me.
HAMLINE, JOHN H., ... Chicago, Ill.
HAMMOND, JOHN C., ... Northampton, Mass.
HAMMOND, N. J., ... Atlanta, Ga.
HAMMONS, EVERETT, ... Anoka, Minn.
HANCHETT, BENTON, ... Saginaw, W. S., Mich.
HARDING, CHARLES F., ... Chicago, Ill.
HARGROVE, A. C., ... Tuscaloosa Ala.
HARING, CORNELIUS I., ... Milwaukee, Wis.
HARKLESS, JAMES H., ... Kansas City, Mo.
HARLAN, HENRY D., ... Baltimore, Md.
HARMON, HENRY A., ... Detroit, Mich.
HARMON, JUDSON, ... Cincinnati, Ohio.
HARRIS, STEPHEN R., ... Bucyrus, Ohio.
HARRIS, W. O., ... Louisville, Ky.
HARRISON, BENJAMIN, ... Indianapolis, Ind.
HARRISON, LYNDE, ... New Haven, Conn.
HARRISON, RICHARD A., ... Columbus, Ohio.
HARSHA, WALTER S., ... Detroit, Mich.
HART, W. O., ... New Orleans, La.
HARWOOD, N. S., ... Lincoln, Neb.
HARWOOD, T. F., ... Gonzales, Texas.
HASKELL, THOMAS H., ... Portlaud, Me.
HATCH, HERSHEL H., ... Detroit, Mich.
HATCH, REUBEN C., ... Grand Rapids, Mich.
HATTON, GOODRICH, ... Portsmouth, Va.

HAWKESWORTH, R. W., ... New York, N. Y.
HAYDEN, GEORGE, ... Ishpeming, Mich.
HAYDEN, JAMES H., ... Washington, D. C.
HAYNE, ROBERT Y., ... San Francisco, Cal.
HEBARD, FREDERIC S., ... Chicago, Ill.
HELM, JAMES P., ... Louisville, Ky.
HEMENWAY, ALFRED, ... Boston, Mass.
HEMENWAY, GEORGE L., ... Hopkinton, Mass.
HEMPHILL, JOSEPH, ... West Chester, Pa.
HENDERSON, EDWIN, ... Detroit, Mich.
HENDERSON, J. B., ... Washington, D. C.
HENDRICK, W. J., ... Frankfort, Ky.
HENSEL, W. U., ... Lancaster, Pa.
HERENDEEN, EDWARD G., ... Elmira, N. Y.
HERNDON, JOHN C., ... Prescott, Arizona.
HEROD, WILLIAM PIRTLE, ... Indianapolis, Ind.
HERRICK, JOHN J., ... Chicago, Ill.
HERRINGTON, CASS E., ... Denver, Col.
HIESTER, ISAAC, ... Reading, Pa.
HIGGINBOTHAM, C. C., ... Buckhannon, W. Va.
HIGGINS, ANTHONY, ... Wilmington, Del.
HIGGINS, FRANK M., ... Limerick, Me.
HILL, R. A., ... Oxford, Miss.
HILL, WALTER B., ... Macon, Ga.
HILLES, WILLIAM S., ... Wilmington, Del.
HINE, LEMON G., ... Washington, D. C.
HINKLEY, EDWARD OTIS, ... Baltimore, Md.
HINKLEY, JOHN, ... Baltimore, Md.
HITCHCOCK, HENRY, ... St. Louis, Mo.
HOADLY, GEORGE, ... New York, N. Y.
HOADLY, GEORGE, JR., ... Cincinnati, Ohio.
HOBSON, HENRY W., ... Denver, Col.
HOLDOM, JESSE, ... Chicago, Ill.
HOLT, GEORGE C., ... New York, N. Y.
HOLTZMAN, JOHN W., ... Indianapolis, Ind.
HOOPER, ARTHUR W., ... Boston, Mass.
HOPKINS, E. H., ... Cleveland, Ohio.
HOPKINS, GEORGE H., ... Detroit, Mich.
HOPKINS, W. S. B., ... Worcester, Mass.
HORNBLOWER, WILLIAM B., ... New York, N. Y.
HORNER, JOHN J., ... Helena, Ark.
HOSMER, GEORGE S., ... Detroit, Mich.
HOUSTON, WILLIAM T., ... New York, N. Y.
HOWE, ELMER P., ... Boston, Mass.
HOWE, WILLIAM WIRT, ... New Orleans, La.

HOWELL, ANDREW, ... Detroit, Mich.
HOWRY, CHARLES B, ... Oxford, Miss.
HOWSON, CHARLES, ... Philadelphia, Pa.
HOYT, HIRAM J., ... Muskegon, Mich.
HOYT, JAMES H., ... Cleveland, Ohio.
HUBBARD, THOMAS H., ... New York, N. Y.
HUBBARD, WILLIAM P., ... Wheeling, W. Va.
HUDD, THOMAS R., ... Green Bay, Wis.
HUEY, SAMUEL B., ... Philadelphia, Pa.
HUFFCUT, E. W., ... Ithaca, N. Y.
HUGHES, BENJAMIN F., ... Philadelphia, Pa.
HUGHES, CHARLES E., ... New York, N. Y.
HUGHES, CHARLES J., JR., ... Denver, Col.
HUGHES, E. C., ... Seattle, Wash.
HUGHES, ROBERT M., ... Norfolk, Va.
HUGHES, THOMAS, ... Baltimore, Md.
HUNT, CARLETON, ... New Orleans, La.
HUNT, FREEMAN, ... Boston, Mass.
HUNT, SAMUEL F., ... Cincinnati, Ohio.
HUNTER, CHARLES F., ... Milwaukee, Wis.
HURD, FRANK H., ... Toledo, Ohio.
HURD, HARVEY B., ... Chicago, Ill.
HURLBUTT, HENRY F., ... Lynn, Mass.
HURLBUTT, J. BELDEN, ... Norwalk, Conn.
HUTCHINSON, JOHN A., ... Parkersburg, W. Va.
HYDE, WILLIAM W., ... Hartford, Conn.
INGALSBE, GRENVILLE M., ... Sandy Hill, N. Y.
ISHAM, EDWARD P., ... Chicago, Ill.
ISAACS, M. S., ... New York, N. Y.
JACKSON, HENRY, ... Atlanta, Ga.
JACKSON, HUNTINGDON W., ... Chicago, Ill.
JACKSON, ROBERT F, ... Nashville, Tenn.
JACOKES, JAMES A., ... Pontiac, Mich.
JAMESON, OVID B., ... Indianapolis, Ind.
JANUARY, WILLIAM L., ... Detroit, Mich.
JAYNE, H. LABARRE, ... Philadelphia, Pa.
JEFFRIS, MALCOLM G., ... Janesville, Wis.
JENCKES, THOMAS A., ... Providence, R. I.
JENKINS, JAMES G., ... Milwaukee Wis.
JENKINS, ROBERT E., ... Chicago, Ill.
JENNINGS, ANDREW J., ... Fall River, Mass.
JEROME, THOMAS SPENCER, ... Detroit, Mich.
JEWETT, JOHN N., ... Chicago, Ill.
JOHNSON, BENJAMIN N., ... Boston, Mass.
JOHNSON, D. H., ... Milwaukee, Wis.

JOHNSON, ELIAS F., ... Ann Arbor, Mich.
JOHNSON, HOMER H., ... Cleveland, Ohio.
JOHNSON, JOHN D., ... St. Louis, Mo.
JOHNSON, WILLIAM E., ... Woodstock, Vt.
JOHNSTON, THOMAS J., ... Schenectady, N. Y.
JOHNSTONE, GEORGE, ... Newberry, S. C.
JOLINE, ADRIAN H., ... New York, N. Y.
JONES, ASAHEL W., ... Youngstown, Ohio.
JONES, BURR W., ... Madison, Wis.
JONES, J. LEVERING, ... Philadelphia, Pa.
JONES, LEONARD A., ... Boston, Mass.
JUDAH, NOBLE B., ... Chicago, Ill.
JUDSON, FREDERICK N., ... St. Louis, Mo.
KARNES, J. V. C., ... Kansas City, Mo.
KAUFFMAN, A. J., ... Columbia, Pa.
KAY, JAMES I., ... Pittsburgh, Pa.
KEASBEY, EDWARD Q., ... Newark, N. J.
KEENEY, WILLARD F., ... Grand Rapids, Mich.
KEENER, WILLIAM A., ... New York, N. Y.
KEHR, EDWARD C., ... St. Louis, Mo.
KEITH, IRA B., ... Lynn, Mass.
KELLEN, WILLIAM V., ... Boston, Mass.
KELLOGG, STEPHEN W., ... Waterbury, Conn.
KELLY, RONALD, ... Detroit, Mich.
KENNA, EDWARD D., ... St. Louis, Mo.
KENNAN, THOMAS L., ... Milwaukee, Wis.
KENNEDY, JOHN C., ... Boston, Mass.
KENNON, NEWELL K., ... St. Clairsville, Ohio.
KENT, CHARLES A., ... Detroit, Mich.
KENYON, WILLIAM H., ... New York, N. Y.
KERN, JOHN W., ... Indianapolis, Ind.
KERNAN, THOMAS J., ... Baton Rouge, La.
KIDDLE, ALFRED W., ... New York, N. Y.
KING, GEORGE A., ... Washington, D. C.
KILBOURNE, S. L., ... Lansing, Mich.
KINGSLEY, WILLARD, ... Grand Rapids, Mich.
KINNE, L. G., ... Des Moines, Iowa.
KINNEY EDWARD D., ... Ann Arbor, Mich.
KILDUFF, RICHARD G, ... Holyoke, Mass.
KLEINHAUS, JACOB, ... Grand Rapids Mich.
KNAPP, HOWARD H., ... Bridgeport, Conn.
KNAPPEN, LOYAL E., ... Grand Rapids, Mich.
KNICKERBOCKER, JOHN J., ... Chicago, Ill.
KNIGHT, GEORGE H., ... St. Louis, Mo.
KNIGHT, JESSE, ... Evanston, Wyo.

KNOTT, A. LEO, ... Baltimore, Md.
KNOWLTON, JEROME C., ... Ann Arbor, Mich.
KOERNER, GUSTAVE, ... Belleville, Ill.
KORBLY, CHARLES A., ... Indianapolis, Ind.
KRAUTHOFF, L. C., ... Kansas City, Mo.
KREMER, CHARLES T., ... Chicago, Ill.
KRETZINGER, GEORGE W., ... Chicago, Ill.
KRUTTSCHNITT, ERNEST B., ... New Orleans, La.
KULP, GEORGE B., ... Wilkesbarre, Pa.
LACEY, JOHN W., ... Cheyenne, Wyo.
LACKNER, FRANCIS, ... Chicago, Ill.
LADD, BABSON S., ... Boston, Mass.
LADD, NATH. W., ... Boston, Mass.
LAMB, SAMUEL O., ... Greenfield, Mass.
LAMBERT, TALLMADGE A., ... Washington, D. C.
LAMBERTON, C. L., ... New York, N. Y.
LAMBERTON, WILLIAM B., ... Harrisburg, Pa.
LANCASTER, CHARLES C., ... Washington, D. C.
LARNER, JOHN B., ... Washington, D. C.
LATHAM, CHARLES K., ... Detroit, Mich.
LATHROP, GARDINER, ... Kansas City, Mo.
LAWTON, ALEXANDER R., ... Savannah, Ga.
LAWTON, ALEXANDER R., JR., ... Savannah, Ga.
LAWSON, JOHN D., ... Columbia, Mo.
LEA, OVERTON, ... Nashville, Tenn.
LEACH, J. GRANVILLE, ... Philadelphia, Pa.
LEAKE, W. W., ... Dallas, Texas.
LEAKEN, WILLIAM R., ... Savannah, Ga.
LEAR, HENRY, ... Doylestown, Pa.
LEAVITT, JOHN BROOKS, ... New York, N. Y.
LEE, BLAIR, ... Washington, D. C.
LEE, BLEWETT, ... Chicago, Ill.
LEE, JAY P., ... Lansing, Mich.
LEGÈNDRE, JAMES, ... New Orleans, La.
LEIGHTON, BENJAMIN F., ... Washington, D. C.
LESTER, JOHN ERASTUS, ... Providence, R. I.
LEWIS, CHARLTON T., ... New York, N. Y.
LEWIS, H. M., ... Madison, Wis.
LEWIS, JAMES M., ... St. Louis, Mo.
LEWIS, R. BYRD, ... Washington, D. C.
LIBBY, CHARLES F., ... Portland, Me.
LIDDON, BENJAMIN S., ... Marianna, Fla.
LIGHTNER, CLARENCE A., ... Detroit, Mich.
LILLIS, MICHAEL F., ... Pontiac, Mich.
LIONBERGER, ISAAC H., ... St. Louis, Mo.

LOCKE, JOSEPH A., ... Portland, Me.
LODGE, FRANK T., ... Detroit, Mich.
LOGAN, JAMES A., ... Philadelphia, Pa.
LOGAN, WALTER S., ... New York, N. Y.
LONDON, ALEXANDER T., ... Birmingham, Ala.
LONG, JOHN D., ... Boston, Mass.
LORE, CHARLES B., ... Wilmington, Del.
LOTHROP, GEORGE H., ... Detroit, Mich.
LOVELAND, FRANK O., ... Cincinnati, Ohio.
LOWELL, JOHN, ... Boston, Mass.
LOWDEN, FRANK O., ... Chicago, Ill.
LOWREY, DWIGHT M., ... Philadelphia, Pa.
LUDWIG, JOHN C., ... Milwaukee, Wis.
LYMAN, DAVID B., ... Chicago, Ill.
LYONS, JAMES, ... Richmond, Va.
MACFARLAND, W. W., ... New York, N. Y.
MACK, JULIAN W., ... Chicago, Ill.
MACKALL, WILLIAM W., JR., ... Savannah, Ga.
MACKOY, WILLIAM H., ... Cincinnati, Ohio.
MADDOX, SAMUEL, ... Washington, D. C.
MADILL, GEORGE A., ... St. Louis, Mo.
MALLORY, JAMES A., ... Milwaukee, Wis.
MANDERSON, CHARLES F., ... Omaha, Neb.
MANNING, WILLIAM J., ... Chicago, Ill.
MARBURY, WILLIAM L., ... Baltimore, Md.
MARKLEY, J. E. E., ... Mason City, Ia.
MARKS, ALBERT D., ... Nashville, Tenn.
MARR, ROBERT H., JR., ... New Orleans, La.
MARSHALL, CHARLES, ... Baltimore, Md.
MARTIN, HORACE H., ... Chicago, Ill.
MARTIN, J. WILLIS, ... Philadelphia, Pa.
MARTIN, P. H., ... Green Bay, Wis.
MASON, JOHN T., (JOHN T. MASON, R.) . . . . Baltimore, Md.
MASON, WILLIAM E., ... Chicago, Ill.
MASSEY, LOUIS C., ... Orlando, Fla.
MATHER, ROBERT, ... Chicago, Ill.
MATTHEWS, C. BENTLEY, ... Cincinnati, Ohio.
MAXON, GLENWAY, ... Milwaukee, Wis.
MAXWELL, LAWRENCE, JR., ... Cincinnati, Ohio.
MECHEM, FLOYD R., ... Ann Arbor, Mich.
MEDDAUGH, ELIJAH W., ... Detroit, Mich.
MELDRIM, P. W., ... Savannah, Ga.
MELOY, WILLIAM A., ... Washington, D. C.
MERCER, GEORGE A., ... Savannah, Ga.
MERCER, GEORGE GLUYAS, ... Philadelphia, Pa.

MERCUR, RODNEY A., ... Towanda, Pa.
MERRICK, EDWIN T., ... New Orleans, La.
MERRICK, EDWIN T., JR., ... New Orleans, La.
MILLER, AUGUSTUS S., ... Providence, R. I.
MILLER, B. K., ... Milwaukee, Wis.
MILLER, B. K., JR., ... Milwaukee, Wis.
MILLER, E. SPENCER, ... Philadelphia, Pa.
MILLER, FRANK H., ... Augusta, Ga.
MILLER, GEORGE P., ... Milwaukee, Wis.
MILLER, JOHN S., ... Chicago, Ill.
MILLER, N. DUBOIS, ... Philadelphia, Pa.
MILLER, T. S., ... Dallas, Texas.
MILLER, WILLIAM J., ... Washington, D. C.
MILLER, WILLIAM K., ... Augusta, Ga.
MILLER, W. W., ... New York, N. Y.
MILLIKEN, JOHN D., ... McPherson, Kan.
MILNOR, M. CLEILAND, ... New York, N. Y.
MITCHELL, CHARLES E., ... New Britain, Conn.
MITCHELL, JAMES T., ... Philadelphia, Pa.
MOFFIT, JOHN T., ... Tipton, Ia.
MONROE, CHARLES, ... Los Angeles, Cal.
MONTAGUE, WILLIAM P., ... Washington, D. C.
MONTGOMERY, M. A., ... Oxford, Miss.
MONTGOMERY, MARTIN V., ... Lansing, Mich.
MONTGOMERY, OSCAR H., ... Seymour, Ind.
MONTGOMERY, RICHARD A., ... Lansing, Mich.
MOORE, JOHN B., ... New York, N. Y.
MOORE, JOHN J., ... Ottawa, Ohio.
MOORE, WILLIAM A., ... Detroit, Mich.
MOORE, WILLIAM V., ... Detroit, Mich.
MOORES, MERRILL, ... Indianapolis, Ind.
MOOT, ADELBERT, ... Buffalo, N. Y.
MORDECAI, T. MOULTRIE, ... Charleston, S. C.
MORGAN, RANDAL, ... Philadelphia, Pa.
MORRIS, HOWARD, ... Milwaukee, Wis.
MORRIS, M. F., ... Washington, D. C.
MORRIS, NATHAN, ... Indianapolis, Ind.
MORRIS, THOMAS J., ... Baltimore, Md.
MORSE, A. PORTER, ... Washington, D. C.
MORSE, GODFREY, ... Boston, Mass.
MORSE, ROBERT M., ... Boston, Mass.
MORSE, WALDO G., ... New York, N. Y.
MORTON, J. R., ... Lexington, Ky.
MOSES, ADOLPH, ... Chicago, Ill.
MUHLENBERG, HENRY A., ... Reading, Pa.

MULLIN, MICHAEL A., ... Baltimore, Md.
MUNN, HENRY B., ... Washington, D. C.
MUNNIKHUYSEN, HOWARD, ... Baltimore, Md.
MUNROE, WILLIAM A., ... Boston, Mass.
MUNSON, C. LA RUE, ... Williamsport, Pa.
MUNSON, GILBERT D., ... Zanesville, Ohio.
MURPHY, D. F., ... Washington, D. C.
MYERS, JAMES J., ... Boston, Mass.
MYERS, NATHANIEL, ... New York, N. Y.
MCBRIDE, ROBERT W., ... Indianapolis, Ind.
MCCALEB, E. HOWARD, ... New Orleans, La.
MCCAMMON, JOSEPH K., ... Washington, D. C.
MCCARTER, THOMAS N., ... Newark, N. J.
MCCARTHY, HENRY J., ... Philadelphia, Pa.
MCCARTHY, J. J., ... Dubuque, Ia.
MCCLAIN, EMLIN, ... Iowa City, Ia.
MCCLELLAN, THOMAS N., ... Montgomery, Ala.
MCCLINTOCK, ANDREW H., ... Wilkesbarre, Pa.
MCCLOSKEY, BERNARD, ... New Orleans, La.
MCCONLOGUE, JAMES H., ... Mason City, Ia.
MCCOOK, JOHN J., ... New York, N. Y.
MCCRARY, A. J., ... Keokuk, Iowa.
MCCULLOUGH, JOHN G., ... No. Bennington, Vt.
MCDERMOTT, EDWARD J., ... Louisville, Ky.
MCDONALD, CHARLES S., ... Detroit, Mich.
MCDONALD, J. WADE, ... San Diego, Cal.
MCEVOY, JOHN W., ... Lowell, Mass.
MCGARRY, THOMAS F., ... Grand Rapids, Mich.
MCGRATH, JOHN A., ... Jersey City, N. J.
MCGUINNESS, EDWIN D., ... Providence, R. I.
MCINTIRE, CHARLES J., ... Cambridge, Mass.
MCKEIGHAN, JOHN E., ... St. Louis, Mo.
MCKENNEY, WILLIAM R., ... Petersburg, Va.
MCKNIGHT, DAVID A., ... Washington, D. C.
MCLEARY, J. H., ... San Antonio, Texas.
MCLOUD, J. W., ... South McAlester, I. T.
MCMILLAN, E. ERSKINE, ... Chicago, Ill.
MCMILLAN, JAMES H., ... Detroit, Mich.
NAGEL, CHARLES, ... St. Louis, Mo.
NASH, STEPHEN P., ... New York, N. Y.
NEEDHAM, CHARLES W., ... Washington, D C.
NETTLES, CLARENCE S., ... Darlington, S. C.
NEWMAN, EMILE, ... Savannah, Ga.
NEWTON, GEORGE W., ... Bismarck, N. D.
NICHOLS, GEORGE L., ... New York, N. Y.

NICHOLSON, JOHN R., ... Dover, Del.
NICHOLSON, M. B., ... Council Grove, Kan.
NOBLE, JOHN W., ... St. Louis, Mo.
NORRIS, MARK, ... Grand Rapids, Mich.
NORTH, E. D., ... Lancaster, Pa.
NORTH, HUGH M., ... Columbia, Pa.
NORTON, JAMES P., ... Chicago, Ill.
NOYES, GEORGE H., ... Milwaukee, Wis.
O'BRIEN, THOMAS J., ... Grand Rapids, Mich.
O'DONNELL, THOMAS J., ... Denver, Col.
OGDEN, LEWIS M., ... Milwaukee, Wis.
OGLESBEE, ROLLA D., ... Indianapolis, Ind.
OLMSTEAD, DWIGHT H., ... New York, N. Y.
OLNEY, RICHARD, ... Boston, Mass.
OPDYKE, WILLIAM S., ... New York, N. Y.
ORDRONAUX, JOHN, ... New York, N. Y.
O'REILLY, PHILIP J., ... New York, N. Y.
ORTON, PHILO A., ... Darlington, Wis.
OSBORNE, EDWIN S., ... Wilkesbarre, Pa.
OSGOOD, HOWARD L., ... Rochester, N. Y.
OTTOFY, L. FRANK, ... St. Louis, Mo.
OWENS, GEORGE W., ... Savannah, Ga.
PAGE, THOMAS NELSON, ... Washington, D. C.
PALMER, HENRY W., ... Wilkesbarre, Pa.
PALMER, JOHN M., ... Springfield, Ill.
PARKER, CORTLANDT, ... Newark, N. J.
PARKER, EDMUND M., ... Boston, Mass.
PARKER, R. WAYNE, ... Newark, N. J.
PARKHURST, JOHN G., ... Coldwater, Mich.
PARKINSON, ROBERT H., ... Chicago, Ill.
PARMENTER, ROSWELL A., ... Troy, N. Y.
PARSONS, FRANK N., ... Franklin, N. H.
PARSONS, HENRY C., ... Williamsport, Pa.
PATTEE, W. S., ... Minneapolis, Minn.
PATTERSON, JOHN C., ... Marshall, Mich.
PATTERSON, JOHN H., ... Pontiac, Mich.
PATTERSON, M. R., ... Columbus, Ohio.
PATTERSON, ROSWELL H., ... Scranton, Pa.
PATTERSON, T. ELLIOTT, ... Philadelphia, Pa.
PATRICK, ROBERT W., ... Omaha, Neb.
PAUL, FRANK, ... Boston, Mass.
PAYNE, JAMES G., ... Washington, D. C.
PAYNE, JOHN BARTON, ... Chicago, Ill.
PAYSON, EDWARD P., ... Boston, Mass.
PEABODY, CHARLES A., ... New York, N. Y.

PECK, GEORGE R., ... Chicago, Ill.
PECK, HIRAM D., ... Cincinnati, Ohio.
PENDLETON, EDWARD W., ... Detroit, Mich.
PENFIELD, W. L., ... Auburn, Ind.
PENNYPACKER, CHARLES H., ... West Chester, Pa.
PENNYPACKER, SAMUEL W., ... Philadelphia, Pa.
PEPPER, GEORGE W., ... Philadelphia, Pa.
PERELES, JAMES M., ... Milwaukee, Wis.
PERELES, THOMAS JEFFERSON, ... Milwaukee, Wis.
PERKINS, SAMUEL C., ... Philadelphia, Pa.
PERKINS, WILLIS B., ... Grand Rapids, Mich.
PERRY, WILLIAM C., ... Fort Scott, Kan.
PETERS, JOHN A., ... Bangor, Me.
PETTIT, HORACE, ... Philadelphia, Pa.
PETTY, ROBERT D., ... New York, N. Y.
PHELPS, CHARLES E., ... Baltimore, Md.
PHELPS, EDWARD J., ... Burlington, Vt.
PHELPS, RALPH, JR., ... Detroit, Mich.
PICKENS, SAMUEL O., ... Indianapolis, Ind.
PICKENS, WILLIAM A., ... Indianapolis, Ind.
PICKRELL, JOHN, ... Richmond, Va.
PIERCE, WINSLOW S., ... New York, N. Y.
PIKE, LOUIS H., ... Toledo, Ohio.
PILCHER, JAMES S., ... Nashville, Tenn.
PILLSBURY, ALBERT E., ... Boston, Mass.
PINGREY, D. H., ... Bloomington, Ill.
PINNEY, ORESTES C., ... Cleveland, Ohio.
PIRTLE, JAMES S., ... Louisville, Ky.
POLLASKY, MARCUS, ... Chicago, Ill.
POOLE, MURRAY E., ... Ithaca, N. Y.
POND, ASHLEY, ... Detroit, Mich.
POST, HOYT, ... Detroit, Mich.
POTTER, CHARLES N., ... Cheyenne, Wyo.
POTTER, FREDERICK, ... New York, N. Y.
PRATT, CHARLES, ... Toledo, Ohio.
PRATT, WALLACE, ... Kansas City, Mo.
PRICE, J. SERGEANT, ... Philadelphia, Pa.
PRICHARD, FRANK P., ... Philadelphia, Pa.
PRIME, RALPH E., ... Yonkers, N. Y.
PROCTOR, THOMAS W., ... Boston, Mass.
PRUSSING, EUGENE E., ... Chicago, Ill.
PRYOR, ROGER A., ... New York, N. Y.
PUTNAM, HENRY W., ... Boston, Mass.
QUARLES, CHARLES, ... Milwaukee, Wis.
QUARLES, JOSEPH V., ... Milwaukee, Wis.

QUINTERO, LAMAR C., ... New Orleans, La.
RADFORD, GEORGE W, ... Detroit, Mich.
RAMAGE, B. J., ... Sewanee, Tenn.
RAMSEY, WILLIAM M., ... Cincinnati, O.
RANDOLPH, JOSEPH F., ... Jersey City, N. J.
RANEY, GEORGE P., ... Tallahassee, Fla.
RANNEY, FLETCHER, ... Boston, Mass.
RANNEY, HENRY C., ... Cleveland, O.
RAWLE, FRANCIS, ... Philadelphia, Pa.
RAYMOND, JAMES H., ... Chicago, Ill.
RAYNOLDS, EDWARD V., ... New Haven, Conn.
REDDING, JOSEPH D., ... San Francisco, Cal.
REDDING, WILLIAM A., ... New York, N. Y.
REED, HENRY, ... Philadelphia, Pa.
REED, MYRON, ... West Superior, Wis.
REEVE, FELIX A., ... Washington, D. C.
REEVES, ALFRED G., ... New York, N. Y.
REINHARD, GEORGE L., ... Indianapolis, Ind.
REMY, CURTIS H., ... Chicago, Ill.
RENO, CONRAD, ... Boston, Mass.
RICHARDSON, GEORGE F., ... Lowell, Mass.
RICHARDSON, JAMES B., ... Boston, Mass.
RICHARDSON, W. K., ... Boston, Mass.
RICHBERG, JOHN C., ... Chicago, Ill.
RINAKER, JOHN I., ... Carlinville, Ill.
RINEHART, C. D., ... Jacksonville, Fla.
RINER, JOHN A., ... Cheyenne, Wyo.
ROBBINS, EDWARD D., ... Hartford, Conn.
ROBBINS, HENRY S., ... Chicago, Ill.
ROBERTS, GEORGE L., ... Boston, Mass.
ROBERTSON, C. D, ... Cincinnati, Ohio
ROBERTSON, WILLIAM H., ... Katonah, N. Y.
ROBERTSON, WILLIAM J., ... Charlottesville, Va.
ROBINSON, LEIGH, ... Washington, D. C.
ROBINSON, V. GILPIN, ... Media, Pa.
ROBINSON, WILLIAM C., ... New Haven, Conn.
ROBSON FRANK E., ... Detroit, Mich.
ROELKER, WILLIAM G., ... Providence, R. I.
ROGERS, EDWARD H., ... New Haven, Conn.
ROGERS, HENRY WADE, ... Evanston, Ill.
ROGERS, PLATT, ... Denver, Col.
ROGERS, ROBERT LYON, ... Baltimore, Md.
ROGERS, SAMUEL G., ... Akron, Ohio.
ROGERS, SHERMAN S., ... Buffalo, N. Y.
ROOD, ARTHUR R., ... Grand Rapids, Mich.

ROPES, CHARLES H., ... New York, N. Y.
ROQUEMORE, JOHN D., ... Montgomery, Ala.
ROSE, U. M., ... Little Rock, Ark.
ROSENTHAL, JULIUS, ... Chicago, Ill.
ROST, EMILE, ... New Orleans, La.
RUNNELLS, JOHN S., ... Chicago, Ill.
RUSK, L. J., ... Chippewa Falls, Wis.
RUSSELL, ALFRED, ... Detroit, Mich.
RUSSELL, CHARLES T., ... Mt. Pleasant, Mich.
RUSSELL, CHARLES T., Jr., ... Cambridge, Mass.
RUSSELL, EDWARD L., ... Mobile, Ala.
RUSSELL, FRANCIS G., ... Detroit, Mich.
RUSSELL, HENRY, ... Mt. Pleasant, Mich.
RUSSELL, ISAAC F., ... New York, N. Y.
RUSSELL, TALCOTT H., ... New Haven, Conn.
RUSSELL, WILLIAM G., ... Boston, Mass.
SANBORN, A. L., ... Madison, Wis.
SANBORN, JOHN B., ... St. Paul, Minn.
SANBORN, WALTER H., ... St. Paul, Minn.
SANDERS, GEORGE A., ... Springfield, Ill.
SANDERS, JAMES U., ... Helena, Mont.
SANDERS, WILBUR F., ... Helena, Mont.
SANDS, F. P. B., ... Washington, D. C.
SANFORD, JOHN W. A., ... Montgomery, Ala.
SAULSBURY, WILLARD, ... Wilmington, Del.
SAWYER, ALFRED P., ... Lowell, Mass.
SAYLER, HENRY B., ... Huntington, Ind.
SAYLER, SAMUEL M., ... Huntington, Ind.
SCAIFE, LAURISTON L., ... Boston, Mass.
SCHOFIELD, WILLIAM, ... Boston, Mass.
SCHOULER, JAMES, ... Boston, Mass.
SCOFIELD, EDWIN L., ... Stamford, Conn.
SCOTT, C. SUYDAM, ... Lexington, Ky.
SCOTT, FRANK H., ... Chicago, Ill.
SCOTT, HOWARD B., ... Danbury, Conn.
SCOTT, HENRY W., ... Oklahoma City, O. T.
SCOTT, J. Z. H., ... Galveston, Texas.
SCOTT, RICHARD H., ... Cheyenne, Wyo.
SEAMAN, WILLIAM H., ... Sheboygan, Wis.
SEARL, KELLY S., ... Ithaca, Mich.
SEARLES, CHARLES E., ... Putnam, Conn.
SEARS, PHILIP H., ... Boston, Mass.
SEIBERT, WILLIAM N., ... New Bloomfield, Pa.
SELDEN, JOHN, ... Washington, D. C.
SELLS, CATO, ... Vinton, Iowa.

SEMMES, THOMAS J., ... New Orleans, La.
SEWELL, ROBERT, ... New York, N. Y.
SEYMOUR, HENRY H., ... Buffalo, N. Y.
SHACK, FERDINAND, ... New York, N. Y.
SHAFROTH, JOHN F., ... Denver, Col.
SHAPLEY, RUFUS E., ... Philadelphia, Pa.
SHARP, GEORGE M., ... Baltimore, Md.
SHARTEL JOHN W., ... Guthrie, O. T.
SHATTUCK, GEORGE O., ... Boston, Mass
SHAW, JOHN M., ... Minneapolis, Minn.
SHAW, R. K., ... Marietta, Ohio.
SHEARAN, WILLIAM S., ... Detroit, Mich.
SHEPARD, CHARLES E., ... Seattle, Wash.
SHEPARD, HARVEY N., ... Boston, Mass.
SHEPARD, RICHARD B., ... Salt Lake City, Utah.
SHEPARD, SETH, ... Washington, D C.
SHERMAN, E. B., ... Chicago, Ill.
SHERWOOD, ADIEL, ... St. Louis, Mo.
SHIRAS, GEORGE, JR., ... Pittsburgh, Pa.
SHIRAS, OLIVER P., ... Dubuque, Ia.
SHOPE, SIMON P., ... Chicago, Ill.
SHURTLEFF, S. C., ... Montpelier, Vt.
SIMONDS, W. E., ... Hartford, Conn.
SIMPSON, ALEXANDER, JR., ... Philadelphia, Pa.
SLAGLE, JACOB F., ... Pittsburgh, Pa.
SMEAD, A. D. B., ... Carlisle, Pa.
SMEDES, JOHN MARSHALL, ... Cincinnati, Ohio.
SMITH, ALEXANDER L., ... Toledo, Ohio.
SMITH, ALONZO GREENE, ... Indianapolis, Ind.
SMITH, BURTON, ... Atlanta, Ga.
SMITH, CHARLES B., ... Topeka, Kan.
SMITH, CHARLES W., ... Indianapolis, Ind.
SMITH, EDWIN BURRITT, ... Chicago, Ill.
SMITH, EDWIN HARVIE, ... Baltimore, Md.
SMITH, FRANK C., ... New York, N. Y.
SMITH, FRANK J., ... Chicago, Ill.
SMITH, FRANKLIN T., ... Milwaukee, Wis.
SMITH, FREDERICK A., ... Chicago, Ill.
SMITH, HARSEN D., ... Cassapolis, Mich.
SMITH, HENRY HYDE, ... Boston, Mass.
SMITH, HOKE, ... Atlanta, Ga.
SMITH, JEREMIAH, ... Cambridge, Mass.
SMITH, LUTHER R., ... Washington, D. C.
SMITH, NELSON, ... New York, N. Y.
SMITH, VERNON H., ... Ionia, Mich.

SMITH, WALTER GEORGE, ... Philadelphia, Pa.
SMITH, WILLIAM ALDEN, ... Grand Rapids, Mich.
SMYTHE, AUGUSTINE T., ... Charleston, S. C.
SNOW, ALPHEUS H., ... Indianapolis, Ind.
SNOW, DAVID W., ... Portland, Me.
SOMMERVILLE, J. B., ... Wheeling, W. Va.
SOPER, P. L., ... Muskogee, I. T.
SOUTHWICK, ISAAC H., JR., ... Providence, R. I.
SPEAR, WILLIAM T., ... Warren, Ohio.
SPEIR, GILBERT M., JR., ... New York, N. Y.
SPENCE, THOMAS W., ... Milwaukee, Wis.
SPENCER, SELDEN P., ... St. Louis, Mo.
SPOONER, JOHN C., ... Madison, Wis.
SPRAGUE, WILLIAM C., ... Detroit, Mich.
SPRING, JOHN L., ... Lebanon, N. H.
STANTON, LEWIS E., ... Hartford, Conn.
STAR, MERRITT, ... Chicago, Ill.
STARK, JOSHUA, ... Milwaukee, Wis.
STARR, JUDSON, ... Peoria, Ill.
STELLWAGEN, AUGUSTUS C., ... Detroit, Mich.
STERNE, SIMON, ... New York, N. Y.
STETSON, CHARLES P., ... Bangor, Me.
STETSON, FRANCIS LYNDE, ... New York, N. Y
STEUART, ARTHUR, ... Baltimore, Md.
STEVENS, BREEZE J., ... Madison, Wis.
STEVENS, FREDERICK W., ... Grand Rapids, Mich.
STEVENS, HIRAM F., ... St. Paul, Minn.
STEVENSON, ARCHIE M., ... Denver, Col.
STEVENSON, ELLIOTT G., ... Detroit, Mich.
STEWART, W. F. BAY, ... York, Pa.
STICKNEY, ALBERT, ... New York, N. Y.
STILLMAN, THOMAS E., ... New York, N. Y.
STIMSON, FREDERIC J., ... Boston, Mass.
STOCKETT, J. SHAAFF, ... Annapolis, Md.
STOEVER, WILLIAM C., ... Philadelphia, Pa.
STONE, HENRY L., ... Louisville, Ky.
STONE, J. W., ... Marquette, Mich.
STOREY, MOORFIELD, ... Boston, Mass.
STORROW, JAMES J., ... Boston, Mass.
STORROW, JAMES J., JR., ... Boston, Mass.
STOUGHTON, A. B., ... Philadelphia, Pa.
STRAWBRIDGE, WILLIAM C., ... Philadelphia, Pa.
STREETER, FRANK S., ... Concord, N. H.
STROUT, A. A., ... Portland, Me.
STROUT, SEWALL C., ... Portland, Me.

STUART, CHARLES B., ... Lafayette, Ind.
STUART, WILLIAM J., ... Grand Rapids, Mich.
SUDDUTH, W. A., ... Louisville, Ky.
SULLIVAN, JOHN D., ... Columbus, Ohio.
SULLIVAN, W. V., ... Oxford, Miss.
SULZBERGER, MAYER, ... Philadelphia, Pa.
SUTHERLAND, GEORGE E., ... Milwaukee, Wis.
SUTHERLAND, J. G., ... Salt Lake City, Utah.
SUTTON, ELMER L. B., ... Sault Ste. Marie, Mich.
SWAIN, CHARLES M., ... Philadelphia, Pa.
SWAN, CHARLES H., ... Boston, Mass.
SWAN, HENRY H., ... Detroit, Mich.
SWAN, WILLIAM W., ... Boston, Mass.
SWASEY, GEORGE R., ... Boston, Mass.
SWIFT, CHARLES M., ... Detroit, Mich.
SYMONDS, JOSEPH W., ... Portland, Me.
TAFT, ELIHU B., ... Burlington, Vt.
TAFT, WILLIAM H., ... Cincinnati, Ohio.
TAGGART, EDWARD, ... Grand Rapids, Mich.
TAGGART, RUSH, ... New York, N. Y.
TALCOTT, WILLIAM E., ... Cleveland, O.
TAUSSIG, CHARLES S., ... St. Louis, Mo.
TAUSSIG, JAMES, ... St. Louis, Mo.
TAYLOR, JOHN D., ... New York, N. Y.
TAYLOR, JOSEPH T., ... Philadelphia, Pa.
TAYLOR, R. S., ... Fort Wayne, Ind.
TAYLOR, WILLIAM L., ... Indianapolis, Ind.
TEELE, JOHN OSCAR, ... Boston, Mass.
TELLER, WILLARD, ... Denver, Col.
TENNEY, HORACE KENT, ... Chicago, Ill.
TENNY, DANIEL K., ... Chicago, Ill.
TERRELL, WILLIAM J., ... Burlington, N. J.
TERRY, GEORGE E., ... Waterbury, Conn.
THAYER, JAMES BRADLEY, ... Cambridge, Mass.
THOM, ALFRED P., ... Norfolk, Va.
THOMAN, LEROY D., ... Chicago, Ill.
THOMAS, JOHN L. (Washington, D. C.) . . . . . De Soto, Mo.
THOMAS, SETH J., ... Boston, Mass.
THOMAS, SIDNEY T., ... Washington, D. C.
THOMPSON, BRADLEY M., ... Ann Arbor, Mich.
THOMPSON, SEYMOUR D., ... San Francisco, Cal.
THOMPSON, R. H., ... Brookhaven, Miss.
THUN, WILLIAM W., ... Louisville, Ky.
THURBER, HENRY T., ... Detroit, Mich.
THURSTON, JOHN M., ... Omaha, Neb.

THURSTON, WILMARTH H., ... Providence, R. I.
THWEATT, P. O., ... Helena, Ark.
TIEDEMAN, CHRISTOPHER G., ... Brooklyn, N. Y.
TILLINGHAST, JAMES, ... Providence, R. I.
TILLMAN, A. M., ... Nashville, Tenn.
TITUS, H. L., ... San Diego, Cal.
TODD, M. HAMPTON, ... Philadelphia, Pa.
TOMPKINS, HAMILTON B., ... New York, N. Y.
TOMPKINS, HENRY B., ... Atlanta, Ga.
TOMPKINS, HENRY C., ... Montgomery, Ala.
TONEY, STERLING B., ... Louisville, Ky.
TOWNSEND, WILLIAM K., ... New Haven, Conn.
TRABUE, E. F., ... Louisville, Ky.
TRICKETT, WILLIAM, ... Carlisle, Pa.
TROY, D. S., ... Montgomery, Ala.
TROUP, JAMES O., ... Bowling Green, Ohio.
TROWBRIDGE, LUTHER S., ... Detroit, Mich.
TRUMBULL, LYMAN, ... Chicago, Ill.
TUCKER, GEORGE F., ... Boston, Mass.
TUCKER, J. RANDOLPH, ... Lexington, Va.
TUPPER, A. P., ... Middlebury, Vt.
TURNER, HERBERT B., ... New York, N. Y.
TURNER, WILLIAM D., ... Boston, Mass.
TURNER, W. J., ... Milwaukee, Wis.
TYLER, CHARLES H., ... Boston, Mass.
TYLER, MORRIS F., ... New Haven, Conn.
ULLMAN, FREDERIC, ... Chicago, Ill.
VALENTINE, JOHN K., ... Philadelphia, Pa.
VAN DEVANTER, ISAAC, ... Marion, Ind.
VAN DEVANTER, WILLIS, ... Cheyenne, Wyo.
VAN DE MARK, STEWART O., ... Detroit, Mich.
VAN DYKE, GEORGE D., ... Milwaukee, Wis.
VAN DYKE, WILLIAM, D., ... Milwaukee, Wis.
VAN SLYCK, GEORGE W., ... New York, N. Y.
VAN VECHTEN, A. V. W., ... New York, N. Y.
VAN WINKLE, W. W., ... Parkersburg, W. Va.
VARNUM, CLARK, ... Chicago, Ill.
VENABLE, RICHARD M., ... Baltimore, Md.
VERTREES, J. J., ... Nashville, Tenn.
VIEU, HENRY A., ... New York, N. Y.
VILAS, EDWARD P., ... Milwaukee, Wis.
VOCKE, WILLIAM, ... Chicago, Ill.
VREDENBURGH, WILLIAM H., ... Freehold, N. J.
VROMAN, CHARLES E., ... Green Bay, Wis.
VROOM, GARRET D. W., ... Trenton, N. J.

WADE, M. J., ... Iowa City, Ia.
WAGGENER, BALIE P., ... Atchison, Kan.
WAGNER, SAMUEL, ... Philadelphia, Pa.
WALES, LEONARD E., ... Wilmington, Del.
WALKER, ROBERT J. C., ... Philadelphia, Pa.
WAMBAUGH, EUGENE, ... Cambridge, Mass.
WANTY, GEORGE P., ... Grand Rapids, Mich.
WARD, HENRY GALBRAITH, ... New York, N. Y.
WARD, HUGH C., ... Kansas City, Mo.
WARE, DARWIN E., ... Boston, Mass.
WARNER, DONALD T., ... Salisbury, Conn.
WARREN, SAMUEL D., ... Boston, Mass.
WASHINGTON, WILLIAM H., ... Nashville, Tenn.
WATERS, J. S. T., ... Baltimore, Md.
WATROUS, GEORGE D., ... New Haven, Conn.
WATSON, D. T., ... Pittsburgh, Pa.
WATTS, LEGH R., ... Portsmouth, Va.
WATTS, THOMAS H., ... Montgomery, Ala.
WAYLAND, FRANCIS, ... New Haven, Conn.
WEADOCK, THOMAS A. E., ... Detroit, Mich.
WEAVER, CLEMENT E., ... Adrian, Mich.
WEAVER, H. O., ... Wapello, Ia.
WEBB, WILLIAM B., ... Washington, D. C.
WEBBER, WILLIAM L., ... Saginaw, E. S., Mich.
WEBSTER, JOHN L., ... Omaha, Neb.
WEBSTER, W. H., ... Oconto, Wis.
WEEKS, WILLIAM R., ... Newark, N. J.
WEGG, DAVID S., ... Chicago, Ill.
WEISS, JOSEPH M., ... Detroit, Mich.
WELCH, GIDEON H., ... Torrington, Conn.
WELLMAN, ARTHUR H., ... Boston, Mass.
WELLS, SAMUEL, ... Boston, Mass.
WELLS, WILLIAM H., ... Detroit, Mich.
WESTON, MELVILLE M., ... Boston, Mass.
WESTON-SMITH, R. D., ... Boston, Mass.
WETMORE, EDMUND, ... New York, N. Y.
WHEELER, EVERETT P., ... New York, N. Y.
WHEELER, GEORGE W., ... Bridgeport, Conn.
WHEELER, HARRISON H., ... Manistee, Mich.
WHEELER, SETH S., ... Lima, O.
WHELAN, RALPH, ... Minneapolis, Minn.
WHITE, GEORGE, ... Boston, Mass.
WHITE, HENRY C., ... New Haven, Conn.
WHITE, LUTHER, ... Chicopee, Mass.

WHITE, PETER, ... Marquette, Mich.
WHITE, STEPHEN M., ... Los Angeles, Cal.
WHITELOCK, GEORGE, ... Baltimore, Md.
WHITTAKER, EDWARD G., ... New York, N. Y.
WHITTAKER, EGBERT, ... Saugerties, N. Y.
WIGMAN, J. H. M., ... Green Bay, Wis.
WIGMORE, JOHN H, ... Chicago, Ill.
WILCOX, ANSLEY, ... Buffalo, N. Y.
WILCOX, W. F., ... Deep River, Conn.
WILCOX, WILLIAM A., ... Scranton, Pa.
WILDS, HOWARD PAYSON, ... New York, N. Y.
WILE, DAVID J., ... Chicago, Ill.
WILLARD, EDWARD N., ... Scranton, Pa.
WILLARD, GEORGE, ... Chicago, Ill.
WILLETT, JOSEPH J., ... Anniston, Ala.
WILLIAMS, DAVID W., ... Boston, Mass.
WILLIAMS, P. L., ... Salt Lake City, Utah.
WILLIAMS, R. W., ... Tallahassee, Fla.
WILLIAMSON, SAMUEL E., ... Cleveland, O.
WILLISTON, SAMUEL, ... Boston, Mass.
WILLISTON, W. C., ... Redwing, Minn.
WILLSON, AUGUSTUS E., ... Louisville, Ky.
WILMER, SKIPWITH, ... Baltimore, Md.
WILSON, CHARLES M., ... Grand Rapids, Mich.
WILSON, F. A., ... Bangor, Me.
WILSON, HENRY H., ... Lincoln, Neb.
WILSON, JOHN R, ... Indianapolis, Ind.
WILSON, NATHANIEL, ... Washington, D. C.
WILSON, WOODROW, ... Princeton, N. J.
WILTBANK, WILLIAM W., ... Philadelphia, Pa.
WINDLE, WILLIAM S., ... West Chester, Pa.
WINKLER, FREDERICK C., ... Milwaukee, Wis.
WINSTON, FREDERICK S., ... Chicago, Ill.
WINTERNITZ, BENJAMIN A., ... New Castle, Pa.
WISE, JOHN S., ... New York, N. Y.
WISNER, HENRY C., ... Detroit, Mich.
WITHINGTON, DAVID L, ... San Diego, Cal.
WITHROW, JAMES E., ... St. Louis, Mo.
WOLFSON, JOSEPH N., ... New Orleans, La.
WOLVERTON, SIMON P., ... Sunbury, Pa.
WOODARD, CHARLES F., ... Bangor, Me.
WOODMAN, EDWARD, ... Portland, Me.
WOODRUFF, GEORGE M., ... Litchfield, Conn.
WOODRUFF, ROBERT S., ... Trenton, N. J.

WOOD, EMERY T., ... Detroit, Mich.
WOODS, CHARLES A., ... Marion, S. C.
WOODS, WILLIAM A., ... Indianapolis, Ind.
WOOLSEY, THEO. S., ... New Haven, Conn.
WOOLWORTH, JAMES M., ... Omaha, Neb.
WORKS, JOHN D., ... San Diego, Cal.
WRIGHT, GEORGE G., ... Des Moines, Ia.
WRIGHT, J. W., ... Clark, S. D.
WYMAN, HENRY A., ... Boston, Mass.
YOUNG, GEORGE B., ... St. Paul, Minn.
YOUNG, GEORGE R., ... Dayton, O.
YOUNG, HENRY E., ... Charleston, S. C.

MEMBERS—AUGUST, 1895-1896.

ALABAMA.

HARGROVE, A. C., ... Tuscaloosa.
LONDON, ALEXANDER T., ... Birmingham.
MCCLELLAN, THOMAS N., ... Montgomery.
ROQUEMORE, JOHN D., ... Montgomery.
RUSSELL, EDWARD L., ... Mobile.
SANFORD, JOHN W. A., ... Montgomery.
TOMPKINS, HENRY C., ... Montgomery.
TROY, D. S., ... Montgomery.
WATTS, THOMAS H., ... Montgomery.
WILLETT, JOSEPH J., ... Anniston.

ARIZONA.

ELLINWOOD, EVERETT E., ... Flagstaff.
HERNDON, JOHN C., ... Prescott.

ARKANSAS.

CALDWELL, HENRY C., ... Little Rock.
COHN, M. M., ... Little Rock.
DUVAL, BEN. T., ... Fort Smith.
HORNER, JOHN J., ... Helena.
ROSE, U. M., ... Little Rock.
THWEATT, P. O., ... Helena.

CALIFORNIA.

BOYCE, JOHN J., ... Santa Barbara.
CHICKERING, W. H., ... San Francisco.
FULLER, GEORGE, ... San Diego.
GIBSON, JAMES A., ... San Diego.
HAYNE, ROBERT Y., ... San Francisco.
MONROE, CHARLES, ... Los Angeles.
MCDONALD, J. WADE, ... San Diego.
REDDING, JOSEPH D., ... San Francisco.
THOMPSON, SEYMOUR D., ... San Francisco.
TITUS, H. L., ... San Diego.
WHITE, STEPHEN M., ... Los Angeles.
WITHINGTON, DAVID I., ... San Diego.
WORKS, JOHN D., ... San Diego.

COLORADO.

BARTELS, G. C., ... Denver.
BLOOD, JAMES H., ... Denver.
BUTLER, HUGH, ... Denver.
CAMPBELL, CHARLES M., ... Denver.
DECKER, WESTBROOK S., ... Denver.
HALLETT, MOSES, ... Denver.
HERRINGTON, CASS E., ... Denver.
HOBSON, HENRY W., ... Denver.
HUGHES, CHARLES J., JR., ... Denver.
O'DONNELL, THOMAS J., ... Denver.
ROGERS, PLATT, ... Denver.
SHAFROTH, JOHN F., ... Denver.
STEVENSON, ARCHIE M., ... Denver.
TELLER, WILLARD, ... Denver.

CONNECTICUT.

ARVINE, E. P., ... New Haven.
AUSTIN, LEVERETT N., ... Hartford.
BALDWIN, SIMEON E., ... New Haven.
BARTLETT, JOHN P., ... New Britain.
BEERS, GEORGE E., ... New Haven.
BREWSTER, LYMAN D., ... Danbury.
BRISCOE, CHARLES H., ... Hartford.
CLARK, JAMES GARDNER, ... New Haven.
COLE, CHARLES J., ... Hartford.
CONANT, GEORGE A., ... Hartford.
CULVER, M. EUGENE, ... Middletown.
CURTIS, JULIUS B., ... Stamford.
EGGLESTON, ARTHUR F., ... Hartford.
FENN, AUGUSTUS H., ... Winchester.
FOX, TIMOTHY J., ... New Haven.
GAGER, EDWIN B., ... Birmingham.
GROSS, CHARLES E., ... Hartford.
HALSEY, JEREMIAH, ... Norwich.
HARRISON, LYNDE, ... New Haven.
HURLBUTT, J. BELDEN, ... Norwalk.
HYDE, WILLIAM W., ... Hartford.
KELLOGG, STEPHEN W., ... Waterbury.
KNAPP, HOWARD H., ... Bridgeport.
MITCHELL, CHARLES E., ... New Britain.
RAYNOLDS, EDWARD V., ... New Haven.
ROBBINS, EDWARD D., ... Hartford.
ROBINSON, WILLIAM C., ... New Haven.

CONNECTICUT—Continued.

ROGERS, EDWARD H., ... New Haven
RUSSELL, TALCOTT H., ... New Haven.
SCOFIELD, EDWIN L., ... Stamford.
SCOTT, HOWARD B., ... Danbury.
SEARLES, CHARLES E., ... Putnam.
SIMONDS, W. E., ... Hartford.
STANTON, LEWIS E., ... Hartford.
TERRY, GEORGE E., ... Waterbury.
TOWNSEND, WILLIAM K., ... New Haven.
TYLER, MORRIS F., ... New Haven.
WARNER, DONALD T., ... Salisbury.
WATROUS, GEORGE D., ... New Haven.
WAYLAND, FRANCIS, ... New Haven.
WELCH. GIDEON H., ... Torrington.
WHEELER, GEORGE W., ... Bridgeport.
WHITE, HENRY C., ... New Haven.
WILCOX, W. F., ... Deep River.
WOODRUFF, GEORGE M., ... Litchfield.
WOOLSEY, THEO. S., ... New Haven.

DELAWARE.

BATES, GEORGE H., ... Wilmington.
BAYARD, THOMAS F., ... Wilmington.
BRADFORD, EDWARD G., ... Wilmington.
GARLAND, SPOTTSWOOD, ... Wilmington.
GRAY, GEORGE, ... Wilmington.
GRUBB, IGNATIUS C., ... Wilmington.
HIGGINS, ANTHONY, ... Wilmington.
HILLES, WILLIAM S., ... Wilmington.
LORE, CHARLES B., ... Wilmington.
NICHOLSON, JOHN R., ... Dover.
SAULSBURY, WILLARD, ... Wilmington.
WALES, LEONARD E., ... Wilmington.

DISTRICT OF COLUMBIA.

ABERT, WILLIAM STONE, ... Washington.
ASHTON, J. HUBLEY, ... Washington.
BALDWIN, WILLIAM D., ... Washington.
BATCHELLER, GEORGE S., ... Washington.
BERRY, WALTER V. R., ... Washington.
BLAIR, JOHN S., ... Washington.
BOND, S. R., ... Washington.
BREWER, DAVID J., ... Washington.
BRITTON, ALEXANDER T., ... Washington.

DISTRICT OF COLUMBIA.—Continued.

BROWN, CHAPIN, ... Washington.
BROWN, HENRY B., ... Washington.
BROWNING, FRANK T., ... Washington.
CARUSI, EUGENE, ... Washington.
COTTON, JOHN B., ... Washington.
EDMONSTON, WILLIAM E., ... Washington.
FENDALL, REGINALD, ... Washington.
FOSTER, CHARLES E., ... Washington.
FULLERTON, JOSEPH S., ... Washington.
GARLAND, AUGUSTUS H., ... Washington.
GARNETT, HENRY WISE, ... Washington.
HAGNER, RANDALL, ... Washington.
HAMILTON, GEORGE EARNEST, ... Washington.
HAYDEN, JAMES H., ... Washington.
HENDERSON, J. B., ... Washington.
HINE, LEMON G., ... Washington.
KING, GEORGE A., ... Washington.
LAMBERT, TALLMADGE A., ... Washington.
LANCASTER, CHARLES C., ... Washington.
LARNER, JOHN B., ... Washington.
LEE, BLAIR, ... Washington.
LEIGHTON, BENJAMIN F., ... Washington.
LEWIS, R. BYRD, ... Washington.
MADDOX, SAMUEL, ... Washington.
MELOY, WILLIAM A., ... Washington.
MILLER, WILLIAM J., ... Washington.
MONTAGUE, WILLIAM P., ... Washington.
MORRIS, M. F., ... Washington.
MORSE, A. PORTER, ... Washington.
MUNN, HENRY B., ... Washington.
MURPHY, D. F., ... Washington.
MCCAMMON, JOSEPH K., ... Washington.
MCKNIGHT, DAVID A., ... Washington.
NEEDHAM, CHARLES W., ... Washington.
PAGE, THOMAS NELSON, ... Washington.
PAYNE, JAMES G., ... Washington.
REEVE, FELIX A., ... Washington.
ROBINSON, LEIGH, ... Washington.
SANDS, F. P. B., ... Washington.
SELDEN, JOHN, ... Washington.
SHEPARD, SETH, ... Washington.
SMITH, LUTHER R., ... Washington.
THOMAS, SIDNEY T., ... Washington.
WEBB, WILLIAM B., ... Washington.
WILSON, NATHANIEL, ... Washington.

FLORIDA.

AVERY, JOHN C., ... Pensacola.
BLOUNT, WILLIAM A., ... Pensacola.
LIDDON, BENJAMIN S., ... Marianna.
MASSEY, LOUIS C., ... Orlando.
RANEY, GEORGE P., ... Tallahassee.
RINEHART, C. D., ... Jacksonville.
WILLIAMS, R. W., ... Tallahassee.

GEORGIA.

ADAMS, SAMUEL B., ... Savannah.
AKIN, JOHN W., ... Cartersville.
BARROW, POPE, ... Savannah.
BARTLETT, CHARLES L., ... Macon.
CROVATT, A. J., ... Brunswick.
CUMMING, JOSEPH B., ... Augusta.
CUNNINGHAM, HENRY C., ... Savannah.
DELACY, JOHN F., ... Eastman.
DUBIGNON, FLEMING G., ... Savannah.
ERWIN, R. G., ... Savannah.
FALLIGANT, ROBERT, ... Savannah.
GARRARD, WILLIAM, ... Savannah.
HAMMOND, N. J., ... Atlanta.
HILL, WALTER B., ... Macon.
JACKSON, HENRY, ... Atlanta.
LAWTON, ALEXANDER R., ... Savannah.
LAWTON, ALEXANDER R., JR., ... Savannah.
LEAKEN, WILLIAM R., ... Savannah.
MACKALL, WILLIAM W., JR., ... Savannah.
MELDRIM, P. W., ... Savannah.
MERCER, GEORGE A., ... Savannah.
MILLER, FRANK H., ... Augusta.
MILLER, WILLIAM K., ... Augusta.
NEWMAN, EMILE, ... Savannah.
OWENS, GEORGE W., ... Savannah.
SMITH, BURTON, ... Atlanta.
SMITH, HOKE, ... Atlanta.
TOMPKINS, HENRY B., ... Atlanta.

IDAHO.

GREGORY, HENRY STUART, ... Wallace.

ILLINOIS.

ALDRICH, CHARLES H., ... Chicago.
ALTGELD, JOHN P., ... Chicago.

ILLINOIS.—Continued.

ANDREWS, JAMES D., ... Chicago.
AYER, B. F., ... Chicago.
BALDWIN, ROBERT R., ... Chicago.
BANCROFT, EDGAR A., ... Chicago.
BANNING, EPHRAIM, ... Chicago.
BEACH, MYRON H., ... Chicago.
BEALE, WILLIAM G., ... Chicago.
BOND, LESTER L., ... Chicago.
BONNEY, C. C., ... Chicago.
BOYESEN, INGOLF K., ... Chicago.
BRADWELL, JAMES B., ... Chicago.
BROWN, TAYLOR E., ... Chicago.
BURNHAM, TELFORD, ... Chicago.
BURRY, WILLIAM S., ... Chicago.
BURTON, ROBERT A., ... Chicago.
BUTZ, OTTO C., ... Chicago.
CALLAHAN, ETHELBERT, ... Robinson.
CASS, GEORGE W., ... Chicago.
CATE, ALBION, ... Chicago.
COLBY, FRANCIS T., ... Chicago.
COOPER, JOHN S., ... Chicago.
CRAWFORD, ANDREW, ... Chicago.
CURTIS, RUSSELL H., ... Chicago.
DENT, THOMAS, ... Chicago.
DUNHAM, CHARLES, ... Geneseo.
EASTMAN, SIDNEY C., ... Chicago.
ENNIS, ALFRED, ... Chicago.
FENTRESS, JAMES, ... Chicago.
FIELD, HEMAN H., ... Chicago.
FISH, JOHN T., ... Chicago.
FLOWER, JAMES M., ... Chicago.
GARTSIDE, JOHN M., ... Chicago.
GIBBONS, JOHN, ... Chicago.
GREEN, A. W., ... Chicago.
GREGORY, STEPHEN S., ... Chicago.
HAMLINE, JOHN H., ... Chicago.
HARDING, CHARLES F., ... Chicago.
HEBARD, FREDERIC S., ... Chicago.
HERRICK, JOHN J., ... Chicago.
HOLDOM, JESSE, ... Chicago.
HURD, HARVEY B., ... Chicago.
ISHAM, EDWARD P., ... Chicago.
JACKSON, HUNTINGDON W., ... Chicago.
JENKINS, ROBERT E., ... Chicago.

ILLINOIS.—Continued.

JEWETT, JOHN N., ... Chicago.
JUDAH, NOBLE B., ... Chicago.
KNICKERBOCKER, JOHN J., ... Chicago.
KOERNER, GUSTAVE, ... Belleville.
KREMER, CHARLES T., ... Chicago.
KRETZINGER, GEORGE W., ... Chicago.
LACKNER, FRANCIS, ... Chicago.
LEE, BLEWETT, ... Chicago.
LOWDEN, FRANK O., ... Chicago.
LYMAN, DAVID B., ... Chicago.
MACK, JULIAN W., ... Chicago.
MANNING, WILLIAM J., ... Chicago.
MARTIN, HORACE H., ... Chicago.
MASON, WILLIAM E., ... Chicago.
MATHER, ROBERT, ... Chicago.
MILLER, JOHN S., ... Chicago.
MOSES, ADOLPH, ... Chicago.
MCMILLAN, E. ERSKINE, ... Chicago.
NORTON, JAMES P., ... Chicago.
PALMER, JOHN M., ... Springfield.
PARKINSON, ROBERT H., ... Chicago.
PAYNE, JOHN BARTON, ... Chicago.
PECK, GEORGE R., ... Chicago.
PINGREY, D. H., ... Bloomington.
POLLASKY, MARCUS, ... Chicago.
PRUSSING, EUGENE E., ... Chicago.
RAYMOND, JAMES H., ... Chicago.
REMY, CURTIS H., ... Chicago.
RICHBERG, JOHN C., ... Chicago.
RINAKER, JOHN I., ... Carlinville.
ROBBINS, HENRY S., ... Chicago.
ROGERS, HENRY WADE, ... Evanston.
ROSENTHAL, JULIUS, ... Chicago.
RUNNELLS, JOHN S., ... Chicago.
SANDERS, GEORGE A., ... Springfield.
SCOTT, FRANK H., ... Chicago.
SHERMAN, E. B., ... Chicago.
SHOPE, SIMON P., ... Chicago.
SMITH, EDWIN BURRITT, ... Chicago.
SMITH, FRANK J., ... Chicago.
SMITH, FREDERICK A., ... Chicago.
STAR, MERRITT, ... Chicago.
STARR, JUDSON, ... Peoria.
TENNEY, HORACE KENT, ... Chicago.

ILLINOIS.—Continued

TENNY, DANIEL K., ... Chicago.
THOMAN, LEROY D., ... Chicago.
TRUMBULL, LYMAN, ... Chicago.
ULLMAN, FREDERIC, ... Chicago.
VARNUM, CLARK, ... Chicago.
VOCKE, WILLIAM, ... Chicago.
WEGG, DAVID S., ... Chicago.
WIGMORE, JOHN H., ... Chicago.
WILE, DAVID J., ... Chicago.
WILLARD, GEORGE, ... Chicago.
WINSTON, FREDERICK S., ... Chicago.

INDIAN TERRITORY.

MCLOUD, J. W., ... South McAlester.
SOPER, P. L., ... Muskogee.

INDIANA.

BAKER ALBERT, ... Indianapolis.
BROWN, EDGAR A., ... Indianapolis.
BUTLER, JOHN M., ... Indianapolis.
BUTLER JOHN MAURICE, ... Indianapolis.
BUTLER, NOBLE C., ... Indianapolis.
CARSON, JOHN F., ... Indianapolis.
CHAMBERS, SMILEY N., ... Indianapolis.
DAVIS, SYDNEY B., ... Terre Haute.
DUNCAN, JOHN S., ... Indianapolis.
DYE, JOHN T., ... Indianapolis.
ELLIOTT, BYRON K., ... Indianapolis.
ELLIOTT, WILLIAM F., ... Indianapolis.
FAIRBANKS, CHAS. W., ... Indianapolis.
FISHBACK, W. P., ... Indianapolis.
FREY, PHILIP W., ... Evansville.
HARRISON, BENJAMIN, ... Indianapolis.
HEROD, WILLIAM PIETLE, ... Indianapolis.
HOLTZMAN, JOHN W., ... Indianapolis.
JAMESON, OVID B., ... Indianapolis.
KERN, JOHN W., ... Indianapolis.
KORBLY, CHARLES A., ... Indianapolis.
MONTGOMERY, OSCAR H., ... Seymour.
MOORES, MERRILL, ... Indianapolis.
MORRIS, NATHAN, ... Indianapolis.
MCBRIDE, ROBERT W., ... Indianapolis.
OGLESBEE, ROLLA D., ... Indianapolis.

INDIANA.—Continued.

PENFIELD, W. L., ... Auburn
PICKENS, SAMUEL O., ... Indianapolis.
PICKENS, WILLIAM A., ... Indianapolis.
REINHARD, GEORGE L., ... Indianapolis.
SAYLER, HENRY B., ... Huntington.
SAYLER, SAMUEL M., ... Huntington.
SMITH, ALONZO GREENE, ... Indianapolis.
SMITH, CHARLES W., ... Indianapolis.
SNOW, ALPHEUS H., ... Indianapolis.
STUART, CHARLES B., ... Lafayette.
TAYLOR, R. S., ... Fort Wayne.
TAYLOR, WILLIAM L., ... Indianapolis.
VAN DEVANTER, ISAAC, ... Marion.
WILSON, JOHN R., ... Indianapolis.
WOODS, WILLIAM A., ... Indianapolis.

IOWA.

CLIGGETT, JOHN, ... Mason City.
COLE, CHESTER C., ... Des Moines.
CRAIG, JOHN E., ... Keokuk.
CUMMINS, A. B., ... Des Moines.
DANIELS, FRANCIS B., ... Dubuque.
DAVIS, JAMES C., ... Keokuk.
DAY, JAMES G., ... Des Moines.
DEERY, JOHN, ... Dubuque.
DUNCOMBE, JOHN F., ... Fort Dodge.
GUERNSEY, NATHANIEL T., ... Des Moines.
KINNE, L. G., ... Des Moines.
MARKLEY, J. E. E., ... Mason City.
MOFFIT, JOHN T., ... Tipton.
MCCARTHY, J. J., ... Dubuque.
MCCLAIN, EMLIN, ... Iowa City.
MCCONLOGUE, JAMES H., ... Mason City.
MCCRARY, A. J., ... Keokuk.
SELLS, CATO, ... Vinton.
SHIRAS, OLIVER P., ... Dubuque.
WADE, M. J., ... Iowa City.
WEAVER, H. O., ... Wapello.
WRIGHT, GEORGE G., ... Des Moines.

KANSAS.

DILLON, HIRAM P., ... Topeka.
GARVER, T. F., ... Salina.

KANSAS.—Continued.

GILLPATRICK, J. H., ... Leavenworth.
GLEED, CHARLES S., ... Topeka.
MILLIKEN, JOHN D., ... McPherson.
NICHOLSON, M. B., ... Council Grove.
PERRY, WILLIAM C, ... Fort Scott.
SMITH. CHARLES B., ... Topeka.
WAGGENER, BALIE P., ... Atchison.

KENTUCKY.

BODLEY, TEMPLE, ... Louisville.
BRUCE, HELM, ... Louisville.
DAVIE, GEORGE M., ... Louisville.
GOEBEL, WILLIAM, ... Covington.
HARRIS, W. O., ... Louisville.
HELM, JAMES P., ... Louisville.
HENDRICK, W. J., ... Frankfort.
MORTON, J. R., ... Lexington.
MCDERMOTT, EDWARD J, ... Louisville.
PIRTLE, JAMES S., ... Louisville.
SCOTT, C. SUYDAM, ... Lexington.
STONE, HENRY L., ... Louisville.
SUDDUTH, W. A., ... Louisville.
THUN, WILLIAM W, ... Louisville.
TONEY, STERLING B., ... Louisville.
TRABUE, E. F., ... Louisville.
WILLSON, AUGUSTUS E., ... Louisville.

LOUISIANA.

ALEXANDER, TALIAFERRO, ... Shreveport.
BENEDICT, W. S., ... New Orleans.
BREAUX, G. A., ... New Orleans.
BRICE, ALBERT G., ... New Orleans.
BRYAN, H. H., ... New Orleans.
DART, HENRY P., ... New Orleans.
DENÉGRE, GEORGE, ... New Orleans.
DENÉGRE, WALTER D., ... New Orleans.
FARRAR, EDGAR H., ... New Orleans.
FORMAN, BENJAMIN RICE, ... New Orleans.
HALL, HARRY H., ... New Orleans.
HART, W O., ... New Orleans.
HOWE, WILLIAM WIRT, ... New Orleans.
HUNT, CARLETON, ... New Orleans.
KERNAN, THOMAS J., ... Baton Rouge.

LOUISIANA.—Continued.

KRUTTSCHNITT, ERNEST B.,	New Orleans.
LEGÈNDRE, JAMES,	New Orleans.
MARR, ROBERT H., JR.,	New Orleans.
MERRICK, EDWIN T.,	New Orleans.
MERRICK, EDWIN T., JR.,	New Orleans.
MCCALEB, E. HOWARD,	New Orleans.
MCCLOSKEY, BERNARD,	New Orleans.
QUINTERO, LAMAR C.,	New Orleans.
ROST, EMILE,	New Orleans.
SEMMES, THOMAS J.,	New Orleans.
WOLFSON, JOSEPH N.,	New Orleans.

MAINE.

APPLETON, FREDERICK H.,	Bangor.
BELCHER, S. CLIFFORD,	Farmington.
BIRD, GEORGE E.,	Portland.
COOK, CHARLES SUMNER,	Portland.
DREW, FRANKLIN M.,	Lewiston.
EMERY, LUCILLIUS A.,	Ellsworth.
HALE, CLARENCE,	Portland.
HAMLIN, CHARLES,	Bangor.
HAMLIN, HANNIBAL E.,	Ellsworth.
HASKELL, THOMAS H.,	Portland.
HIGGINS, FRANK M.,	Limerick.
LIBBY, CHARLES F.,	Portland.
LOCKE, JOSEPH A.,	Portland.
PETERS, JOHN A.,	Bangor.
SNOW, DAVID W.,	Portland.
STETSON, CHARLES P.,	Bangor.
STROUT, A. A.,	Portland.
STROUT, SEWALL C.,	Portland.
SYMONDS, JOSEPH W.,	Portland.
WILSON, F. A.,	Bangor.
WOODARD, CHARLES F.,	Bangor.
WOODMAN, EDWARD,	Portland.

MARYLAND.

ALBERT, RICHARD S.,	Baltimore.
ALEXANDER, JULIAN J.,	Baltimore.
BAER, THOMAS S.,	Baltimore.
BERNARD, RICHARD,	Baltimore.
BONAPARTE, CHARLES J.,	Baltimore.
BRANTLY, WILLIAM T.,	Baltimore.

MARYLAND.—Continued.

COWEN, JOHN K., ... Baltimore.
CROSS, E. J. D., ... Baltimore.
DONALDSON, JOHN J., ... Baltimore.
FISHER, WILLIAM A., ... Baltimore.
GANS, EDGAR H., ... Baltimore.
GREGG, MAURICE, ... Baltimore.
HALL, THOMAS W., ... Baltimore.
HARLAN, HENRY D., ... Baltimore.
HINKLEY, EDWARD OTIS, ... Baltimore.
HINKLEY, JOHN, ... Baltimore.
HUGHES, THOMAS, ... Baltimore.
KNOTT, A. LEO, ... Baltimore.
MARBURY, WILLIAM L., ... Baltimore.
MARSHALL, CHARLES, ... Baltimore.
MASON, JOHN T., (JOHN T. MASON, R.) . . . . Baltimore.
MORRIS, THOMAS J., ... Baltimore.
MULLIN, MICHAEL A., ... Baltimore.
MUNNIKHUYSEN, HOWARD, ... Baltimore.
PHELPS, CHARLES E., ... Baltimore.
ROGERS, ROBERT LYON, ... Baltimore.
SHARP, GEORGE M., ... Baltimore.
SMITH, EDWIN HARVIE, ... Baltimore.
STEUART, ARTHUR, ... Baltimore.
STOCKETT, J. SHAAFF, ... Annapolis.
VENABLE, RICHARD M., ... Baltimore.
WATERS, J. S. T., ... Baltimore.
WHITELOCK, GEORGE, ... Baltimore.
WILMER, SKIPWITH, ... Baltimore.

MASSACHUSETTS.

ADAMS, WALTER, ... So. Framingham.
ALBERS, HOMER, ... Boston.
ALLEN, FRANK D., ... Boston.
ALLEN, M. T., ... Boston.
AMES, JAMES BARR, ... Cambridge.
ANDERSON, GEORGE W., ... Boston.
APPLETON, JOHN H., ... Boston.
BANCROFT, SOLON, ... Boston.
BEALE, JOSEPH HENRY, ... Cambridge.
BELL, C. U., ... Lawrence.
BENNETT, EDMUND H., ... Taunton.
BENNETT, S. C, ... Boston.
BIGELOW, MELVILLE M., ... Boston.

MASSACHUSETTS.—Continued.

BRANDEIS, LOUIS D., ... Boston.
BROOKS, FRANCIS A., ... Boston.
BULLOCK, A. G., ... Worcester.
BUMPUS, EVERETT C., ... Boston.
CARVER, EUGENE P., ... Boston.
CHAMPLIN, EDGAR R., ... Boston.
CHANDLER, ALFRED D., ... Boston.
CLARK, I. R., ... Boston.
CLIFFORD, CHARLES W., ... New Bedford.
COLLINS, PATRICK A., ... Boston.
COOLIDGE, WILLIAM H., ... Boston.
COPELAND, ALFRED M., ... Springfield.
CORCORAN, JOHN W., ... Boston.
COTTER, JAMES E., ... Boston.
CRAPO, WILLIAM W., ... New Bedford.
CROCKER, GEORGE G., ... Boston.
CUNNINGHAM, FREDERIC, ... Boston.
DABNEY, L. S., ... Boston.
DANA, WILLIAM S., ... Turner's Falls.
DAVIS, JOHN, ... Lowell.
DAVIS, SIMON, ... Boston.
DEAN, BENJAMIN, ... South Boston.
DICKINSON, M. F., JR., ... Boston.
DILLAWAY, W. E. L., ... Boston.
DODGE, FREDERIC, ... Boston.
DREW, C. H., ... Boston.
ELDER, SAMUEL J., ... Boston.
EMERY, WOODWARD, ... Cambridge.
ENDICOTT, WM. C., ... Salem.
ERNST, GEORGE A. O., ... Boston.
ESTABROOK, GEORGE W., ... Boston.
EVERETT, WILLIAM, ... Quincy.
FALL, GEORGE HOWARD, ... Boston.
FISH, FREDERICK P., ... Boston.
FOSTER, ALFRED D., ... Boston.
FOSTER, REGINALD, ... Boston.
FRENCH, WILLIAM B., ... Boston.
FULLER, HORACE W., ... Boston.
GALLAGHER, CHARLES T., ... Boston.
GARGAN, THOMAS J., ... Boston.
GOODWIN, FRANK, ... Boston.
GRAY, JOHN C., ... Boston.
HALE, GEORGE S., ... Boston.
HALL, BORDMAN, ... Boston.

MASSACHUSETTS.—Continued.

HAMMOND, JOHN C., ... Northampton.
HEMENWAY, ALFRED, ... Boston.
HEMENWAY, GEORGE L., ... Hopkinton.
HOOPER, ARTHUR W., ... Boston.
HOPKINS, W. S. B., ... Worcester.
HOWE, ELMER P., ... Boston.
HUNT, FREEMAN, ... Boston.
HURLBUTT, HENRY F., ... Lynn.
JENNINGS, ANDREW J., ... Fall River.
JOHNSON, BENJAMIN N., ... Boston.
JONES, LEONARD A., ... Boston.
KEITH, IRA B., ... Lynn.
KELLEN, WILLIAM V., ... Boston.
KENNEDY, JOHN C., ... Boston.
KILDUFF, RICHARD G., ... Holyoke.
LADD, BABSON S., ... Boston.
LADD, NATH. W., ... Boston.
LAMB, SAMUEL O., ... Greenfield.
LONG, JOHN D., ... Boston.
LOWELL, JOHN, ... Boston.
MORSE, GODFREY, ... Boston.
MORSE, ROBERT M., ... Boston.
MUNROE, WILLIAM A., ... Boston.
MYERS, JAMES J., ... Boston.
McEVOY, JOHN W., ... Lowell.
McINTIRE, CHARLES J., ... Cambridge.
OLNEY, RICHARD, ... Boston.
PARKER, EDMUND M., ... Boston.
PAUL, FRANK, ... Boston.
PAYSON, EDWARD P., ... Boston.
PILLSBURY, ALBERT E., ... Boston.
PROCTOR, THOMAS W., ... Boston.
PUTNAM, HENRY W., ... Boston.
RANNEY, FLETCHER, ... Boston.
RENO, CONRAD, ... Boston.
RICHARDSON, GEORGE F., ... Lowell.
RICHARDSON, JAMES B., ... Boston.
RICHARDSON, W. K., ... Boston.
ROBERTS, GEORGE L., ... Boston.
RUSSELL, CHARLES T., Jr., ... Cambridge.
RUSSELL, WILLIAM G., ... Boston.
SAWYER, ALFRED P., ... Lowell.
SCAIFE, LAURISTON L., ... Boston.
SCHOFIELD, WILLIAM, ... Boston.

MASSACHUSETTS.—Continued.

SCHOULER, JAMES, ... Boston.
SEARS, PHILIP H., ... Boston.
SHATTUCK, GEORGE O., ... Boston.
SHEPARD, HARVEY N., ... Boston.
SMITH, HENRY HYDE, ... Boston.
SMITH, JEREMIAH, ... Cambridge.
STIMSON, FREDERIC J., ... Boston.
STOREY, MOORFIELD, ... Boston.
STORROW, JAMES J., ... Boston.
STORROW, JAMES J., JR., ... Boston.
SWAN, CHARLES H., ... Boston.
SWAN, WILLIAM W., ... Boston.
SWASEY, GEORGE R., ... Boston.
TEELE, JOHN OSCAR, ... Boston.
THAYER, JAMES BRADLEY, ... Cambridge.
THOMAS, SETH J., ... Boston.
TUCKER, GEORGE F., ... Boston.
TURNER, WILLIAM D., ... Boston.
TYLER, CHARLES H., ... Boston.
WAMBAUGH, EUGENE, ... Cambridge.
WARE, DARWIN E., ... Boston.
WARREN, SAMUEL D., ... Boston.
WELLMAN, ARTHUR H., ... Boston.
WELLS, SAMUEL, ... Boston.
WESTON, MELVILLE M., ... Boston.
WESTON-SMITH, R. D., ... Boston.
WHITE, GEORGE, ... Boston.
WHITE, LUTHER, ... Chicopee.
WILLIAMS, DAVID W., ... Boston.
WILLISTON, SAMUEL, ... Boston.
WYMAN, HENRY A., ... Boston.

MICHIGAN.

ALDRICH, FREDERICK A., ... Cadillac.
ANGELL, ALEXIS C., ... Detroit.
BAKER, FREDERICK A., ... Detroit.
BAKER, HERBERT L., ... Detroit.
BALDWIN, AUGUSTUS C., ... Pontiac.
BALL, DAN. H., ... Marquette.
BARBOUR, LEVI L., ... Detroit.
BARRY, EDMUND D., ... Grand Rapids.
BATES, GEORGE W., ... Detroit.
BEARDSLEY, CARLTON A., ... Detroit.

MICHIGAN.—Continued.

BEAUMONT, JOHN W., ... Detroit.
BISSELL, JOHN H., ... Detroit.
BOUDEMAN, DALLAS, ... Kalamazoo.
BOWEN, HERBERT, ... Detroit.
BOYNTON, HERBERT E., ... Detroit.
BRENNAN, MICHAEL, ... Detroit.
BUTTERFIELD, ROGER W., ... Grand Rapids.
CAMPBELL, CHARLES H., ... Detroit.
CAMPBELL, HENRY M., ... Detroit.
CARPENTER, WILLIAM L., ... Detroit.
CARTON, JOHN J., ... Flint.
CHADBOURNE, THOMAS L., ... Houghton.
CHAMPLIN, JOHN W., ... Grand Rapids.
CHEEVER, NOAH W., ... Ann Arbor.
CLARK, F. O., ... Marquette.
COLLIER, GEORGE X. M., ... Detroit.
CONELY, EDWIN F., ... Detroit.
CONELY, JOHN D., ... Detroit.
COOLEY, EDGAR A., ... Bay City.
COOLEY, THOMAS M., ... Ann Arbor.
COWLES, ISRAEL T., ... Detroit.
CRANE, ALBERT, ... Grand Rapids.
CROCKER, MARTIN, ... Mt. Clemens.
CROCKER, T. M., ... Port Huron.
CUTCHEON, SULLIVAN M., ... Detroit.
DENISON, ARTHUR C., ... Grand Rapids.
DICKINSON, DON M., ... Detroit.
DOUGLAS, SAMUEL T., ... Detroit.
DOUGLAS, SAMUEL T., 2ND, ... Detroit.
DRAPER, CHARLES, ... Pontiac.
DRIGGS, FREDERICK E., ... Detroit.
DUFFIELD, HENRY M., ... Detroit.
DURAND, LORENZO T., ... Saginaw, E. S.
DURANT, GEORGE H., ... Flint.
ELDREDGE, J. B., ... Mt. Clemens.
FELLOWS, GRANT, ... Hudson.
FITZGERALD, JOHN C., ... Grand Rapids.
FLETCHER, NIRAM A., ... Grand Rapids.
GEER, HARRISON, ... Detroit.
GOTT, EDWARD A., ... Detroit.
GRIFFIN, LEVI T., ... Detroit.
HALL, EDMUND, ... Detroit.
HALLADAY, GEORGE E., ... Detroit.
HANCHETT, BENTON, ... Saginaw, W. S.

MICHIGAN.—Continued.

HARMON, HENRY A., ... Detroit.
HARSHA, WALTER S., ... Detroit.
HATCH, HERSHEL H., ... Detroit.
HATCH, REUBEN C., ... Grand Rapids.
HAYDEN, GEORGE, ... Ishpeming.
HENDERSON, EDWIN, ... Detroit.
HOPKINS, GEORGE H., ... Detroit.
HOSMER, GEORGE S., ... Detroit.
HOWELL, ANDREW, ... Detroit.
HOYT, HIRAM J., ... Muskegon.
JACOKES, JAMES A., ... Pontiac.
JANUARY, WILLIAM L., ... Detroit.
JEROME, THOMAS SPENCER, ... Detroit.
JOHNSON, ELIAS F., ... Ann Arbor.
KEENEY, WILLARD F., ... Grand Rapids.
KELLY, RONALD, ... Detroit.
KENT, CHARLES A., ... Detroit.
KILBOURNE, S. L., ... Lansing.
KINGSLEY, WILLARD, ... Grand Rapids.
KINNEY EDWARD D., ... Ann Arbor.
KLEINHAUS, JACOB, ... Grand Rapids.
KNAPPEN, LOYAL E., ... Grand Rapids.
KNOWLTON, JEROME C., ... Ann Arbor.
LATHAM, CHARLES K., ... Detroit.
LEE, JAY P., ... Lansing.
LIGHTNER, CLARENCE A., ... Detroit.
LILLIS, MICHAEL F., ... Pontiac.
LODGE, FRANK T., ... Detroit.
LOTHROP, GEORGE H., ... Detroit.
MECHEM, FLOYD R., ... Ann Arbor.
MEDDAUGH, ELIJAH W., ... Detroit.
MONTGOMERY, MARTIN V., ... Lansing.
MONTGOMERY, RICHARD A., ... Lansing.
MOORE, WILLIAM A., ... Detroit.
MOORE, WILLIAM V., ... Detroit.
MCDONALD, CHARLES S., ... Detroit.
MCGARRY, THOMAS F., ... Grand Rapids.
MCMILLAN, JAMES H., ... Detroit.
NORRIS, MARK, ... Grand Rapids.
O'BRIEN, THOMAS J., ... Grand Rapids.
PARKHURST, JOHN G., ... Coldwater.
PATTERSON, JOHN C., ... Marshall.
PATTERSON, JOHN H., ... Pontiac.

MICHIGAN.—Continued.

PENDLETON, EDWARD W., ... Detroit.
PERKINS, WILLIS B., ... Grand Rapids.
PHELPS, RALPH, JR., ... Detroit.
POND, ASHLEY, ... Detroit.
POST, HOYT, ... Detroit.
RADFORD, GEORGE W., ... Detroit.
ROBSON FRANK E., ... Detroit.
ROOD, ARTHUR R., ... Grand Rapids.
RUSSELL, ALFRED, ... Detroit.
RUSSELL, CHARLES T., ... Mt. Pleasant.
RUSSELL, FRANCIS G., ... Detroit.
RUSSELL, HENRY, ... Mt. Pleasant.
SEARL, KELLY S., ... Ithaca.
SHEARAN, WILLIAM S., ... Detroit.
SMITH, HARSEN D., ... Cassapolis.
SMITH, VERNON H., ... Ionia.
SMITH, WILLIAM ALDEN, ... Grand Rapids.
SPRAGUE, WILLIAM C., ... Detroit.
STELLWAGEN, AUGUSTUS C., ... Detroit.
STEVENS, FREDERICK W., ... Grand Rapids.
STEVENSON, ELLIOTT G., ... Detroit.
STONE, J. W., ... Marquette.
STUART, WILLIAM J., ... Grand Rapids.
SUTTON, ELMER L. B., ... Sault Ste. Marie.
SWAN, HENRY H., ... Detroit.
SWIFT, CHARLES M., ... Detroit.
TAGGART, EDWARD, ... Grand Rapids.
THOMPSON, BRADLEY M., ... Ann Arbor.
THURBER, HENRY T., ... Detroit.
TROWBRIDGE, LUTHER S., ... Detroit.
VAN DE MARK, STEWART O., ... Detroit.
WANTY, GEORGE P., ... Grand Rapids.
WEADOCK, THOMAS A. E., ... Detroit.
WEAVER, CLEMENT E., ... Adrian.
WEBBER, WILLIAM L., ... Saginaw, E. S.
WEISS, JOSEPH M., ... Detroit.
WELLS, WILLIAM H., ... Detroit.
WHEELER, HARRISON H., ... Manistee.
WHITE, PETER, ... Marquette.
WILSON, CHARLES M., ... Grand Rapids.
WISNER, HENRY C., ... Detroit.
WOOD, EMERY T., ... Detroit.

MINNESOTA.

COHEN, EMANUEL, ... Minneapolis.
ENSIGN, JOSIAH D., ... Duluth.
FLANDRAU, CHARLES E., ... St. Paul.
HAHN, WILLIAM J., ... Minneapolis.
HAMMONS, EVERETT, ... Anoka.
PATTEE, W. S., ... Minneapolis.
SANBORN, JOHN B., ... St. Paul.
SANBORN, WALTER H., ... St. Paul.
SHAW, JOHN M., ... Minneapolis.
STEVENS, HIRAM F., ... St. Paul.
WHELAN, RALPH, ... Minneapolis.
WILLISTON, W. C., ... Redwing.
YOUNG, GEORGE B., ... St. Paul.

MISSISSIPPI.

BOWERS, E. J., ... Bay St. Louis.
HILL, R. A., ... Oxford.
HOWRY, CHARLES B., ... Oxford.
MONTGOMERY, M. A., ... Oxford.
SULLIVAN, W. V., ... Oxford.
THOMPSON, R. H., ... Brookhaven.

MISSOURI.

ADAMS, E. B., ... St. Louis.
ALLEN, CHARLES CLAFLIN, ... St. Louis.
ASHLEY, HENRY D., ... Kansas City.
BAKEWELL, PAUL, ... St. Louis.
BARCLAY, SHEPARD, ... Jefferson City.
BLAIR, JAMES L., ... St. Louis.
BROADHEAD, JAMES O., ... St. Louis.
CHRISTIE, HARVEY L., ... St. Louis.
COCHRAN, ALEXANDER G., ... St. Louis.
COSTE, PAUL F., ... St. Louis.
DOBSON, CHARLES L., ... Kansas City.
DONALDSON, WILLIAM R., ... St. Louis.
DOUGLAS, WALTER B., ... St. Louis.
ELIOT, EDWARD C., ... St. Louis.
FINKELNBURG, G. A., ... St. Louis.
FISSE, WILLIAM E., ... St. Louis.
FOWLER, A. C., ... St. Louis.
GANTT, JAMES B., ... Jefferson City.
HAGERMAN, FRANK, ... Kansas City.
HAGERMAN, JAMES, ... St. Louis.

MISSOURI.—Continued.

HARKLESS, JAMES H., ... Kansas City.
HITCHCOCK, HENRY, ... St. Louis.
JOHNSON, JOHN D., ... St. Louis.
JUDSON, FREDERICK N., ... St. Louis.
KARNES, J. V. C., ... Kansas City.
KEHR, EDWARD C., ... St. Louis.
KENNA, EDWARD D., ... St. Louis.
KNIGHT, GEORGE H., ... St. Louis.
KRAUTHOFF, L. C., ... Kansas City.
LATHROP, GARDINER, ... Kansas City.
LAWSON, JOHN D., ... Columbia.
LEWIS, JAMES M., ... St. Louis.
LIONBERGER, ISAAC H., ... St. Louis.
MADILL, GEORGE A., ... St. Louis.
MCKEIGHAN, JOHN E., ... St. Louis.
NAGEL, CHARLES, ... St. Louis.
NOBLE, JOHN W., ... St. Louis.
OTTOFY, L. FRANK, ... St. Louis.
PRATT, WALLACE, ... Kansas City.
SHERWOOD, ADIEL, ... St. Louis.
SPENCER, SELDEN P., ... St. Louis.
TAUSSIG, CHARLES S., ... St. Louis.
TAUSSIG, JAMES, ... St. Louis.
THOMAS, JOHN L. (Washington, D. C.) . . . . . De Soto.
WARD, HUGH C., ... Kansas City.
WITHROW, JAMES E., ... St. Louis.

MONTANA.

SANDERS, JAMES U., ... Helena.
SANDERS, WILBUR F., ... Helena.

NEBRASKA.

AMES, JOHN H., ... Lincoln.
COWIN, J. C., ... Omaha.
GREENE, CHARLES J., ... Omaha.
HARWOOD, N. S., ... Lincoln.
MANDERSON, CHARLES F., ... Omaha.
PATRICK, ROBERT W., ... Omaha.
THURSTON, JOHN M., ... Omaha.
WEBSTER, JOHN L., ... Omaha.
WILSON, HENRY H., ... Lincoln.
WOOLWORTH, JAMES M., ... Omaha.

NEW HAMPSHIRE.

ALBIN, JOHN H., ... Concord.
ATHERTON, HENRY B, ... Nashua.
BAILEY, WILLIAM W., ... Nashua.
BINGHAM, HARRY, ... Littleton.
BURNHAM, HENRY E., ... Manchester.
BURNS, CHARLES H., ... Wilton.
COLBY, JAMES F., ... Hanover.
CROSS, DAVID, ... Manchester.
EASTMAN, SAMUEL C., ... Concord.
FELLOWS, JOSEPH W., ... Manchester.
PARSONS, FRANK N., ... Franklin.
SPRING, JOHN L., ... Lebanon.
STREETER, FRANK S., ... Concord.

NEW JERSEY.

ALLEN, ROBERT, JR., ... Red Bank.
APPLEGATE, JOHN S., ... Red Bank.
BORCHERLING, CHARLES, ... Newark.
BUCHANAN, JAMES, ... Trenton.
COLIE, EDWARD M., ... Newark.
DESTY, ROBERT, ... Trenton.
DICKINSON, S. MEREDITH, ... Trenton.
GARRETSON, A. Q., ... Jersey City.
GOBLE, L. SPENCER, ... Newark.
GRANT, ALEXANDER, JR., ... Newark.
GREY, SAMUEL H., ... Camden.
KEASBEY, EDWARD Q., ... Newark.
MCCARTER, THOMAS N., ... Newark.
MCGRATH, JOHN A., ... Jersey City.
PARKER, CORTLANDT, ... Newark.
PARKER, R. WAYNE, ... Newark.
RANDOLPH, JOSEPH F., ... Jersey City.
TERRELL, WILLIAM J., ... Burlington.
VREDENBURGH, WILLIAM H., ... Freehold.
VROOM, GARRET D. W., ... Trenton.
WEEKS., WILLIAM R, ... Newark.
WILSON, WOODROW, ... Princeton.
WOODRUFF. ROBERT S., ... Trenton.

NEW YORK.

ABBOT, EVERETT V., ... New York.
ABBOTT, AUSTIN, ... New York.
BACON, SELDEN, ... New York.

NEW YORK.—Continued.

BEACH, CHARLES F., JR., ... New York.
BELL, CLARK, ... New York.
BENEDICT, ROBERT D., ... New York.
BISCHOFF, HENRY, JR., ... New York.
BRISTOW, BENJAMIN H., ... New York.
BROWN, ADDISON, ... New York.
BRUNO, RICHARD M., ... New York.
BULLARD, E. F., ... Saratoga Springs.
BURDICK, FRANCIS M., ... New York.
BUTLER, CHARLES, ... New York.
BUTLER, CHARLES HENRY, ... New York.
BUTLER, WILLIAM ALLEN, ... New York.
BUTLER, WILLIAM ALLEN, JR., ... New York.
CALVIN, DELANO C., ... New York.
CARTER, JAMES C., ... New York.
CARTER, WALTER S., ... New York.
CHAMBERLAIN, D. H., ... New York.
CHASE, GEORGE, ... New York.
CHOATE, JOSEPH H., ... New York.
CLARK, MARTIN, ... Buffalo.
CLINTON, HENRY L., ... New York.
COLLIER, M. DWIGHT, ... New York.
COOK, WILLIAM W., ... New York.
CUMING, JAMES R., ... New York.
CUMMING, GEORGE M., ... New York.
DAVIES, WILLIAM GILBERT, ... New York.
DAVISON, CHARLES A., ... New York.
DILLON, JOHN F., ... New York.
DOS PASSOS, JOHN R., ... New York.
DOTY, SPENCER C., ... New York.
DOUGHERTY, J. HAMPDEN, ... New York.
DOYLE, LOUIS F., ... New York.
DWIGHT, EDWARD F., ... New York.
DYER, RICHARD N., ... New York.
EATON, SHERBURNE B., ... New York.
ERWIN, FRANK A., ... New York.
EVANS, THOMAS G., ... New York.
EVARTS, WILLIAM M., ... New York.
FEARONS, GEORGE H., ... New York.
FIERO, J. NEWTON, ... Albany.
FLEISCHMANN, SIMON, ... Buffalo.
FORBES, FRANCIS, ... New York.
FOSTER, ROGER, ... New York.
FOX, AUSTEN G., ... New York.

NEW YORK.—Continued.

GOODHART, MORRIS, ... New York.
GRINNELL, W. MORTON, ... New York.
HAWKESWORTH, R. W., ... New York.
HERENDEEN, EDWARD G., ... Elmira.
HOADLY, GEORGE, ... New York.
HOLT, GEORGE C., ... New York.
HORNBLOWER, WILLIAM B., ... New York.
HOUSTON, WILLIAM T., ... New York.
HUBBARD, THOMAS H., ... New York.
HUFFCUT, E. W., ... Ithaca.
HUGHES, CHARLES E., ... New York.
INGALSBE, GRENVILLE M., ... Sandy Hill.
ISAACS, M. S., ... New York.
JOHNSTON, THOMAS J., ... Schenectady.
JOLINE, ADRIAN H., ... New York.
KEENER, WILLIAM A., ... New York.
KENYON, WILLIAM H., ... New York.
KIDDLE, ALFRED W., ... New York.
LAMBERTON, C. L., ... New York.
LEAVITT, JOHN BROOKS, ... New York.
LEWIS, CHARLTON T., ... New York.
LOGAN, WALTER S., ... New York.
MACFARLAND, W. W., ... New York.
MILLER, W. W., ... New York.
MILNOR, M. CLEILAND, ... New York.
MOORE, JOHN B., ... New York.
MOOT, ADELBERT, ... Buffalo.
MORSE, WALDO G., ... New York.
MYERS, NATHANIEL, ... New York.
MCCOOK, JOHN J., ... New York.
NASH, STEPHEN P., ... New York.
NICHOLS, GEORGE L., ... New York.
OLMSTEAD, DWIGHT H., ... New York.
OPDYKE, WILLIAM S., ... New York.
ORDRONAUX, JOHN, ... New York.
O'REILLY, PHILIP J., ... New York.
OSGOOD, HOWARD L., ... Rochester.
PARMENTER, ROSWELL A., ... Troy.
PEABODY, CHARLES A., ... New York.
PETTY, ROBERT D., ... New York.
PIERCE, WINSLOW S., ... New York.
POOLE, MURRAY E., ... Ithaca.
POTTER, FREDERICK, ... New York.

NEW YORK.—Continued.

PRIME, RALPH E., ... Yonkers.
PRYOR, ROGER A., ... New York.
REDDING, WILLIAM A., ... New York.
REEVES, ALFRED G., ... New York.
ROBERTSON, WILLIAM H., ... Katonah.
ROGERS, SHERMAN S., ... Buffalo.
ROPES, CHARLES H., ... New York.
RUSSELL, ISAAC F., ... New York.
SEWELL, ROBERT, ... New York.
SEYMOUR, HENRY H., ... Buffalo.
SHACK, FERDINAND, ... New York.
SMITH, FRANK C., ... New York.
SMITH, NELSON, ... New York.
SPEIR, GILBERT M., JR., ... New York.
STERNE, SIMON, ... New York.
STETSON, FRANCIS LYNDE, ... New York.
STICKNEY, ALBERT, ... New York.
STILLMAN, THOMAS E., ... New York.
TAGGART, RUSH, ... New York.
TAYLOR, JOHN D., ... New York.
TIEDEMAN, CHRISTOPHER G., ... Brooklyn.
TOMPKINS, HAMILTON B., ... New York.
TURNER, HERBERT B., ... New York.
VAN SLYCK, GEORGE W., ... New York.
VAN VECHTEN, A. V. W., ... New York.
VIEU, HENRY A., ... New York.
WARD, HENRY GALBRAITH, ... New York.
WETMORE, EDMUND, ... New York.
WHEELER, EVERETT P., ... New York.
WHITTAKER, EDWARD G., ... New York.
WHITTAKER, EGBERT, ... Saugerties.
WILCOX, ANSLEY, ... Buffalo.
WILDS, HOWARD PAYSON, ... New York.
WISE, JOHN S., ... New York.

NORTH CAROLINA.

BRIDGERS, JOHN L., ... Tarboro.

NORTH DAKOTA.

CORBET, BURKE, ... Grand Forks.
NEWTON, GEORGE W., ... Bismarck.

OHIO.

BATEMAN, WARNER M., ... Cincinnati.
BELFORD, IRVIN, ... Toledo.
BLACKFORD, AARON, ... Finlay.
BOWLER, ROBERT B., ... Cincinnati.
BURKET, JACOB F., ... Findlay.
BURROWS, J. B., ... Painsville.
COLSTON, EDWARD, ... Cincinnati.
CREW, W. B., ... McConnelsville.
DOYLE, JOHN H., ... Toledo.
DURBAN, FRANK A., ... Zanesville.
FERGUSON, E. A., ... Cincinnati.
FERRIS, AARON A., ... Cincinnati.
FITCH, EDWARD H., ... Jefferson.
FOLLETT, MARTIN D., ... Marietta.
FORAKER, JOSEPH BENSON, ... Cincinnati.
GOULDER, HARVEY D., ... Cleveland.
GUNCKEL, LEWIS B., ... Dayton.
HALL, JOHN J., ... Akron.
HARMON, JUDSON, ... Cincinnati.
HARRIS, STEPHEN R., ... Bucyrus.
HARRISON, RICHARD A., ... Columbus.
HOADLY, GEORGE, JR., ... Cincinnati.
HOPKINS, E. H., ... Cleveland.
HOYT, JAMES H., ... Cleveland.
HUNT, SAMUEL F., ... Cincinnati.
HURD, FRANK H., ... Toledo.
JOHNSON, HOMER H., ... Cleveland.
JONES, ASAHEL W., ... Youngstown.
KENNON, NEWELL K., ... St. Clairsville.
LOVELAND, FRANK O., ... Cincinnati.
MACKOY, WILLIAM H., ... Cincinnati.
MATTHEWS, C. BENTLEY, ... Cincinnati.
MAXWELL, LAWRENCE, JR., ... Cincinnati.
MOORE, JOHN J., ... Ottawa.
MUNSON, GILBERT D., ... Zanesville.
PATTERSON, M. R., ... Columbus.
PECK, HIRAM D., ... Cincinnati.
PIKE, LOUIS H, ... Toledo.
PINNEY, ORESTES C., ... Cleveland.
PRATT, CHARLES, ... Toledo.
RAMSEY, WILLIAM M., ... Cincinnati.
RANNEY, HENRY C., ... Cleveland
ROBERTSON, C. D., ... Cincinnati.
ROGERS, SAMUEL G., ... Akron.

OHIO.—Continued.

SHAW, R. K., ... Marietta.
SMEDES, JOHN MARSHALL, ... Cincinnati.
SMITH, ALEXANDER L., ... Toledo.
SPEAR, WILLIAM T., ... Warren.
SULLIVAN, JOHN D., ... Columbus.
TAFT, WILLIAM H., ... Cincinnati
TALCOTT, WILLIAM E., ... Cleveland.
TROUP, JAMES O., ... Bowling Green.
WHEELER, SETH S., ... Lima.
WILLIAMSON, SAMUEL E., ... Cleveland.
YOUNG, GEORGE R., ... Dayton.

OKLAHOMA TERRITORY.

ASP, HENRY E., ... Guthrie.
DILLIE, JOHN I., ... El Reno.
SCOTT, HENRY W., ... Oklahoma City.
SHARTEL JOHN W., ... Guthrie.

OREGON.

CAREY, CHARLES H., ... Portland.
COX, L. B., ... Portland.

PENNSYLVANIA.

ALLINSON, EDWARD P., ... Philadelphia.
ATHERTON, THOMAS H., ... Wilkesbarre.
BAER, GEORGE F., ... Reading.
BAUSMAN, J. W. B., ... Lancaster.
BAYARD, JAMES WILSON, ... Philadelphia.
BECK, JAMES M., ... Philadelphia.
BEEBER, DIMNER, ... Philadelphia.
BIDDLE, EDWARD W., ... Carlisle.
BISPHAM, GEORGE TUCKER, ... Philadelphia.
BREDIN, JAMES, ... Pittsburgh.
BROADHEAD, J. DAVIS, ... So. Bethlehem.
BROWN, J. HAY, ... Lancaster.
BROWN, JOHN A., ... Philadelphia.
BROWN, JOHN DOUGLASS, JR., ... Philadelphia.
BUDD, HENRY, ... Philadelphia.
BURNETT, WILLIAM H., ... Philadelphia.
CARSON, HAMPTON L., ... Philadelphia.
CARTY, JEROME, ... Philadelphia.
CHAMBERS, FRANCIS T., ... Philadelphia.
CRISTY, GEORGE H., ... Pittsburgh.

PENNSYLVANIA.—Continued.

CONARROE, GEORGE M., ... Philadelphia.
DALE, RICHARD C., ... Philadelphia.
DANA, SAMUEL W., ... New Castle.
DERR, ANDREW F., ... Wilkesbarre.
EDWARDS, TRYON H., ... Harrisburg.
FARQUHAR, GUY E., ... Pottsville.
FENTON, HECTOR T., ... Philadelphia.
FISHER, WILLIAM RIGHTER, ... Philadelphia.
FRALEY, JOSEPH C., ... Philadelphia.
GILBERT, LYMAN D., ... Harrisburg.
GRAHAM, GEORGE S., ... Philadelphia.
GREEN, BENJAMIN W., ... Emporium.
GUTHRIE, GEORGE W., ... Pittsburgh.
HEMPHILL, JOSEPH, ... West Chester.
HENSEL, W. U., ... Lancaster.
HIESTER, ISAAC, ... Reading.
HOWSON, CHARLES, ... Philadelphia.
HUEY, SAMUEL B., ... Philadelphia
HUGHES, BENJAMIN F., ... Philadelphia.
JAYNE, H. LABARRE, ... Philadelphia.
JONES, J. LEVERING, ... Philadelphia.
KAUFFMAN, A. J., ... Columbia
KAY, JAMES I., ... Pittsburgh.
KULP, GEORGE B., ... Wilkesbarre.
LAMBERTON, WILLIAM B., ... Harrisburg.
LEACH, J. GRANVILLE, ... Philadelphia.
LEAR, HENRY, ... Doylestown.
LOGAN, JAMES A., ... Philadelphia.
LOWREY, DWIGHT M., ... Philadelphia.
MARTIN, J. WILLIS, ... Philadelphia.
MERCER, GEORGE GLUYAS, ... Philadelphia.
MERCUR, RODNEY A., ... Towanda.
MILLER, E. SPENCER, ... Philadelphia.
MILLER, N. DUBOIS, ... Philadelphia.
MITCHELL, JAMES T., ... Philadelphia
MORGAN, RANDAL, ... Philadelphia.
MUHLENBERG, HENRY A., ... Reading.
MUNSON, C. LA RUE, ... Williamsport.
MCCARTHY, HENRY J., ... Philadelphia.
MCCLINTOCK, ANDREW H., ... Wilkesbarre.
NORTH, E. D., ... Lancaster.
NORTH, HUGH M., ... Columbia.
OSBORNE, EDWIN S., ... Wilkesbarre.
PALMER, HENRY W, ... Wilkesbarre.

PENNSYLVANIA.—Continued.

PARSONS, HENRY C., ... Williamsport.
PATTERSON, ROSWELL H., ... Scranton.
PATTERSON, T. ELLIOTT, ... Philadelphia.
PENNYPACKER, CHARLES H., ... West Chester.
PENNYPACKER, SAMUEL W., ... Philadelphia.
PEPPER, GEORGE WHARTON, ... Philadelphia.
PERKINS, SAMUEL C., ... Philadelphia.
PETTIT, HORACE, ... Philadelphia.
PRICE, J. SERGEANT, ... Philadelphia.
PRICHARD, FRANK P., ... Philadelphia.
RAWLE, FRANCIS, ... Philadelphia.
REED, HENRY, ... Philadelphia.
ROBINSON, V. GILPIN, ... Media.
SEIBERT, WILLIAM N., ... New Bloomfield.
SHAPLEY, RUFUS E., ... Philadelphia.
SHIRAS, GEORGE, JR., ... Pittsburgh.
SIMPSON, ALEXANDER, JR., ... Philadelphia.
SLAGLE, JACOB F., ... Pittsburgh.
SMEAD, A. D. B., ... Carlisle.
SMITH, WALTER GEORGE, ... Philadelphia.
STEWART, W. F. BAY, ... York.
STOEVER, WILLIAM C., ... Philadelphia.
STOUGHTON, A. B., ... Philadelphia.
STRAWBRIDGE, WILLIAM C., ... Philadelphia.
SULZBERGER, MAYER, ... Philadelphia.
SWAIN, CHARLES M., ... Philadelphia.
TAYLOR, JOSEPH T., ... Philadelphia.
TODD, M. HAMPTON, ... Philadelphia.
TRICKETT, WILLIAM, ... Carlisle.
VALENTINE, JOHN K., ... Philadelphia.
WAGNER, SAMUEL, ... Philadelphia.
WALKER, ROBERT J. C., ... Philadelphia.
WATSON, D. T., ... Pittsburgh.
WILCOX, WILLIAM A., ... Scranton.
WILLARD, EDWARD N., ... Scranton
WILTBANK, WILLIAM W., ... Philadelphia.
WINDLE, WILLIAM S., ... West Chester.
WINTERNITZ, BENJAMIN A., ... New Castle.
WOLVERTON, SIMON P., ... Sunbury.

RHODE ISLAND.

ANGELL, WALTER F., ... Providence.
BAKER, DARIUS, ... Newport.
BRADLEY, CHARLES, ... Providence.

RHODE ISLAND.—Continued.

EATON, AMASA M., ... Providence.
ELY JOSEPH C., ... Providence.
GLEZEN, EDWARD K., ... Providence.
JENCKES, THOMAS A., ... Providence.
LESTER, JOHN ERASTUS, ... Providence.
MILLER, AUGUSTUS S., ... Providence.
MCGUINNESS. EDWIN D., ... Providence.
ROELKER, WILLIAM G., ... Providence.
SOUTHWICK, ISAAC H., JR., ... Providence.
THURSTON, WILMARTH H., ... Providence.
TILLINGHAST, JAMES, ... Providence.

SOUTH CAROLINA.

ABNEY, B. L., ... Columbia.
BUIST, GEORGE LAMB, ... Charleston.
CALDWELL, J. F. J., ... Newberry.
JOHNSTONE, GEORGE, ... Newberry.
MORDECAI, T. MOULTRIE, ... Charleston.
NETTLES, CLARENCE S., ... Darlington.
SMYTHE, AUGUSTINE T., ... Charleston.
WOODS, CHARLES A. . . . . Marion.
YOUNG, HENRY E., ... Charleston.

SOUTH DAKOTA.

WRIGHT, J. W., ... Clark.

TENNESSEE.

BAKER, J. W., ... Nashville.
BAXTER, ED., ... Nashville.
BONNER, J. W., ... Nashville.
CAMPBELL, LEMUEL R., ... Nashville.
CARROLL, WILLIAM H., ... Memphis.
COOPER, EDMUND, ... Shelbyville.
DICKINSON, J. M., ... Nashville.
ESTES, BEDFORD M., ... Memphis.
GAUT, JOHN M., ... Nashville.
JACKSON, ROBERT F., ... Nashville.
LEA, OVERTON, ... Nashville.
MARKS, ALBERT D., ... Nashville.
PILCHER, JAMES S., ... Nashville.
RAMAGE, B. J., ... Sewanee.
TILLMAN, A. M., ... Nashville.
VERTREES, J. J., ... Nashville.
WASHINGTON, WILLIAM H., ... Nashville.

TEXAS.

CLARK, WILLIAM H., ... Dallas.
GOULD, ROBERT S., ... Austin.
HARWOOD, T. F., ... Gonzales.
LEAKE, W. W., ... Dallas.
MILLER, T. S., ... Dallas.
MCLEARY, J. H., ... San Antonio.
SCOTT, J. Z. H., ... Galveston.

UTAH TERRITORY.

SHEPARD, RICHARD B., ... Salt Lake City.
SUTHERLAND, J. G., ... Salt Lake City.
WILLIAMS, P. L., ... Salt Lake City.

VERMONT.

BARBER, O. M., ... Arlington.
JOHNSON, WILLIAM E., ... Woodstock.
MCCULLOUGH, JOHN G., ... No. Bennington.
PHELPS, EDWARD J., ... Burlington.
SHURTLEFF, S. C., ... Montpelier.
TAFT, ELIHU B., ... Burlington.
TUPPER, A. P., ... Middlebury.

VIRGINIA.

CABELL, JAMES ALSTON, ... Richmond.
CONRAD, HOLMES, ... Winchester.
DINNEEN, JOHN H., ... Richmond.
GARNETT, THEODORE S., ... Norfolk.
GILLIAM, MARSHALL M., ... Richmond.
GILMORE, JAMES H., ... Charlottesville.
GRAVES, CHARLES A., ... Lexington.
GRIFFIN, S., ... Bedford City.
GUY, JACKSON, ... Richmond.
HAMILTON, ALEXANDER, ... Petersburg.
HATTON, GOODRICH, ... Portsmouth.
HUGHES, ROBERT M., ... Norfolk.
LYONS, JAMES, ... Richmond.
MCKENNEY, WILLIAM R., ... Petersburg.
PICKRELL, JOHN, ... Richmond.
ROBERTSON, WILLIAM J., ... Charlottesville.
THOM, ALFRED P., ... Norfolk.
TUCKER, J. RANDOLPH, ... Lexington.
WATTS, LEGH R., ... Portsmouth.

WASHINGTON.

FORSTER, GEORGE M., ... Spokane.
HUGHES, E. C., ... Seattle.
SHEPARD, CHARLES E., ... Seattle.

WEST VIRGINIA.

HIGGINBOTHAM, C. C., ... Buckhannon.
HUBBARD, WILLIAM P., ... Wheeling.
HUTCHINSON, JOHN A., ... Parkersburg.
SOMMERVILLE, J. B., ... Wheeling.
VAN WINKLE, W. W., ... Parkersburg.

WISCONSIN.

BARBER, CHARLES, ... Oshkosh.
BARTLETT, WILLIAM PITT, ... Eau Claire.
BASHFORD, R. M., ... Madison.
BENNETT, JOHN R., ... Janesville.
BIRD, GEORGE W., ... Madison.
BLOODGOOD, FRANCIS, ... Milwaukee.
BLOODGOOD, FRANCIS, JR., ... Milwaukee.
BOTTUM, E. H., ... Milwaukee.
BURKE, JOHN F., ... Milwaukee.
BUSHNELL, ALLEN R., ... Madison.
BUSHNELL, T. H., ... Hurley.
CARTER, WILLIAM E., ... Milwaukee.
CARY, ALFRED L., ... Milwaukee.
CLEMENTSON, GEORGE, ... Lancaster.
COLMAN, ELIHU, ... Fond du Lac.
DOYLE, PETER, ... Milwaukee.
FAIRCHILD, H. O., ... Green Bay.
FELKER, CHARLES W., ... Oshkosh.
FLANDERS, JAMES G., ... Milwaukee.
FRAWLEY, THOMAS F., ... Eau Claire.
FROST, EDWARD W., ... Milwaukee.
GIBSON, WILLIAM K., ... Milwaukee.
GILSON, N. S., ... Fond du Lac.
GRACE, H. H., ... West Superior.
GREENE, GEORGE G., ... Green Bay.
GREGORY, CHARLES N., ... Madison.
HARING, CORNELIUS I., ... Milwaukee.
HUDD, THOMAS R., ... Green Bay.
HUNTER, CHARLES F., ... Milwaukee.
JEFFRIS, MALCOLM G., ... Janesville.
JENKINS, JAMES G., ... Milwaukee.

WISCONSIN.—Continued.

JOHNSON, D. H., ... Milwaukee.
JONES, BURR W., ... Madison.
KENNAN, THOMAS L., ... Milwaukee.
LEWIS, H. M., ... Madison.
LUDWIG, JOHN C., ... Milwaukee.
MALLORY, JAMES A., ... Milwaukee.
MARTIN, P. H., ... Green Bay.
MAXON, GLENWAY, ... Milwaukee.
MILLER, B. K., ... Milwaukee.
MILLER, B. K., JR., ... Milwaukee.
MILLER, GEORGE P., ... Milwaukee.
MORRIS, HOWARD, ... Milwaukee.
NOYES, GEORGE H., ... Milwaukee.
OGDEN, LEWIS M., ... Milwaukee.
ORTON, PHILO A., ... Darlington.
PERELES, JAMES M., ... Milwaukee.
PERELES, THOMAS JEFFERSON, ... Milwaukee.
QUARLES, CHARLES, ... Milwaukee.
QUARLES, JOSEPH V., ... Milwaukee.
REED, MYRON, ... West Superior.
RUSK, L. J., ... Chippewa Falls.
SANBORN, A. L., ... Madison.
SEAMAN, WILLIAM H., ... Sheboygan.
SMITH, FRANKLIN T., ... Milwaukee.
SPENCE, THOMAS W., ... Milwaukee.
SPOONER, JOHN C., ... Madison.
STARK, JOSHUA, ... Milwaukee.
STEVENS, BREEZE J., ... Madison.
SUTHERLAND, GEORGE E., ... Milwaukee.
TURNER, W. J., ... Milwaukee.
VAN DYKE, GEORGE D., ... Milwaukee.
VAN DYKE, WILLIAM, D., ... Milwaukee.
VILAS, EDWARD P., ... Milwaukee.
VROMAN, CHARLES E., ... Green Bay.
WEBSTER, W. H., ... Oconto.
WIGMAN, J. H. M., ... Green Bay.
WINKLER, FREDERICK C., ... Milwaukee.

WYOMING.

BROWN, MELVILLE C., ... Laramie.
BURKE, TIMOTHY F., ... Cheyenne.
CLARK, CLARENCE D., ... Evanston.
CONAWAY, ASBURY B., ... Cheyenne.

WYOMING.—Continued.

CORTHELL, NELLIS E.,	Laramie.
FOWLER, BENJAMIN F.,	Cheyenne.
GROESBECK, HERMAN V. S.,	Laramie.
KNIGHT, JESSE,	Evanston.
LACEY, JOHN W.,	Cheyenne.
POTTER, CHARLES N.,	Cheyenne.
RINER, JOHN A.,	Cheyenne.
SCOTT, RICHARD H.,	Cheyenne.
VAN DEVANTER, WILLIS,	Cheyenne.

RECAPITULATION.

STATES.	NO OF MEMBERS.
Alabama,	10
Arizona,	2
Arkansas,	6
California,	13
Colorado,	14
Connecticut,	46
Delaware,	12
District of Columbia.	54
Florida,	7
Georgia,	28
Idaho,	1
Illinois,	101
Indian Territory,	2
Indiana,	41
Iowa,	22
Kansas,	9
Kentucky,	17
Louisiana,	26
Maine,	22
Maryland,	34
Massachusetts,	132
Michigan,	139
Minnesota,	13
Mississippi,	6
Missouri,	46
Montana,	2
Nebraska,	10
New Hampshire,	13
New Jersey,	23
New York,	124
North Carolina,	1
North Dakota,	2
Ohio,	55
Oklahoma Territory,	4
Oregon,	2
Pennsylvania,	103
Rhode Island,	14
South Carolina,	9
South Dakota,	1
Tennessee,	17
Texas,	7
Utah Territory,	3
Vermont,	7
Virginia,	19
Washington,	3
West Virginia,	5
Wisconsin,	68
Wyoming,	13
Total,	1,307

APPENDIX.

ADDRESS OF THE PRESIDENT,

JAMES C. CARTER,

OF NEW YORK, NEW YORK.

The object of our Association is declared to be "to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the Union, uphold the honor of the profession of the law, and encourage cordial intercourse among the members of the American Bar."

No happier statement could be made of the purposes which such an Association as ours should have in view. It recognizes the fact that though we are citizens of different States in some degree sovereign, we are yet one people, one immense human society with common interests, common hopes and a common destiny; that among the greatest concerns of that, as of every society, are its jurisprudence and legislation; that that great interest is, in large degree, under the care and control of the members of the legal profession; that it is their duty to reduce it to a science, to develop its usefulness, to simplify it into uniformity, to correct any evil tendencies which may beset it, and to these ends to uphold the honor of the profession and inspire its members with a just conception of their high office.

It is made the especial duty of the President to communicate in the address with which he is charged to open each Annual Meeting "the most noteworthy changes in statute law on points of general interest made in the several States and by Congress during the preceding year." A full and discriminating performance of this duty, involving an intelli-

gent examination of the doings of nearly forty legislatures, would be an impossible task for a lawyer actively employed in the work of his profession. I have been able to give but hasty and superficial glances over this vast field, and it is those things only which have, as it were, caught my eye upon that general survey which I am able to lay before you. In default of perceiving a better method (if there be a better one) I shall deal with each State by itself, and no order preferable to that of the alphabet occurs to me.

ALABAMA.

The wisdom or the folly of Alabama is evidenced by a bulky volume containing 572 acts which occupy 1,244 pages.

They embrace an act designed to give married women more than eighteen years of age the same rights in respect of property and the making of contracts as were before enjoyed by those twenty-one years of age, and to non-resident married women the same rights with residents; also an act repealing a prior act designed to prohibit the employment of women and children in work for more than eight hours a day; an act to prohibit the levying of black-mail by threatening letters and otherwise; and a rather curiously framed act designed to regulate the practice of embalming dead human bodies. It establishes a State board, the members of which are not required to possess a knowledge of physiology and anatomy, but to be "practical embalmers having experience in the business," but they must, nevertheless, find whether applicants for an embalmer's license, which they alone are authorized to grant, are possessed of a "knowledge of the venous and arterial systems, the location of the heart, lungs, stomach, bladder, womb and other organs in the human body; the location of the abdominal, pleural and thoracic cavities; the location of the carotid, brachial, radial, ulnar, femoral and tibial arteries, a knowledge of the science of embalming," etc.

We have also an act to prevent boycotting, and applicable both to employers and workman; certain amendments of the State code, *inter alia*, one confirming and increasing the authority of the Supreme Court to establish rules of procedure both for that Court and the Court of Chancery; a proper recognition, as I think, of the wisdom of committing the system of procedure to judicial rather than legislative control; an act appointing a single commissioner "to revise, digest and codify all the statutes of the State of a general and public nature;" an act designed to suppress the fraud of officers of a corporation attempting to depreciate the price of its stocks below its value with intent to buy it in; another, quite inconsistent with the one above noticed, which entrusts the framing and amending of the civil procedure to the Supreme Court, amending certain sections of the civil code and rules of the Court of Chancery relating to the filing and service of interrogatories under a commission to take testimony; another making it a misdemeanor to print, publish or expose for sale any book or pamphlet containing the history of any person popularly known as an outlaw; and an act imposing severe punishment for train robbery.

ARKANSAS.

Arkansas contents itself with the modest activity shown by one hundred and fifty public acts, embracing 257 pages. No one will regret that survival of the doctrine of State sovereignty evidenced by acts not only of this, but other legislatures of southern States, for the support from the public treasury of disabled and indigent Confederate soldiers. The employment of convicts in competition with other labor is allowed by another act of this legislature and marks a difference in the social conditions of the States. Such legislation could hardly be brought about in the more populous northern and eastern States. The resolute tendency towards the prohibition of the sale of intoxicating liquors, and its limitations also, find expression in an act making it unlawful to sell or give away

any such liquors, including wine, within five miles of Hineman University School, at Monticello, Drew County, except, in the case of wine, by those who make it "from grapes of their own raising and sell it on their own premises." Humanity and decency are gratified by an act providing for the appointment of a matron for female prisoners in cities of the first-class. An act was also passed in obedience to the public sentiment rapidly extending through the country throwing the safegards of law around the elections for candidates at primary political meetings. But three private acts were passed by this legislature.

California.

California has passed an act permitting actions generally, including those involving the possession and title of real property, to be maintained by and against executors and administrators in all cases where they might be maintained against their respective testators and intestates,—this seems to introduce an anomaly in respect of real property; an act permitting foreign executors and administrators to satisfy mortgages; another providing for an exercise of discretion by the court to empanel one or two "alternate jurors" to take the place of any regular juror who may die or become disabled during a trial; another for the retirement upon pensions of public school teachers after a service of twenty years; another limiting the liability of inn-keepers, boarding and lodging house keepers; another establishing a non-partisan commission of three persons for the purpose "of revising, compiling, correcting, amending, systematizing, improving and reforming the laws of the State;"—a very broad authority which would produce inestimable benefits, if it were wisely executed, but what is meant by a *non-partisan* commission of *three* is not very clear. The facilities for the union of capital and business interests are made practically unlimited by an act for the formation of co-operative association of five or more persons for

the purpose of transacting "any lawful business." The general tendency to relieve married women of their disabilities in respect of property is followed by enactments authorizing them to execute powers of attorney and acknowledgments as if unmarried. Prompted, apparently, by recent notorious scandals this State has framed legislation requiring the solemnization of marriages and repealing prior provisions of law, under which what are commonly styled "common law marriages" could be easily set up.

At the general election of November several important constitutional amendments were adopted by the people. In one a step was taken in the direction of educational qualification for the exercise of the right of suffrage. It requires, with certain exceptions, the voter to be able to read the Constitution in the English language and to write his name. Others exempt young fruit trees and vines from taxation, make a like exemption in favor of free libraries and public museums, and forbid ownership of real property by aliens.

Other amendments to the Constitution were framed by the last legislature and will be submitted to popular vote at the general election to be held in 1896. One consists of substantially the same educational qualification as that established by the legislature as already mentioned, but omitting all reference to the male sex, and thus designed to give the right of suffrage to women. Another makes the stockholders of corporate bodies liable to the corporation, or its creditors, to the extent of any unpaid part of the capital stock held by them, and makes the directors liable to the creditors and stockholders for any moneys embezzled or misappropriated during their terms of office by the officers of the corporation.

COLORADO.

The Legislature of Colorado passed 114 acts embracing the moderate extent of 256 pages. Among these was one designed to secure equal rights and privileges for all persons, without

distinction of race or color, in public accommodations and in places of amusement; another requiring *commission merchants* to procure a license before engaging in their business and to give bonds available for the benefit of persons sustaining loss or damage through them,—a rather exceptional interference by government, the grounds of which do not clearly appear. Another act properly associates patriotism with the condemnation of anarchy. It prohibits the display upon any State or municipal building of any flag other than those of the State and the United States, and also prohibits the display upon any such building, or in any street procession, or parade, of the flag of any anarchistic society.

Another act constitutes a board of three commissioners for the promotion of uniformity of legislation throughout the United States.

CONNECTICUT.

Connecticut exhibits a record of three hundred and fifty enactments. Among them is one making an attempt to prevent the spread of contagious or infectious disease among animals. Another rather novel one, designed apparently to prevent unhealthy progeny, prohibits the inter-marriage of persons either of whom, whether man or woman, is epileptic, imbecile or feeble-minded, where the woman is under forty-five years of age, under a penalty of imprisonment for not less than three years, and sexual intercourse with women of this character under forty-five, or with any woman under forty-five by any man who is an epileptic, and consent to such intercourse by any woman under forty-five are made crimes punishable with the same penalty. An attempt is made to settle or prevent labor disputes by the establishment of a State Board of Mediation and Arbitration. An election law adopting the methods such as are commonly embraced under the term "Australian Ballot" was enacted. All holidays are made *dies non* in respect to negotiable paper, and, when falling on

Saturday, the following Monday is fixed for the purposes of presentment, payment, protest, etc., and days of grace are abolished. Rigorous penalties are levelled against the dealing in obscene literature. Building and loan associations are defined and regulated. The adulteration of candy is made punishable. The employment of children under fourteen in factories is prohibited, and other provision made for the protection of children. Sales conditioned to keep the title in the vendor are required to be in writing and recorded. The militia law is revised. Conspiracy to commit a person to an insane asylum is made a punishable offence. The docking of horses' tails is prohibited under a severe penalty. A secret ballot is provided in town elections upon the question of licensing the sale of intoxicating drinks.

GEORGIA.

The Legislature of Georgia has contented itself with the passage of ninety-seven acts which occupy two hundred and eighty-two pages. These indicate that the practice of this State is to deal with large public concerns through the instrumentality of special rather than general laws. There are many acts establishing schools for particular towns, many affecting the registration of voters in particular counties, and numerous special acts relating to particular counties and other political divisions of the State, as well as to municipal corporations.

An act, drawn with apparent care, makes provision against the practice of medicine by unqualified persons. It recognizes three schools of medicine as reputable: the regular, the eclectic, and the homœopathic; establishes three boards, composed respectively of members of each of the schools, and authorizes them to issue licenses to applicants after due examination.

Another act requires the names of white and colored tax payers to be entered in separate lists on the tax-digests of

the several counties of the State, a measure which may hereafter afford some indication of the relative progress of the two races.

IDAHO.

Idaho exhibits the healthful tendency to secure in elections a just expression of the popular will by an act providing for a secret and uninfluenced ballot.

She has also determined to submit to popular decision the question of giving the full right of suffrage to women, and has made permanent and incurable insanity a ground for divorce, with the wise precaution of a condition that the insane party shall have been confined for six years next preceding the action in the State Insane Asylum.

ILLINOIS.

The great and advancing State of Illinois has been active in noteworthy legislation. It has established for cities, subject to their assent by popular vote, a system of appointments to public offices and employments based upon merit; limited the beginning of contests of the validity of wills to the period of two years subsequent to probate; forbidden under penalties the entry at horse races of "ringers" or horses under false names; provided for the pensioning of school teachers after a service of twenty-five years, the pension fund to be raised by a tax of one per cent. on the salaries; abolished days of grace on all negotiable paper; provided that all parties liable on negotiable paper shall be equally liable to the holder and may be sued all together and judgment rendered against those found liable, with the privilege to any party paying the judgment to use it to compel reimbursement against any other party liable secondarily to him; provided for the appointment of party committees for the settlement of disputes as to what candidates may have been regularly nominated; enacted a measure for a tax, graduated to some extent, upon property transmitted by

will or descent, making the tax in the instances of some beneficiaries other than near relatives as high as six per cent.; established a system for the registration of land titles as distinguished from the registration of deeds, and designed to make the public records conclusive to a large degree upon the title to real property; made provision enabling cities to levy a tax for the establishment and maintenance of public libraries; made provision for the retirement and pensioning of fire insurance patrolmen; forbidden under penalties the wrongful taking of messages from telephone and telegraph wires; made provision against extortion in the payment of laborers' wages, requiring payment thereof in bankable money; prohibited under penalties the coloring of every substance designed to be used as a substitute for butter or cheese; forbidden the keeping of barber shops open on Sunday; forbidden the employment of children under twelve years of age in theatrical exhibitions; required railroads to erect depots in towns of two hundred people; and has adopted various other measures evidencing a bold, but perhaps not impolitic, estimate of the just extent of the legislative power in growing, thickening and active populations.

INDIANA.

Indiana, the neighbor of Illinois, makes similar assertion of general over individual interests. She establishes as her principal mode of raising her revenue a system of property taxation designed to reach property of every description. To make this system effective she pays no attention to clamors against inquisitorial practices or the hazards of encouraging perjury, and frames interrogatories in which every known tangible or intangible thing which may be the subject of property is enumerated, and the citizen is obliged upon the demand of the assessor to answer as to his ownership of any of them. It would be interesting and useful to know how far this attempt to baffle concealment may prove effectual. It would seem cer-

tain that the successful enforcement of such a scheme of taxation in some States and not in others would be a potent agency in determining the choice of residence, and greatly increase the list of taxpayers in some at the expense of others. The great legislative problem of the day is that of a just system of taxation.

The Gordian knot of litigation is cut by the statutory sword in twenty-three separate acts legalizing the various oversights and neglects of legislators and administrative officers. The losses and inconveniences of individuals, if any there were, are disregarded, except in some instances where the not very equitable distinction is shown of saving rights which happen to have been made the subject of litigation.

It is enacted that if any railway, corporation or other company in the state shall authorize, allow or permit any of its agents to "black-list" any discharged employee, or any employee voluntarily leaving service, or attempt by words, writing, or otherwise, to prevent any such employee from obtainining other employment, the aggrieved person may have a civil action for damages against the corporation or company. Legislation in favor of the laboring classes is often either through negligence or design very loosely framed. What is "black-listing?" Is the keeping of a list of employees with memoranda respecting their merits, obviously a useful and proper precaution of large employers of labor, a black-list? Or is the exhibition of such a list to other corporations seeking a knowledge of the qualifications of applicants for work an attempt to prevent employment? Such must be its necessary tendency, and so its presumable purpose; but such legislation seems calculated to favor the unworthy by compelling secrecy in respect to their misdeeds.

A moderate indulgence is extended to publishers of newspapers by requiring notice to be served before the bringing of any action for a libel specifying the defamatory matter complained of. A full retraction protects the defendant publisher against punitory damages. Such legislation seems of very

doubtful expediency. The law of libel built up by the wisdom of jurists upon close consideration of all the forms in which reputation is liable to be assailed, is not likely to be improved by legislative action, especially such as is sought for by the modern newspaper press.

A piece of well designed legislation, although somewhat obscure—perhaps necessarily so—is found in an act prohibiting the printing or bringing into the State of "any paper, book or periodical the *chief feature or characteristic* of which is the record of the commission of crime, or to display by cut or illustration crimes committed, or the acts or pictures of criminals, desperadoes, or of men or women in lewd or unbecoming positions, or improper dress."

Another act, passed probably in view of the Chicago strike, organizes with apparent care and thoroughness the military force of the State in a manner calculated to make it efficient in the repression of disorder and violence.

In the interest of humanity and labor an act was passed requiring electric street railroads to provide closed cabs for the protection of motor-men against inclement weather.

Another act was passed requiring a license for the sale of goods made by convicts of other states, and compelling such goods to be stamped "convict-made," and with marks showing the name of the prison or penitentiary in which they were made.

An attempt is made to prevent the miserable and mischievous results of the scramble for partisan spoils, so far as the charitable and reformatory institutions of the State are concerned, by removing the present heads of those institutions and providing for the appointment of eighteen persons, "all of whom shall be men of good moral character and good business qualifications, and not more than nine of whom shall belong to the same political party," and are elsewhere described as "men of known fitness, probity and high character." Each of the institutions, which are six in number, are to be governed by Boards of Control composed each of three out

of the eighteen Trustees just mentioned, and are to be designated by the Governor, and no more than two of the same political stripe are to be designated for one board. Three of the institutions will thus be under the control of one political party and three of the other, and the scramble for the spoils is thus sought to be prevented by equally dividing them. The unseemly contest will thus be avoided, except such as may occur in the Executive Chamber over the appointments of trustees; but will the character of the corps of attendants at the institution be improved? It is to be feared that the prescribed qualifications for these partisan trustees of "fitness, probity and high character," will hardly suffice to prevent the awarding by them of places as political rewards, a system which which never has secured, and never will secure the best, or, in the long run, even good service.

Another experiment is added towards the solution of the liquor problem. Liquors at retail can be sold only on a ground floor exposed to the public, and without screens, and no other business to be carried on in the same place except the sale of tobacco and cigars; no musical or other appliances for attraction are allowed; no one is allowed to enter the place during the time when the sale of liquor is forbidden, and no licenses can be granted in any township or ward against the remonstrances of a majority of the voters thereof. This is a keenly devised scheme; *but*, where is the incorruptible constabulary, or, in its place, the numerous body of ready, willing, indefatigable public-spirited citizens who will stand constantly on the watch to enforce it?

The State has magnanimously permitted itself to be sued upon any money demand in one of its courts designated by the act.

The legislators of Indiana are not without the sense of humor. A curious doubt seems to have arisen as to whether the State had a State Seal; but it is now to be resolved, under a concurrent resolution authorizing R. S. Hatcher, the reading clerk of the Senate, to investigate the matter and report

to the Senate. It required many reasons set forth by way of recital under an appropriate number of *whereases* to induce the passage of this resolution; among them these, that the constitution of the State required a State Seal; that the legislature had never actually provided a design for one, or otherwise established one; that seals purporting to be State Seals had, notwithstanding, been used for a period of eighty years (thus even before Indiana was a State) all of them exhibiting in some form the significant emblems of the setting sun, the buffalo and the woodman felling the tree, but differing in the arrangement of these symbols; that it was demanded by the public business of the State that Indiana should have a well defined seal in order, among other things, that she "might be fully abreast with the other States of the Union, and, lastly, that Hon. R. S. Hatcher, the reading clerk of the Senate, has given the subject of heraldry years of study and investigation and has thorough information upon all seals and coats-of-arms thereof of the different States of the United States as well as the seals of States and coats-of-arms of foreign countries." Let us hope that all this will result in the establishment of a well defined and appropriate seal for our great sister State of Indiana; but that the familiar emblems of the setting sun, the buffalo and the woodman with his axe will not under the influence of Mr. Hatcher's antiquarian proclivities be replaced by some device borrowed from the effete despotisms of Europe.

KANSAS.

The legislative activity of Kansas is marked by the passage of three hundred and sixty-eight acts occupying a neatly printed volume of 574 pages. The regular and orderly administration of government in this State seems to have suffered somewhat in prior years by the ascendency of certain views on social questions called "crazes" by those dissenting from them, and much of the legislation of the past year is

aimed at an amelioration of the supposed ill conditions thus produced. Impartial observers would probably agree that a large improvement has been effected.

Official carelessness and neglect are evidenced and remedied by twenty legalizing statutes. The judicial establishment has been largely amended, but by methods the character of which is so accommodated to special conditions in the State as not to be particularly interesting or instructive to other communities. Sternly repressive laws are enacted against gambling in all its forms. A Board of Irrigation has been established, and scientific and practical tests of the effectiveness of measures to that end provided for. The completion and opening of the important institution of the State Reformatory has been provided for.

A somewhat novel policy, open to much discussion, has been adopted by a law providing that in the case of insurances on lives for the benefit of persons other than the life insured, but who have an interest in such life, moneys paid to the beneficiary shall be exempted from any present or future claims of the person assured, or his representatives, and from the claims of the person effecting the insurance or his representatives, and even from all taxes—a large opportunity for placing property beyond the reach of the law. Other acts of doubtful validity or wisdom have received legislative saction; among them one compelling railroad companies to furnish free passes to shippers of certain descriptions of property, and another taxing fire insurance companies a certain per cent. of their earnings for the support of fire departments in all towns and cities where as much as $1000 is invested in fire equipments. The justice of forbidding persons to insure against fire, unless they at the same time contribute something towards protecting the property of their neighbors who choose to leave their property uninsured is not obvious.

The appearance of a new terror to the farmer is evidenced by a statute designed to arrest the spread of the Canadian or Russian thistle.

MAINE.

The work of the last session of the Legislature of Maine, contains, in comparison with its bulk, but little matter of general interest. The general public legislation consists mainly of amendments of existing laws. The special and private enactments far outnumber the former, and embrace numerous acts for the creation of corporate bodies—a purpose now effected, and probably better effected, in most states, under general laws.

Prodigious attention is given to the brute creation. Numerous acts, both general and local, were passed for the purpose of preserving beasts, birds and fish of various kinds.

Among the new general laws is one for the prevention of cruelty to animals, and another, quite elaborate, providing for the establishment of a board for the registration of persons authorized to practice medicine and surgery. All must be registered. Certain classes already entitled to practice their art are recognized as entitled to immediate registration. Others must exhibit qualifications to be ascertained by examination. No unregistered person is permitted to practice. But the legislators do not presume to deny the existence of those mysterious agencies for healing which, confessedly transcending human science, appeal in civilized as well as barbarous times to human credulity; for, while they still permit the unfortunate diseased to seek cure or comfort from the apostles of "hypnotism," "magnetic healing," "mind cure," "massage," "Christian science," or any other "method of healing," they put their foot down upon one point, the professors of these occult arts must not attempt to administer dangerous drugs, nor affix the significant M. D. to their names.

The State has, like so many others, imposed rigorously drawn prohibitions against lotteries in whatever form.

It has also made what seems to be a useful addition to the legislation against fraud by declaring that agreements in contracts of sale that the title to goods sold shall remain in the seller shall be absolutely void unless in writing signed by the

party sought to be bound, and void against third parties unless recorded in the manner prescribed.

The rules in respect to the devolution of the property of intestates are modified in some important respects. The tendency to equality as between husband and wife is yielded to, by provisions abolishing estates in dower and courtesy as such, and giving to the widow or widower, as the case may be, one third of the intestate's land, and, if no issue, one half.

Maine, after years of effort, seems not yet satisfied that she has discovered the true method of preventing those who love intoxicating drinks from obtaining them. A new and elaborate statute amends her existing legislation, and will prove the ingenuity, or the folly, of those who think that laws can prevent the gratification of the intense desires of men when such gratification does not, of itself, create an interest to enforce the laws.

Massachusetts.

The ancient Commonwealth of Massachusetts displays her legislative industry in six hundred and thirty-six enactments, including one hundred and twenty-seven of what are styled "resolves." They embrace much interesting matter. Among the more noteworthy acts is one designed to make the election laws more perfect; others prohibiting the display of foreign flags on public buildings and providing for the display of the national flag on school houses—of which legislation instances are presented this year in many other States and indicate a concerted effort; another authorizing Judges of Probate Courts to grant leave to executors and administrators to mortgage the real property of decedents to pay debts and legacies; another, and one, it would seem of doubtful expediency not to say validity, by which real estate subject to a vested remainder may be authorized to be sold by trustees appointed by the Probate Court upon the petition either of the party holding the particular estate in possession, or of the remainderman; an energetic act for suppression of what are

sometimes called opium joints; an act permitting, but not requiring, Saturdays, not legal holidays, to be treated as *dies non* so far as concerns the presentation and acceptance of negotiable paper and permitting such paper to be presented on the next business day; an act amending a prior act and regulating the manner in which prisoners supposed to have reformed may be released on parole before the expiration of the term of imprisonment; an act providing that no oral or written misrepresentation by the assured in the negotiation of a contract of life insurance shall be deemed material unless made with intent to deceive; an act making the provisions of Massachusett's statutes imposing penalties and liabilities upon the officers and stockholders of domestic corporations for false and fraudulent statements and returns apply to the officers and stockholders of foreign corporations doing business in the State, and requiring corporations of the latter class to file certain statements and imposing penalties upon the officers failing to comply with the requirement—a provision in passing which the legislature may have over-estimated its ability to make criminal law; an act providing for the construction of State highways; an act authorizing the holding of an immediate inquest by designated magistrates upon complaint made that any law relating to the registration qualifications or assessment of voters, or to voting lists or ballots, or to caucuses, conventions and elections, or any matters or things pertaining thereto have been violated and to hold for trial any persons appearing to be guilty; a stringent act for the abatement of the smoke nuisance in the City of Boston; an act requiring every city to make provision for the treatment of indigent persons suffering from contagious or infectious venereal diseases; additional rigorous enactments are made against gambling, lotteries, etc.; also rigorous prohibitions against secular business on the Lord's day, and against being present at any game, sport, play or public diversion on that day; a slight and perhaps innocuous amendment of the law of libel permitting the defendant to prove in mitigation that

he published a prompt retraction. The charter of the City of Boston is amended, *inter alia*, by the creation of executive departments for the principal concerns. Discriminations on account of race or color in public places of amusement are prohibited; a commission called the Old Colony Commission is created for the investigation of spots of historic interest in the counties of Bristol, Barnstable, Plymouth, Norfolk and Nantucket, and the collection of historical information relating thereto; an act is passed for the establishment of textile schools in manufacturing cities; a hospital for epileptics is established; an elaborate act is passed extending the regulation of law to the proceedings of political caucuses; elaborate provision is made for the inspection of domestic cattle; an act for the preference of veterans in public employments was passed over the Governor's veto; a hospital for consumptives is established; in sentences of imprisonment to the State prison, other than for life, and in the case of habitual criminals, the court is not to fix the term, but to name a maximum and a minimum term, and after the expiration of the minimum, the Prison Commissioners may issue to the prisoner a permit for his liberty subject to such conditions as they may choose to impose, and subject to revocation and re-imprisonment.

No further protection is extended to the codfish; but in lieu thereof one hundred dollars is to be expended in taking down, painting and re-suspending the time honored image of that useful denizen of the deep which has so long hung in the chamber of the House of Representatives.

No one can fail to observe even in a cursory and superficial glance, such only as I have been able to give at this legislation of Massachusetts, without being impressed with its conspicuous features. It shows many of the traits of her early settlers still persistent, notwithstanding the abundant immigration from other and different peoples; a rigorous self discipline, a belief in the efficacy of positive enactments, and an unhesitating readiness to assert the supremacy of the general good over individual interest. Nor can one fail to be impressed with

the superior clearness and elegance which mark the framework and language of the laws, an evidence at once of the general cultivation of the people and of their discernment in the selection of their representatives.

MICHIGAN.

A printed synopsis of the laws of the last session of the Legislature of Michigan, the only source of information accessible to me, exhibits, in divers forms a disposition to meet social changes and modern beliefs with appropriate legislation.

Street railway companies are required to protect certain employees from exposure to inclement weather by having the platforms of cars enclosed. A general act makes provision for the incorporation of divisions and clubs of American Wheelman as they style themselves. Further enactments are made for the protection and welfare of children. The concerted movement for the display of the national flag on public school-houses is favored by an enactment. Judges of Probate are permitted to authorize executors and administrators to mortgage the property of the deceased in order to raise money to pay his debts. Townships, cities and villages are permitted, if they so elect, to use Meyer's automatic ballot machine in all elections. Provision is made for the compulsory education of children, and the punishment of truancy. The protection and regulation of law are extended to political primary meetings in cities of not less than fifteen thousand inhabitants. Fire insurance companies are prohibited from limiting their liability. An attempt is made to render the law respecting acknowledgment of written instruments uniform with that of other States. It is made unlawful for delegates to any political convention to appear by proxy. A State Examining Board is established for the admission of lawyers to the bar. Juries are required in finding verdicts in suits for libel to separate their findings for injuries to feelings from those for actual damages. The Governor is authorized in certain cases to liberate convicts on parole. The capacity of packages for the

shipment of fruit is required to be marked. The age at which females may marry without the consent of parents or guardians is raised from sixteen years to eighteen. Building and loan associations are placed under the supervision of the Secretary of State.

Minnesota.

The Legislature of Minnesota has given much attention to the revision, amendment and consolidation of the laws in relation to cities, and has in many other important particulars revised the domestic policy of the state, especially in relation to its charitable and educational institutions. It has made an elaborate codification of the laws relative to insurance companies; made an attempt toward the destruction of certain designated noxious weeds, making it unlawful for the owners of land to allow such weeds to go to seed, and allowing the entry of public officers upon private lands for the purpose of destroying them.

A provision, quite novel in this country, is enacted permitting either party to an action triable by jury to have a struck, or special, jury at his pleasure, the expense thereof being chargeable to the party demanding it. Another novel provision, the purpose of which is not immediately obvious, is found in an enactment that when a verdict is given for damages for personal injuries arising out of the negligence of a co-employee, the name or names of such co-employee or co-employees, when appearing by the evidence, shall be found and stated by the jury in their verdict. Elaborate and rigorous legislation was enacted to prevent corrupt practices in elections. It includes a limitation of the amounts which may be expended by, or for, candidates, and of the ways and purposes in and for which they may be expended, and requires verified and itemized accounts. The regulation of law is also extended to political primaries.

Montana.

Montana appears in a brand new suit of codes, embracing a Political Code, a Civil Code, a Code of Civil Procedure and

a Penal Code. Inasmuch as the leading idea is to have no unwritten law, or as little as possible, the framers of the system have very properly sought to furnish an abundance of the written variety. According to the numbers of the sections there would appear to be upwards of sixteen thousand in the four codes, which is pretty well for a young State; but some gaps are left in the enumeration between the different divisions upon the supposal, apparently, that experience will show the necessity of many additions, and to enable them to be made without disturbing the order of enumeration.

The matter of these codes is in large measure borrowed from the legislation of California, New York and some other States, although much, as I am officially informed by a distinguished lawyer of Montana, has been "evolved from her own inner consciousness." The work gives evidence of much labor, learning and ability. The arrangement is orderly and the language appears, in general, to be concise, well chosen and perspicuous. If the previous condition of the law of the State was as chaotic as I am informed it was, I should suppose that much benefit would be derived from the new system. Of course it would be impossible within the limits to which this address must be confined, or with the time at my disposal to review this huge mass of legislation; nor would it, for other reasons, be appropriate. Most of it, as already observed, has been heretofore enacted elsewhere.

Those who doubt the expediency of attempting to reduce the suggestions of common sense, the rules of logic, the dictates of reason, and teachings of good morals into abstract statutory form—in other words, to attempt to state the *law* regulating private transactions apart from the *facts* will find much in the Civil Code which they would say might well have been omitted as being more likely to raise new questions than to settle those now existing. The unwritten common law was the horror—the *bête noir*—of Bentham. He would have absolutely extirpated it, and solemnly advised the original States of our Union to adopt that policy. Some of his followers have

imbibed this antipathy and made efforts to carry it into effect. The proposed Civil Code to establish which in New York such earnest efforts were once made, contained a provision in these words "In this State there is no common law in any case where the law is declared by this Code." The framers of the Montana Code have borrowed and adopted the declaration; but have exhibited their wisdom, if not their consistency, by adding provisions which not only preserve and continue the whole body of the common law, but nullify their own codification of it. They say, (Section 4,653 of Civil Code) "The provisions of this Code so far as they are, substantially, the same as existing statutes, or the common law, must be construed as continuations thereof, and not as new enactments." Therefore all the Montana lawyer has to do, or will do, under this Civil Code is to ascertain, when he is in doubt, what the the common law is upon any subject in the same way which lawyers have always followed. He must, however, before his inquiry is finished, consult the Code to learn whether it may not have been designedly changed. Codification of this description is simply digest-making. As *legislation* it is absolutely ineffective; for if correctly done, it adds nothing to existing law, and if incorrectly done, it is to be disregarded. What sort of legislation is that which leaves to the judicial power the right to sit in judgment upon the legislator and inquire whether he has properly performed his work? Bentham clearly saw that codification committed a plain *felo de se* unless it started with the assumption that there *was* no other law save that created by the written word; and, with a courage corresponding to his conviction, he proposed to strip from the judicial mind its prerogative of inquiring what was right, and limit it to the mere office of declaring what was written. The Montana codifiers have not thus chosen to bid defiance to nature and her laws.

Some attempts are made in this code to introduce into the province of the common law some doctrines which the masters of that system have not hitherto found occasion to employ.

An uncaught wild animal is made the property of the person upon whose land it may happen to be, if he chooses to assert it to be such; but what property amounts to which may pass from one to another a hundred times a day against the will of the owner is not very clear. Moreover, its definition of property omits the requisite of *utility*, and thus makes ferocious wild animals, such as caught rattlesnakes, the subject of property. A title is devoted to the formulation of rules for the interpretation of contracts, and among them is this: "If the terms of a promise are in any respect ambiguous or uncertain, it *must* be interpreted in the sense in which the promisor believed at the time of making it that the promisee understood it." (Civil Code, Sec. 2,214). Of course it is implied that in such cases the misunderstanding of the two parties is or may be different, that is, that there is no meeting of minds, and the prime requisite of a contract is, therefore, wanting; and yet this meeting of minds or consent is made by a prior section of this code an essential to every contract. But it may very properly be said that this is of no consequence, and that an exception may be introduced if in accordance with justice. Let us then see what sort of justice is effected by this novel doctrine. The case aimed at evidently is that of a supposed roguish promisor, but let us suppose an instance in which the rogue, as is often the case, is not so shrewd as he imagines himself to be, and that he is mistaken in his notion of the understanding of the promisee, and also in that of the true interpretation of the contract, which is correctly apprehended by the promisee and very much to his advantage. On the doctrine here enacted into law, the promisee, although perfectly honest, is deprived of this advantage, the true interpretation of the contract is set aside and another engagement, not desired by the promisee, substituted in its place upon which it is conceded the minds of the parties never met. The law of partnership is enriched by some novel additions. One styled "Renunciation of Partnership," permits any partner, even though the association is to continue for a fixed time, to

exonerate himself from all future liability to third persons by giving notice to them. After this he cannot claim any of the profits of the partnership, but yet it is not dissolved, unless his co-partners choose to make this renunciation a ground for dissolution. This seems to give a man the privilege of violating his contract at pleasure. What the renouncing partner had agreed with his co-partners to do was to furnish his responsibility for a definite period. It may be said that the exercise of the privilege of renunciation is not a violation of the contract, but an act in pursuance of it. But where is the wisdom of precluding persons from agreeing to be liable for each other's acts for a definite period if they wish. It may be said that an express agreement not to renounce would still be effective. If this view be taken of the section, it amounts to nothing more than to say that the mere fixing of a term for the continuance of a partnership shall not mean what it has ordinarily been understood as meaning. In the definition of the mutual obligations of partners it is declared that "they are trustees for each other within the meaning of Chap. 1 of the Title on Trusts;" now all trustees mentioned in that chapter are subject to *removal* for cause, and *new trustees* may be appointed in their places which would be a novel procedure in the case of co-partners; but as the framers of this code have, as already observed, enacted that they are not always to be taken to mean exactly what they say, no other harm is likely to arise from this provision than the litigation requisite to an authoritative declaration of its meaning.

The framers of systems of law do not always sufficiently remember that so far as respects the ordinary doctrines of the common law, an innumerable host of cultivated human intellects, many of them of transcendant ability, have been studying and reflecting for a thousand years upon what is just, fit, and expedient in all the ordinary affairs of life. The final conclusions reached by this process are not likely to be amended by the work of a few revisers giving comparatively brief attention to each particular topic. Anything new that may be thus

suggested in the field thus long and diligently explored will be likely to be found erroneous. It is only where changes have occured in life and affairs, that is, in the subject matter to which laws are applied, that the prior conclusions may be in some respects re-shaped or supplemented.

Nebraska.

This State has enacted a law regulating admission to the bar, prescribing examinations by a commission of three or more persons appointed by the Supreme Court. The qualifications are two years study with a practicing attorney or graduation at the Law College of the State University, and satisfactory examinations. Another for the supervision of State banks on the general plan of the National Banking Act; another allowing guaranty companies as sureties on public bonds, a policy which convenience, or the industry of the companies, appears to have extended into many of the states during the year; a law permitting agreements in contracts for the sale of the rolling stock of railroads that the title to the property shall remain in the vendor until payment, the agreement, however, to be in writing and filed for record with the Secretary of State; an act regulating the practice of dentistry; and a series of acts for the purpose of establishing a system of irrigation.

New Jersey.

The legislation is of chiefly local interest, but exhibits tendencies in accord with some general features of recent American legislation. An effort is made to rescue municipal elections from the dominating influence of partisanship by providing for elections in the spring. A step is taken towards some control by law over private insane asylums. Extensive provision is made for the establishment of parks in cities. The movement in which our Association is so much interested is favored by the continuation of former legislation in relation to a commission upon the subject of uniformity in legislation,

looking to consultation with commissioners of other States. Women are made eligible for commissioners of deeds. The State has also essentially modified her judicial establishment; though in a manner interesting only to her own citizens.

New York.

The most interesting legislative experience of New York during the past year is that of its constitutional convention, held under the provisions of the Constitution of 1846, which requires a revising convention every twenty years. The convention appears to have wisely accepted the leadership of a number of members, which it fortunately possessed, of large abilities and temperate wisdom. The result is shown in the rejection of most of the temptations offered to it to indulge in ordinary legislation, and to make the fundamental law (which ought always to be confined to the sure results of experience) an instrumentality for the introduction of untried experiments.

We find consequently, in its work, very little in the way of radical change. Most of its new provisions are re-arrangements of some of the details of governmental organization such as were called for by the special conditions of that State. Such changes as have been introduced are conceived and expressed with caution and prudence, and much benefit may reasonably be expected from them. The provision for preventing the application of public moneys to sectarian purposes under the guise of charity, without, at the same time, repressing charitable effort, deserves general attention. A precaution promising much benefit in special municipal legislation is found in the requirement that special city bills must be submitted to the mayors of the cities affected for their approval, in default of which the bill cannot become law unless repassed by the legislature.

The legislative session in New York was under the domination of personal and factional influences to such a degree as to obstruct useful attention to real public business—one of

the deplorable consequences which follow where the people permit busy self-seekers to assume the leadership of political parties. The most notable pieces of legislation consisted of measures relative to the municipal government of New York City designed mainly to summarily remove from office incumbents supposed to be unworthy. Nothing can justify legislation of this character except a very grave emergency. It renders permanent and orderly administration impossible. Such an emergency perhaps existed in this instance; certainly the loud public voice proclaimed it, but there is great danger that such precedents will be imitated without adequate occasion. Official unfaithfulness and the public demand are easy to be alleged as a pretext under which personal and party schemes may be carried into effect.

One act was passed which well illustrates what seems to be a sort of passion, which many persons with the best intentions have, of seeing their particular views enacted into law. They imagine, apparently, that when this is done the benefit with which they conceive their views to be fraught is already accomplished. This law requires that "the nature of alcoholic drinks and other narcotics and their effects on the human system shall be taught * * * for not less than four lessons a week for ten or more weeks in each year in all grades below the second year of the high school in all schools under State control or supported in whole or in part by public money." All pupils must continue the study until they have passed satisfactory examination. All regents' examinations in physiology and hygiene "shall include a due proportion of questions on the nature of alcoholic drinks and other narcotics and their effects on the human system. All pupils who can read shall study this subject from suitable text-books, but pupils unable to read shall be instructed in it orally by teachers using text-books. * * * For students below high school grade such text books (presumably on physiology) shall give at least one-fifth of their space, and for students of high school grade shall give not less than twenty pages to the

nature and effects of alcoholic drinks and other narcotics. * * * No text book on physiology not conforming to this act shall be used in the public schools." * * *

What the effects of an excessive use of alcoholic drinks are, is a matter of common observation and need not be taught in the schools; but what the particular physiological effect of alcohol upon the human body is is a matter about which men of science most competent to judge inform us that there is as yet no settled knowledge. What this act would accomplish, if it were obeyed, would be to devote a vast amount of the time of the young to the study of the dogmatism, probably the error, of sciolists; and there can be no well grounded belief that the effort will ever impress the young with an aversion to an indulgence in liquors or narcotics. As to the text-books, doubtless there are some publishers who have on hand some which alone will answer the requirements of the statute and will thus exclude all others.

Nevada.

The Legislature of Nevada has contented itself with the passage of one hundred and eleven acts, mostly brief ones, occupying but one hundred and twelve pages. The discrepancy existing between opinion in this state on the subject of money and that which moulds the policy of most nations is made very manifest, not only in the enactments, but also in many concurrent resolutions of this session. The latter exhibit an almost frantic sincerity, and condemn the opponents, and applaud the supporters, of the doctrines avowed with something like delirious intensity.

Among the enactments I observe one designed to promote purity in elections, containing some stringent requirements which if enforced, would prove very beneficial. It limits the amount of money which may be expended by candidates or other persons in elections, and requires itemized statements of the expenditures. Another permits the disposition of property by holographic wills, to be proved in the same way as other private writings.

New Hampshire.

New Hampshire exhibits few marked changes in legislative policy. A considerable step is taken in favor of the policy of providing for the incorporation of private companies under general laws rather than by granting special charters as heretofore. The prohibitory policy relating to intoxicating drinks is retained and made in some respects more rigid. The day prior to Memorial Day is set apart and required to be devoted in the public schools to exercises of a patriotic character. The demands of labor are acceded to in a requirement that suitable seats shall be provided in factories for female operatives.

An act drawn up with great apparent care provides for the establishment by private companies of street railroads. They are rigidly subjected to public supervision and control, and a wise provision limits the amount of capital stock to be issued to actual needs as determined by public authority. Further advances are made towards conferring upon State railroad commissioners a just authority and supervision over railroads.

North Dakota.

This State exhibits a commendable parsimony in legislation. Her one hundred and twenty brief acts are comprised in one hundred and seventy-six pages. One of these makes an endeavor on a large scale to do away with the trouble, acerbities and expense of legal controversy over small matters by providing for the election, concurrently with justices of the peace, of four commissioners of conciliation, in all towns, villages and cities, whose beneficent services may be called into play on the consent of both the contending parties at any time after the issue and before the return-day of the summons in any civil action before a justice of the peace.

North Dakota has also provided herself with a new suit of codes, but, by express provision, they are not printed with the other acts of the session and I have not been able to obtain them.

Cigarette smoking is subjected to severe restrictions. No one is permitted to sell, give away, or use any cigarette containing any substance "*foreign to tobacco*," and deleterious to health. This intimation that tobacco is not regarded as seriously deleterious to health has a comforting tendency. The selling or giving to persons under seventeen years of age of cigarettes, cigars or tobacco of any kind is also punished; but the boys themselves may smoke *ad libitum*, if they can procure, as they probably will, the cigars and cigarettes containing no substance *foreign to tobacco*.

On second thought the legislature seems to have concluded that it might be somewhat difficult to prove the composition of a cigarette after it had been smoked, and the next act passed by it is one absolutely prohibiting the sale of cigarettes "of any kind or form."

The humane dispositions are gratified by an act for the prevention of cruelty to animals. It is not surprising to find that the chief products of a State find protection in its legislation, and that where dairies abound the substitutes for butter and cheese should not be allowed to be palmed off for those articles. Still it seems fair that the makers of these substitutes, provided they are wholesome, should be allowed the common privilege of naming their wares, if they do not usurp names appropriated to other things. But North Dakota compels the manufacturer of a substitute for butter to stamp upon the packages "Patent Butter," a name perhaps which he would not himself prefer; and whoever sells substitutes for the historic butter or cheese must furnish the purchaser with a card stating correctly the different ingredients of the article, a requirement which the vendors of compound substances are not usually subjected to.

The advancing civilization of this State is manifested in several acts for the promotion of comfort and decency in and about school houses, the prevention of the circulation of obscene literature, and the creation of a Historical Commission. An attempt is made at the destruction of the Russian thistle

and other noxious weeds. The doctrine of Munn *vs.* Illinois is vigorously asserted by an act relating to elevators and warehouses.

The effect of rigorous attempts to tax personal property are strikingly manifested by an act permitting county treasurers at any time after the taxes upon personalty have become due, if they have reason to believe that the person against whom they have been assessed is about to remove himself or his chattels from the county, to immediately seize and sell sufficient personal property to pay the tax. Something is wrong in Denmark when the inhabitants of a taxed district seek to leave it to escape the taxes.

North Carolina.

A numerous array of acts is exhibited in this year's volume of the laws of North Carolina. The most noteworthy which I have observed among them are two, one dealing with the subject of taxation and the other with that of elections. The former nearly exhausts human ingenuity in contriving as many different forms of taxation as possible, instead of seeking to make them as few and simple as possible. Property is taxed, incomes are taxed, licenses in multiplied forms are required for carrying on occupations. This formidable machinery involves the creation of nineteen distinct penal offenses That such a complicated system can be operated with efficiency, harmony and justice seems impossible.

The election law seems to be an elaborate revision and amendment of the prior law, but I do not discover in it any novel features of interest to other communities.

Oregon.

A contest for the election of a United States Senator so far occupied the attention of the legislature as to leave comparatively little time for attention to other public business.

A quite novel piece of legislation is shown in an act giving the right to take lands for the construction of railroads, skid roads, tramways, chutes and flumes for the purpose of transporting lumber and other products, the facilities thus provided being declared to be for the public use. All persons can use them upon paying reasonable compensation. The public necessity declared by the act as the justification of such legislation and of its immediate operation, is that of speedily developing the mineral and other material resources of the State—a rather liberal application of the right of eminent domain.

A policy adopted by several other States during the past year is followed in the establishment of irrigation and dyke districts for irrigating lands in some places and securing against overflows in others. These districts are authorized to assess upon the inhabitants the expense of the works constructed, but lands not needing irrigation cannot be included against the will of the owners.

The practice of medicine and surgery is regulated in a manner similar to that adopted this year in several other States, by requiring licenses from a board of experts after examination. Three schools are recognized, regulars, eclectics, and homœopathists. A rather large demand is made on the Oregon Railway and Navigation Company by an act providing that when any person or company anywhere between certain designated points on the Columbia River shall build and grade a side track, it shall furnish iron for the track, and cars for the transportation of freight, and maximum rates of freight between those points are fixed by the act. The only security which the Company has for re-imbursement or compensation for laying down rails and furnishing and running cars, is the probability that no one will construct and grade a track except where there is a prospect of a considerable amount of transportation. It would appear however that if the Legislature can compel a railway company to do this, it might also compel one to extend its line beyond the termini mentioned in the charter.

PENNSYLVANIA.

This great Commonwealth has distinguished itself by rejecting much proposed legislation of a novel character, and called communistic by those who do not approve of it.

It has exhibited exceptional liberality towards institutions for the higher education, bestowing upon the University of Pennsylvania the sum of $200,000.

It has recognized the sad neglect which has hitherto been shown in relation to a great public interest by enacting a general forestry law, making provision for the preservation of forests from which much good may be expected.

It has made a probably useful change in the law of evidence by permitting the comparison of genuine with alleged simulated signatures; prohibited the wearing in any public school by any teacher of any religious garb, badge or symbol, and greatly enlarged the powers of bank examiners.

RHODE ISLAND.

Several pieces of wisely suggested legislation have been enacted in this State.

An odious exception from the penal law which permitted the practice of betting on horse races, where the track was owned by an incorporated agricultural society, was repealed. The widely spread tendency to regulate the practice of medicine and surgery was yielded to in an act providing for examination and license. The patriotic movement against the display of foreign flags on public buildings was seconded by legislation for that purpose. The advantage which fire insurers are supposed to enjoy in dictating the form of their engagements was done away with by an act prescribing the form of policies, and a step in the right direction was taken by an act providing for the construction of public roads in certain cases by the State.

SOUTH CAROLINA.

The violent political dissensions in this State do not appear to have left any conspicuous mark upon its legislation at the

last session, unless it be in the provisions of the act providing for a constitutional convention and a registration of voters to that end. The latter has been declared unconstitutional by the United States Circuit Court.

The most noteworthy permanent legislation is an act rigorously forbidding in any form, direct or indirect, the consolidation of competing lines of railroad.

A patriotic interest in the history of the State is evidenced by an act creating a commission for the purpose of collecting and publishing matters of interest connected with such history.

South Dakota.

This State establishes a State Board of Health with extensive powers; amends her tax laws with the determined purpose, common to so many States and equally sure to be defeated, of taxing everything which passes under the name of personal property, and insists upon taxing many things of this sort twice by taxing all credits, so that if one of two men who are worth, each, one thousand dollars in money and other personal property, lends five hundred to the other and takes the note of the latter for it, the transaction adds five hundred dollars to the taxable property of the State! She yields to the universal movement inaugurated, I should guess, by guaranty companies, allowing such companies to become sureties on official bonds; creates the office of County Examiner to examiner the books, accounts and funds of the treasurer of each township in the county. This is one of the arid States and provision is made for the sinking of artesian wells at the public expense for irrigation and other purposes. The ancient institution of the grand jury is boldly dispensed with in all cases unless the judge of the Criminal Court directs one to be summoned. The substitute is an information filed by the legal representative of the State against persons supposed to be guilty of crimes. Provision is made for county mutual fire insurance companies authorized to take risks only on property

within the county. Those who practice pharmacy are required to obtain a license. Prize fighting is rigorously forbidden. Very large additional powers are conferred upon the railroad commissioners appointed under existing laws. The recent afflicting droughts in this State are evidenced by legislation empowering public officers to procure and furnish to those otherwise unable to obtain it seed grain.

TENNESSEE.

Tennessee enacts a law removing from witnesses the disabilities of unbelief. She also introduces a change into the law of adverse possession by providing that an adverse holding shall not be effectual unless under a recorded assurance of title; bestows upon a particular county the very unusual power to subscribe to the capital stock of "any domestic or foreign manufacturing company;" follows the example of other States in protecting butter against simulated substitutes; extends favor to guaranty companies by authorizing the acceptance of them as guarantors of public bonds; destroys preferences in assignments by debtors in failing circumstances and makes such assignments enure equally for the benefit of all creditors; provides measures for arresting the spread of contagious or infectious diseases among animals, and abolishes the convict lease system and provides for the utilization of convict labor upon farm and coal lands owned by the State.

TEXAS.

This vast commonwealth has enacted a goodly number of laws most of which are of local interest only. Some new policies, however, are favored. Married women over twenty-one years of age are no longer to have an advantage over others in actions for the recovery of real property; they are subjected to the operation of the statute of limitations. A tentative effort is made in the direction of establishing boards of arbitration for the settlement of disputes between employees

and employers. An act is passed for the registration and protection of trade-marks, which my official correspondent in that State wisely suggests may serve rather than to distract attention from the broad and sufficient rules of the common law, than to further elucidate the subject. The subject of irrigation has received additional attention, as in other States containing large arid regions. A law is passed preventing the abatement of actions for personal injuries not resulting in death, by the death of either party; another making the perpetration of frauds at primary elections criminal; another taxing all national bank notes, United States legal tender notes and other notes and certificates of the United States intended to circulate as money. There seems to be a singular inconsistency in legislation like this by States loudly complaining of the insufficient amount of the circulating medium. Laws like this, if enforced, would powerfully tend to aggravate the evil by still further keeping out of the State that very facility of the want of which so much complaint is already made.

VERMONT.

This conservative State moves with characteristic precaution in legislation. It passes an act authorizing towns, cities and incorporated villages to establish public libraries at the public expense; discourages a resort to it for the purpose of obtaining divorces by requiring a year's residence by the moving party before suit, and adds to the causes of divorce at the instance of the wife, the gross, or wanton and cruel, neglect of a husband having sufficient pecuniary or *physical* ability to provide an adequate support for her. Other legislation authorizes the appointment of a married woman as executrix, guardian or trustee; compels towns to pay into the State treasury a share of the profits made on the sale of liquors under the prohibitory law; regulates the practice of pharmacy by requiring licenses upon examination; authorizes the quarantining and killing under certain circumstances of domestic

animals believed to be infected with bovine tuberculosis, and makes the right of the owner to payment in such cases depend upon whether upon a *post mortem* examination it turns out that the animal really had the disease or not. It also makes the adulteration of candy or the sale of adulterated candy a punishable offence.

WASHINGTON.

Much disposition was shown by the legislature at its last session to take action along the true line of progress. The subject of admission to the bar was newly regulated; the magnanimous policy of subjecting the State to suit in her own courts was adopted; the equality of civil rights was assured by legislation securing the full and equal enjoyment not only of all public accommodations and places of amusement, but also—a debatable policy—of such places as lodging and eating houses and barbers' shops. Provision was made for the thorough and effective organization of the military power. The regulation and protection of law was extended to the proceedings of political primary meetings. An attempt was made to repress the supposed mischiefs of cigarette-smoking. The hours of labor of street car employees were limited to ten. A quite novel expedient for the protection of stockholders in corporate bodies was adopted by an act which enables the stockholders at any time to expel a director from office; very properly this is not done on charges. It is the mere *sic volo* of the principal dismissing his agent. The proceeds of fire insurance upon property exempted from the reach of creditors is also exempted; and, what seems to me a very questionable policy, the proceeds of life insurance on the life of a deceased person, are exempted from liability for his debts. A policy on the subject of irrigation similar to that adopted in several other states is sanctioned, by which irrigation districts may be established and irrigation be furnished at the expense of such districts.

West Virginia.

Much of the legislation of this State at its last session was of a local and special character and I observe little which possesses interest for other communities. A fatal blow is dealt at all assignments by persons in insolvent circumstances preferring creditors. The assignment is left to stand, but must be treated as for the benefit of all creditors alike.

Wyoming.

An act is passed in this State allowing verdicts to be rendered upon a concurrence of three-fourths of the jurors. An attempt is made to preserve the few remnants of the race of buffalo by an absolute prohibition of the killing of that animal. A party producing a witness is allowed to impeach him by proof of prior contradictory statements. A form of municipal government is devised for cities of the first-class which are made to consist of cities of more than four thousand inhabitants. Provision is also made for the organization of the voluntary military force.

Congress.

The last national Congress exhibited for the first time for more than a quarter of a century an ascendency—a bare one, however, in the Senate—of the Democratic party. It is, perhaps, due to the latter circumstance that the action of that party in carrying into effect its own principles was in some degree halting and irresolute. Notwithstanding this three notable pieces of legislation were carried through. One abrogated the singular and mischievous policy of a purchase by the government of an enormous annual amount of one of the products of industry, paid for by an issue of government obligations having the quality of legal tender. Another made a large, though not a radical, modification of the longer established policy of attempting to protect native industries by burdening imports from foreign countries with heavy duties. The third abrogated the

supervision by the national government of elections. The first cannot be regarded as a party measure, having been both supported and opposed by large numbers in each party. In a political atmosphere still highly charged with partisan heats and ambitions, useful comment upon the other two is at present hardly possible. Perhaps the public mind is settling into a general conviction that simultaneous attempts by two distinct sovereignties to regulate elections held at the same time and place are a hazardous policy which great necessities alone can justify. If the apprehensions upon which the repeal of the Federal elections laws was resisted shall turn out to be unfounded, all patriots will rejoice that the national statute book no longer contains any enactment founded on a distrust of the good faith or loyalty of any of the States.

In concluding this very cursory and imperfect review of the more noteworthy features of the legislation of the several states, I may be indulged in some observations concerning the purpose for which our constitution requires it, and the conditions under which it may be made useful.

One of the declared objects for which our Association was formed was "to promote uniformity of legislation throughout the Union;" but I take it that *uniformity*, merely as such, and irrespective of the character of the legislation, is not what was intended, but a uniformity to be brought about by a general acceptance of the best forms of legislation. To advance the science of jurisprudence is also among our declared objects, and our constitution provides for the appointment of a standing committee on Jurisprudence and Law Reform. I take it that the terms "jurisprudence" and "law" were here employed in their larger import as including positive legislation, and that general legislative improvement is one of the objects which this notice of the statutory action of the several States required by

our constitution was designed to subserve. But why is it that we, more than others, should charge ourselves with the duty of laboring for general legislative improvement, and how are we to make this knowledge of the legislative action of numerous independent States subservient to that end? Is this knowledge, of itself, instructive for the purpose in view, or must something more be known in order that it may be turned to good account? There are some thoughts touching these questions which may usefully receive some attention.

If we conceive, as we justly may, an independent society of men as one body apart from the individuals composing it, with a separate and distinct conception of its own existence and interests, and conscious of a power to affect them by a predetermined line of action, the statutory laws of such a society become analogous to the voluntary resolutions of a person for self-improvement. Rightly interpreted, they correctly represent the character of the society, and the best side of its character, that is, the side exhibited by its resolutions for self-amendment. The observation by individuals of the examples, lives and characters of their fellow-men is one of the chief means of individual improvement; and, in like manner, the observation by one people of the laws, that is to say, the character, of another people may, be made a means of social improvement.

But this is a study which belongs to the sociologist and the reformer, rather than to the mere lawyer. The latter, indeed, may have a special interest in those laws of other societies than his own which relate to the practice of his particular art, or to the interests of his profession; but these comprise a a small and comparatively unimportant part of the body of legislation in any State. Upon other subjects it is his business to know what the laws of his own State are, and this knowledge is not greatly aided by an inquiry into the legislation of other communities.

But in our country the members of our profession are not universally mere lawyers. They are everywhere relied upon

as the principal legislators. Their studies must necessarily qualify them to a certain extent for this work, and it is the traditionary custom of American society to call upon them as well for advice concerning the proper subjects for legislation, as for their skill in fashioning the will of the people into appropriate enactments. It is this which enlarges the area of the lawyer's interest and duties and makes everything which bears upon the problem of legislation important to him. The study and comparison of the legislation of different communities is one of his duties, or at least one of the duties of those who are willing to accept, or who aspire to reach, a place in legislative bodies.

But how is this study to be turned to useful account? Imitation of well conceived laws is the ready suggestion; but how are we to know what is well conceived? It is plain that a mere knowledge of the legislative work of others is not, of itself, sufficient. I have said, and I think the observation just, that the laws of a people are analogous to the resolutions of an individual for self-improvement; but are the laws executed? Do they represent the resolutions of a wise and self-controlled man which are actually carried out and show their fruit in life and character, or those abortive resolves which serve only to indicate a man conscious of error but incapable of reformation? A community of tiplers may be very willing to prohibit the sale of intoxicating drinks; but they mean nothing by it, and nothing will come of the prohibition. The statute books of States, like the experiences of individual lives, abound in broken promises of repentance.

It is very manifest therefore, that something more is required than the mere knowledge of the legislation of other communities in order to turn that knowledge to good account. Something must be known from other and independent evidence of the character and actual condition of the people whose legislation is studied. We must learn whether the laws are actually executed, and if not, whether the fault is to be found in the frame work of the laws, or in the character of

the people themselves; and if they are executed, the effects are to be studied that we may know whether they are beneficial or otherwise.

The study of comparative legislation must, therefore, in order to be useful, be made a large one; but this is no reason why it should not be taken up, but an incentive to its diligent prosecution. The lessons of wisdom are taught by the experience of others as well as by our own. Progress will be slow, indeed, if we wait until our own misfortunes impress their lessons upon us.

And the practical far exceeds the academic importance of the study. It is a part of the study of the *general* subject of legislation, than which nothing is more necessary and scarcely anything more neglected. When we consider the amount of the talent, skill and training which is called into requisition to satisfy those needs which are most immediately felt by individuals, as in business affairs and those with which the learned professions are concerned, and compare it with that to which the all important task of framing our laws is entrusted, the spectacle seems almost ludicrous. What a difference the face of society would present if our laws were conceived and framed with the same knowledge of the work and the same skillful adaptation of means to ends as is exhibited in the construction of a modern steamship, the argument of a well instucted lawyer, or the treatment of a wound by an accomplished surgeon; and yet legislation is in its nature a science as susceptible, however more difficult the task may be, of subjection to principle and rule as the professional work I have mentioned.

I am not unaware of the difference in point of excellence between public and private work. In a democratic society, particularly, it is not likely that the selection of legislators can ever be made with uniform wisdom; but a great step in advance will be made when those who aspire to the office of legislator, or are likely to be called upon to accept it, begin

to seek that knowledge which a just performance of the office requires.

Never so much as at the present time has the need of competent legislators been manifest. The vast increase of our population, the great changes produced by the increase of manufacturing industries, the vastly greater proportional increase of urban populations, the prodigious activities of modern societies, the enormous revenues which the public service requires, have all combined to raise most difficult questions of legislation, many of which are now pressing for better solutions.

Take the great question of taxation, a problem which, quite aside from the point upon which parties are divided, is every year assuming larger and almost ominous proportions; in nearly all our States we find a forest of intricate legislation aiming at the impossible task of finding intangible and non-visible property, and exacting from it a tribute which in a vast number of cases would amount to confiscation if it were really collected. The unsuccessful efforts are followed by additional enactments of increased vigor bristling with penalties for evasion, and, in most instances, the only results of the more stringent laws are to increase perjury and diminish the actual revenues received. It is amazing to think that enlightened States abounding in productive wealth which would easily afford an ample revenue, if properly tapped, should persist in retaining an intricate system of taxation, even after it has proved to be abortive for its avowed objects. And yet this is what is everywhere exhibited. The failure to fully reach the real fund of annual production necessitates an exorbitant charge upon what is reached, and the alternatives offered to many are confiscation, emigration or perjury, the latter being the one most frequently accepted. It seems incomprehensible that a people could deliberately adopt a policy which fosters the increase of crime, contempt for the laws, and the debasement of character. In some communities, notably in the city of New York, the impossibility of a general

and equal enforcement of the law, and the revolting injustice of a partial effort have had the effect of leading the executive officers to wholly abandon any serious attempt at a rigid enforcement. And yet these worse than useless results of legislative action seem nowhere to lead to any serious inquiry into the real nature of the difficulty with the view of establishing legislation upon a more enlightened basis in accordance with the principles of human nature and the teachings of economic science. Great States, for the want of legislators properly instructed in the weighty business of legislation, are left to stand as spectacles of bewildered imbecility.

The condition of what are called sumptuary laws in the various States is equally discreditable to our knowledge both of the science of legislation and the teachings of experience. The common notion that somehow laws execute themselves seems to hold its sway over the public mind, and even over that of legislators, in the face of a thousand demonstrations to the contrary. Multitudes will busy themselves with the work of securing the passage of laws under the illusion that plenty of human instruments may easily be found who will undergo the labor of enforcing them against the passions, the beliefs and the interests of other multitudes. Such tasks can be accomplished only by a despot armed with unlimited power. The result is that our statute books are bristling with penal enactments which have little effect in repressing the practices against which they are aimed. The common mode of attempting to make such legislation more effectual is simply to make still further and more rigorous laws, that is, to administer heavier doses of a remedy already proved to be ineffectual. Were we to take an account of the moderate amount of repression actually effected by such legislation and of the evasion, false swearing, private animosity and contempt for law engendered by it, the balance would be found wofully on the side of public mischief.

I do not intimate that public reformation may not in many instances be aided by restrictive or prohibitory legislation,

even in such matters as indulgence in intoxicating drinks, but reason and experience unite in proving that such legislation cannot be made effective for its purpose, unless it represents the deliberate resolve of the overwhelming mass of the community. A society which has not the moral energy to enforce its will in any particular case should never embody that will in the form of a statute. A law, in order to be efficacious, must always be preceded by a corresponding degree of moral education extending through the community.

There are other directions in which laws become agencies for mischief rather than good because they are framed to regulate matters which are not fit subjects for legislation. There are large numbers in all free societies with whom law-making amounts almost to a passion. Legislation is the source of so many advantages that many fall into the error of thinking that it is a blessing *in se*, and not, what it more correctly is, a choice among evils, and it is so easy among us to procure the passage of laws which do not immediately conflict with some private interests that many find pleasure in the work, and fancy when engaged in it that they are public benefactors in devoting their time and talents to this form of public service. In our legislatures, too much engrossed with party and personal schemes, it is not difficult to induce acquiescence in proposals for new laws which are plausibly presented. The statement of expected benefits is received with easy credulity. Little inquiry is made concerning the possible mischiefs which may follow from the adoption of a proposed measure, and if no one offers energetic opposition it is apt to pass. It is here that the ambitious experimenters and reformers, not to say *cranks*, find their opportunity, and they are never satisfied until their whims are enacted into law.

A good illustration of the disposition to which I have alluded, and of its operation, is found in the law passed at the last session of the legislature of New York which I have noticed, requiring four lessons a week for ten weeks in each year, in the public schools of that State upon the physiologi-

cal effects of alcohol and other narcotics upon the human system and prescribing text books and making other requirements. The mind that framed this law, carried away with the unfounded notion that everything upon this subject was known to science and taught in books, probably supposed that the whole generation of the youth of the land would be impressed, as she or he had been, by a study of the subject and would be forever armed against the temptations of indulgence. The notion that intricate and abstruse physiological truths could be made interesting and taught to young minds by the ordinary public-school teacher, quite unable himself to adequately comprehend them, is sufficiently absurd. It is enough to say that those whose interest lies in the sale of intoxicating drinks saw no danger to their welfare in this proposed enactment. In a legislature in which this class always has a goodly number of guardians, no one thought it worth while to offer opposition. It passed, I believe, unanimously.

Another illustration of the mischief flowing from this same passion for law-making is found in the present condition of the law of judicial procedure in some, perhaps many, of our States. Judicial procedure embraces the various successive steps by which a court clothed with jurisdiction over a particular subject matter and the interested parties advances to a final judgment. It should, of course, be methodical and known to those who are required to practice under it, and should, therefore, be regulated by rules; but these rules, being merely machinery for the accomplishment of an end, should not be made superior to the end itself, and should, consequently, be capable of being relaxed where a rigid observance would, as it often must, in consequence of the neglect, ignorance or oversight of the parties, defeat justice. They should be clothed as little as possible with the form of inexorable law. Surely none are so well qualified for the work of framing and moulding these rules as the courts which are called upon to administer them; and none so ill qualified as legislative bodies composed of non-professional members, for

the most part. The obvious conclusion from this is that judicial procedure, except to a certain very limited extent, is not a fit subject for legislative action, but should be governed by rules of court.

Let me point out some of the miseries which a different view of this matter has brought upon the State of New York; and I venture the prediction that if they are not already felt by other States which have, to a greater or less extent, followed her example, they sooner or later will be. Something more than fifty years ago the legislature of that State was induced to believe that substantially the whole system of judicial procedure in her superior courts, including all the successive steps in an action, should be enacted into regular law; and it was done by the framing and adoption of what was called a Code of Civil Procedure. I say nothing here concerning the merits of the particular system thus adopted, for the eventual result would, I believe, have been nearly the same whatever its character. What is certain, however, is that by this step procedure was made the subject of ordinary legislation, and all subsequent amendments, or enlargements, of the system were consequently to be made by legislative action. Numerous defects were soon found in this code, as would have been the case with the best of such schemes, and no legislative session was held in which attempts were not made to cure them. Besides this, from time to time, some lawyer, generally not very competent, would conceive that he saw some point on which the system might be improved, and some others would see how a point in some of their own litigations could be carried if a change in practice could be effected. These were continually busy, and usually sucessful, in procuring amendments. At the same time the courts were burdened with the resolving of the multitude of questions which arose upon the interpretation of new provisions. The work of legislative amendment and judicial interpretation, thus constantly proceeding *pari passu*, after the lapse of some years increased the volume of legislation and comment to such an extent as to call for thorough

and systematic revision. This task was committed to hands far less skillful than those which first contrived the scheme, and resulted in the production of a text of prodigious volume, dismaying to the student and disgusting to the practitioner. The original author of the Code denounced it an an abomination, and yet it was enacted. The work, however, of legislative amendment and judicial interpretation still went on, and still goes on, making the practice of the law more and more uncertain and hazardous. The profession throughout the State is now calling out loudly for some form of relief, and no one seems able to suggest a hopeful remedy. The judicial decisions interpreting the provisions of this confused system, if collected together, would fill many more than one hundred ordinary volumes of reports, representing an amount of forensic strife and professional and judicial labor—all unnecessary—far exceeding that which many whole States have required for all the purposes of their judicial establishments. If we should compute the amount of money lost and wasted in employing the judicial and professional force engaged in this work, added to the losses of time by clients, and the defeats of juctice, the sum would be amazing. And I do not believe that any of those who have heretofore thought that this experiment in judicial procedure was worth trying could point out a single substantial benefit which has come from its adoption. There is a ready proof of the fundamental error of the whole scheme. Take the New England States in which the old practice has been retained, or superseded by some simple scheme confined, so far as legislation is concerned, to a few general outlines and leaving all the details of practice to be regulated by rules devised by the court; the judicial decisions in none of them for the entire period during which the New York Code of Procedure has been in operation would scarcely occupy space more than that of an ordinary volume of reports, and we hear no substantial complaint from their lawyers or their people that justice is defeated or delayed by the require-

ments of formal procedure. The signifiance of these facts is unmistakable.

I attribute these errors in legislation upon which I have been commenting, principally to the two causes already mentioned, and which are closely allied with each other; *first*, the common passion—the *cacoethes*—which afflicts so many, of framing new laws; and, *second*, the disposition, or the willingness, common to all legislatures of acting upon matters which are not proper subjects of legislation at all. I know of nothing more needed among us than a deepened conviction that the sphere of legislation, like that of other forms of human activity, has its proper limits which can never be exceeded without mischief, and a sufficient knowledge of what these limits are.

This Association now has an exceedingly important, able and diligent committee upon the subject of Legal Education. I respectfully invoke the attention of that committee to the inquiry whether, considering the various functions which the members of the bar are called to perform in American society, a knowledge of the science of legislation ought not to be regarded as an appropriate, if not an indispensable, part of that education, and adequate provision be made for it in our schools for legal instruction. The article of our constitution which makes it my duty to review the new legislation of the several States properly implies that we are not alone interested in such legislation as concerns our profession, but in all noteworthy legislative action. Existing legislation is in large measure the work of our profession, and it is in our power in a corresponding degree to shape and mould the legislation of the future.

In urging the increased study by our profession of the science of legislation, I mean that science in its broadest extent. It should embrace, as I conceive, two principal branches; one relating to the just limits of the province of legislation, that is to say, determining what subjects are really fit for legislative action, as distinguished from those which

should be left to the disposition of courts, or to the discipline which proceeds from the moral agencies of society. I am not unaware of the extent of the field of inquiry thus embraced. It includes the fundamental elements of economic science, and the principles upon which sociological inquirers are generally agreed. I do not mean that these sciences must be mastered in their details; but that their main features should be known so far as to enable the student to avail himself of their results and to employ their methods. The other important branch is the study of the proper manner in which subjects fit for legislative action should be treated, that is to say, the art of framing appropriate and effective laws. The ordinary training of the lawyer goes far to qualify him for this work, but there should be added to it a study of the various legislative devices of different communities and of the degree of efficiency with which they operate. I can scarcely set any limit to the public benefit which would flow from the presence in our legislative bodies of even small numbers of conscientious lawyers well exercised in these two branches of legislative science.

I must not omit to notice another aspect in which the review which I am called upon to give of the legislation of the several States is designed to be useful. I refer to the effort which is now receiving so much attention, and in which our Association takes much interest, to bring about a certain measure of uniformity in our laws.

The laws of a people should, of course, be devised and shaped in accordance with their traditions and their character, and so far as these differ, it is neither possible nor desirable to have entire uniformity in them. But the resemblances in character and traditions between the people of the States of the Union are far greater than the differences, and this renders uniformity in many particulars practicable. And where mutual relations are so close and inter-communication so general and constant, the difficulties and embarassments arising from different systems of law are numberless. If a beneficent despot had absolute rule over our sixty-five millions, his ambition, and

perhaps his duty, would be to *force* a certain measure of uniformity in law everywhere; and if our national government had the constitutional authority to effect the same result, that authority might perhaps be appropriately exercised to that end. There are none who, even for such a blessing, would accept a master, and few who would be willing to surrender the greater advantages which are supposed to flow from the division of our country into separate States, sovereign for the purposes of domestic legislation. But is there no way in which a people essentially one in fact, if not in form, can secure to themselves the obvious and prodigious benefits which would arise from a uniformity in the legal rules which they are required to observe? Our unwritten law is already substantially the same, and that I have always regarded as an impressive reason for abstaining from any attempts to reduce it into written forms, which would at once (being made by different legislatures) tend to plunge it into diversity. Whatever can be done to secure this desired uniformity must be done by voluntary concerted action. The attempt is a bold one, but the tendencies all favor it, and much may be accomplished by taking advantage of them. The appointments made by several States during the last year of commissions designed to forward this effort afford us much encouragement.

This subject has aspects not limited by the boundaries of States and nations. The marvelous utilization by science of the forces of nature has correspondingly developed facilities and desires for commercial and social intercourse among nations. A necessary consequence is a tendency towards the obliteration of the sharper features of national distinctions and a gradual assimilation in manners, customs and moral standards, which begins to seek, and will more and more seek, a uniformity in general law. All efforts to help forward this uniformity must begin with a study by each State of the legal establishments of the others. The jurists of other nations are beginning to turn their attention in this direction. A society for the study of comparative legislation has been recently formed in Great Britain,

and we have reason to know that it is desirous of opening communication with our Association with the view of co-operation in the common object.

More suggestive than all else is the eager embrace by ancient eastern peoples, waking up from the intellectual sleep of ages, of the ideas and institutions, both of peace and war, of western civilizations, wrought out and fashioned during their long slumber. The recent treaty between the United States and Japan by which we agree to submit our persons and property within the territory of the latter power to the same justice which is meted out to her own people, is an impressive recognition of the beneficent influence of uniformity in law.

So far as the unwritten law is concerned, so far as the law consists of the simple dictates of right reason applied to human affairs, this uniformity will be approached as rapidly as should be desired by the operation of the unconscious forces of human society. The distant ideals are unchangeable and everywhere the same, and as the nations advance towards them they fall, or rather rise, more and more into identity. It was this ideal law which the great Roman orator and writer declared, in a burst of immortal eloquence, "was not one thing at Rome and another at Athens," and the universal cultivation of the science of unwritten jurisprudence will eventually produce the same plant on every soil. But the positive legislative determinations of nations can be assimilated, or reconciled only by conscious and concerted action. Much has already been accomplished in this direction by treaties, and by those concurrently adopted regulations operative upon the sea, the common domain of all nations. The wise furtherance of this beneficent work depends upon the intelligent oversight and co-operation of the enlightened jurists of the world.

RECENT CRITICISM

OF

THE FEDERAL JUDICIARY.

BY

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Within the last four years, the governors of five or more States have thought it proper in official messages to declare that the Federal courts have seized jurisdiction, not rightly theirs and have exercised it to the detriment of the Republic, and to urge their respective legislatures to petition Congress for remedial action to prevent future usurpation. One legislature did present a memorial to Congress reciting the grievances of the people of its State against the Federal judiciary and asking a curtailment of the powers unlawfully assumed by them.

The principal charge against the Federal courts, which an examination of these documents discloses, is that they have flagrantly usurped jurisdiction, first, to protect corporations and perpetuate their many abuses, and second, to oppress and destroy the power of organized labor.

These charges against the Federal judiciary have not been confined to messages from State governors. They also come from persons, who although not holding high office, have a standing before the bar which entitles them to respectful attention. Much of what is found in the official communications I have referred to concerning the treatment of corporations by the Federal courts has taken form from the articles and addresses of the editor of the *American Law Review*. This gentlemen, well-known as an able and prominent law

text writer, has given much attention to the Federal decisions on corporate matters and has expressed his condemnation of many of them in language that has lacked nothing in freedom, emphasis or rhetorical figure.

The one judicial system to which all the members of this Association bear the same relation is that of the United States, and when I was honored with an invitation to address them it at once occurred to me that I might properly ask their attention to a temperate discussion of the justice of these criticisms.

I have since been oppressed with the thought that the theme might with more propriety be left to one having no official relation to the Federal courts, but circumstances have prevented any change from my original impulse. I can only hope that my recent admission to the inferior ranks of the Federal judiciary and my humble position therein will prevent the suggestion that what is here to be said has anything in it either of a personal defense or of a *quasi* official character.

The opportunity freely and publicly to criticise judicial action is of vastly more importance to the body politic than the immunity of courts and judges from unjust aspersions and attack. Nothing tends more to render judges careful in their decisions and anxiously solicitous to do exact justice than the consciousness that every act of theirs is to be subjected to the intelligent scrutiny and candid criticism of their fellow men. Such criticism is beneficial in proportion as it is fair, dispassionate, discriminating and based on a knowledge of sound legal principles. The comments made by learned text writers and by the acute editors of the various law reviews upon judicial decisions are therefore highly useful. Such critics constitute more or less impartial tribunals of professional opinion before which each judgment is made to stand or fall on its merits and thus exert a strong influence to secure uniformity of decision. But non-professional criticism also is by no means without its uses, even if accompanied, as it often is, by a direct attack upon the judicial fair-

ness and motives of the occupants of the bench; for if the law is but the essence of common sense, the protest of many average men may evidence a defect in a judicial conclusion though based on the nicest legal reasoning and profoundest learning. The two important elements of moral character in a judge are an earnest desire to reach a just conclusion and courage to enforce it. In so far as fear of public comment does not affect the courage of a judge but only spurs him on to search his conscience and to reach the result which approves itself to his inmost heart, such comment serves a useful purpose. There are few men, whether they are judges for life or for a shorter term who do not prefer to earn and hold the respect of all, and who can not be reached and made to pause and deliberate by hostile public criticism. In the case of judges having a life tenure, indeed, their very independence makes the right freely to comment on their decisions of greater importance because it is the only practical and available instrument in the hands of a free people to keep such judges alive to the reasonable demands of those they serve.

On the other hand, the danger of destroying the proper influence of judicial decisions by creating unfounded prejudices against the courts, justifies and requires that unjust attacks shall be met and answered. Courts must ultimately rest their defence upon the inherent strength of the opinions they deliver as the ground for their conclusions and must trust to the calm and deliberate judgment of all the people as their best vindication. But the bar has much to do with the formation of that opinion and a discussion before them may sometimes contain suggestions which bear good fruit.

Many persons whose good opinion is a high compliment, regard the Federal judiciary with so much favor that they would deprecate a consideration of the criticisms already stated as likely to give an importance to them they do not deserve. I cannot concur in this view. I believe that in large sections of this country there are many sincere and honest citizens who credit all that has been said against the Federal courts, and

that it is of much importance that the reasons for the existence of these criticisms and their injustice be pointed out.

It is not unfair to those governors who are the chief accusers of the Federal judiciary to say that they knew that they were not speaking as they did to unwilling ears. They were merely putting into language the hostile feeling of certain of their constituents toward the Federal courts, and but for such feeling the criticisms would hardly have been uttered. It will, therefore, in a large measure account for such criticisms if we account for the popular sentiment they were made to satisfy.

It will be my endeavor, therefore, first to show that much, if not all, of the present hostility to the Federal courts in certain parts of the country and among certain groups of the people can be traced to causes over which those courts can exercise no control, and is necessarily due to the character of the jurisdiction with which they are vested and not to injustice in its exercise; and second, that the criticisms which such hostility has engendered are in themselves without foundation.

The history of the Federal courts since their beginning is full of instances where the exercise of their jurisdiction has involved them in popular controversies and has brought down upon them the bitter assaults of those unfavorably affected by their decisions. Yet the event has justified their course and shown the injustice of the attacks.

The Federal Constitution was framed to create a national government with limited powers and to mark the line between its jurisdiction on the one hand and that of the States and the people on the other. By virtue of its eighth article the State courts and *a fortiori* the Federal courts were vested with the power and charged with the duty in judicial cases arising before them of ignoring State laws in conflict with the Federal Constitution. By necessary implication their obedience to the fundamental law also required them to ignore acts of Congress which were so plainly in violation of the Constitution that even the necessary and high respect due to the construction by

Congress of its own powers could not give such acts the force of law.

The Federal judiciary at once became the arbiter in the first great political controversy of the United States, and one which is continually reappearing in various forms. The general language of the Constitution required construction to apply it to judicial cases arising in the organization and maintenance of the government. The two parties which had engaged in heated controversy over the adoption of the covenant at all continued it over its narrow or broad interpretation. The Supreme Court in the beginning was made up largely of men whose predilection was for a liberal construction and who believed thoroughly in the national idea. This was soon manifest in their decisions which called down upon the court the anathemas of the strict constructionists whose great effort it thereupon became to weaken the power of the judiciary. It was attempted to control their independence by making very wide the grounds for impeachment. The great Chief Justice was constantly threatened with this fate by partisans and the attacks upon his alleged usurpations were frequent and fierce. Jefferson's severe words concerning the Federal judiciary, now so often quoted by their latter day critics, were written in 1820 and were provoked by the decision in Cohens *vs.* Virginia, reaffirming the power of the Supreme Court of the United States to reverse the decision of the Supreme Court of a State on the validity of a State law under the Federal Constitution. It is not surprising that he who had inspired the Kentucky resolutions of 1798 declaring the right of a State to decline compliance with a Federal law deemed by it to be in conflict with the fundamental compact, should regard the Federalist Supreme Court which itself asserted the right finally to decide such a question, as "a thief of jurisdiction."

Upon political questions, and such are those arising in the construction of a political charter, there always have been and always will be differences of opinion. There is frequently no absolute standard, even a century after, in deciding the abstract

right of them. We must be content to abide the result reached by the verdict and acquiescence of the people whose interests were involved. Before this tribunal, the position of John Marshall and his associates on the Supreme Bench has been vindicated and the criticisms of Thomas Jefferson have been refuted.

Beginning then as arbiters in a political conflict and wielding similar powers until to-day, the Federal judiciary have never enjoyed immunity from hostile attack upon their conduct or their motives. The great controversy over the fugitive slave law needs no recounting here. In the eyes of the abolitionists the Federal courts and their marshals were instruments of hell in enforcing the law, and yet there could not be the slightest doubt that such a jurisdiction was plainly within the Constitution.

The change of feeling toward the Federal courts because of the change in their jurisdiction with respect to the negro race affords an apt illustration of how mere jurisdiction may affect the popular feeling toward a court. Before the war the southern people had not looked with disfavor upon courts which did so much to preserve their property, while at the same time the abolitionists regarded them with aversion. After the war, when, for the protection of the negro in his electoral and civil rights, the election and civil rights bills were passed and their enforcement was given to the Federal courts, they became at the same time the objects of hatred and condemnation at the South and the great reliance of those who had been abolitionists at the North. Now that both parties have wisely decided to let the election problem work itself out and to await the local solution which the results of fraud and violence in elections will compel, the feeling of hostility at the South against the Federal judiciary has greatly abated.

This is but one of many historical instances showing how the Federal courts may be subjected to the most severe criticism without just grounds merely because of the character of their jurisdiction.

I come now to review the reasons why their mere jurisdiction has created a deep impression in many parts of the country that the evils due to corporations are fostered by them.

The last two generations have witnessed a marvelous material development. It has been effected by the organization and enforced co-operation of simple elements that for a long time previous had been separately used. The organization of powerful machines or of delicate devices by which the producing power of one man was increased fifty or one hundred fold, was, however, not the only step in this great progress. The aim of all material civilization in its hard contest with nature was the reduction of the cost of production, because thereby each man's day's work netted him more of the comforts of life. Within the limits of efficient administration the larger the amount to be produced at one time and under one management, the less the expense per unit. Therefore, the aggregation of capital, the other essential element with labor in producing anything, became an obvious means of securing economy in the manufacture of everything. Corporations had long been known as convenient commercial instruments for securing and wielding efficiently such aggregations of capital. Charters were at first conferred by special act upon particular individuals and with varying powers, but so great became the advantage of incorporation, with the facility afforded for managing great enterprises and the limitation of the liability of investors, that it was deemed wise in this country, in order to prevent favoritism, to create corporations by general laws and thus to afford to all who wished it the opportunity of assuming a corporate character in accordance therewith. The result was a great increase in the number of the corporations and the assumption of the corporate form by seven-eighths of the active capital of the country. The great saving in the cost of production brought about by mechanical inventions and the organization of capital worked incalculable benefit to the public, but the necessary price of it under our system of free right of contract and inviolate rights of private property was a division of the

profit between those who were to consume the product and those whose minds conceived and whose hands executed the work of production. The total wealth of the whole country was thus enormously increased, but of the increase more was necessarily accumulated in some hands than others. In the general prosperity caused by the revolution in methods of production, captains of industry amassed fabulous fortunes, and the aggregations of capital under corporate management became so great as to stagger the imagination. In the mad rush for money which previous successes had stimulated, it is not to be wondered at that some of the accumulated wealth was corruptly used to secure undue business advantages from legislative and executive sources and that many of the political agencies of the people became tainted. The impersonal character of corporations afforded a freedom from that restraint in the use of money for political corruption which is often present when the would-be briber is an individual. Men of good repute, with complacence and intentional ignorance, acquiesced in the use of corporate funds to buy legislators and councilmen in the corporate interest, when they would not wish or dare to adopt such methods in their individual business. The enormous increase in corporate wealth furnished the means of corruption, and the prospect of ill-gotten gains attracted the dishonest trickster into politics and debauched the weak, while the honest and courageous were often driven into private life. The genie of corruption in politics which the corporations called up has lived to plague them, and although many great companies have secured all they wish from legislative bodies, they are regarded by the political blackmailers as fair game and the corruption fund is still maintained to prevent oppression. The people not unjustly have charged these public evils to the management of corporations.

Another evil has been the injustice done to the real owners of corporate property by the reckless and dishonest management of its nominal owners. The great liberality of the general laws for the formation of corporations and the entire failure

to exercise any stringent visitorial powers over them have enabled the active promoters and managers of large enterprises carried on at a distance from the homes of the real owners, to increase the corporate indebtedness and capital stock so far beyond any fair valuation of their property as to put the entire control of it in the hands of the holders of worthless stock who have nothing at stake in the corporate success.

The real owners, the bondholders, are at the mercy of this irresponsible management till insolvency comes. The reckless business methods which such an irresponsibility and lack of supervision invite create an unhealthy and feverish competition in every market, wholly unrestrained by the natural caution which the real owner of a business must feel. The concern is kept going with no hope of legitimate profit, but simply to pay large salaries or to favor unduly some other enterprise in which the managers have a real interest.

Another reason for popular distrust of corporate methods is the use by corporations of great amounts of capital to monopolize and control particular industries. It is my sincere belief that no such control or monopoly can be maintained permanently unless it is buttressed by positive legislation giving an undue advantage over the public and competitors. Of course, by close business methods and by improving all the economical advantages which the manufacture of a commodity on an enormous scale affords, the cost of production may be so reduced as to discourage competition on a smaller scale, but unless the fear of it performs the same useful office for the benefit of the public by continuing the lowest profitable prices, actual competition will certainly appear. Whatever the fate such trusts may ultimately have, it has often happened that in their formation and early history the plan adopted has been the forced buying out of every competitor or his ruin by underselling him at heavy loss so as to put the public and the market for a time at least at the mercy of one greedy corporate concern. Such methods and such a result naturally fill the

people with anxious fears and a hostile feeling toward aggregations of corporate wealth.

In spite of these well-known evils nothing can be clearer to a calm, intelligent thinker than that under conditions of modern society, corporations are indispensable both to the further material progress of this country and to the maintenance of that we have enjoyed. The evils must be remedied, but not by destroying one of the greatest instruments for good that social man has devised. Nevertheless, so strong has the hostility to corporations become, especially in certain of the southern and western States where the agricultural community is large, life is hard and wealth is rare, that any plan which can be contrived to diminish the property of corporations or to cripple their efficiency seems to meet with favor. The feeling is especially directed against the railway corporations, although without their aid and presence these very communities would be helpless and poor indeed.

The last decade in Europe has been prolific of doctrines and theories for the amelioration of the human race by the abolition of private property and private capital by the vesting of all the means of production in the government for the benefit of all the people and by the distribution of the product according to fixed standards of merit. While socialism, as such, has not obtained much of a foothold in this country, even in those sections already referred to, schemes which are necessarily socialistic in their nature are accepted planks in the platform of a large political party. The underlying principle of such schemes is that it is the duty of the government to equalize the inequalities which the rights of free contract and private property have brought about, and by enormous outlay derived as far as possible from the rich to afford occupation and sustenance to the poor. However disguised such plans of social and governmental reform are, they find their support in the willingness of their advocates to transfer without any compensation from one who has acquired a large part of his acquisition to those who have been less prudent, energetic and

fortunate. This, of course, involves confiscation and the destruction of the principle of private property.

Under the Fourteenth Amendment the question whether legislation and State action deprive any person of his property without due process of law has become a Federal one, and by the Act of 1875 it is cognizable by the Circuit Courts of the United States.

The prejudices above adverted to have led to much legislation hostile to corporations both resident and non-resident. It takes the forms of discriminating taxation, of the regulation of rates to be charged by those companies engaged in *quasi* public business, and sometimes, of the direct deprivation of vested rights. In all such cases resort is at once had to the inferior Federal courts by the corporations injuriously affected, to test the validity of the State's action, and it not infrequently happens that it becomes the duty of such courts to declare void the legislation involved and to enjoin State officers from seizing or injuring the property of corporations under its provisions. Such a decision in a corporation-hating community at once tends to mark the Federal courts as friends and protectors of corporations.

The repeated efforts of different State legislatures to impose restrictions upon interstate commerce to secure some apparent advantage to their own constituents, evidence the profound wisdom of the framers of the Constitution in vesting complete control thereof in the national government, but the tribunals whose jurisdiction is constantly invoked judicially to declare void all such legislation do not for the time commend themselves to the favor either of those who urged its passage or of those who were to profit by its operation, and the fact that the complainant in such litigation is frequently a railroad or transportation company only confirms the view of the undue favor of these courts to such litigants.

The jurisdiction of the Federal judiciary does not end with the enforcement of national laws in the interest of the whole country against the temporary interest of a part. They are

also required to administer justice between the citizens of different States. It goes without saying that this judicial power was given to prevent the possibility of injustice from local prejudice and not because in every case it was supposed to exist. The entire jurisdiction rests on the exceptional instances, for in a great majority of cases the same results would certainly be reached in the courts of the State as in the Federal courts. But in those courts or States where there is real danger from prejudice against a stranger, the same cause which is likely to obstruct justice for the foreign suitor creates a local feeling of resentment against the tribunal established to defeat its effect. The capital invested in great enterprises in the South and West is owned in the East or abroad, and the corporations which use it are therefore frequently organized in a different State from that in which the investment is made. Such companies all carry their litigation into the Federal courts on the ground of diverse citizenship with the opposing party, and, in view of the deep seated prejudice entertained against them by the local population, it is not surprising that they do. That in most, if not in all, cases the feeling that prompts this avoidance of the State courts does great injustice to the State judiciary is undoubtedly true. In jury trials, however, the fear of injustice from local prejudice is certainly sometimes justified. In these same States where the narrow provincial spirit is strong and local prejudices exist, there is deep fear of the abuse of judicial power and the legislation of the State is directed to minimizing the influence and control of the judge over the action and deliberation of the jury. The extent to which this is carried was clearly set forth in an interesting address delivered before this Association by Mr. Justice Brown some years ago. The slightest circumstance, although furnishing but a scintilla of evidence to support the contention of either party, requires the submission of the case to the jury. The office of a judge is reduced to that of a mere moderator of the trial. He is only permitted to lay down a few general principles of law in advance of the argument, while the application of them to the

facts of the case and conflicting evidence is really committed to the zeal of contending counsel. The tendency of such procedure is to leave to the unrestrained impulses of the jury the settlement of all the issues of the case. Though the injustice likely to result to corporations from this procedure is manifest, the people of a locality where local prejudice exists have come to think that they have a vested right to the chances of success which it gives them in a suit against such opponents. When, therefore, in controversies with corporations of other States, they are carried before a court in which the jury are not their friends and neighbors and in which the power is given to the judge to direct a verdict when the evidence for either party is so slight that a contrary verdict must be set aside, to comment on the evidence, to apply the law thereto, and to make plain, if need be, what the legal sophistries of counsel and their inaccurate statements of the evidence may have obscured, they feel that they are in a tribunal which they should avoid and which the corporations should naturally seek. The constant struggle of most corporations to avoid State tribunals in the sections of the country referred to, and to secure a Federal forum, even though it is followed by only limited success in the result of the litigation, is chiefly the cause for the popular impression in those States that the Federal courts are the friends of corporations and protectors of their abuses.

Those abuses, however, really find their chief cause in political corruption, which it is wholly beyond the power of the Federal courts to prevent or eradicate. Too frequently the popular impulse is to remedy or punish the evil by giving judgment against the great corporations in every case, no matter what the particular issues or facts are, on the ground that the corporation has probably increased its capital or attained its success by corrupt methods. It is hardly necessary to point out that this mode of punishment by forfeiture and chance distribution cannot be countenanced in a court of justice, however meritorious the cause of complaint upon which it is founded.

Corporate corruption cannot be directly punished in the Federal courts, because the bribery of which many corporations are guilty is most difficult of legal proof, and crimes of this character are usually committed against the State, so that Federal courts have no cognizance of them. It has been wisely settled by the adjudication of all courts, State and Federal, that the evils resulting from vesting in courts the power to set aside otherwise lawful acts of the legislature for alleged corruption in their passage, would exceed even the wrong done by such legislation, because of the uncertainty it would give to the binding effect of all laws and the overwhelming influence such power to inquire into legislative motives would give the judicial branch of the government in respect of all legislative action.

The abuses which too liberal charters and insufficient visitorial power permit, are either for the State legislatures or for the State executive and courts, by *quo warranto*, to correct and remedy. State laws which should forbid the issue of stock or the issue of bonds by any corporation until after an examination by a State board of supervision into the affairs of the company and a certificate that the assets justify it, would do much in this direction. The Federal courts can do nothing to prevent such abuses, and their action is not usually invoked until the evil is done and only a bankrupt estate is left to administer.

The combinations known as trusts are now before the State courts, and I have no doubt from their decisions that legislation which experience will suggest, both by way of supervision over corporations and by criminal laws, will suppress much of their evil methods. It is settled and rightly settled, I submit, that the national government can do nothing in this direction, except where such trusts are for the purpose of directly controlling interstate commerce.

The main public evil of corporate growth, the corruption of politics, must be reformed by the people and not by the courts. Courts are but conservators; they cannot effect great

social or political changes. Corporations there must be if we would progress; accumulation of wealth there will be if private property continues the keystone of our society; the temptation to use money to corrupt legislatures and other political agencies will remain potent as long as undue privilege for corporations can be thus secured. The only real remedy is in the purification of the politics of the country and the selection of incorruptible public servants. Dark as the prospect sometimes seems for such a change, we must not and need not despair. Public opinion is sound, the great heart of the American people is honest, and slowly but surely the light is breaking in on them. The adoption of civil service reform in Federal, State and municipal government is as certain to come as the nation is to live, and with its complete establishment, the end of those indispensable assistants of successful political corruption, the machine and its boss, will cease to be. The mad rush for wealth, the fevered condition of business and the opportunity for making sudden fortunes have taken the attention of the more intelligent people from politics and made them blind or callous to political abuses. With their greater ability to see and appreciate the dangers of the republic, their share of the blame for present conditions is greater. But there are many signs of a quickened public conscience and of a willingness on the part of the intelligent and the pure to interest themselves in politics for their country's good.

The present successful use of corrupt methods by corporations is directly due to the neglect of the people to exercise the eternal watchfulness which is the price of pure government; but those whose interest it is to secure popular support and who are willing to secure it by appeals to prejudice do not tell the people unpleasant truths, and are glad to find a scapegoat for the people's sins in the Federal judiciary. It well rounds a rhetorical period to point to the Federal judiciary as an irresponsible and irremovable body, wholly out of touch with the people and conniving at corporate abuses.

To an impartial observer it must seem remarkable that judges should conceive a love for soulless corporations and unduly favor them. Living as most of these judges do on their salaries and deriving no profit from corporate investments, they would seem to find little in their lives to blind them to the injustice of any claim or defence which a wealthy corporation may make.

If it were conceded that greed of power is an incentive so strong that Federal judges have yielded to it and have extended their jurisdiction over corporations beyond the lines marked by the Constitution and the laws, this is far from establishing that justice has not been meted out to corporate suitors with impartial hand. The fact is that when we come to examine in detail the charges against the Federal courts, the burden of them is that they have assumed jurisdiction over corporate litigation without constitutional and legal right, and not that, in the hearing on the merits, corporations have been unduly favored. The latter is always assumed as a granted premise when the former is deemed to be established.

Having pointed out some of the reasons why the jurisdiction of the Federal courts in respect to corporations, be it exercised never so impartially, must under existing conditions arouse deep prejudice against them, and call forth severe assaults upon their conduct and motives, I come now to examine more in detail the charges which have been made by those who attempt specifications.

The first is that the Supreme Court in holding, in the Dartmouth College case, the legislative charter of a corporation to be a contract, the repeal of which was the impairment of its obligation and was inhibited by the Federal constitution, committed a fundamental error, induced thereto by greed of jurisdiction, and thus furnished to corporations the means of maintaining and enjoying corruptly purchased privileges. I do not propose to discuss this much criticised case, because it was decided in 1820, and has now nothing but an historical interest; for no charter has been granted for years which does not con-

tain a clause permitting its repeal or amendment, and a court could hardly give a wider scope to such a reservation clause in favor of the State's power than that which the Supreme Court of the United States gave in the Greenwood Freight Company case. With reference to the accusation that it was greed of jurisdiction which induced the court to hold that the revocation of a grant by a State was the impairment of a contract and so within the Federal constitution, it should be said that the people of the United States, instead of condemning this assumption of jurisdiction have by subsequent amendment expressly extended the Federal judicial power to the cognizance of State aggression upon all vested rights whether resting in grant, contract or otherwise.

And this suggests the charge against the Supreme Court that it improperly seized additional corporate jurisdiction in its holding that the Fourteenth Amendment forbidding a State to deprive any person of life, liberty or property without due process of law protects the property of corporations as well as that of natural persons. It is difficult to see how any other result could have been reached. For, even if artificial persons are not referred to in the amendment, natural persons necessarily have vested rights in the property of corporations. It is said that the construction should have been limited so as to exclude corporations because the moving cause was only to give national protection to a newly freed race. In the light of the general language of the amendment, this would have been a narrow construction indeed, and one which nothing could have justified except the conviction now firmly held and declared in some quarters, that Federal jurisdiction to preserve any rights, even those declared in Magna Charta, is an unmitigated evil to be avoided by interpretation however strained.

And yet the Supreme Court is attacked with invective and epithet by the same critics for refusing to hold in the Sugar Trust case that the power to regulate interstate commerce includes within it the power to inhibit the purchase by one company of substantially all the plants for refining sugar in

this country with the purpose of controlling its sugar markets. To extend the Federal regulation of interstate commerce to that of the purchase of the means of producing a commodity which, when produced, is to be the subject of commerce both State and interstate, requires a construction of the interstate commerce clause so broad, that, if it had been accepted, it would have been difficult to fix a limit beyond which Congress might not go in the control of mercantile business and manufacturing in every community. It would have seemed to give some ground for the charge so often made, that, through Federal judicial decisions, rights of the States are being absorbed in the national government.

As I have already said, the burden of the specifications against the Federal judiciary is not that they unduly favor corporations in the hearing of cases, but that they have improperly given corporations opportunities to avoid the State courts by resorting to the Federal courts. Hence the decisions of the Supreme Court, by which corporations organized in one State and suing or being sued in another are permitted to select the Federal courts as a forum, have been the subject of the severest animadversion, and the judges rendering the decisions are charged with having been consciously guilty of flagrant usurpation and with intentional violation of the law and the Constitution. When corporations first appeared in the Federal courts, it was held that a corporation was not a citizen within the meaning of the judiciary act or the Constitution, and that Federal jurisdiction asserted on the ground of diverse citizenship, in a cause to which a corporation was a party, must depend on the citizenship of the stockholders or members of the corporation. As it had also been ruled that the words of the judiciary act giving circuit courts jurisdiction in every suit between a citizen of the State where it was brought, and the citizen of another State only included suits where all the parties on one side were of different citizenship from that of all of those on the other, the result was that no corporation could resort to a Federal court unless all its stockholders were citizens of another

State from that in which the suit was brought, and the ownership of one share by a resident of the same State with that of the opposing party ousted the jurisdiction. And this the Supreme Court held until 1844. In that year the question arose again, and the court held that, for purposes of Federal jurisdiction, a corporation was a citizen of the State which created it, and soon thereafter laid down the doctrine, always followed since, that the members of a corporation are to be conclusively presumed to be citizens of the State of its creation. This conclusive presumption was a fiction, adopted, as Mr. Justice Bradley has explained, to avoid the difficulty and injustice caused by the frequent appearance in such cases of a single resident stockholder. It was in effect a changed construction of the judiciary act for reasons which had not forcibly presented themselves to the court when the question first arose. It was certainly true that when corporations, organized in other States than that where suit was brought, appeared in litigation, they represented members, a great majority of whom were either citizens of other States or aliens. If any local prejudice was likely to have effect against a non-resident natural person, it certainly would have effect against a corporation from another State, and the ownership of a few shares of its stock by a resident would not obviate it. The result reached by the decisions was quite within the constitutional grant of Federal judicial power, for that covers all controversies between citizens of different States, and it is immaterial whether in such controversies are also involved, on both sides, citizens of the same State. There was such a real difference for the practical purposes of a trial and the bearing of local prejudice upon it between a suit by or against a foreign corporate body with one or more resident stockholders, whose identity was lost in that of the corporate party litigant, and a suit by or against parties to the record who were natural persons, some of them residents and others non-residents, that the exception made in respect to corporations in the established construction of the judiciary act would seem sound and reasonable.

The holding that a foreign or non-resident corporation must be excluded from resort to a Federal forum, because it had one or more resident stockholders would practically deprive the owners of nearly all foreign capital to be invested in the newer States of the Union of any opportunity to sue or defend in the Federal courts, because, in the nature of things, their capital must assume a corporate form, and in companies with thousands of shares of capital stock transferable without restriction, a share or two, at least, would be sure to find its way into the possession of a resident owner. And yet the reason for the constitutional provision applied more strongly to such corporate investments than to those of non-resident natural persons.

The ruling was directly in the interest of the new States who were thirsting for foreign capital, because it removed one of the hindrances to its coming. It was, therefore, exactly in accord with the intention of the Constitution. It gives but a contracted view of the purpose of the framers of that instrument in providing a tribunal between citizens of different States, which was equally related to both, to regard it solely from the standpoint of the non-resident and as intended only to secure a benefit for him. It is crediting them with a much more statesmanlike object to say, that while the provision was, of course, intended to avoid actual injustice from local prejudice, its more especial purpose was to allay the fears of such injustice in the minds of those whose material aid was necessary in developing the commercial intercourse between the States, and thus to induce such intercourse and the investment of capital owned by citizens of one State in another. In this light, it is only one of several provisions of the Constitution intended to prevent unnecessary and prejudiced restraints upon interstate commerce, and it confers more benefit upon those against whose prejudice it is intended as a shield than upon those whose interests are directly protected.

The decisions under discussion were made by the Supreme Court in the days of Chief Justice Taney, and with his concurrence, at a time when its members are now thought to have

been inclined toward a narrower construction of the Constitution and Federal jurisdiction and powers than their predecessors.

Moreover, the people of the United States for fifty years have acquiesced in this holding. In the last half century, it has always been within the power of Congress by two lines of legislation to reverse it, and, although during that period the party of strict construction and State's rights was for years in control of Congress and the judiciary act was four times substantially amended, the decisions remain the law of the land. When it requires a constitutional amendment to correct or restrain an unwarranted assumption of power by a court, the machinery for securing it is so cumbersome that the failure by this means to restrain the court is not a conclusive argument in favor of the people's acquiescence in the court's assertion of jurisdiction. But, where, as in the present case, the issue was merely one of construing a statute, the failure of Congress for half a century to amend or overrule the construction given is as strong an argument as can be adduced to justify the action of the court, and would in this case seem to be the best possible refutation of the severe charge that the judges, who made these decisions, were guilty of flagrant and intentional usurpation.

If it is true that citizens of one State organize corporations under the laws of another State to do business in the former State, and thereby carry controversies with their fellow citizens into the Federal courts, this is an abuse which should be remedied by Congress, as other frauds upon the jurisdiction have been provided against.

The Federal courts have also been severely arraigned for undue amplification of their powers in the matter of receivers of railroad companies, due as it is charged to their leaning toward such corporations and a desire to protect them. This count of the general indictment against the Federal judiciary is more fully and elaborately treated in a memorial presented to Congress by the Legislature of South Carolina, than any-

where else. The occasion for the protest was the commitments for contempt by the Circuit Court of the United States sitting in South Carolina of certain State officers. In one case the contemnors were taxing officers, who, though they knew the property to be in the hands of the receiver of the Federal court, without any application to the court, seized it for taxes. In the other case, a constable without search warrant broke into the warehouse of a railroad in the hands of the court's receiver and seized a cask of liquor on the ground that it had been transported into the State contrary to the provisions of the State dispensary law. The cask had been imported before the dispensary law went into effect and had been held by the receiver because the whereabouts of the consignee could not be discovered. The circumstances in each of these cases rather indicate a desire on the part of the State authorities to seek a conflict with the Federal court than an aggressive and domineering spirit in the latter. When the State authorities in a decent and orderly way subsequently applied to the court for an order upon the receiver to pay the taxes, the objections of the receiver were heard and overruled and an order made upon him to pay.

The deep spirit of distrust of the Federal courts in which the memorial is written may be inferred from one of its concluding sentences, in which the Federal courts of equity are referred to as "having been degraded to their present position of being feared by the patriotic and avoided by the honest." We are permitted to conjecture that the memorialists were not wholly unbiassed in discussing the decisions of the Federal courts and their integrity and standing, when we read the statement in the inaugural address of the present Governor of the State, who was one of the signers of the memorial, that he and the men to whom he was speaking in this year of grace, 1895, were "South Carolinians by birth and choice, Southerners on principle and Americans by force of circumstances."

The main purpose of the memorial was to show that the practice of Federal courts of equity in appointing receivers to

operate railroads is a usurpation of authority wholly without warrant in the English High Court of Chancery, by the procedure in which the scope of equitable remedies in the Federal courts is usually governed. To establish this, the memorialists relied chiefly on the judgment of Lord Cairns in the Court of Chancery Appeals in the case of Gardner *vs.* The London, Chatham & Dover Company, in which the order of the Vice-Chancellor appointing a manager of the defendant railway on the application of a mortgagee of the railway tolls was reversed. The judgment was placed upon two grounds, first, that the mortgage gave no right of sale and liquidation, so that the order was really for a permanent management of a going business, while the practice in courts of equity justified the appointment of receivers only until a sale and liquidation; and, second, that by the charter of the company the franchises were personal and non-assignable, and could not be exercised by a receiver. The first reason has little or no application to the vast majority of cases in which railroad receivers have been appointed in this country, for generally the remedy sought has been a sale and liquidation, and the receiver has thus been appointed to serve only until the sale. The second ground of the judgment does not relate to the competency of a court of equity to manage a railroad or other going business through an agent, *pendente lite*, but only to the assignability of franchises, and it furnishes as little support as the first ground to the claims of the memorial. The power to mortgage conferred by statute on railway companies in this country usually contains express authority to mortgage both the railroad and the franchises to operate it. The necessary implications from this are the right to sell the franchises with the road at a foreclosure sale, and the power of the court in which foreclosure proceedings are had, to preserve the property with its assignable franchises, by temporary custody and operation of the road under such franchises pending the sale.

By reference to Lord Justice Baggallay's judgment, *In re* The Manchester & Milford Ry. Co., 14 Ch. D., 657, it

appears that the result in Gardner's case was a surprise to the profession, and reversed the practice of appointing managers in such cases which had been in vogue in the chancery courts of England for ten years previous, and which had had the sanction of as great a chancery lawyer as Lord Hatherly. Moreover, no sooner was the decision announced in the Gardner case than Parliament passed an act expressly authorizing the appointment of railroad managers by the court of chancery, showing that, in the opinion of Parliament, jurisdiction to manage railroads pending litigation over them by officers of the court was a power that courts of equity should have, if they did not already have it.

The charge of usurpation in the appointment of receivers becomes still less maintainable when we consider the history of receiverships in this country. Gardner's case was decided in 1866. As much as ten years before this, the Supreme Court of the United States in Covington Drawbridge Co. *vs.* Shepherd, 21 How., 112, had referred to the practice in the English court of chancery to order a receiver to be appointed to manage railways and other corporate property, to take the proceeds of the franchises and to apply them to pay the creditors filing the bill, and had approved and adopted it in the case of a bridge company. Thereafter receivers were appointed for railways and it had become a settled practice not only in the Federal courts but in State courts when Gardner's case was decided. Even if that case cannot be reconciled with the practice of appointing receivers under the conditions existing in this country, as I have attempted to show it can be, there would still seem to be no binding or jurisdictional obligation on courts of the United States to reverse their settled procedure of ten years standing based on English precedent, to accord with a new and unexpected ruling in the English courts, and one the effect of which was immediately done away with by an act of Parliament restoring the old practice.

The appointment of receivers to operate railroads pending suits in foreclosure and creditor's bills, instead of being an

abuse of authority by the Federal courts, was a most commendable use of an ordinary equitable means of preserving the *status quo* with respect to a new kind of property and in a pressing emergency. Generally no one but the parties are interested in preserving the subject matter of the suit as a going concern till it can be sold, but in the case of a railroad the public are even more interested than the parties in having this done. It is mentioned in the South Carolina memorial as a measure of the abuse of Federal jurisdiction in this regard that one-fifth of the railroad mileage in the United States is in the hands of Federal court receivers. Considering the severity of the times and the suicidal cutting of rates by railroad companies for the purpose of securing business, I do not know that this proportion unfairly indicates the number of embarrassed and bankrupt roads in this country, but it is hard to see why it is an argument against the appointment of receivers to operate them. The disastrous consequences to the whole country, were these great arteries of the nation to cease to flow, can hardly be overstated; and yet, unless in the course of liquidation sale and reorganization, they could, when insolvent, be withdrawn from liability to seizure and dismemberment by ordinary executions in the various jurisdictions which they traverse, their operation would become impossible. The ordinary insolvent laws of each State, even if their procedure had been at all adapted to the running of railroads, as it was not, would have supplied in such case but a poor substitute for the present receivership. Most railroads are to-day interstate, and the advantage of an *ad interim* management under practically the same jurisdiction on both sides of State lines is apparent. In the absence of statutory provision for such an exigency, the flexible procedure of a court of equity is fitted to meet it, and although the remedy was adopted soon after the building of railroads more than forty years ago and has been applied with increasing frequency ever since, it has not been deemed necessary by Congress or State legislatures

to provide any other means for bridging the undoubted difficulties presented by the insolvency of railroad companies.

One of the greatest objections urged to receiverships in the South Carolina memorial is that it removes the railroad property from local jurisdictions. But this objection would be incident to any imaginable temporary management of the railroad pending proceedings to sell and distribute the proceeds. The injury to the sovereignty of the State involved in the requirement that its taxing officers shall make application to the Federal court having custody of property for an order for the payment of the taxes due upon it, instead of violently taking it out of the court's possession, is one that must be charged to the Constitution of the United States, to the supremacy of the Federal jurisdiction where it conflicts with that of the State, therein declared, and to the circumstances by the force of which South Carolina is still in this country. The charge that in appointing receivers the Federal courts abolish the right of trial by jury in great stretches of country is untrue, for by the statute of 1887 suit may be brought against a receiver without leave of court, and this permits a suit at law with all its incidents. The fear entertained that the management by the Federal courts of property worth $1,300,000,000, without responsibility, would lead to malversation of funds and corruption does not seem to be justified by the history of Federal receiverships. The fact is, that no possible system of managing railroads could be better adapted to a summary investigation of the details of the management than that by a court of equity in which the court will always and at once entertain complaints by anyone in interest against its receiver and examine the facts upon which they rest. This may account, in part, for the very few instances of official corruption among Federal receivers.

On the other hand, if any other and better way can be devised for the temporary management of insolvent railroads pending their sale, it may be conceded that there are substantial reasons for relieving Federal courts of equity from the duty.

The business has grown to such an extent that regular judicial labors are much interfered with by the consideration of mere questions of railroad management. Unpleasant public controversies often follow in the wake of receiverships having a tendency to put the court in the attitude of a party. The more or less complete dependence of the court upon the receivers in matters of policy and the possibility that this confidence may be misplaced make the jurisdiction an irksome one. The immunity enjoyed by a receiver and a railroad in his charge from ordinary process *in rem* is very attractive to struggling railroad owners and friendly litigation is often begun merely to secure a receiver and tide over a stringency in the interest of all concerned. With no one in interest to oppose the appointment or to move its discharge after it is made, a receiver is secured and he is continued as long as all parties do not object and do not press the cause to final disposition. Courts usually have so much to attend to that they do not and cannot investigate the weight or validity of reasons for delay in causes when not brought to their attention by complaint of some of the parties. Meantime the receivership is maintained and the irritation incident to the withdrawal of the railroad from local jurisdictions is continued. The work of managing the road is saddled upon the court pending the coming of a time when a reorganization may be agreed upon or a better price obtained. I sympathize heartily with every effort to impose a practical limitation upon the duration of receiverships. The use of the courts as a harbor of refuge from creditors during a financial storm may be abused, and doubtless has been. The temptation to this resort is greatly increased, if, as is too often the practice, the controlling officer of the company is continued in the management as receiver. The patronage incident to the jurisdiction is one of its evils. Recognizing this and wishing to avoid a disagreeable race for office, courts usually acquiesce in the appointment of a person recommended by the parties, who is not infrequently the president or manager of the company, and whose failure to oppose the receivership, it may be,

has been secured by such a recommendation. Consent applications for receiverships would be much less common if it were provided by statute that, wherever a case is made on preliminary application for the immediate appointment of a receiver, the clerk or marshal should act as temporary receiver for thirty days, with a fixed *per diem* compensation, at which time a permanent receiver, not an officer of the court, should be selected by the court after full notice to all parties, and that no one connected with the previous management of the railroad or interested in its bonds or stock should be eligible, even with consent of the parties. It has some times seemed to me that by virtue of the power to pass a bankrupt law, and to regulate interstate commerce, a national bureau for the sale of the assets of insolvent interstate railroads and their *ad interim* operation might be established, something like that now provided for national banks, and that the executive head of such a bureau might be better able to speed the sale of the railroads and shorten the duration of their official management than courts. When, however, one attempts to formulate a system which shall have the flexibility of the present procedure and its adaptibility for preserving the real *status quo* during the adjustment, one is obliged to admit that the court management *pendente lite* has advantages over any other, anomalous in some respects as it may seem. Probably this explains the failure of Congress or the State legislatures to provide any other system, and even the zealous South Carolina memorialists in their recommendation to Congress were unable to point out a better way than court receiverships with a few minor limitations. In any event, until some new way is devised for the temporary operation of railroads, pending insolvency or foreclosure and sale, courts must assume it, and it ill becomes any one to criticise their action in doing so, and to charge it to their greed of power, when any other course would result in disastrous consequences to the parties in interest and the country at large.

On the whole, when the charges made against Federal courts of favoritism towards corporations are stripped of their rhetoric and epithet, and the specific instances upon which the charges are founded and reviewed, it appears that the action of the courts complained of was not only reasonable but rested on precedents established decades ago and fully acquiesced in since, and that the real ground of the complaint is that the constitutional and statutory jurisdiction of the Federal courts is of such a character that it is frequently invoked by corporations to avoid some of the manifest injustice which a justifiable hostility to the corrupt methods of many of them inclines legislatures and juries and others to inflict upon all of them.

We come finally to the relation of the Federal courts to organized labor. The capitalist and laborer share the profit of production. The more capital in active employment the more work there is to do, and the more work there is to do, the more laborers are needed. The greater need of laborers, the better their pay per man. It is clearly in the interest of those who work that capital shall increase more rapidly than they do. Everything, therefore, having a legitimate tendency to increase the accumulation of wealth and its use for production, will give each workingman a larger share of the joint result of capital and labor, and it is in a large measure because this country has grown more rapidly in capital than in population, that wages have steadily increased. But while it is in the common interest of labor and capital to increase the fruits of production, yet in determining the share of each their interests are plainly opposed. Though the law of supply and demand will doubtless, in the end, be the most potent influence in fixing this division, yet during the gradual adjustment to the changing markets and the varying financial conditions, capital will surely have the advantage, unless labor takes united action. During the betterment of business conditions, organized labor, if acting with reasonable discretion, can secure much greater promptness in the advance of wages, than if it were left to the slower operation of natural laws, and, in the same way, as hard times come

on, the too eager employer may be restrained from undue haste in reducing wages. The organization of capital into corporations with the position of advantage, which this gave in a dispute with single laborers over wages, made it absolutely necessary for labor to unite to maintain itself. For instance, how could workingmen, dependent on each day's wages for living, dare to take a stand, which might leave them without employment if they had not by small assessments accumulated a common fund for their support during such emergency? In union they must sacrifice some independence of action, and there are bad results from the tyranny of the majority in such cases, but the hardships which have followed impulsive resort to extreme measures have had a good effect to lessen these. Experience, too, will lead to classification among the members so that the cause of the skilled and worthy shall not be leveled down to that of the lazy and neglectful. Like corporations, labor organizations do great good and much evil. The more conservatively and intelligently conducted they are, the more benefit they confer on their members. The more completely they yield to the dominion of those among them who are intemperate of expression and violent and lawless in their methods, the more evil they do to themselves and society. Unfortunately, there are large organizations of the latter class, and, in the heat of a bitter contest with employers, rights of person and property are sometimes openly violated in avowed support of the cause of labor. The infractions of the law, actual and threatened, are palpable, and the interference of the courts by their usual processes to prevent irreparable injury to business and property becomes necessary. Such judicial action often results in discouraging the whole movement and brings down upon the courts the fierce denunciations of the defeated leaders and arouses the hostility of many who would not join in the open breaches of the law, and yet so sympathize with the cause as to blind them to the necessity of the suppression of such lawlessness.

The employees of railroad companies and others engaged in transportation of freight and passengers generally have well

organized unions, and the controversies arising over wages have been many. A vast majority of these have been settled without a resort to extreme measures, through the conservative influence of level-headed labor leaders and railroad managers, but in the last twenty years there have been some very extended railroad strikes, accompanied by the boycotts and open violence with which society has now become familiar. The fact that many railroads have been operated by Federal receivers, the non-residence of railway corporations in the States where the strikes occur, and the interstate commerce feature of the business, have brought some of these violations of property and private and public right within the cognizance of Federal courts. Because the participants in such contests have been spread more widely over the country than in similar contests with which State courts have had to deal, the action of the Federal courts in these cases has attracted more public attention and evoked more bitter condemnation by those who naturally sympathize with labor in every controversy with capital.

The efficacy of the processes of a court of equity to prevent much of the threatened injury from the public and private nuisances which it is often the purpose of the leaders of such strikes to cause, has led to the charge, which is perfectly true, that judicial action has been much more efficient to restrain labor excesses than corporate evils and greed. If it were possible by the quick blow of an injunction to strike down the conspiracy against public and private rights involved in the corruption of a legislature or a council, Federal and other courts would not be less prompt to use the remedy than they are to restrain unlawful injuries by labor unions. But I have had occasion to point out that the nature of corporate wrong is almost wholly beyond the reach of courts, especially those of the United States. The corporate miners and sappers of public virtue do not work in the open, but under cover; their purposes are generally accomplished before they are known to exist, and the traces of their evil paths are destroyed and placed beyond the possibility of legal proof. On the other

hand, the chief wrongs committed by labor unions are the open, defiant trespass upon property rights and violations of public order, which the processes of courts are well adapted both to punish and prevent.

The operation of the interstate commerce law is an illustration of the greater difficulty courts have in suppressing corporate violations of law than those of trade unions. The discrimination between shippers by rebates and otherwise, which it is the main purpose of the law to prevent, is almost as difficult of detection and proof as bribery, for the reason that both participants are anxious to avoid its disclosure; but when the labor unions, as they sometimes do, seek to interfere with interstate commerce and to obstruct its flow, they are prone to carry out their purposes with such a blare of trumpets and such open defiance of law that the proof of their guilt is out of their own mouths. The rhetorical indictment against the Federal courts, that from that which was intended as a shield against corporate wrong, they have forged a weapon to attack the wage earner, is in this way given a specious force which a candid observer will be blind to ignore. Thus are united in a common enmity against the Federal courts the populist and the trade unionist with all those whose political action is likely to be affected by such a combination. And yet their enmity has no other justification than the differing and unavoidable limitations upon the efficacy of judicial action in respect to corporate and labor evils.

As a matter of fact there is nothing in any Federal decision directed against the organization of labor to maintain wages and to secure terms of employment otherwise favorable. The courts so far as they have expressed themselves on the subject recognize the right of men for a lawful purpose to combine to leave their employment at the same time, and to use the inconvenience this may cause to their employer as a legitimate weapon in the frequently recurring controversy as to the amount of wages. It is only when the combination is for an unlawful purpose and an unlawful injury is thereby sought to

be inflicted, that the combination has received the condemnation of the Federal as well as of State courts.

The action of the Federal courts all over the country in the recent American Railway Union strike in issuing injunctions to prevent further unlawful interference by the strikers with the carrying of the mails, and the flow of interstate commerce, followed by the commitment for contempt of the strike leaders who defied the injunction served on them, is what has called out the official protests of the Governors of Illinois and Colorado, and the phrase "government by injunction" has been invented to describe the alleged usurpation of power by the Federal tribunals in this crisis.

When the history of the great strike shall be written in years to come, the absurd expectations and purpose of its projectors and their marvelous success in deluding a myriad of followers into their active support will seem even more difficult of explanation than they do to-day. The mind that could conceive and so far execute the plan of taking the entire population of this country by the throat to compel them to effect the settlement of a local labor trouble in Chicago, was that of a genius however misdirected. The Governor of Illinois, who coined the phrase "government by injunction," says that the Federal courts have added legislative and executive functions to their ordinary judicial office, in that they have declared in their orders of injunction that to be unlawful which was lawful before, and have sought to enforce obedience to such orders by an army of marshals and soldiers. It is a little difficult to understand the working of a mind having the discipline of a legal training and the experience of judicial service, which can honestly and sincerely maintain (and I do not wish to impugn the sincerity of the Governor of Illinois) that the combination described in the bill in the Debs case and enjoined in the order of injunction was not unlawful. If it was not so, then there is no law in this country securing the right of private property, no law authorizing the Federal government to operate the mails, no law by which the regulation of interstate commerce

is vested in the General government. A public nuisance more complete in all its features than that which Debs and his colleagues were engaged in furthering cannot be imagined. Such nuisances have been frequently enjoined by courts of equity on the bill of the Attorney-General. Was there any doubt that Debs proposed to continue his unlawful course unless restrained? Was there any doubt that the injury would be irreparable and could not be compensated for by verdict at law? Was it for the court to hesitate to issue its process because it had reason to believe that it would not be obeyed? The novelty involved in the application of such a remedy to such an injury was not that injuries of the same general character had not before been restrained by injunction, but only that never before in the history of the courts had injuries of this kind been so enormous and far reaching in their effect. It was not that men had not before been ordered by process of court to desist from such injuries, but never before had so many men been engaged in inflicting them. Nor can it affect the power of Federal courts to remedy wrongs within their lawful cognizance that the wrong would have been prevented if the executive of another sovereignty than that under which they are constituted had acted promptly to suppress it. The Federal courts did not assume executive powers any more than they do so when they issue any process to the marshal, and the marshal as the subordinate of the President executes it. The extent of the actual and threatened injury and the possible resistance to lawful process required the marshal to call to his assistance much aid, but it is a latter day doctrine that a court is usurping the executive function, in calling upon the executive to use additional force to avoid a possible defeat of its lawful process. The conservative course of the President and the Attorney-General in first applying to the courts for process and the subsequent firmness exhibited by those officers in executing that process by all the means available, will cause the country to hold them always in grateful remembrance. The duty of the courts to act on this initiative was so plain

that while it does not entitle them to any especial commendation, it would seem that it should protect them from serious attack.

The real objection to the injunction is the certainty that disobedience will be promptly punished before a court without a jury. It is hardly necessary to defend the necessity for such means of enforcing orders of court. If the court must wait upon the slow course of a jury trial before it can compel a compliance with its order, then the efficacy of its process would be seriously impaired. Has any injustice been done to Debs in his trial by the court? Is there the slightest doubt in the mind of his fiercest supporter that he violated the injunction? Why, then, complain of his conviction before a tribunal authorized to try him? The argument seems to be that because many men are determined to violate the rights of the public and their fellow-citizens in spite of the lawful orders of the Federal court restraining them from so doing, they should, on account of their number and popular strength, have a right which no Anglo-Saxon has hitherto ever enjoyed, to interpose a jury trial between them and the enforcement of a court's order. If the criticisms under discussion are directed against the existence of courts, then their weight depends on different considerations from those which apply on the assumption that courts are to be maintained for the purpose of remedying wrongs. But they are professedly based on the Constitution of the United States, and that certainly contemplates courts, whose decrees shall be enforced, however much resisted, and which shall not be merely advisory councils whose efficacy depends on their powers of persuasion.

I am aware that there were many conservative, unprejudiced and patriotic citizens in this country, many of them members of the bar and of this Association, whose anxiety that the Chicago riots should be suppressed was as great as that of any one, and yet who were of opinion that the action of the Federal courts in issuing the injunctions, which were issued on the

application of the Attorney-General, was an unwise stretching of an equitable remedy to meet an emergency which should have been met in other ways. To all such persons, I commend the reading of Mr. Justice Brewer's opinion in the Debs case. It is a great judgment of a great court, and makes it as clear as midday that the process therein issued was justified by every precedent, and was the highest duty of the court. The exercise of that duty has, however, only increased the number of those who sincerely believe that the Federal courts are constituted to foster corporate evils and to destroy all effort by labor to maintain itself in its controversies with corporate capital.

I have reached the end of a much too long discussion of the relation of the Federal judiciary to some of the important issues of the day. It will not be surprising if the storm of abuse heaped upon the Federal courts and the political strength of popular groups, whose plans of social reform have met obstruction in those tribunals, shall lead to serious efforts through legislation to cut down their jurisdiction and cripple their efficiency. If this comes, then the responsibility for its effects, whether good or bad, must be not only with those who urge the change, but also with those who do not strive to resist its coming.

The earliest assaults upon the Federal judiciary and their harmless character in the light of the event, reconcile one to much of the fiery invective and blood-curdling epithets hurled at men who, equally with their accusers, are American freemen, impressed with the absolute necessity for maintaining sacred the guaranties of life, liberty and property, and who are probably not more in love with corruption and greed, or more disposed to crush the humble and worthy, than the average of their fellow-citizens.

The saving grace of American humor, which delights in the contemplation of grotesque exaggeration, has often saved us from domestic turbulence, which the turgid exuberance of

denunciatory language might otherwise have excited against lawfully-constituted authority; and it may be that the same useful trait will prevent the success of the present agitators against the Federal courts.

But whatever fate betide the Federal judiciary, I hope that it may always be said of them, as a whole, by the impartial observer of their conduct, that they have not lacked in the two essentials of judicial moral character, a sincere desire to reach right conclusions and firmness to enforce them.

THE HISTORICAL RELATION OF THE ROMAN LAW TO THE LAW OF ENGLAND.

BY

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In responding to the kind invitation for this occasion, I have chosen as my subject "The Historical Relation of the Roman Law to the Law of England" It is a question frequently discussed of late years and concerning which there has been a good deal of conflict of opinion. On one side we have a class of writers who seem disposed to minimize as much as possible the obligation of England to Rome in this regard. On the other side we have a class who perhaps magnify too much the contributions of what is called the Civil Law to what is called the Law of England.

It is quite likely that in this matter, as in many others, the truth will be found somewhere between the two extremes. A *via media* may perhaps be discovered, and it seems reasonably certain that the class of writers who persist in denying, or, at least ignoring, the obligations of England to the Roman system are contradicted by analogy, by history and by high authority.

Let us begin with an analogy. We may agree with such jurists as Savigny that the law of a people is developed in much the same manner as its language. If we consider the English language, we find that a very large and important part of it has been manifestly derived from the Latin, either directly or indirectly. Take, as the nearest illustration, the name of our own Society, the American Bar Association. There is not a

word in it of British or Anglo-Saxon origin. The three words of which it is composed have all come to us from Italy and France, and may be said in general terms to be of Latin origin, or at least to have come from the Romance languages. Now, if some English historian should tell us that our mother tongue owed nothing of much importance to Rome; that it was something autochthonous in Britain, having grown up there at some indefinite period prior to the time of Edward II, we would surely have a right to say that he was in error, and that the error was apparent on the face of the record, and we would point out to him that it is quite impossible to speak or write English, certainly for any important purpose, without using many words of Romanic origin.

And, in so doing, we would not be disparaging our noble English language, nor denying its continuous organic life and growth and its distinctly national character, nor would we be proposing to return to the use of Latin for purposes of conversation or in the writing of books. We would simply be recognizing the truth of history, which every one will admit to be a proper thing to do.

Now, bearing this analogy in mind and applying it to the municipal law of England, if we look into that law and find that a very large part of it has been derived from the Roman system, through various channels, we cannot but think that there must be some profound error on the part of those who so stoutly deny the obligation of the law of England to the Roman system.

It would seem that a fair consideration of this question has been beclouded by at least two causes. In the first place the question at issue has not been correctly stated at all times. For the question is not whether the civil law, so-called, is the basis of jurisprudence in England in the same sense as in Germany or Louisiana, but what have been its historical relations and its effect in the evolution of the Law of England. It is manifest that the latter question is quite different from the former one.

In the second place it must be obvious to the student that a fair discussion of the question in hand has been, in days that are past, greatly befogged by theological and political prepossession and prejudice. This is neither the place nor the time to estimate the precise nature and merits of the great movement of the human soul known as the Reformation, and especially in England, but we may all admit that down to times long after those of Blackstone the civil law was associated in the minds of many Englishmen with a system that was thought to be most hostile and alien to the liberties of England. In the year 1758, as we all know, Mr. Blackstone delivered his introductory Vinerian lecture at Oxford, and, among other things, said as follows:

"That ancient collection of unwritten maxims and customs which is called the common law, however compounded or from whatever fountains derived, had subsisted *immemorially* in this kingdom, and though somewhat altered and impaired by the violence of the times had in great measure weathered the shock of the Norman Conquest. This had endeared it to the people in general, as well because its decisions were *universally known*, as because it was found to be excellently adapted to the genius of the English nation.

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"But the common law of England, being not committed to writing, but only handed down by tradition, use and experience was not so heartily relished by the foreign clergy who came over hither in shoals during the reign of the Conqueror and his two sons, and were utter strangers to our constitution as well as our language. An accident which soon after happened had nearly completed its ruin. A copy of Justinian's Pandects, being newly discovered at Amalfi, soon brought the civil law into vogue all over the west of Europe, where before it was quite laid aside and in a manner forgotten, though some traces of its authority remained in Italy and the eastern provinces of the empire. This now became in a particular manner the favorite of the popish clergy, who

borrowed the method and many of the maxims of their canon law from this original."

Mr. Blackstone then proceeded to speak of the study of the civil law at Oxford, and the disputes in the parliament of Merton, and elsewhere, and continued:

"While things were in this situation the clergy, finding it impossible to root out the municipal law, began to withdraw themselves by degrees from the temporal courts; and, to that end, very early in the reign of Henry III episcopal constitutions were published forbidding all ecclesiastics to appear as advocates *in foro seculari*, nor did they long continue to act as judges, not caring to take the oath of office, which was then necessary to be administered, that they should in all things determine according to the law and custom of this realm, though they still kept possession of the high office of chancellor, an office then of little juridical power; and, afterwards, as its business increased by degrees, they modelled the process of the court at their own discretion.

"But wherever they retired and wherever their authority extended they carried with them the same zeal to introduce the rules of the civil in exclusion of the municipal law. This appears in a particular manner from the spiritual courts of all denominations, from the chancellors courts in both our Universities, and from the high court of chancery before mentioned, in all of which the proceedings are to this day in a course much conformed to the civil law, *for which no tolerable reason can be assigned* unless that these courts were all under the immediate direction of the *popish* ecclesiastics among whom it was a *point of religion* to exclude the municipal law."

Now, we may all admit the great ability of Blackstone as a lawyer and a lecturer, but it is manifest that history was not his forte. His adoption of the legend in regard to the discovery at Amalfi, and its effect on the law of Western Europe, is a sample of his weakness on that side. And it seems plain that when he wrote the lecture from which the above extracts are quoted, he wrote under the influence of much prepossession

and political bias. No doubt there were Oxford dons who enjoyed this treatment of the subject; and when they went to dinner that day, drank confusion in their crusty port to the Pope, the Pretender and the civil law; but they perhaps forgot that the classical jurists who made the civil law what it was, never heard of any Pope, much less of any Pretender, but were merely poor pagans looking for that justice which is the uniform and enduring endeavor to render to every man that which is his due—if haply they might feel after it and find it.

It seems that we ought to clear our minds of cant, to purge our eyes that they may become achromatic, and look a little into the fundamental facts of history concerning this matter. Let it be remembered that from the time that Julius Cæsar landed in Britain, 54 B. C., until the legions retired about the year 450 A. D., a period of some five hundred years, the Roman Republic, as it still called itself, embraced the civilized world and all that was therein of art, philosophy and science. Its jurisprudence was like the sunlight, which, as physicists tell us, not only illuminates what it directly shines upon, but diffuses itself in all directions and cannot be wholly excluded from even those places which we try to darken. The Romans governed Britain continuously and systematically for about four centuries. The long era known as the "Roman Peace" gave an opportunity for the arts of peace. Agriculture and commerce were largely developed. Cities, towns, villas, theatres and roads were built. Young Britons of good family were encouraged to travel and study abroad. Under the edict of Caracalla every freeman in the land received the right of Roman citizenship. It is likely that it was as easy in the third century for a young gentleman of London to go to the new and famous law school at Berytus in Phœnicia, as it was for an English traveller to visit Beyrout in the time of Lord Eldon. The Roman veterans were encouraged to colonize in Britain; they married British women; and they received grants of land which they probably held under condition of

military service, a system in which Mr. Gibbon perceives "the first rudiments of the feudal tenures." In brief, here was a great community existing in a highly organized condition, century after century, with a constantly developing civilization, with a continuous growth of the arts of life of every kind, architecture, sculpture, trade, commerce, manufacture, agriculture. Is it rational to suppose that such a people lived without any jurisprudence? Is it rational to suppose that when Papinian, the prince of classical jurists, held court at York, he evacuated his mind of its treasures of juristic lore and experience, and administered the justice of a barbarous chieftain? Is it not likely, on Bishop Butler's theory of probabilities, that the Romanized civilization of Britain gave rise to the same questions and complications which spring from every civilization; that there must have been problems of personal right, of succession and of contract, which could not be solved by quoting any hymn of Druid or custom of Iberian or Celt, but which would demand from the magistrate the application of the best doctrines of his legal philosophy? And where were these doctrines to be found at that time except in the Roman law?

About the middle of the fifth century the legions were withdrawn, and the Romanized Britons were left to shift for themselves. Sorely pressed by their northern neighbors they called in the Anglo-Saxons, and these bold barbarians and pirates made themselves, after many years of strife, the masters of the greater part of Britain. No doubt we owe much to our Anglo-Saxon ancestors. They contributed largely to make England what it is, as distinguished from what Britain was, or would have become. They contributed an element of individual character and personal freedom which is of priceless value. They brought with them certain customs suited to a life that was wholly rude and unlettered; but it will hardly be claimed with seriousness that they brought with them a system of laws. The law of England was still to be formed, and of many factors.

And now, turning back for a moment, let us note the work and influence of the churchmen, a class of whom Mr. Blackstone spoke with so little love. And, if we wish to take up a true historic point of view, we must place ourselves far on the other side of a movement so complicated and comparatively recent as the Reformation of Luther's time, and consider that period when, in theory at least, the seamless robe of the Nazarene was a type of the unity of the church he founded; a church that was something cosmopolitan, co-terminous with the boundaries of civilization and the republic of letters; a power for the organization of society into what was believed to be the Civitas Dei, in which should reign the justice and the peace of God.

This church was established in Britain at an early day. The names of some of its bishops are known from the end of the third century. The British Church was represented in all its orders at the Council of Arles in the year 314. These British churchmen were often scions of noble families and highly educated both by books and foreign travel. By the end of the fourth century the church of Britain had its church edifices, its scriptures, its discipline, its intercourse with Rome, and even with Palestine. And to every churchman, then, Rome represented the seat of everything that was great in jurisprudence as well as in power.

When Britain was abandoned by the legions, a period of about a century and a half elapsed, and then another mission was sent from Rome, in the year 596. The Pagans whom we call Anglo-Saxons had possessed a part of the island. The work of conversion began and continued with varying success until about the middle of the seventh century, when England again came to be considered a Christian country. And the missionaries who achieved these triumphs of faith and courage were not mere enthusiasts. They were men of learning, and possessed by a passion for organizing the victories of their faith. The Council of Hertford, which was called together in the year 673, is considered by Dr. Stubbs to be of constitutional importance, as "the first collective act of the whole English race."

It must be remembered also how unlettered even kings and nobles were in Anglo-Saxon times; and how these churchmen monopolized the learning of the period. They knew to some degree at least the Roman law and its offspring the canon law. And it must not be forgotten that they stood for peace and justice at a time when violence was common; and that their position made them the friends and advisers of all sorts and conditions of men. If there was a contract to be drawn up, a deed or charter to be framed, a will to be prepared, they alone, as a rule, could do the work. Many of them became statesmen. Many of them were judges. As remarked in the very recent work of Sir Frederick Pollock and Professor Maitland on the History of the English Law:

"One certain and very well known peculiarity of the Anglo-Saxon period is that secular and ecclesiastical courts were not separated and the two jurisdictions were hardly distinguished. The bishop sat in the country court, and the church claimed for him a large share in the direction of even secular justice, and the claim was fully allowed by princes who could not be charged with weakness. Probably the bishop was often the only member of the court who possessed any learning or any systematic training in public affairs."

And, in the recent publication called "Social England," Professor Maitland concedes this much, that, "from the days of Ethelbert onwards," (say, from the year 600) "English law was under the influence of so much of Roman law as had worked itself into the traditions of the Catholic Church."

Passing on to the conquest in the eleventh century we find that for a long time this influence was intensified. The Normans brought with them, as we now know, "the power of organization, the sense of law and method, the genius for enterprise," and the churchmen in their ranks were as a rule possessed of all the learning of the day. The eminent Lanfranc, who had been a student of law at Pavia, and who was at once priest, jurisconsult and statesman, became Archbishop of Canterbury and Primate of all England, and was sometimes called

the English Pope. He was the friend and counsellor of William the Conqueror, and even "exercised a wholesome restraint over the passions of William Rufus."

His successor, Anselm, was a native of Aosta, and no doubt a civilian and a canonist.

Roger, Bishop of Salisbury, was Steward and Chancellor in the time of Henry I, and also Justiciar.

Thomas Becket, Archbishop of Canterbury, who had studied law at Bologna, was Chancellor under Henry II, and an itinerant justice; and is believed to have assisted that monarch in his legal reforms.

Hubert Walter, Archbishop of Canterbury, presided over the Court of King's Bench in Richard's time as Chief Justiciar.

The bitter quarrel between John and Innocent III, resulting in the appointment of Stephen Langton as Primate, was one of the efficient causes of Magna Charta. The church was enlisted as the champion of the people, as Mr. W. H. Hutten, of Oxford, tells us in a recent essay.

"When king and barons plunged into war, it was Stephen Langton, patriot as well as prelate," (an Englishman educated at Rome,) "who produced to the constitutionalists the charter of Henry II on which their demands should be based and from which Magna Charta sprang. *Quod ecclesia Anglicana libera sit* is the first article of the Great Charter, and the freedom which allowed the chapters to choose their own bishops was the type and pattern of the liberty asserted for the whole land."

In the time of Edward, Walter de Merton, Bishop of Rochester and founder of Merton College, Oxford, was Lord High Chancellor. In 1367 William of Wykham, founder of New College, was Lord High Chancellor. And briefly it may be said that down to the fall of Woolsey in the early part of the 16th century a series of great ecclesiastics carrying out "the mediæval idea of a Church-State" took a large part in the formation of English law. Whatever may have been their many errors and illusions, however necessary it may have been

that the old order should change as it did under Henry VIII, yet from the third century and during the most thoroughly formative periods of the English law, these churchmen stood for some kind of educated justice. Through their various orders they reached every class. They were the advisers and advocates of the people; they were conspicuous as advocates of personal liberty; they were the intellectual aristocracy of the land; their bishops in the Anglo-Saxon period were the chief judicial officers of the shires; their prominent members were in Norman and later times chancellors and justices of the kings' courts. A majority of the members of the *curia regis*, for long, were ecclesiastics. Is it rational to suppose that such a state of things could exist for so many centuries, and that English law and jurisprudence could yet fail to be profoundly impressed by the Roman system?

And, therefore, as against the utterances of Blackstone as quoted above, we may set the following from the work of Pollock and Maitland already alluded to. Referring to the time of Henry II and to Mr. Blackstone's singular theories in regard to its spirit, and pointing out the fact that the twelfth century was one remarkable for its devotion to the study of jurisprudence, they say: [1]

"The keenest minds of the age had set to work on the classical Roman texts and they were inspired by a genuine love of knowledge. * * * * The Roman law was for them living law. Its claim to live and to rule was intimately connected with the continuity of the empire. * * * * But such theories apart, the Roman law demanded reverence, if not obedience, as the due of its own intrinsic merits. It was divinely reasonable; it was a law that rejoiced the heart and gave wisdom unto the simple. * * * * Henry's greatest, his most lasting, triumph in the legal field was this, that he made the prelates of the church his justices. * * * English law was (thus) administered by the ablest, the best educated men in the realm. * * * * men who were

[1] Vol. 1, p. 89.

bound to be, in some measure at least, learned in the canon law. At one moment Henry has three bishops for his Archjusticiars. The climax is reached in Richard's reign. We can there see the King's Court as it sits day by day. Often enough it was composed of the Archbishop of Canterbury, two other bishops, two or three archdeacons, two or three ordained clerks who were going to be bishops, and but two or three laymen. The majority of its members might at any time be called upon to hear ecclesiastical causes and learn the lessons in law that were addressed to them in papal rescripts. Blackstone's picture of a nation divided into two parties, the bishops and clergy on the one side contending for their foreign jurisprudence, the nobility and the laity on the other side adhering with equal pertinacity to the old common law, *is not a true one.* It is by 'popish clergymen' that our English common law is converted from a rude mass of customs into an articulate system; and when the 'popish clergymen' yielding at length to the Pope's commands, no longer sit as the principal justices of the King's Court, the golden age of the common law is over."

If, as we understand, the custom of the King's Court was the custom of England, and became the common law; and if the King's Court was thus composed, during these golden and formative days, of men whose chief culture was romano-canonical, the syllogism seems complete and the conclusion inevitable.

Another source of influence may be briefly noticed. It was about the middle of the twelfth century that Vacarius, imported from Italy by Theobald of Canterbury, began to teach the Roman law at Oxford; and that University soon had a flourishing schoool of both the civil and the canon law. In the thirteenth century, Francesco d'Accorso was invited from Bologna to Oxford, by Edward II, "the English Justinian," to lecture on Roman law. In the fourteenth century, Bishop Bateman, of Norwich, founded Trinity Hall, Cambridge, for the study of the civil and the canon law. The enthusiasm of young

Englishmen of the time of Edward for such studies was intense, and many went to Bologna and Paris for the purpose, where the use of Latin, as the universal language of scholars, made such studies most charming and fruitful. To this should be added the publication of text-books of that period. In the time of Henry II. came the treatise of Glanville, of which Professor Maitland has recently said "in a sense the whole book is Roman." In the middle of the thirteenth century came Bracton, an ecclesiastic, an archdeacon, a student of the Roman law as taught by Azo, of Bologna. Sir Henry Maine says that "the entire form and one-third of the contents" of Bracton's treatise were taken from the *corpus juris;* and you are all doubtless familiar with the interesting work of Professor Güterbock on this topic. There is no time here to go into details on this part of our subject. It is merely suggestive that such academic teaching, and such text-books must have exercised a potent influence in the formation of what we call the law of England.

And if we look into the law of England in the same spirit in which the paleontologist studies his fossils, we may find abundant evidence of the contributions which came from the Roman system, during the formative periods alluded to above; and we might conclude that Sir Henry Maine did not go too far when he declared that the Roman law "is the source of the greatest part of the rules by which civil life is still governed in the Western World."

We are all familiar with the curious association in England of probate and admiralty; and there can be no dispute that the principal rules of both systems, whether substantive or adjective, are Roman, through and through. If the gracious shade of Ulpian could appear in the United States District Court in Detroit in an Admiralty case, he would require but a brief preparation either in principle or practice. The Supreme Court of the United States, as lately as March, 1893, has reviewed this subject and reiterated the statements made many years before through Mr. Justice Grier, and by Mr. Justice

Curtis at circuit, that the admiralty lien is derived from the privileged hypothecation of the Roman law, and is in its essentials, the "privilege" of the civilians. (148 U. S. 1.)

We may all agree that the principles and practice of the English Court of Chancery are largely derived from Roman sources, modified in some respects by the canon law. Sir Henry Maine says:[1] that in the recorded dicta of the later generation of English chancery judges "we often find entire texts from the *corpus juris*, imbedded with their terms unaltered, though their origin is never acknowledged." In a quite recent case, Wheeler *vs.* Insurance Company, 101 U. S., 439, 443, the Court, through Mr. Justice Bradley, pointed out that the equitable lien of a mortgagee on certain insurance money was derived from the civil law. And Mr. Pomeroy, in noticing the indebtedness of the English equity to the Roman jurisprudence, expresses the opinion that we never would have had a separate court of chancery, but would have administered both law and equity in the same tribunal, but for peculiar conditions in English character and history which he points out at some length.

It seems plain enough that the leading doctrines of the law of corporations, public and private, came to the English law from Rome. The idea of a juristic being, distinct from any of the natural persons who are allowed to compose and manage it; the theory of its creation and visitation by the power of the State; the conception of corporate title to property as distinct from that of any of the members of the body; and the exemption of the natural members from liability for the debts of the juridical entity, are clearly set forth in the writings of the classical jurists, and naturally came to Britain and to England from that source, immediately or remotely.

The limits of this discussion will not permit me to detail all the contributions which a careful research may find to have been made by Rome to English law, but I take leave to refer to a few more which have sometimes been overlooked.

[1] Ancient Law, p. 43.

For example, it seems to be conceded by such writers as Cruise that the devices in conveyancing known as fines and common recoveries, concerning which Shakespeare has put some exceedingly bad puns into the mouth of Hamlet, were derived from the civil law. They were in principle the *in jure cessio* of the Roman law, which was a fictitious surrender in court of property resulting in a judgment settling the title in the person in whom it was desirable to have it settled. It is fully described by Gaius in the second book of his Commentaries. Now, it will hardly be contended that such a refined method of conveyancing could have been derived either from the ancient Britons or the Anglo-Saxons, there being no trace of anything of that sort among their customs nor any reason to suppose that they could have had any use for such devices. The high probabilities are that the clerics who were familiar with the civil law suggested such methods of procedure.

It may also be noted in the same connection that the leading principles of our law of estoppel by judgment, or *res adjudicata*, are set forth and discussed in the Pandects, and especially in the fortieth book of that compilation, with great fullness of both doctrine and illustration. It is but natural to infer that in the formative periods of English jurisprudence such treatises must have been of controlling authority, especially where the majority of the judges were churchmen and presumably students of the Roman law.

In one of his elaborate orations in the United States Senate Mr. Charles Sumner spoke of "the generous presumption of the common law in favor of the innocence of an accused person;" yet it must be admitted that such a presumption cannot be found in Anglo-Saxon law, where sometimes the presumption seems to have been the other way. And in a very recent case in the Supreme Court of the United States, the case of Coffin, 156 U. S., 432, it is pointed out that this presumption was fully established in the Roman law, and was preserved in the canon law. It was declared in the Code of Justinian (4, 22, 1, 25) that charges must not be preferred

unless they could be proven by proper witnesses, or by conclusive documents, or by circumstantial evidence "which amounts to indubitable proof and is clearer than day."

It was the Emperor Trajan, it seems, who declared that it was better that the guilty should escape than that the innocent should be condemned (Dig. 18, 19, 5). And the court cites an anecdote from Ammianus Marcellinus concerning a trial where the Emperor Julian, another poor heathen, presided in person as chief magistrate. The accused simply pleaded "not guilty," and there was not sufficient evidence against him. The prosecutor, seeing that the failure of the accusation was inevitable, exclaimed, "Oh, illustrious Caesar, if it be sufficient to deny, what will hereafter become of the guilty?" To which Julian replied, "If it be sufficient to accuse, what will become of the innocent?"

The court finds itself unable to say just when this presumption was adopted into the English law; but when it is so plainly laid down in the Roman and was not a rule of Anglo-Saxon law, it would seem to follow that so far as England is concerned it is of Roman origin.

We are often told that an Englishman's house is his castle, but we find the same idea quite as strongly expressed in the classical Roman law at a time when neither Briton nor Teuton had any houses worth mentioning. It is stated in the Pandects that no man can be summoned while inside his own house; but if he allows the complainant to enter or shows himself so as to be seen from the public street he may be summoned; but in no case can the complainant drag him from his own house; and Cicero declared that a man's house is a refuge so hallowed by all that to force a man therefrom is impious.

Take the case of trial by jury, the palladium of English liberty, in theory, at least. It seems to be conceded now that it is not of British or Anglo-Saxon origin. The picture we often see hanging in the office of an American lawyer of the first trial by jury in the shade of a grove, with a Saxon chief seated on the left, the twelve jurors on the right and the corpse

of the murdered man between them, is interesting as a work of the imagination, but is entirely destitute of historic truth. Mr. Forsyth, in his elaborate work on Trial by Jury, written in 1852, admits that the system is not of Anglo-Saxon origin, and the latest writers on the subject, Sir F. Pollock and Prof. Maitland, sum up the evidence and arrive at the conclusion that our jury was of royal and not of popular origin.

That which comes nearest in time and character to trial by jury in the earlier days, is the system of "recognition by sworn inquest" introduced into England by the Normans. "That inquest," says Dr. Stubbs, "is directly derived from the Frank Capitularies, into which it may have been adopted from the fiscal regulations of the Theodosian Code and thus own some distant relationship with the Roman jurisprudence." The relationship may have been distant, but it seems to be real. The conception of a judge to pass on questions of law, and a jury to pass on questions of fact was well known in the Roman Republic at least from the days of Sulla and his reforms in criminal procedure. Every case submitted to the *questiones perpetuae* "was tried by a judge and a jury." "It was the duty of the judge to preside and regulate the proceedings according to law. It was the duty of the jury after hearing the pleadings and the evidence to decide upon the guilt or innocence of the accused. The number of the jurors varied according to the provisions of the law under which the trial took place, but was always considerable, and we find examples of thirty-two, fifty, seventy, seventy-five and other numbers. The presiding judge drew the names of the jurors from the urn; each party had a right to challenge a certain number, and the verdict was returned by a majority of votes."[1]

It seems highly probable that when the recognition by inquest as introduced by the Normans began to assume the form of what we know as a jury, the judges might have been instructed and influenced by Roman experience in giving final shape to the system.

[1] Mackensie, Roman Law, p. 388.

It may be noted that there were juries in Scotland in criminal cases from very early times. They certainly did not come to that country from any British or Teutonic source.

The presence in the Pandects of every important doctrine of habeas corpus is an interesting fact and suggests that the proceeding probably came to England, as it did to Spain, from the Roman law. There is no evidence so far as I have been able to discover that the process was of British or Teutonic origin. It is fully described in the forty-third book of the Pandects. The first text is the line from the Perpetual Edict, "*ait prætor: quem liberum dolo detines, exhibeas.*" "The prætor declares: produce the freeman whom you unlawfully detain." The writ was called the interdict or order "*de homine libero exhibendo.*" After quoting this article of the Edict, the compilers of the Pandects introduce the commentary of Ulpian to the extent of perhaps two pages of a modern law book, and the leading rules which he derives from the text are law, I believe, to-day in England and America. Thus he says:

"This writ is devised for the preservation of liberty to the end that no one shall detain a free person."

"The word freeman includes every freeman, infant or adult, male or female, one or many, whether *sui juris*, or under the power of another. For we only consider this: is the person free?"

"He who does not know that a freeman is detained in his house is not in bad faith; but as soon as he is advised of the fact he becomes in bad faith."

"The prætor says *exhibeas* (produce, exhibit). To exhibit a person is to produce him publicly, so that he can be seen and handled."

"This writ may be applied for by any person; for no one is forbidden to act in favor of liberty."

And to this commentary of Ulpian the compilers also add some extracts from Venuleius, who, among other things, says:

"A person ought not to be detained in bad faith for any time; and so no delay should be granted to the person who

thus detains him." In other words, a writ of habeas corpus should be returnable and heard instanter.

It seems certain that this writ might have been applied for in Britain during the four centuries of Roman occupation, at least when not suspended by a condition of martial law; and after the restoration of the Christian Church in the seventh century, and the occupation of judicial positions by bishops and other learned clerics, familiar with such procedure, it is not unreasonable to assume that it was revived and took its place in English law.

I must not trespass further on your patience by citing any more examples of this kind, but I may be permitted to quote two of those judicial utterances for which we who are of English descent are taught to have such profound respect.

In *Lane vs. Cotton*,[1] Lord Holt said: "It must be owned that the *principles* of our law are borrowed from the civil law, and therefore grounded on the same reason in many things."

And, long after, in Acton *vs.* Blundell,[2] Chief Justice Tindal said: "The Roman law forms no rule binding in itself on the subjects of these realms; but in deciding a case upon *principle*, where no direct authority can be cited from our books, it affords no small evidence of the soundness of the conclusion at which we have arrived if it prove to be supported by that law, the fruit of the researches of the most learned men, the collective wisdom of ages and the ground-work of the municipal law of most of the countries of Europe."

These two utterances from the English bench sum up, perhaps, our whole subject. As Lord Holt perceived, as a matter of history, many of the leading principles of English law came from Roman sources. And, as Chief Justice Tindal pointed out, while the Roman law as a system is not binding in England, nor in the common law States of our Union, it is yet a perpetual fountain of juristic wisdom; it is a treasure

[1] 12 Mod. R. 482.

[2] 12 Meeson & Welsby, 353.

house of principles as persistently true as the propositions of Euclid; and its study as a matter of comparative jurisprudence must be of the highest educational value.

The law of England is like a composite photograph, to which many features have contributed their influence to form eventually one picture. It has become distinctly national, like the English language itself; and like that language it has spread to the uttermost parts of the earth, and now, as Sir Frederick Pollock has said, divides, broadly speaking, the whole civilized world with the civil law. It is not a mere mosaic, but a living organism, a true "body" of doctrine, which has gathered and assimilated its nutriment from many ages. The study of its relations to earlier systems must always be interesting and fruitful. For we need to take connected views of new and old, and of their relation one to another. In no other way can "acquirement become philosophy." As Dr. Stubbs remarks in the preface to his work on the English Constitution:

"The history of all institutions has a deep value and an abiding interest to all those who have the courage to work upon it. It presents in every branch a regularly developed series of causes and consequences, and abounds in examples of that continuity of life, the realization of which is necessary to give the reader a personal hold on the past and a right judgment of the present. For the roots of the present lie deep in the past; and nothing in the past is dead to the man who would learn how the present comes to be what it is."

THE TYRANNIES OF FREE GOVERNMENT

OR

THE MODERN SCOPE OF CONSTITUTIONAL GUARANTEES OF LIBERTY AND PROPERTY,

BY

RICHARD WAYNE PARKER,

OF NEWARK, NEW JERSEY.

It is a very great pleasure to follow after such a paper as has been read before you to-night by Mr. Howe, because in speaking of the constitutional guarantees of our liberty, derived from English and American sources through many centuries, we can know and remember that these guarantees go far back of modern history, and that the Romans recognized like rights and like remedies centuries before.

In the conclusion of the opening address of the President of the Association at this session, he told us that this was a time of change, with strange nations coming to this land, with great increase of wealth, with great change in circumstances and in occupations, and he asked us whether our government, our law, our ways of thinking and acting were remaining as they should be—honest, true, American and free.

It is to this problem that I am trying to address myself to-night: to the question whether these changes are bringing in the influences which destroyed the strength of the Roman law in the greatness of the city; whether there are tyrannies of *free* government, and whether these are getting any hold upon us, so that we ought to look to the present scope and force of the guarantees of constitutional liberty which are contained in our constitutions.

A large part of modern constitutions is taken up with guarantees of life, liberty, and property, lawful remedies and all the political privileges usually known as the bill of rights; guarantees originally framed against kingly oppression, and which might seem to fill no place in government by popular sovereignty. They cannot have outlived their usefulness like milestones which the march of freedom has long passed, for we find them constantly repeated and amplified.

These provisions may be fairly divided into two great classes, the theoretical and the practical. The more modern and broad are the theoretical; the general statements that all men are created equal; that they are endowed by their creator with certain inalienable rights, and that among these are life, liberty and the pursuit of happiness.

These general statements are valuable to show the progress and drift of thought, but have been rarely subject to much legal or strict construction.

In discussing the legal scope of the constitutional guarantees, attention may rather be paid to the more specific and therefore more valuable provisions that have been successfully conquered and fortified in the wars of freedom; provisions that tell us of the whole constitutional history of England and America. We find them in detail in constitutions, whether of the union or of particular States; that every man may worship according to his own conscience, and shall not be compelled to attend any particular church; that there shall be no religious test for office; that everyone shall be free to speak, write or publish the truth, being responsible only for the abuse of that liberty; that the right of the people to keep and bear arms shall not be infringed; that it shall be their right peaceably to assemble, and to petition for the redress of grievances; that everyone ought to find a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; that his house and possessions shall be free from unreasonable search; that he shall not be held for a capital or other infamous crime without indictment; that his property shall not

be taken for public use except by due process of law and upon due compensation therefor; that the privilege or writ of *habeas corpus* shall not be suspended; that the right to trial by jury shall remain inviolate, and that slavery or involuntary servitude, except as a punishment for crime, shall not exist in the United States.

These provisions are familiar; they are almost platitudes. In substance, except as to slavery, they were insisted upon as amendments to the United States Constitution before the consent of the States could be obtained. They are embodied in the fundamental law of the majority of the States. They have come down to us as a legacy of centuries of conflict. They group themselves as supporting bulwarks of the great citadel of freedom. They carry us back not merely to our war of the Union, to the Declaration of Independence, and to the provincial struggle to be let alone; but in thought to the days of the Restoration, of the Puritan, of a compulsory established church, of ecclesiastical commissions, of forced loans and aids, of feudal or kingly oppression, and finally to the great words of Magna Charta, when King John had to declare—

"No freeman shall be taken, or imprisoned, or disseized, or outlawed, or banished, or in any way destroyed, nor will we pass upon him or commit him to prison, unless by the legal judgment of his peers or unless by the law of the land. We will sell to no man or deny no man right or justice."

The universal repetition of these provisions proves that they are ingrained in the life and love of American freedom. It has been well pointed out by Dr. Lieber in his "Civil Liberty," that they are not mere general statements, but bear the practical character that belongs to our race. The declaration of liberty, equality and fraternity by the French Republic has never prevented tyranny by police, the interrogation of supposed criminals by the court, prosecution by the judges, the restriction of public speech, writing and printing, police arrest and all the machinery which practically makes a government arbitrary.

In England and America an officer has no power except when within legal authority. Elsewhere, to resist or even insult the police is an act of petty treason to the government which each officer represents. But our right of resistance to unlawful authority goes through all these constitutional provisions back to Magna Charta. These, our safe-guards, are so wrought into the common life of the nation that we are apt to forget how much they represent and how dearly they would be defended if the people found them seriously attacked.

And yet they sometimes seem obsolete. There is now no King John against whom his free barons could declare the right of resistance to unlawful power; there is no established church, Catholic or Protestant; there is no King George the Third, quartering soldiers in time of peace, or sending Americans to a foreign soil for trial, to be warned that he might profit by the fate of the tyrants of antiquity. We have a government of the people, by the people and for the people. Where, at first sight, are the enemies of liberty?

Our constitutional guarantees scantly represent the quiet progress of freedom. Magna Charta only protected the freeman. It gave no aid to the masses bound to villein service, who were only gradually emancipated. Even after villeinage ceased, servitude remained a real thing. Service was not, as now, a mere matter of contract. But with us not only is slavery gone, but the very relation of master and servant has almost disappeared. The great constitutional amendment declaring that slavery or involuntary servitude, except as a punishment for crime, shall not exist in the United States, is only a meagre description of the change that has taken place in the last two centuries. Service was a *status* in the colonies. The servant could be forced to labor; if he ran away he could be retaken, and if he refused to work he could be punished by order of a Justice of the Peace. He could be reasonably beaten by his master. Ancient statutes authorizing the recapture of runaway servants and the punishment of those harboring them are either repealed or unused.

It has been expressly held since Chancellor Walworth, that the contract of service cannot be specifically enforced, even in equity, the Chancellor saying, as to a famous singer, that he could prevent her singing elsewhere, but he did not know how even the Chancellor could compel her to sing. Whether such legislation may again at any time become necessary in order to compel the performance of labor contracts may be doubted. Even when the internal commerce of a whole section of the country was interrupted by combination, no one asked for any law to compel the laborer to perform his contract of service. Public sentiment supports an absolute personal liberty of which our ancestors never dreamed and which our great constitutional safe-guards did not contemplate.

But eternal vigilance is the price of liberty. There may be tyrannies by a free government, and the powers of the State are so great that it is always wise to inquire whether its authority is being used to oppress the subject. We may be sure that the enemies of liberty do not die, and that if we see no foes it is because they have new faces.

Of course there are infringements of private rights which result from merely local or temporary causes and are not likely to grow into a system of tyranny. The lynch law of a sparsely settled country, though bad enough, results only from the want of other law, and it seems to yield in time to the agencies of civilization. So, too, the personal attacks and boycotts which have characterized great strikes and the outrages on the freedom of the voter which have taken place in times of great public excitement are serious enough and capable of growing into a system, but as yet they have always yielded to the awakened conscience of the people. There have always been men who know their rights, and knowing them, dare maintain. We may safely trust the determination of the people that the authority of the law shall be sustained against mob violence. There is too much at stake for it to be otherwise, and whatever popular sympathy exists for the mob is quickly dissipated when the community learns what mob rule really is. When trade is

broken up, and life and property endangered, the common sense and courage of the plain people are always roused. When the mob begins to burn houses the people come back to the side of law and order.

But there are other dangers of tyrannies that have in some degree invaded our system of free government, and that seem to result chiefly from the tremendous forces that are at work in the land, the intricacy and complication of the needs of great cities, the number of matters now considered as belonging to police, the extension of the powers of eminent domain, and the perpetuation of taxation by public debts.

Take the modern exercise of powers of eminent domain, for an example. It is really wonderful that in all the growth of the last few years, and among all the changes caused thereby, there has been so little complaint of invasion of private rights. There have been few checks on municipal or corporate action. People are too busy to go into politics to reform their city government. They find it pays better to submit than to contest. It is a question how far the constitutional provision that private property shall not be taken without compensation is a real protection and complete. We are not dealing with the mere sentimental view of those who love their homes, and to whom money is no compensation for the destruction of what they love, against their will, by new streets, railroads, electric railways, and all the modern improvements. Modern free government says that the individual must give way to the public good. It tears down the most noble monument if it is in the way of a street. It breaks up an attractive neighborhood with a railway which fills it with picnic grounds and saloons. There is some foundation for the complaint of those who are turned out. Like Naboth, they do not want to sell their vineyard to the King, even if he "give the worth of it in money." But the ancient and modern king turn him out for all that, and consider him a mere sentimentalist. When a noble lord in England tried to have the course of a railroad laid so as to avoid his grounds and run through those of his

neighbor, Charles Reade, the novelist, saved his place by posting a sign in large letters "Naboth's Vineyard" facing the lord's park. English conservative sentiment supported him. It may be doubted if public feeling would do so here. As the Indian has given way to the white man, so the old homes fall before the needs of our great population, and we only ask that they be paid for.

But how shall constitutions control and check the municipal misgovernments, to which the powers of eminent domain and assessment are so universally and wholly entrusted? How shall a constitution prevent so-called public street improvements, which first take a part of a man's lands, and then assess the rest out of existence for so-called benefits? Freedom and security are a matter of checks and balances. The mere declaration that property shall not be taken without paying for it, has often been worthless against a political majority that is eager to distribute city work among its partisans, and that has this arbitrary power. What check can fairly be put on the tyranny of municipal government.

It may be remarked that the whole power of assessment for special benefits is a comparatively modern doctrine, and in England has been only adopted within the last few years. Some doubt whether it should be entrusted to any one, at any rate to a mere municipality. But our growing towns seem to require it, and public sentiment supports it.

A like criticism has been expressed on the magnitude of the powers of eminent domain which our laws grant to private corporations. Originally the legislature decided whether the act would be for the public benefit, sanctioning it by granting a special charter; and this is still the practice in England. The legislative abuses which resulted have led us to provide generally that all grants of such franchise should be under general law. In some states a commission decides whether the route of a railroad is proper and the franchise should pass. In others, the public benefit is taken for granted in the public purpose of the work, and any association may lay out and

build a railroad anywhere. It has been argued that no such discretion can constitutionally be vested in any private corporation. Certainly it is a grave question as to how far the powers of eminent domain should be left free to whomsoever wishes to exercise them under the guise of a public work. And yet experience seems to justify the reckless American confidence, which has decided that the forces that make for growth shall be left absolutely free to act, subject only to the check of payment assessed by court and jury. No other country knows such unchecked corporate powers. Yet if any general evil arise some remedy will be found. All growth involves decay, and that of our country is so rapid and on so many lines that it can only be compared to war. Admitting, however, that *inter arma silent leges*, yet the laws return when the work is done and peace comes with it to the land.

The injury done by great public enterprises is not always the mere taking of property, but sometimes a damage that falls incidentally on other property. By some constitutions such damage must be paid for. In other States, pay is given only for property taken, including damage done by the taking to other parts of the same property. The incidental effects of a public work on the neighborhood are regarded as part of the chances which every man assumes by living in a community and as *damnum absque injuria*.

The magnitude of the subject is shown by the fact that the elevated railroads in the City of New York have been held liable to pay owners fronting on the streets through which they run, on the ground that the streets belong to such owners, subject only to the easement for a street. A whole division of the courts of the City of New York is occupied constantly with such cases, of which there are a thousand pending at the present time. Yet, according to the well settled law, there would have been no remedy if the lot-owner had not also owned the fee of the street to its centre line. The illustration only shows how difficult it is to carry out the constitutional guarantee. There are many cases in which a whole neighborhood

is injured by a railroad or other great corporate structure when there is no remedy. To give one is to open the door to most outrageous claims. To deny it is nevertheless hard.

Similar questions of the greatest magnitude and also of the greatest nicety are constantly presented by the tremendous changes which are being effected by great corporations, whether municipal or private. It has been held repeatedly and universally that a horse railroad, when used for ordinary travel, is not a diversion of a street from ordinary public use and that the substitution of mechanical power for horses does not effect such a diversion. We may remember that the same rule was sometimes applied when steam railroads were first introduced; until the speed and weight of the trains were so increased and the character of the rail was so altered that general public use became impossible.

Where is the line to be drawn? How fast must a trolley line run to be inconsistent with the public use of the street? How much of a narrow roadway can be taken by rails and poles before it shall be deemed an invasion of the common right of travel? The difficulty is not in the principle, but in its application. Increased facilities for rapid travel are demanded on every thoroughfare. But between the energy of the great corporation, the carelessness of the municipality that grants the franchise and the new and complicated demands of the modern city, with the indisposition of courts to invade the legislative function and assume to decide on the public policy of the new enterprise, the right of citizens to enjoy their own is strangely doubtful.

It seems to the writer that there should be little doubt as to the policy at least of severe constitutional prohibition of municipal debts. Our street-paving, sewers, waterworks and the splendid parks and boulevards which adorn our cities are usually paid for with borrowed money. The politicians of the day, representing a penniless majority, thus mortgage the possessions of every citizen. If all this were done by present taxation, it would be done with care and economy and

would be looked into at the time; for good politics always urge the politician to keep down taxation. But now there is almost no check on the confiscation of property. It is a familiar rule also that no deliberative body, whether legislative or Common Council, can bind the action of its successor, but debts do bind a city that borrows and force future governments to pay principal and interest. The topic is a large one in all respects, but it is certain that when our cities and towns were constituted, they were never intended to have the debt creating power that they now assume; that this power is inconsistent with the security of the citizen and that constitutional checks (generally in the form of a limitation of the debt to a certain proportion of the taxable property) are coming widely into use.

These difficulties will mostly correct themselves. The whirl of improvement cannot keep up its present pace. The country-side which was gridironed with useless streets, at last becomes a thriving city; the city outgrows its debts. The parks and expensive public buildings become a mere incident to the greatness of the town. The problem of the municipal government has yet to be solved, but its money side will take care of itself. Our large cities are not insolvent or likely to be so.

There is more danger of the permanent invasion of our liberties in the modern growth of police regulation. Take for instance the Boards of Health so universally established. They often exercise powers of command and injunction to which there appears no limit.

In a recent case, a Board of Health of a country village actually burned down a house which was supposed to be so infected with scarlet fever as to be a menace to the neighborhood. They may order filling, draining and the removal of nuisances almost at their will. Some power like this seems to be necessary in the teeming population gathered up in our great cities, but it is certainly novel to a people accustomed to control their own property, and with a nominal right to trial by jury.

Nor is this police power confined to questions of property. All our large cities are coming to depend much more on the police and the police court and to think less of the old tribunals. The police are by common consent allowed to exercise the most arbitrary power. It is a constant rule with New York police that any well-known criminal who is seen in the lower part of New York City is immediately arrested upon suspicion. He is liberated the next day of course, but re-arrested without warrant if he appear within the banking district of that great city. At the time of the centennial celebration of 1887 this rule was for a time greatly extended; it was applied to the whole city. Is it a sort of tyranny? People sometimes prefer to be under police rule though it may involve continual invasions of private rights. The same tendency is seen in the greatly increased powers that are granted to or assumed by the police courts. They dispose daily of great numbers of minor offenses either under the name of disorderly conduct or by consent of the accused.

Business is rushed, the prisoners are questioned in true continental style and laugh with the police at his Honor's jokes. The narrative makes an entertaining column next day. What matter if trial is a farce and injustice often done? The man who should complain would find little sympathy with a people who are now accustomed to be protected by the vigor of the police instead of protecting themselves.

It is beyond question that the power of the police of our great cities resembles that of continental Europe and is like nothing in our English and American history. It is strongest where the ordinary courts are most crowded with business or worse administered. When the docket is full, the prosecuting office careless, and the jury selected for its want of opinion and the judge unskillful, criminals so often escape on technicalities or in the delays of appeals, that the average citizen thinks it better to let the police and the police courts arrange it somehow. But, is there no danger to liberty in the growth of such a spirit?

A larger question is involved in calling out soldiers, not to fight, nor merely to disperse mobs, but to act as a sort of special police, without the declaration of martial law. We are told that the city and the police themselves are often in sympathy with the rioters and that the presence of troops is necessary. I confess that I see grave danger in unconcerned tolerance of this view. If a populace do not sympathize with law and order, there is much to be said in favor of waiting till they do. Mob law will soon teach them. When the citizens want soldiers for a soldier's work, the soldier should be on hand, but free Americans are not under military police.

The largeness of the subjects discussed in this paper does not permit any detail. The limits of this paper allow me only to indicate the directions in which modern government may come into collision with liberty and property. We have a new set of problems. We are no longer attacked by kingly oppression. But the requirements and obligations of modern civilization make men so much less independent in their lives and belongings than they used to be, that the question of the day is where the checks are to be found, which shall abate the tyrannical use of the powers of assessment, taxation, eminent domain and police.

It is encouraging to think that time will afford a remedy. We shall meet the problem, for the people still cherish a love of liberty. In the rush of material progress, too many things are forgotten. But the time of flood will not continue forever. The stream of civilization will at last settle within banks which can be protected and guarded as of old, while

> "——sovereign law, the States collected will,
> Sits Empress, crowning good, repressing ill."

REPORT

OF

COMMITTEE ON JUDICIAL ADMINISTRATION AND REMEDIAL PROCEDURE.

To the American Bar Association:

Your Committee on Judicial Administration and Remedial Procedure have under consideration a certain resolution which was referred to said Committee, at the Annual Meeting held in 1894, which resolution is as follows:

"*Resolved*, That this Association recommend the adoption of an amendment to the law regulating appeals to the Circuit Courts of Appeal, so as to provide for appeals in interlocutory orders appointing receivers."

The Act of March 3, 1891, "establishing Circuit Courts of Appeal," &c., provides for appeals from interlocutory orders or decrees granting or continuing injunctions in causes in which an appeal from a final decree may be taken under provisions of that Act to said Court. It makes no provision for appeals from interlocutory orders appointing or refusing to appoint receivers, although such orders may divest or affect legal rights. Such provision is not, however, wanting in another Act of Congress, to wit: the Act of February 9, 1893, "to establish a Court of Appeals for the District of Columbia," &c., (27 U. S. Stat. at Large, 436). The provision in the latter Act is as follows:

"Appeals shall also be allowed to said Court of Appeals from all interlocutory orders of the Supreme Court of the District of Columbia, or by any Justice thereof, whereby the possession of property is changed or affected, such as orders for the appointment of receivers, granting injunctions, dissolving writs of attachment, and the like; and also from any

other interlocutory order, in the discretion of said Court of Appeals, whenever it is made to appear to said Court, upon petition, that it will be in the interest of justice to allow such appeal."

Only a part of that language will be needed as an amendment to the aforesaid Act of March 3, 1891.

The practice in the various States of the Union is not uniform in the matter under consideration. In several States such appeals are allowed from interlocutory orders appointing receivers, or otherwise affecting or divesting legal rights. But where property is subject to be sold by receivers, and heavy charges or liens by receivers' certificates and otherwise are liable to occur under such interlocutory orders, it would seem that some such provision for appeal as is indicated in the Resolution would be a proper amendment to, or enlargement of, Section 7 of the Act establishing the Circuit Court of Appeals. As will be seen from the quotation above made, it would be the adoption of but a part of the provision made in the Act establishing a Court of Appeals for the District of Columbia.

A bill intended to provide for this matter is understood to have passed the House of Representatives in 1894. It is therefore supposed that the matter is likely to receive early consideration in Congress.

Respectfully submitted,

WALTER B. HILL,
Chairman.

REPORT

OF THE

COMMITTEE ON LEGAL EDUCATION.

Presented to the American Bar Association at the Annual Meeting at Detroit, August 28, 1895.

The Section of the American Bar Association organized at the Annual Meeting in Milwaukee in 1893, has taken up the discussion in detail of various topics which concern the efficiency and success of Legal Education. To aid the members of the Association in surveying the subjects under consideration, and in informing themselves readily as to the investigations made and the information presented by the Committee in previous years, and by the Section in the two meetings already held, we submit the following analysis:

AN OUTLINE OF THE FIELD TO BE CONSIDERED IN THE DISCUSSION OF LEGAL EDUCATION.

WITH AN INDEX OF THE PAPERS AND DISCUSSIONS IN THE AMERICAN BAR ASSOCIATION AND THE SECTION UP TO AND INCLUDING THE ANNUAL MEETING OF 1894.

[NOTE.—A full bibliography of Legal Education will be found in the Report of the U. S. Commissioner of Education for 1890–1891, p. 195. And full information as to Legal Education in Europe, Canada, Australia, Spanish America, Japan and China, will be found in the same Report. View of the Present State of Legal Education, '*94*, 389. (p. 39 of the Proceedings of the Section.) General Preliminary view of the subject '*79*, 209.]

I. ADMISSION TO THE BAR.

Bar examinations in various States described, '*91*, 301.

Some Standards of Legal Education in the West, '*94*, 423. (p. 75 of Proceedings of the Section.)

The new system in New York, '*94*, 358. (p. 10 of Proceedings of the Section.)

II. RELATION OF COLLEGE COURSE TO LEGAL EDUCATION.

Study of Law in colleges as distinguished from Law Schools, '*93*, 391.

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PRESENT CONDITION OF AMERICAN LAW SCHOOLS.

During the year ending June, 1895, there were, so far as known to the Committee, sixty-seven Law Schools in operation in the United States. Enrolled in these schools were eight thousand six hundred and forty-four students, of whom seventeen hundred and eighty-three had degrees in letters or science. There were six hundred and thirty-seven instructors. It thus appears that there was an increase of about one thousand and forty-four in the number of students over the year preceding; the number that year being about seventy-six hundred. The percentage of students having degrees was greater this year than has ever before been reported, being about twenty per cent.* Table A hereto annexed will show the number of students in the various schools and the number having degrees.

Twenty schools already have, or have announced, courses of three years. At present there are enrolled in these schools forty-one hundred and four students, of whom eleven hundred and thirty-eight have degrees in letters or science. The total number of instructors in these schools is two hundred and sixty-four. Twelve of these schools require entrance examinations.

But it must be observed of many of the three year schools that attendance at the school for the three years' course is not obligatory. In some, students may be graduated after a shorter period if they pass the required examination. But attendance for at least two years is generally required.

Thirty-nine schools have courses of two years. These schools have four thousand and seventy-one students, of whom six hundred and seventeen have degrees in letters or science. The number of instructors is three hundred and thirty-three.

An entrance examination is required in fifteen. The catalogues of seven state that no entrance examination is required.

* Professional degrees:—LL. B., B. L., M. L., M. D., C. E,, etc., are not reckoned. Including these the proportion of students having degrees will be increased to about twenty-three per cent.

The catalogues of the remainder are silent on the subject and it is therefore safe to assume they require no entrance examination.

But of the two year schools, a considerable number do not require attendance upon the exercises of the school for two full years. The student may be graduated after one year's attendance, provided he passes the examination and produces a certificate from another Law School or a member of the Bar, certifying that he has studied an additional year under their direction.

Eight schools have courses of one year. These schools have four hundred and sixty-nine students, of whom twenty-eight have degrees in letters or science, and forty instructors. It is stated in the catalogue of one that no entrance examination is required. No reference is made to the subject in the others, and presumably none is required.

In several of the large cities, night schools of law have been established and appear to have been successful in attracting a number of students. Students attending these schools, we are informed, are generally persons engaged in business or having some other occupation, as clerks, stenographers, etc., during the day.

Teaching law by correspondence is attempted in several of the schools. So far as known two distinct correspondence schools of law exist. The number of students is unknown, but evidences exist that it is large.

In one school students are required to wear the academic costume of gown and mortar-board.

It is apparent that in most, if not all cases, the Law Schools are supported largely by students from the State in which the school is situated. Many of them are distinctly local in this respect, inasmuch as their catalogues show all of their students are from the State in which the school is situated. Of the entire number of students, six thousand three hundred and seventy-nine are residents of the State in which the schools they attend are situated.

An increasing disposition on the part of students for a more liberal course of training is shown by the fact that of the two thousand two hundred and sixty-five students who leave their own States to study law, thirteen hundred and thirteen are found in the large universities having three year courses with high standards of admission and graduation.

That the number of schools adopting three year courses has been so largely increased, and that the number of students seeking these and the other schools having high standards of admission and graduation, have increased more rapidly than the others, is a more encouraging sign for the future. Nearly one-half of the entire number of students are enrolled in the schools which already have, or have announced, three year courses.

Post-graduate courses have been established in a number of schools and appear to be successful and remunerative to the schools adopting them.

The entrance examinations required vary from the "elements of an English education" to an examination equivalent to that for the B. A. degree in the leading colleges of the country.

Of the entire number of students, about six thousand have passed some kind of an entrance examination..

The Committee in its last report called attention to the fact that the course of study in the schools is confined chiefly to Private Law. It is too technical. The liberal studies are generally neglected. The object of the average school is to teach a student the studies likely to be of use to him in the early years of his practice. Contracts, torts, the different branches of real and personal property, corporations, wills, administrations, pleadings, practice and similar studies take most of the student's time in all the schools and all of it in many of the schools. Little effort is made to train the student for the higher duties of his profession and citizenship. The training is that of an attorney rather than of a jurist.

This continues to be true. The extensions of the course of study which have been alluded to have been more in the domain

of private law than public law, history and other liberal studies. To illustrate: International law is mentioned as a required study in the catalogues of twenty schools, having a total of twenty-eight hundred and six students; so that less than one-third of the students of the country are instructed in this important branch of the law. In private international law the number is even less, it being required in six schools, having an attendance of twelve hundred and twenty-nine students. Medical jurisprudence is required in fourteen schools, with twenty-four hundred and sixty-seven students. Parliamentary law in two schools, with two hundred and sixty-nine students. Administrative law, one school, two hundred and sixty-five students. Eight schools with about a thousand students instruct in Roman law. Three schools, with about eight hundred students, instruct in historical jurisprudence. English constitutional law is required in four schools, with two hundred and fifty-five students. General jurisprudence in seven schools, with nine hundred and fourteen students. Political science in four schools, with four hundred and seventy-four students. The law of taxation in six schools, with about one thousand students. Professional ethics is taught in six schools, with six hundred and ninety-six students. A further examination of the subject would show that the other branches of what might be considered a liberal education in law are even more generally neglected.

The Committee find that as yet there is little to add to what has been already said in their previous reports on the the subject of methods of instruction. Recitations from text books, lectures, the Case system, the colloquy, moot court, etc., continue to be used in instruction. This subject has already been fully considered in the last report of the Committee and in the address delivered last year, before the Section of Legal Education by its Chairman. It cannot be said that the public sentiment of the teachers of the country has yet been sufficiently manifested in favor of one particular method to make it in any respect pre-eminent. Method in legal education is a new subject, and the solution of the questions now being

agitated in this connection must be left to time and additional experience.

The Committee take great pleasure in saying that there has been a decided advance in the education of students in the past five years. The increase in the number of schools, the general extension of the courses of study, with higher standards of admission and graduation, the success of the schools adopting higher standards, are evidences of this. The catalogues show distinct advances in other respects.

The distribution of the students by States is shown in Table B hereto annexed. For convenience, other statistics are included. In parallel columns will be found the population of the various States, the number of lawyers, the total number of students and the students having degrees. The figures relating to population and the total number of lawyers are taken from the recent "Extra Census Bulletin No. 9," of the Census Bureau, published May 18, 1895. The figures giving the number of students in 1889–'90 are taken from the Report of the Commission of Education for that year. The figures for 1894–5 are taken from the catalogues of the various schools. From this table it appears that the number of students in the schools in 1889–'90 was forty-five hundred and eighteen, of whom nine hundred and ninety-three had degrees in letters or science. In 1894–5 the number of students had nearly doubled, there being eight thousand six hundred and forty-four.

A tendency to popularize the study of law is now manifest. Courses in elementary law and in several branches of public law are common in the colleges of the country. A number of the technological schools have courses in law. The common schools in many States teach the elementary principles of public law, and the number of students attending the night schools appears to be increasing.

The Committee regret very much to say that notwithstanding the advances made since their previous report on the subject, the average course of study in this country, when compared with the course of study required in any of the European

countries, in fact, in most countries of which we have any knowledge, leaves us far behind. Great advances have yet to be made before the American graduate in law can be fairly entitled to rank with the graduate of any of the European universities. This is true even of the instruction in private law which the Committee have commended, but it is more particularly true of the liberal studies, such as history, and science of law, international law, etc. This will fully appear in a comparison of the courses of study in Foreign universities, an account of which is contained in the report prepared by the Bureau of Education of the Department of the Interior and this Committee, and published in 1893.

LEGAL INSTRUCTION IN COLLEGES.

We desire to call attention to an important matter which has not hitherto been brought to your notice in any of the reports which your committee have had the honor to submit. We refer to the giving of instruction in law to under-graduate students in Colleges of Liberal Arts. While the American Bar Association may be assumed as such, to be interested in Schools of Law rather than in Colleges of Liberal Arts, yet it is needless to say that such an association is interested in law study wherever that study is pursued, whether it be in a lawyer's office, in a law school, or in some college primarily devoted to Literature, Science and the Arts.

Every college in the United States, if it be of the first rank, provides for instruction in International, Constitutional and Roman, as well as Administrative Law. Almost every institution making any pretensions to college rank gives instruction of some kind in International Law, while a smaller number make provision for teaching Constitutional Law; yet that subject will be quite generally found to be included in the curriculum of the American Colleges. Comparatively few institutions furnish any instruction in Roman or Administrative Law. A large number of institutions, for the most part of no very high rank, assume to give instruction in what they

call "Commercial Law," which is the only law they profess to teach. A very small number of institutions provide not only for instruction in International, Constitutional, Roman and Administrative Law, but also for instruction in the Elements of the Common Law. Such provision is now made at Yale, Brown, Northwestern, Wisconsin and Pennsylvania Universities.

The lengthening of the period of instruction in the Law Schools to three years makes it more of an economic burden than before for one to complete both a college and professional course, and in this country may perhaps be thought to bring the student to the active work of his profession a little later than is on some accounts desirable. But notwithstanding this, those who wish to win high places in the profession will continue to take the college as well as the professional course. The inquiry suggests itself, therefore, whether it is practicable to introduce into the colleges certain branches of legal study which may be credited for the Bachelor's degree in Arts or Philosophy, and thereby reduce by one year, for students who pursue the study of such branches in the college, the period which must be spent in the Law School. The answer to be made to this inquiry depends in part on whether such branches of legal study may properly be regarded as culture studies and as such suitable to be embraced in the cirriculum of a college of Liberal Arts. It will also depend in part on the opinion which may be entertained as to the propriety of allowing the same study to be credited twice—one for the Arts degree and again for the degree in Law. The Committee does not feel called on to express its opinion at this time on either of these points. But we cannot refrain in this connection from calling attention to the fact that Blackstone's Commentaries contain the lectures which their distinguished author read before the under-graduates at Oxford, and that Kent's Commentaries contain the lectures which the distinguished Chancellor delivered before the under-graduates of Columbia College in the early part of the present century. The introduction of

technical law subjects into the academic curriculum would not therefore, be contrary to all academic precedents. As to the other point, that of crediting a law study for both degrees, attention is called to the fact, that this course is already being pursued in at least three institutions of high academic rank. At Columbia College, in New York City, and at Cornell University, Ithaca, New York, and at the University of the City of New York, the under-graduate in the academic department is allowed to credit on his Arts degree one year of work in the Law School, thereby shortening by one year the time required for the two degrees.

We have thus far assumed in what has been said that the introduction of law studies into the academic curriculum is solely for the benefit of those who intend after graduating from the Arts course to continue their studies in the Law School with the view of entering on practice. It remains to be said that the introduction of law studies into the academic curriculum is also to be strongly commended in the interest of those who have no intention of ever practicing law, but who may well know something of the elements of the law, as a suitable part of a liberal education. In that admirable lecture with which Mr. Justice Blackstone began his instruction at Oxford, he declared that he thought "it an undeniable position that a competent knowledge of the laws of that society in which we live, is the proper accomplishment of every gentleman and scholar; a highly useful, I had almost said essential part of liberal and polite education. And in this I am warranted by the example of ancient Rome, where, as Cicero informs us, the very boys were obliged to learn the twelve tables by heart, as a *carmen necessarium* or indispensable lesson, to imprint on their tender minds an early knowledge of the laws and constitution of their country." It certainly seems to be desirable that every person who claims to be liberally educated should know not simply something of International and Constitutional law, but also something about the law of contracts, of sales, of wills, of personal relations, as well as of torts. For this

reason, and for other reasons already stated, we hope that our American Colleges will be more and more inclined to introduce into their curriculum the study of Elementary Law.

This recommendation is the more important when we reflect that the welfare of a free republic depends on respect for the law, and to maintain a just respect for law, its elements should be to some extent at least understood by all its educated citizens.

PRACTICAL SUGGESTIONS.

In view of the collection of facts and the comparison of opinions which the Committee and the Section have thus far developed, the question at once presents itself, what practicable measures of improvement appear to be now within the immediate reach of progressive schools.

We propose to confine our present suggestions to three such measures. Some of them, perhaps all three, have already been realized by schools of large resources. If so, that fact itself will be an encouragement to other schools to make similar advances. The three measures to which we now ask attention are selected not because of overshadowing importance, but because we deem them immediately practicable for adoption in part or in whole by schools which as yet lack them.

They are:

1. *A specific attention to Legal Ethics.*
2. *A course in Civil Law.*
3. *A distinct course in Federal Law and Jurisprudence.*

These topics have a common advantage in this, that each may be presented in a way to enlist the interest of students who are too engrossed in a narrow preference for what is called practical law, for they each have their practical bearing; and yet each by itself, and still more the three together, form a specific progress toward the study of General Jurisprudence.

1.—Specific attention to Legal Ethics.

The Committee would recommend, in accordance with a suggestion made in a paper read before the Section of Legal Education at its last meeting, that a course upon Legal Ethics be introduced in the law school curriculum. It is remarkable that this has been already done in so few schools; and it is unnecessary to argue the need of a knowledge of legal ethics by the bar, or the propriety of instruction on this subject in our law schools in order that their graduates may enter the profession with correct ideas of the duties and responsibilities of practitioners to one another, to their clients, to the courts, and to the public. Such instruction from those whom they had learned to respect and revere could not but have a lasting influence when received by young men at a time when their minds would be peculiarly impressionable, and might save them from serious errors due to want of knowledge and experience.

It may be said that there is no need of special instruction on legal ethics as a distinct part of a course of legal study; that the proprieties of professional conduct can be dwelt on incidentally during the study of equity, evidence, criminal law, and other topics; that the whole law course should be pervaded, as it were, with the inculcation of what constitutes the true professional ideal—the highest standards of truth, and honor, and morality; that this is the best method of teaching professional ethics, and renders any further instruction unnecessary. We agree that the true teacher will lose no occasion to point out to his pupils the principles which should guide them amid the perplexities and embarrassments of professional life; but it could not but be useful near the close of their career as students to bring together the disconnected threads, and in a brief course of lectures (for here probably all will agree, instruction by cases or by text-books will not alone accomplish the object, nor will fear of examinations be the best stimulus to attention) warn them of the pitfalls which will beset their way, and, with genuine solicitude and sympathy, make plain to them the path of duty, of honor, and of safety.

"A Code of Ethics" was adopted by the Alabama State Bar Association at its meeting in December, 1887. And at the Convention of the Bar of Virginia, held in July, 1888, for the purpose of organizing the Virginia State Bar Association, a committee was appointed "to form a Code of Legal Ethics and report the same to the Association when organized." The committee reported the Code of Ethics of the Bar Association of Alabama, with some changes; and this report with a single amendment, was adopted by the Virginia State Bar Association at its final meeting in 1889 (see report 1889, p. 25). Such a code might be found a useful basis for such a series of lectures as above proposed.

Such a course would give to the student a more clear and definite conception of the function of the lawyer, as being in its highest aspect the pursuit of truth whether in questions of fact or of law. It would show him the noble scope for a just partisanship for his client within the honorable limits of his duty to the court, to the public, and to the State. It would enhance the wholesome influence upon him of a sense of responsibility as an officer of the court, and would enlarge his appreciation of the public influence which honorable service at the bar always brings.

Is it not plain that without specific attention to this subject a course in law, however extended and technical, will leave many students on a low grade? It is not a branch which requires time in proportion to its importance, and on this very account perhaps has been too much neglected. In some schools it may be thought best to treat the subject by touching upon it at various points in the course of other subjects which suggest it, in others it may be thought best to devote a short period to its distinctive discussion, but in whatever way it is done we believe that some clear and definite class work upon the rights, the duties and the responsibilities of members of the bar would be found an immediate advantage in legal education.

2.—A Course in Civil Law.

In his valuable and interesting paper read before the Section on Legal Education at Saratoga, in August, 1894, Judge Dillon laid great stress upon the benefit to be derived from a study of comparative jurisprudence. In the opinion of your Committee such a study is of great importance and deserves its due place in the curriculum of every well equipped law school.

And chief among such studies must naturally be the comparison of the Roman or Civil law with the law of England and America. The reason of the prominence to be assigned to such investigation is plainly historical. It might indeed be interesting to study the jurisprudence of China for example, yet it would hardly be contended that such a pursuit could have any immediate and practical value in an American law school; but as a matter of historical evolution the relations of the Roman law, or of what we call for want of a more precise term the Civil law, to the law of England and America are close and important. The law of Rome was slowly and steadily evolved for a thousand years. Beginning in a small and semi-barbarous community and characterized by the superstitions and technicalities which are always found in such a condition of society, it grew with the growth and strengthened with the strength of the great republic until it dominated the whole civilized world from the banks of the Euphrates to the highlands of Scotland. At a time when the Britons were painted savages and our Germanic ancestors were barbarians without laws, letters, arts, sciences or commerce, the Roman law was imposed upon the territory which we now know as England. That territory was possessed by the Romans for four hundred years, and during the golden days of the classical jurists. Its government was highly organized. The City of York was established as a capital. The City of London became an emporium of commerce. Not less than thirty other municipalities were built up according to the rules of the Roman law in regard to such corporations endowed with some measure of self government and made centres of business, of education

and of colonization. The fortifications which protected Britain against incursions from the highlands were at one time garrisoned by not less than ten thousand veteran troops who were encouraged to make the country eventually their home. Agriculture, trade and manufactures were highly developed and the country became famous for the arts of peace. It is but reasonable to suppose that there was a large development of laws and jurisprudence in such a social state. We know that Papinian, the greatest of Roman jurists, administered justice in Britain as pretorian prefect; and when we remember that this Roman domination lasted for about four centuries we cannot refuse to believe that the Roman law must have been permanently impressed upon the country. There was no other real source for the law since the Britons themselves cannot be said to have had either laws or jurisprudence in the sense in which we use those words.

The Anglo-Saxons brought with them very important elements of race and character, but it cannot be said that they contributed at their accession anything deserving the name of jurisprudence. They came with certain customs, and we are certainly indebted to them for a priceless heritage of national character and individual freedom; but when we speak of a real jurisprudence we will not find its origins among their rude conceptions of the law.

When the Saxons were converted to christianity the churchmen who came to instruct them were civilians, who, naturally, thought and wrote in the language of the Roman law.

The Norman Conquest brought another accession of clerics learned in the Civil law and constantly called upon to fill exalted positions both administrative and judicial. The Civil law was regularly studied in England at least from the eleventh century, and many of the judges and chancellors down to the time at least of Henry VIII were civilians.

It cannot be denied, then, that underneath the fabric we call the Common law there will be found as structural and organic doctrines derived mediately or immediately from the

law of Rome, either as such law existed in the Corpus Juris or as it was modified on the continent during the middle ages. This will be found to be the fact especially with regard to the system of equity, the rules of admiralty and admiralty liens, the doctrine of obligations, whether those obligations be derived from contracts, from quasi contracts, from offenses or quasi offenses, or from the operation of the law, and with regard to the theory of corporations and the logical distinction between a juristic being and its rights on the one hand and the natural persons composing it and their rights on the other.

It cannot be expected that an opportunity should be presented in an American law school for an exhaustive study of the Civil law. There is neither time nor necessity in even the most extended course for such research. We might rather adopt the theory of Professor Ortolan of the Faculty of Law of Paris who closes his lectures on the history of Roman legislation with these words addressed to his young students:

"The Roman law is but one of the elements which have concurred in the genesis of our French law. It is important to examine and apprehend the whole of this genesis. It is important to give to the Barbarian law, to the Feudal law, to the Customary law, to the Ordinances of the Monarchy and to the Canon law the place which belongs to them in this long historical childhood of our nationality. I terminate this essay as I have begun it by asking the young generation to whom I have addressed it to consider it as a primary suggestion or stimulus, to perceive in this preliminary study on the history of the Roman law only an introduction to the study of the French law. In fine, it is necessary to be of one's own time and one's own country. All our intellectual labor should resolve itself into some benefit to the society in which we live."

In like matter we may say that the Civil law is but one of the many elements which have concurred in the genesis of what we call the law of England and America. Its study should be preliminary or introductory. It should not be pursued in any spirit of mere antiquarian research, much less as

an occasion of mere pedantry. Its history and general principles should be understood and then compared with those "of our own time and our own country."

As to law school methods of studying the Civil law in its relation to the law of England and America, we suggest a combination of the lecture system with courses of parallel reading by the student. The lectures themselves might be simple and need not be numerous; but it would be well to have them delivered in each year so that the student might be stimulated to read the books to which they would refer. It would be of great advantage if the lecturer could have some practical familiarity with both the Common and the Civil law. The lectures themselves should give an outline of the history of Roman law from the foundation of the city to the end of the reign of Justinian, and then a brief sketch of the further career and effect of this law down to the present day. This might be followed by essays on the law of persons, natural and juristic; the law of things, including privileges and admiralty liens; the law of obligations and the interpretation of agreements; the law of succession, and finally such parts of the law of procedure as lie at the basis of our modern code practice. And, so far as possible, the points made in these comparative studies should be illustrated by modern decisions of which many will be found in the reports of France and Belgium, in the English law reports and in the reports of the Supreme Court of the United States. As an example of such decisions it may be noted that about the year 1855, the Supreme Court of the United States in the case of the Monticello, 17 Howard, 152, the Court of Common Pleas of New York, 2 Hilton, 344, and the Courts of France and Belgium each and all decided on principle that a wrong-doer cannot claim the benefit of insurance existing in favor of the person injured at the time of the commission of the delictum. As further examples we may refer to the elaborate opinion of Mr. Justice Gray in the J. E. Rumbell, 148 U. S., 1, on the origin of the admiralty lien as derived from the privileged

hypothecation of the Civil law and to the interesting decision delivered by Mr. Justice White in Coffin *vs.* United States, 156 U. S., 426, 454, where the doctrine of the presumption of innocence in criminal cases is found to have been fully developed in the law of Rome.

As for the parallel reading by the student. It is presupposed that he has come to study, and that he has such a knowledge of the history of Rome, of the Holy Roman Empire and of the middle ages, as would be acquired by a careful reading of Mommsen, Gibbon, Bryce, Hallam, Stubbs and writers of that type. He might read again the 44th chapter of Gibbon, which is a remarkable essay, when we consider the date at which it was written and the fact that Gibbon did not profess to be a lawyer. This done, the student might take up the Institutes of Gaius, of which there are several editions, with English translations and notes; then he might read the Institutes of Justinian in the edition of Sanders with the introduction by Prof. Hammond. This might be followed by Domat in Strahan's translation, and by Pothier on Obligations, in Evans' translation. If the student could find time to verify the references in these works to the Pandects he would soon obtain access to the wisdom of the "Classical Jurists," as collected in that remarkable compilation. Having done this, he might be encouraged to take up some of the more recent volumes which denote the revival in England of these studies, such as Hunter's Roman Law, Lord Mackensie's History, the brilliant book of Prof. Sohm of the University of Leipsic, as translated by Mr. Ledlie, and the great work of Salkowski, which has also been translated into English. If he is able to read French he will find an abundant opportunity for comparative studies in the commentaries and reports of France and Belgium. One of the most recent and extensive of these commentaries is that of the late Prof. Laurent of the University of Ghent.

After some such course the law student might be ready to appreciate the words of Sir Frederick Pollock, when he said to

Lord Justice Lindley, in the preface to "The Principles of Contract":

"In your chambers and from your example, I learnt that root of the matter which too many things in common practice conspire to obscure, that the law is neither a trade nor a solemn jugglery, but a science. By your help and encouragement I was led to acquaint myself with that other great historical system which to this day divides, broadly speaking, the civilized world with the Common Law; to regard it not as a mere collection of rules and maxims accidentally like or unlike our own, but as the living growth of similar ideas under different conditions; and to perceive that the Roman law deserves the study and reverence of English lawyers, not merely as scholars and citizens of the world, but inasmuch as both in its history and its scientific development it is capable of throwing a light beyond price on the dark places of our own doctrine."

Your Committee invite suggestions from Instructors in Roman or Civil law and all who have given special attention thereto, as to what are the topics in American law on which those systems throw most light, and which therefore would combine practical utility with the higher interest of general jurisprudence.

And we also invite communications from schools desirous to establish courses in Roman or Civil law, as it is possible that some co-operation would accelerate the necessary arrangements.

3.—A Distinct Course in Federal Law and Jurisprudence.

The system of law administered in Federal Courts, and in State Courts so far as they are bound by Federal law, has not been distinctly taught in all our schools. In nearly all the States examination for the bar is a matter of State concern. Consequently in many schools no systematic attention is paid to the National Jurisprudence, and the students give no thought to it; in other schools it comes in, if at all, rather by way of contrast or exclusion when dealing with any topic of

State law cognate to it. We believe that where it is not taught it ought to be at once introduced, and that where it is taught casually as a modification of law, a distinct advance in the usefulness of instruction may be made by co-ordinating the existing instruction upon it in a specific course.

No student ought to pass to the bar without some systematic idea of this great body of law which inevitably touches at many points the interests of his clients whether they are citizens or aliens. How extended such a course should be must depend on local circumstances and resources. We desire here merely to press the importance of some systematic treatment of it, and to aid, if may be, those schools which have not yet done so, to adopt such a course.

One reason why the importance of such a course is not fully appreciated is the fact that the extent and complexity of Federal law and the frequency of its application have very recently been vastly increased. The interstate commerce law, the doctrine of the police power, the contract labor law, the removal of causes, the controversies developed as to apportioning the powers of taxation and eminent domain between the Federal and State organizations, the immense intangible forms of property in patents, copyrights, stage right or playright, and trade marks, the increased jurisdiction of the Court of Claims and the incipient development of arbitration as a system for settling international questions, these and other similar recent growths have outrun the progress of many of our schools, and it is for the interest of the bar and all their clientages that law schools which have not yet adopted systematic instruction in Federal law should do so.

Such a movement is in itself a service to the country in the better promulgation of the law; and we are encouraged to believe that under the new law regulating the printing of public documents congress would respond to a request on behalf of the schools that a copy of all documents printed at government expense be sent to each incorporated law school and to the law

TABLE A.—STUDENTS IN SCHOOLS.

60 Tulane University	5	73	.....	.....	2	.....
61 Detroit College of Law	14	147	.....	.....	2	Yes
62 South Carolina College	1	17	4	.....	2?	.....
63 Hiram College	1	.....	.....	.....	3	.....
64 University of Kansas	10	99	.....	.....	2	Yes
65 Indiana Law School	24	70	.....	Yes	2	No
66 Richmond College	1	36	.....	.....	2?	.....
67 Leland Stanford University	2	98	1	.....	2?	Yes
Total	637	8644	1783			

NOTE.—The Committee have no information from the following schools:

American Temperance University.
Catholic University.
Central Law College.
Central Tennessee College.
Chaddock College.
Emory College.
Central Memorial University.
Kentucky University.
McKendree College.
Notre Dame University.
Syracuse University.

department in each incorporated university or college maintaining such a department.

Your Committee see no objection to the Association passing a resolution requesting congress to enact a bill to this effect. But as objection has sometimes been made to entertaining resolutions in support of projected legislation, we leave it for the members of the Association to propose such a resolution. And unless we are otherwise directed by the Association the members of the Committee may, as individuals, feel at liberty to present such a bill, and to enlist in its support the commendation of all friends of the law schools, whether within or without the Association.

AUSTIN ABBOTT,
GEORGE M. SHARP,
HENRY WADE ROGERS,
CHARLES A. GRAVES,
WILLIAM WIRT HOWE.

August 12, 1895.

REPORT

OF THE

COMMITTEE ON UNIFORM STATE LAWS.

To the American Bar Association:

Your Committee have to report that since our last report, six States and one Territory have appointed Commissions on Uniform State Laws; viz., Florida, Maine, Missouri, Colorado, Vermont, Oklahoma and Kansas, making in all twenty-eight States and one territory. Some of the proposed laws recommended by the Convention of Commissioners have been adopted in Massachusetts, Connecticut, Wisconsin, New York, Illinois, Michigan and perhaps in other States.

It is unfortunate for the success of the movement towards greater uniformity, that the commissions are generally appointed without compensation, and some without even provision for necessary expenses. We beg to reiterate our previous suggestion that no commission be appointed without provision for all necessary expenses, and that there should be no limitation of time in the tenure of the commissions. Of necessity the Convention of Commissions has had to proceed with great caution, and apparent slowness.

Until a majority of the States had joined in the movement, it was, of course, impossible to obtain that mutual interchange of opinion so essential to any practical results.

Now that the majority of the States are represented, something will doubtless be immediately attempted in all of the branches submitted to the Commissions, by the Acts under which they are appointed.

We recommend the continued co-operation of the American Bar Association in the establishment of new Commissions, and in aid of that action, the continuance of the Special Committee on Uniform State Laws. All of which is

Respectfully submitted,

LYMAN D. BREWSTER,
Chairman.

August 28, 1895.

REPORT

OF THE

SPECIAL COMMITTEE ON AMENDMENT OF THE PATENT LAW.

The Committee appointed to report what changes, if any, are desirable in the law and practice relating to patents for inventions, respectfully report as follows:

Many proposed amendments of the patent law were introduced into Congress during the last session, some of them of a radical character. These were much discussed, especially before the Patent Committee of the House, but none were put upon their final passage.

They proposed changes concerning which differences of opinion exist, and, while many of them meet with general approval, it would be a task of great difficulty to undertake anything like an extensive revision of the existing statutes. Your Committee are of the opinion that it would be unwise at present to assume the advocacy of any sweeping measures of intended reform.

There are, however, some particular defects in the present laws which can be cured by simple amendments, as to the expediency of which it is believed there is no serious difference of opinion, and which your Committee recommend as practicable and useful.

These amendments relate to the following points:

1. Under the present statutes, an applicant for a patent has two years after any action by the office, of which he shall have received notice, before he is obliged to take any further steps in prosecuting his application. This provision renders abuses possible that have been frequently called to the attention of the public by several Commissioners of Patents, and there is practical unanimity of opinion that this period should

be shortened. As the law now stands, it is possible for an applicant for a patent to keep his application pending in the office for an almost unlimited time without forfeiting his rights against the public, and finally to take out a patent for an invention which has been in public use perhaps for years. Your Committee therefore propose to change the time, within which action must be taken by the applicant at each stage of the proceedings in prosecuting an application, from two years to six months. This, it is believed, will give ample time for applicants residing at the greatest distance from Washington to communicate with the office, and will promote diligence and prevent the mischief above noted.

2. It is also proposed to amend the law so that the patenting or publication of an invention in any foreign country, if more than two years prior to the application in this country, shall be a bar to a patent. As the law now stands, an invention may be published and patented abroad, and become by these means familiar to the world, and, years after, the foreign inventor, who may have had no real appreciation of what he had invented, or an inventor in this country, who can prove that he made his invention before such foreign publication or patenting, can obtain a patent here. It thus happens that an invention familiar to the literature of the art, but which may not have gone into actual public use in this country, may be patented here years after it has been known. The same reasons that compel the applicant for a patent to apply within two years after the invention has gone into public use in this country, make it reasonable that he should apply for his patent within two years after it has been patented or published abroad.

3. Another amendment, as to the expediency of which there is a general concurrence of opinion, relates to the limitation of actions. By the late decision of the Supreme Court in the case of *Campbell vs. Haverhill* (153 U. S., 610) the law has been settled that the State statutes of limitations relating to actions on the case, and which of course, are different in

the different States, apply to actions for the infringement of patents brought upon the law side of the Court. It has seemed to your Committee eminently desirable that there should be a uniform statute of limitations throughout the United States, applying both to cases at law and in equity, and they therefore propose that there shall be no recovery of profits or damages for any infringement committed more than six years before the commencement of the suit.

4. The law requires that assignments of patents shall be in writing, but there is no provision whereby an acknowledgment may afford *prima facie* proof of the execution of such instruments.

It is consequently necessary, wherever proof of execution is required, to offer direct evidence thereof, which often gives rise to great delay, inconvenience, and expense. To remedy this your Committee propose that a certificate of acknowledgment of these instruments before a proper officer shall be *prima facie* evidence of execution.

5. The subject of the limitation of the term of a United States patent by that of a previously granted foreign patent to the same inventor or his assigns under the present law has been much discussed in the courts, and it was finally determined by the Supreme Court, in the case of *Bate Refrigerating Company vs. Sulzberger* (157 U. S., I.), that, under the proper construction of that statute, a foreign patent granted to the same inventor after the application in this country, but before the issuing of a patent to him in this country, limited the term of the United States patent so that it should expire at the same time with the foreign patent. The provision thus interpreted has been the subject of animadversion, both in judicial opinions and by the profession, as inflicting a hardship upon American inventors, and the present statute is very widely regarded as unsatisfactory. It provides that every patent granted for an invention which has been previously patented in a foreign country shall be so limited as to expire at the same time with the foreign patent having the shortest

term. Under this law it is often difficult to ascertain when a patent expires, and the limitation imposed does not seem to be adapted to accomplish effectively any of the objects which have been suggested as reasons for the enactment of the limiting provision. Your Committee propose, as an amendment, that the granting of a foreign patent to the same inventor, or his assigns, shall not affect the term of the United States patent, unless the application for said foreign patent was filed more than seven months prior to the filing of the application in this country, in which case no patent shall be granted here. A similar provision exists in the laws or treaties of most European countries, except that the term there is six months instead of seven. The additional month is suggested for this country because of its greater distance from the foreign countries in which patents are granted, and in this regard is in harmony with the provisions of the International Convention, of which the United States is a member. This provision, it is believed, will accomplish the object which the Legislature had in view in framing the present law, and will obviate all of its inconveniences; and, so far as your Committee is aware, is a change which meets with general assent among those who have investigated the subject.

Your Committee therefore recommend that the following changes are desirable in the law relating to patents for inventions:

(The amendments are indicated by italics.)

Amend Section 4894 of the Revised Statutes of the United States so that it shall read as follows:

"SEC. 4894. All applications for patents shall be completed and prepared for examination within *six months* after the filing of the application, and in default thereof, or upon failure of the applicant to prosecute the same within *six months* after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable."

Amend Section 4886 of the Revised Statutes so that it shall read as follows:

"SEC. 4886. Any person who has invented or discovered any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement thereof, not known or used by others in this country *before his invention or discovery thereof*, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, *or more than two years prior to his application*, and not in public use or on sale in this country for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law, and other due proceedings had, obtain a patent therefor."

And, also, the third clause of Section 4920 of the Revised Statutes, so that it shall read as follows:

"THIRD. That it had been patented or described in some printed publication prior to his supposed invention or discovery thereof, *or more than two years prior to his application for a patent therefor.*"

Amend Section 4921 of the Revised Statutes by adding thereto the following:

"*But in any suit or action brought for the infringement of any patent, there shall be no recovery of profits or damages for any infringement committed more than six years before the filing of the bill of complaint or the issuing of the writ in such suit or action, and this provision shall apply to existing causes of action.*"

Amend Section 4898 of the Revised Statutes by adding thereto the following:

"*If any such assignment, grant, or conveyance of any patent shall be acknowledged before any notary-public of the several States or Territories or the District of Columbia, or any Commissioner of the United States Circuit Court, or before any secretary of legation or consular officer authorized to administer oaths or perform notarial acts under Section*

Seventeen hundred and fifty of the Revised Statutes, the certificate of such acknowledgment under the hand and official seal of such notary or other officer shall be prima facie evidence of the execution of such assignment, grant, or conveyance."

Amend Section 4887 of the Revised Statutes so that it shall read as follows:

"SEC. 4887. No person *otherwise entitled thereto* shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid, by reason of its having been first patented or caused to be patented *by the inventor or his legal representatives or assigns* in a foreign country, *unless the application for said foreign patent was filed more than seven months prior to the filing of the application in this country, in which case no patent shall be granted in this country. This section, as hereby amended, shall not apply to any patent in this country granted prior to the passage of this act, nor to any applications for a patent in this country then pending, or to any patent granted on such a pending application.*"

Respectfully submitted,

EDMUND WETMORE,
Chairman.

WILMARTH H. THURSTON,
Secretary.

CHARLES E. MITCHELL.
FREDERICK P. FISH.
FRANCIS RAWLE.
JAMES H. HOYT.
PAUL BAKEWELL.
ARTHUR STEUART.
CHARLES E. FOSTER.
JOSEPH C. FRALEY.
E. B. SHERMAN.
JAMES H. RAYMOND.
GEO. H. LOTHROP.

REPORT

OF THE

COMMITTEE ON LAW REPORTING.

To the American Bar Association:

The special committee appointed at the last annual session of this body, to ascertain the condition of law reporting in this country and report thereon, entered upon its duties by the selection of Frank C. Smith, one of its members, as secretary, with a view to gathering and collating facts and statistics upon the subject assigned.

The secretary, upon ascertaining the names and residences of the reporters of the Federal and State courts, put himself in communication with them by circular letter, to which a large number of responses were received. These communications and suggestions have been tabulated by him for the use of the committee, and are most interesting and valuable. The schedule is, therefore, annexed hereto, and made a part of this report. (See table A).

The secretary has also prepared a table showing the number of cases reported from the courts of appellate jurisdiction in this county, from June 1, 1894, to May 31, 1895, and the number of times each court has cited its own decisions and the decisions of other States and of England.

This table is also attached as bearing upon the question of accumulation of the reports in connection with the citation of the earlier authorities. (See table B).

It is to be regretted that the continued absence of Judge Dillon from the country prevents him from uniting in this report, since he has manifested very great interest in the work of the committee, and given valuable assistance through his wide experience and thorough acquaintance with the subject.

The multiplication of the law reports has attracted the attention of the bar since the day when Coke lamented the existence of so many as fifteen volumes of reports, besides treatises and statutes. In Bacon's time, when the reports were some fifty or sixty in number, the evil was so great, in his opinion, as to require a "recompiling of the common law."

In the early part of the century, Bentham likened the condition of affairs to the books of the Roman law before they were digested by Tribonian. "A mass," he says, "the contents of which defy the industry of an ordinary lifetime to master."

It was on two occasions, a little more than thirty years ago, resolved by the English bar, and those interested in the amendment of the law, that the system of reporting, editing and publishing law reports, required amendment, and "that the reported decisions should be consolidated, and their undue accumulation for the future be, if possible, prevented."

At about the same time the Lord Chancellor deprecated the alarming condition of affairs in an address upon the revision of the law, and urged the immense and growing number of the reports as a reason for revision and condensation.

The matter was called to the attention of this association in an address by Judge Dillon in 1884, followed by a paper by him on the same subject two years later, at which time a resolution was adopted which referred to "the evils of the great volume of judiciary law," deeming it unwise, however, to interfere with the unlimited publication of opinions. (Report Am. Bar Association, 1884, p. 223; 1886, p. 257, 312).

In 1891 in a paper read before the New York Bar Association, by another member of this committee, it was said, "the necessity for reform is apparent and urgent. The evil is a serious and, unfortunately, a growing one." (Report New York Association, p. 178).

The committee of that body appointed at that time say, in 1891, referring more particularly to the duplication of reports: "It has been a matter of discussion with the profession for a

considerable period, and the lapse of time and the multiplication of reports only tends to emphasize the necessity for relief from the burden of miscellaneous reporting." (Report New York State Association, 1891, p. 101).

The matter has been taken up recently by the Virginia Bar Association, and your committee is in receipt of a copy of a carefully considered report on the subject presented at the late meeting of that body, in which the calculation is made that a lawyer who devotes three hundred days in the year to the reading of the reports published in the United States must read two hundred pages every day in order to complete the work.

It may be said at the outset, in view of the decided expression of opinion by this body by the resolution of 1886, that the matter must be dealt with and remedied in some way other than by legislative restrictions of absolute freedom in the publication of adjudged cases.

The propriety or wisdom of restricting publication of the opinions of the courts has therefore not been considered as an open question by your committee, but as settled in favor of the widest liberty to the publisher. This accords alike with the sentiment of the bar and the constitutional provisions in very many States.

It is believed that the following are the more important and vital considerations relative to the matter referred to:

First. The unnecessary duplication of the same matter in different series.

Second. The advisability of the adoption of a scientific and uniform method in the preparation of the reports.

Third. The increase and ever increasing number of reported cases.

Duplication of Opinions Reported.

It is unnecessary to discuss, at any length, the evils arising from the publication of opinions in separate series. The item of expense to the lawyer who desires complete sets of the

reports of even his own State is an important one where there is no duplication. When the number is indefinitely increased, it becomes an unnecessary burden. When to this consideration is added the annoyance of double or triple citations, and the not unimportant item of convenience in arrangement of shelf room, we cannot but deprecate the very general duplication of both State and Federal reports.

Under the conditions which exist in the mother country, where reporting is, and always has been, regarded as a perquisite of the bar, and official reporters, as such, are unknown, we necessarily find the whole matter thrown open to private enterprise; but in this country, where the advice of Bacon that "The reporters be taken from the most learned counsel and receive a liberal salary from the State," has been followed, and where the reporter is an officer of every appellate tribunal and compensated for his labor by either copyright or salary, the latter ranging from $1,500 to $5,000 per annum, with liberal allowance in many instances for assistance, there would seem to be but slight inducement or opportunity for private reporting, except in the collection and annotation of authorities on special subjects, or the selection of leading cases for examination and criticism.

In England, the absence of the "official reporter" has, from the earliest times, been supplied by a barrister, who is an "authorized reporter" in the sense that he is said "to be more or less recognized by the court," to the extent that "the judge will often revise his judgment for the purpose of the report," although he seemed in the earlier times to have relied altogether upon notes or memory of the oral decisions of the judges.

The "authorized reporters," however, became so numerous, five separate series being in existence, as to lead to action by the bar, in favor of a series having its sanction, which resulted in the publication of the "Law Reports," the most important step yet taken in the direction of promptness and economy, and which has formed the basis of the plan adopted in New York,

to which the committee takes the liberty of calling attention, since some of its members are somewhat conversant with the method adopted in that State and the results attained.

The question was brought before the Commission to Revise the Judiciary Article of the New York Constitution in 1890, but no action was taken until the presentation of the matter to the Legislature in 1892, by the State Bar Association, as the outcome of a paper read before it in the previous year.

One of the features of the legislature was the provision for an additional official reporter, and another authorized and directed the publication by the Supreme Court Reporter of all opinions handed down in the appellate branch of that court.

While the legislation obtained was not all that was desired, yet in connection with the active and hearty co-operation of the reporters and publishers, it has accomplished substantially all that could have been brought about by the bill drafted by the association. Before the arrangement which resulted in the present combined official series, eleven distinct sets of reports were issued in the State, in which opinions were not only published over and over again, but in some instances the same case in the same court appeared in full in five different series. In addition, the legislative acts consisted of one or two volumes, the total expense being nearly $100 per annum.

The present arrangement includes three series, Court of Appeals Reports, Supreme Court Reports, and Miscellaneous Reports, the latter containing the opinions of inferior courts of record. Each of these reports is prepared by an official reporter. These three series, with the acts of the Legislature, known as the Session laws, constitute the combined series, published in weekly pamphlets at $30 per year. The bound volumes are also furnished at the subscription price without return of the pamphlets.

In this respect, and in the fact that the opinion of all the courts, and the laws, separately paged and prepared, as in the volume, are bound together weekly, and every decision prepared by the reporter is thus brought down to date, this plan is believed to be an improvement on the English method.

The result has been most satisfactory to the profession, in that it enables the bar to obtain all the opinions of the appellate and other courts of record very promptly and accurately reported in an official edition at a very moderate price.

It has been thus far assumed that the official reports best deserve the support of the bar, and are entitled to recognition by the bench and the public. This view has been taken in no spirit of antagonism to the reports which owe their existence entirely to private enterprise, but for the reason that the profession does, and doubtless always will prefer an official series, for very many reasons, not the least of which is that the majority of citations are to these volumes, and hence they are preferable as a matter of convenience. Beyond that, however, this view is taken because of the permanence of a series established and sustained by legislative action and which receives the sanction of the courts by the appointment of the reporter and revision of his work.

Still further under such conditions, the work of the official reporter, if honestly done, should be much superior to any report owing its existence to private capital.

Not only is the reporter compensated and furnished suitable assistance, but the State usually intervenes to see that the report is published and placed on the market at a price scarcely compensating the cost of printing and binding. On the other hand, the publishers of reports other than those in the official series are entitled to, and are here given, the credit of having brought about the present condition of affairs, under which the official series of the Supreme Court, and of several state courts, are furnished to the profession with great promptness, in weekly or semi-monthly parts, at a very reasonable price. It was not unusual a few years ago to find an official series from one to three years in arrears, a condition not entirely creditable to the derelict officials.

This state of things brought into existence the unofficial series, which in turn forced the official reporters to energetic and prompt issue of the volumes in arrears, and there seems

to be no difficulty, at this time, in their keeping abreast of their work.

In order, however, that the official reports may meet the demands of the profession, it is doubtless necessary that they should publish all the reports of the superior appellate tribunals, in order to meet the demand for all the available decisions. With such authority, and supported by the resources of the State, it is not too much to say, that if the official reporters of the courts show the energy, enterprise and sagacity of private business houses, in preparing and issuing their reports, there will be little demand for anything except the official volumes. Any reporter competent for his work should be able to do this, at least as well as can be done by any other person without his facilities, and with the public treasury virtually at his call, he should certainly be able to perform it speedily; if not, it would seem that his resignation should be promptly accepted by the court from which he holds his appointment.

It is not only in reference to the reports of adjudged cases within a single jurisdiction that the official reporters of the courts may and should properly furnish copies promptly and cheaply, but since the preparation of the matter is necessary for the series edited by each separately, it may be advantageously used for circulation both in pamphlet and bound volumes throughout neighboring jurisdictions in co-operation with others, forming thus a combination of the series of the official reports of several States under a single management, the only additional expense being that of publication.

This method would not only be a convenience to the bar by furnishing them the official reports of other States at a very moderate price, but should be a source of income to the reporters as well. It is quite certain that such a combined series could be furnished at a very moderate price for the reason suggested, and it is equally certain that, everything else being equal, lawyers much prefer the official series.

The Work of the Reporters.

It is manifestly impossible to maintain an ideal standard for the work of the large number of reporters and their assistants engaged in the preparation of nearly, if not quite, one hundred series of reports, State and Federal. There must necessarily be varying degrees of excellence, and it would be hypercritical to insist upon even an approach to perfection in the details of their duties.

What is most obvious, and a just ground for criticism, is a lack of the spirit and enthusiasm necessary for success in every department, and this is most apparent in the want of uniformity in the method and character of the reports, a failure to act in pursuance of a well-considered plan, and to study and follow approved and scientific methods, adapted to present conditions, for it must be admitted that reporting as a science has advanced but little within the century.

It is true that there exists in some few instances an apparently deep-seated prejudice against clearness and simplicity of statement, an unwillingness to present the important facts on which the discussion turns, and an anxiety to enter into minute details as to matter of no importance, except to the parties, and as to them of doubtful consequence; but it is the misfortune of the reporters that they are occasionally required to make sense out of an unintelligible statement or to reconcile with established rules a chance conclusion which is with difficulty made to bear such a construction, and it must be conceded, that as to those matters the learned members of the court are much the greater sinners.

It is not reasonably to be required of the reporters that they "shall make bricks without straw."

It is not proposed to consider or advise as to the choice of methods to be adopted in preparing a syllabus. It is doubtless true that no hard and fast rule, even under the most approved and scientific method, can be adopted which is, or can be made, applicable to all cases, yet it seems not only possible, but comparatively easy of accomplishment, by careful analysis and

dilligent study of the best reporters (and their name is legion), to extract a uniform rule, or set of rules, as to treatment of the head note.

It is certainly safe to follow the plan recommended in the preface to Douglas's Reports, "to state the point as a general rule or proposition," nor is there doubt of the rule laid down by a writer in the *Law Quarterly Review*, that, "if a case affords an illustration of a well-known principle, the profession does not gain by that principle being buried in a mass of facts," although a very recent writer on the subject says: "The syllabus must state not only those facts which furnish adequate premises for the conclusions reached, but every fact which may distinguish the instant case from another which would apparently fall under the same general principle."

The report of the Law Committee of the Virginia Bar Association, already referred to, says on this point: "The common practice of inserting the successive steps of the reasoning, merely used by the court, as the premises from which to evolve the conclusion, is wrong in principle and misleading to practitioners and legal writers in covering up the true issue with a mass of rubbish."

Prof. Wambaugh holds the duty of the reporter to be "to determine by his own study the proposition of the law involved in the case, and not simply to extract from the opinion a few apparently pertinent sentences."

It is quite certain, too, that a very brief statement of the points involved, introductory to and independent of the head note, is a matter of great convenience, while appropriate catch words in a different letter, showing the subject treated by each paragraph, will save much labor to one examining a large numbe of cases; and in this connection may be urged, so far as possible, at least when the principles decided are of substantially equal importance, the desirability of stating the questions decided in consecutive order, following that in the opinion, since it frequently, in fact almost always, happens, that a case is consulted for the rule on a specific point, and as, in prepar-

ing a brief, counsel necessarily examines a number of authorities, time is an important element, not to speak of the annoyance of searching through pages of lengthy opinions to find that the point stated in the last paragraph of the head note is disposed of by the Court in the first sentence of the opinion.

A difference in method to a still greater degree is found in the manner of preparing the index, This, too, presents a lack of uniformity, which causes a loss of much time, labor and patience, since the imagination of some reporters seems to revel in the selection of titles and subtitles, which are not likely to occur to the mind of any except an intellectual athlete, while his memory seems to utterly fail him in recalling those titles likely to be in the mind of a practicing lawyer.

Whatever may be the fact as to the possibility of applying scientific methods to the drafting of the head note, there can be none as to the possibility of a system of indices which shall be uniform and well understood by the profession, and this uniformity should extend not only to the indices to the reports, but the digests, State and national, so that with a system of cross references a lawyer may reasonably expect to find the same subject matter under the same title in the different reports and digests.

The variety in type, binding and mechanical execution of the reports would scarcely merit special attention but for the fact that, as a rule, the larger the type, the smaller the page and the cheaper the binding, the more expensive is the report.

So simple a matter as placing the number of the volume at the top of the page, so as to save turning the book to examine the back while holding it open to write out a citation, escapes the attention of most reporters and publishers, while the use of a style of binding, by which the volume remains open at any page, is a feature of one of the leading unofficial series which commends its mechanical execution and evokes a wish that the good example may prove contagious.

The examination of authorities is so important a part of the work of a lawyer that every effort should be made to lessen

both the mental and manual labor connected with the search for cases in point, and while the details of mechanical execution are apparently unimportant, they can be readily remedied. and the most intelligent and painstaking effort should be made to embody in the head note a clear, concise, correct statement of the legal rules determined by the opinion, and the index so arranged as to afford the worker complete facilities for thorough investigation.

The Multiplicity of Reported Cases.

The enormous increase in the number of the reports is, upon the whole, by far the most serious aspect of the question in hand. It is also the problem the most difficult of solution, since the causes are deep-seated and irremovable, being connected with the foundation of our system of law and form of government.

The evils from this source have their origin:

First. In the doctrine *stare decisis*, the corner stone of the common law.

Second. In the number of independent appellate juridicatures which administer the law among English speaking people.

Third. The rule recognized by organic and statute law, authorizing the free publication of the decisions of the courts.

Coke says "the reporting of certain cases or examples is the most perspicuous course of teaching the common law."

Hale described the unwritten laws as having "acquired their binding power by a long and immemorial usage, and by the strength of custom and reception in the kingdom," and the late Lord Chancellor aptly described the situation in these words: "Where the judges have a new case before them they do not profess to arrive at the law by reasoning, by theory, or by philosophical inquiry, but by searching among the records of former decisions, for cases which are supposed to be analogous to the case before them, and they derive from these analogies the rules which they desire for the determination of the particular case."

The doctrine, as stated by a recent writer, is: "In the court pronouncing a decision, and in the courts subordinate to it, a decision, so far as it establishes a doctrine, is a precedent of imperative authority until it is either reversed or overruled."

Thus "the custom of the King's Court is the custom of England, and becomes the common law."

This view, so radically unlike that prevalent on the Continent under the civil law, is, and so long as it retains its position, must be, fruitful in reports of opinions handed down by the courts, since such decisions constitute not only valuable precedents applicable by analogy to like cases, but embody the absolute rule of law which must be applied to the case in hand whenever the facts bring it within the principle theretofore decided.

The presentation of a cause at the bar is regarded as incomplete, and the attorney considered remiss in his duty, if even the most elementary propositions are not supported by a citation of authorities, even though it involves nothing more than the interpretation of a rule of court or the construction of the most unimportant local statute.

The term "case lawyer" is frequently used as a term of reproach for a laborious practitioner, but it is nevertheless true that principles are to be found in cases, and are frequently found applied to a similar state of facts. Hence the "case lawyer" wins cases because he has examined the books thoroughly, first, to find a case on all fours, then to find one where the rule is established as he contends; these failing him he looks for an analogous rule which may be applied to the case in hand, and, finally, if a prudent man, takes pains to asertain whether there is any aid or comfort given his adversary by a decision, dictum or query.

It is not at all clear but that it would be highly beneficial to the profession, the bench and the client, if the fate of the Alexandrian library should befall very much the larger portion of the reports of adjudicated cases in all English-speaking countries, but in place of such fortune we must contemplate

the multiplication of reports in forty-four States, in the Federal tribunals, in England, her provinces and dependencies. It is in the large number of different and independent judicatories existing in this country that we find most of the difficulty as to the mass of authority emanating from the courts. Very many of the States have more than a single appellate tribunal, and these, added to the reports of the Supreme Court of the United States, the Circuit Courts of Appeal, and the several Federal Circuits furnish a volume of legal literature which is appalling.

When we observe that the official reporters number more than sixty, and that in a State in which three official series are issued, eight volumes a year scarcely suffice for all the causes in a single court, we need not be so much surprised at the number of reports as that, under such circumstances, the common law retains its distinctive features and adapts itself so readily and wonderfully to such extraordinary conditions.

Add to these considerations the constitutional right of every citizen to cite and publish the decisions of the courts and we have no occasion to wonder at the number and extent of the law reports in this country.

There is to be found in the suggestions made, abundant reasons for the publication and the preservation of such judicial decisions as will serve to aid in the determination of questions likely to be litigated, but this is also the strongest possible argument in favor of writing brief opinions, or none at all, on questions of no interest to the profession or the public, and it is such questions that constitute a very large proportion of the business of the courts. The books are crowded with discussions as to the interpretation of purely local statutes, and with the iteration and reiteration of well settled principles, applied sometimes to peculiar facts, but it must be remembered that these questions, although of no general interest or usefulness, were of great importance to the parties, have been argued by able counsel, and take much of the time and attention of the

court, and thus the reasons for the decisions naturally find their way into an elaborate opinion.

Most to be deprecated, perhaps, is the controversial opinion, written not to expound a legal principle, but to persuade other members of the bench, too obtuse to appreciate fully the reasoning, or to yield readily to the logic of their associate.

In some jurisdictions, notably in the New York Court of Appeals, the judges have come to regard this matter as an important one, and to confine their opinions largely to cases reversed, where it is necessary to set out the grounds for granting a new trial. This plan has the additional merit of relieving the appellate tribunals, most of whom are overburdened with business, from much additional labor.

Upon the whole, however, the condition of affairs as to the multiplication of reported decisions, although discouraging, is very far from desperate.

In the first instance it must be borne in mind that the largely increased facilities for the examination of authorities have well nigh kept pace with their rapid multiplication.

Digests of the law, giving the points of the decided cases, have long taken the place of the abridgments like Bacon and Comyn, and by a combination of devices, have made it comparatively easy, considering the mass of decisions, to make an exhaustive investigation of any question. The collation and consideration of authorities in text books and elementary works upon all the principal topics of the law, go far to relieve the labor of the lawyer, while the full annotations of authorities and elaborate decisions of mooted questions in the legal periodicals are no small aid. Nor is the system of marginal annotations, showing what subsequent decisions have referred to a given case, to be overlooked in considering labor-saving devices. By these means the whole range of the common law, as embodied in the reported decisions, is brought much nearer to the practitioner, and he is enabled to examine the authorities on a given question much more readily and conveniently than heretofore.

The most important element, however, tending toward a remedy for the evils and inconveniences arising from the enormous volume of the unwritten law, is the gradual but certain evolution of the law.

This evolution appears in both the unwritten and the statute law, and in its relations to both has a most important bearing upon this question, since the obsolete provisions of the law, as found in the reports, are only of historical value and being of very little utility, are seldom referred to, cited or even examined.

It was this element of which Hale said: "The great wisdom of Parliament have taken off or abridged many of the titles about which it was conversant, usage and disusage hath antiquated others, and some that were anciently useful are now less useful."

The effect of modern litigation, discussion and decision has been to resettle and dispose of most of the questions which have been regarded as open and undetermined, and to again determine and reiterate, as well as to apply the rules and principles gathered from the earlier reports. In other words, the wealth of judicial decisions has worked, and is to a great extent working a cure of the difficulties it occasions by rendering it unnecessary to refer to the older authorities, and confining citations not only to the more recent reports, but very largely to those decided within the jurisdiction where the particular case is brought.

While Mansfield is still recognized as the highest authority on all questions of commercial law, it is most unusual to find a citation from the reports of his decisions, and Hale and Holt are but names of great judges to conjure by, their opinions having been embodied in and superseded by modern authorities. The same is true of the great equity judges, and Hardwicke and Eldon are seldom referred to, except as the authority which has been relied upon in more recent judicial utterances. Indeed, the references to the first 100 volumes of the reports of the United States Supreme Court are comparatively few and

far between, except as they are cited in support of a proposition fully discussed and determined in later volumes, and a like state of affairs exists as to the reports of the appellate tribunals of the several States. A distinguished jurist who has just retired from the appellate bench, in one of our largest States, where he sat as chief or associate for thirty years, recently remarked: "It has become quite infrequent, as compared with the custom in my early days on the bench, for counsel to cite an English authority, or even that of a sister State."

The courts of almost every State have, in some form or other, grappled with the leading principles of the law and their application to diverse and peculiar facts, and litigation now arises principally from the new industrial conditions and changed business methods, which are the marked feature of the times.

The older reports thus become practically obsolete as to the bulk of legal lore spread on their pages, and the common law, as it now exists to-day, the result of centuries of change, improvement and evolution, as applied to the affairs of the day, is to be found to a very great extent in the later volumes of the reports of every jurisdiction. The fittest principles have been either enlarged, restricted or modified, and, as thus improved, survive in the latest utterances of the courts. It has thus come about that the language of a recent writer, used in a somewhat different connection, well expresses the situation when he says: "Adjudged cases are the milestones which mark the pathway of judicial progress."

More marked, and fully as important, changes have been going on in the statute law, and with equal, if not greater effect, in ridding the reports of decisions which have become useless and unnecessary. The change in this regard has been mainly in the direction of simplifying the law and procedure. Possibly the most forcible illustration of this statement is to be found in the statutes relative to real estate, more particularly the abolition of uses and simplification of trusts.

The highly artificial system of the mother country gave rise to numberless decisions, which, by reason of statutory enactments beginning about 1830, and continuing up to this time, have become of no value except to the student and the antiquarian. Almost equally great is the volume of authority rendered superfluous by the simplification of the legal relation of husband and wife, as regards property. As statute after statute has swept away the common law rights of the husband, volume after volume of reports have fallen into "innocuous desuetude."

The changes in procedure, even where most conservative, have rendered obsolete scores of decisions based upon the mere technicalities which were once the pride of the common law practice, and even in those jurisdictions where it is still retained, the increased liberality, based upon statutory enactment and rules of the court, renders valueless the opinions sustaining the refinement and subtleties of common law pleading.

The effect of statutory changes necessarily raises the question as to the probable operation of codification upon the multiplication of reported decisions.

It must be conceded that the figures presented to this association last year as to the proportion of decisions turning upon questions of practice in the States where reformed procedure is in vogue, as compared with those retaining the common law practice, seem to give but little aid to the argument for codification as a remedy for the multiplicity of opinions.

It must not be overlooked, however, that code practice, as it is now carried on, has abandoned its simplicity, and is losing its distinctive character, and unless return is made to first principles, will in a very short time be subject to all the criticisms made on its predecessor, with but few of its redeeming features.

Still, much remains to be said in favor of statutory revision by which well-settled rules may be reduced to statutory form, as a relief from the examination, if not from the multiplication,

of reports, and as providing a statement of the law in compact, concise and convenient form. Very many elaborate opinions result from conflicting enactments in various statutes, which have never been revised or corrected, with a view to rendering them either complete or consistent, and the result of a careful and systematic revision must be to lessen the labor of lawyers and judges, as well as to decrease largely the volume of reported decisions.

It only remains to add, that while the suggestions presented do not remedy the evils complained of, and in nowise tend to lessen the burden of expense arising from the number of reports, they to a considerable extent mitigate a burdensome condition, and alleviate a situation which would otherwise be intolerable.

Conclusions.

I. The duplication of reports of opinions can and doubtless will be remedied by the official reporters and publishers. They will find the bar eager to patronize an official series to the exclusion of all others whenever it is edited with ability and promptness, and furnished at a reasonable price and in a convenient form.

This is true of a single series or a combination of the different series, in the same jurisdiction, and equally true of a combined series of several jurisdictions, properly edited on behalf of the official reporters of those jurisdictions.

II. The character of the report, as edited by the official reporters should be more nearly uniform. The syllabus and index should be prepared upon a commonly accepted basis, combining the scientific and practical views, as a result of the experience of the reporters of the country. And the bar should continue to demand and the bench select for the work lawyers not only possessed of legal ability, but of some degree of literary skill, and moreover, imbued with a progressive spirit and an appreciation of improved methods.

The preparation or careful revision of the syllabus by the court so as to cover only the points actually decided by the case would be highly desirable. Very much of the difficulty arising from the imperfect or misleading head notes would be avoided if the practice which is enforced by law in some jurisdictions, by which the judges prepare the head notes, were adopted, or even if, as in others, the judges uniformly carefully examined and revised the proof of the syllabus as drafted by the reporter.

III. In the improved working tools, forming part of the law library, is to be found much assistance in the almost interminable labor of the search among the authorities, but still more relief is to be had in the general evolution by which the important principles, with their almost endless modifications, survive in the later volumes, relieving much of the necessity for examination of the older authorities; and, perhaps, most of all, in the more rapid growth of statute law, reducing to rules well-established principles and reconciling conflicting decisions, so as to assimilate them to the current of recent authority, thus rendering obsolete much of learning displayed by the courts, and embalmed in the reports.

IV. The hope for marked improvement in any direction lies in discussion, criticism and organization, and it lies largely with this and the several State organizations to rouse and keep alive an interest in the subject, which shall, through action by the official reporters and the courts, radically improve the condition of law reporting in this country.

Aug. 26, 1895.

J. Newton Fiero, *Chairman*,
Frank C. Smith, *Secretary*,
Edward Otis Hinkley,
William E. Talcott,
Committee.

SUMMARY OF TABLES PREPARED BY SECRETARY OF COMMITTEE TO ACCOMPANY REPORT.

TABLE A.

This table shows the results of the committee's inquiries of the official reporters, as to the matters incident to law reporting in their respective jurisdictions, and may be summarized as follows:

Total courts whose decisions are reported..... 65
Replies received from..... 48

Of these, two, the District Court of Appeals of the District of Columbia, and the Supreme Court of Idaho, have no official reporters.

Salary is paid in forty States, ranging from $200 to $6,000 per year, and seven of these States allow, in addition to the salary, from $2,400 to $8,000 per annum for assistants, while in four others the reporter has, in addition to his salary, the copyright of the volumes he edits.

In five States the reporter is compensated solely by his ownership of the copyright of his volumes.

The number of volumes of reports annually issued ranges from one in four years in Idaho, to seventeen per year in New York, and is indicated for each court reported in each State, in an appropriate column.

The varying size of the volumes presents a rather humorous feature, when it is recalled that the contents of each is of a like character with that of its fellows, and that the use to which the volumes are to be put is precisely the same in all jurisdictions.

The lengths of the volumes are given as follows: Ten inches in one State; 9½ inches in six States; 9¼ inches in seven States; 9 3-16 inches in one State; 9⅛ inches in one State; 9 inches in fifteen States, and 8 inches in one State.

Widths.—Seven and one-half inches in two States; 7 inches in one State; 6½ inches in one State; 5⅞ inches in one State; 6½ inches in four States; 6¼ inches in one State; 6 inches in

twenty States; 5¾ inches in two States, and 5 inches in one State.

Thickness.—Two and one-half inches in two States; 2¼ inches in three States; 2 inches in fifteen States; 1⅞ inches in two States; 1⅝ inches in one State; 1¾ inches in four States, and 1½ inches in two States.

The measurements most general, it seems, are a volume 9 inches long (fifteen States), 6 inches wide (twenty States), and 2 inches thick (fifteen States). But even these measurements are not common to more than fifteen States.

The number of pages varies from 550 to 1,000.

But these figures give no actual or relative idea of the quantity of matter contained in the volumes. An examination of the last volume of the official report of each court shows quite as great a variety in the type in which they are printed, as is shown by the measurements, above given, of the volumes as bound. In many instances the type is quite large, the spacing between the lines very wide, and the margins correspondingly liberal. In others the type is compact and readable, while between these two extremes the assortment of type is as varied as that shown in the catalogue of a modern type foundry. An interesting feature of this diversity is noted in the fact that, generally, the largest type, the widest spacing and margins, and the fewest pages are found in the volumes edited by those reporters whose compensation is derived solely from the copyright.

In constructing these reports, it seems that in six States the judges make the statement of facts; in nineteen instances the reporters state no facts not given in the opinion; while in twenty States the reporter goes to the record or transcript for facts not stated in the opinion, when he deems it necessary to give an accurate understanding of the case.

Tables of cases are given by thirty reporters, while eleven have no such aid to the case hunter in the volumes they construct.

Sixteen reporters either summarize or print in full the briefs and citations of counsel, while twenty give no attention to this feature.

The answers to the inquiry as to the system of indexing followed are not subject to intelligent generalization, although it may be said that what it known as the Index Digest system seems to predominate.

Table B.

This table contains the results of an inquiry into the structure of the cases reported from all our courts during the year, June 1, 1894, to May 31, 1895, and shows the number of cases reported from each tribunal, and the name and number of the judicial authorities which each court cited in its opinion in the cases.

The table may be summarized as follows: Total cases examined, 16,416; total number of citations therein, 58,941; of which the several courts cited their own precedents, 28,995 times, and all other courts 29,946 times.

In other words, over 49 4-5 per cent. of all the judicial authority used by the courts of appellate jurisdiction of this country, in making up their final judgments in the cases mentioned, was the authority of their own previous judicial utterances. To express the thought a little differently, it would seem, from this showing that each tribunal has, within the compass of its own decisions, all the authority requisite for its determination of causes submitted to it, and that, on the average, our courts cite the decisions of other tribunals only in support of their own like conclusions. And what is thus shown to be true of the country at large is, with the exception of the tribunals in the new States, whose litigation has not yet aggregated sufficient decisions to either cover the range of cases submitted to them, or to justify the unsupported citation of their own meagre collection of cases, found to be generally true of each State, and is indicated in parallel columns.

From this data it is impossible to escape the thought that, if in those jurisdictions where it is true that they have, as a general rule, upon the pages of their own reports, decisions covering all the questions which they have to discuss and determine, the courts thereof would confine their opinions to a succinct statement of facts, and the rules of law in their judgment applicable thereto, citing only cases from their own reports covering the same ground, much space would be saved, fewer volumes be required, and yet no diminution of actual judicial authority result.

An interesting feature of this compilation, and one that is not without significance, is the number of times that the common law courts are found to have cited the decisions of other common law tribunals, and the decisions of the code States, and on the other hand, the number of times the code States cited code decisions, other than their own, and the decisions of the common law courts.

By computation, and leaving out the citations which the common-law courts made of their own previous decisions, we find that our so-called common-law tribunals cited common-law cases 9,141 times, and code cases, 4.861 times. The code State tribunals cited common-law cases 7,359 times, and decisions of code States, other than their own, 6,003 times.

We ascertained with reference to these citations, that, of the common-law citations by common-law courts, 5,238 or 57 per cent. were cited in support of points of procedure, and that of the code State citations by common-law courts 1,671, or 34 per cent., were cited to support decisions upon points of procedure. Turning to the code State tribunals we found that, of the citations they made of common law cases, 1,943, or 26 per cent., were cited on procedure points, while of the code State citations by the code State tribunals, 4,172, or 69 per cent., were upon points of practice and procedure.

How it happens that the common law courts require over 57 per cent. of their common law citations, and over 34 per cent. of their code State citations; and that the code State

courts require a little over 26 per cent. of their common law State citations, and over 69 per cent. of their code State citations upon the points of procedure involved in the litigations, can be readily answered by thoughtful lawyers.

But the most significant, and the most conspicuous fact disclosed by this computation, is that the methods of procedure followed in this country, and known as the codes, and the common law system, modified as it everywhere is by practice acts and statutes, are in fact, not so divergent as we have generally supposed, but that they can and should be amalgamated and shaped into a uniform system. This done, and the volume of the labor and output of our courts of appellate jurisdiction reduced one-half by the elimination of disputes upon points of procedure, as the results of an investigation reported to this association last year, showed was possible, and the adoption by the judges of our courts of last resort, of the suggestion afforded by our present investigations, that they confine their opinions, when practicable, to a summary statement of fact and law, basing the application of the latter to the former upon the precedents of their own courts, and the great problem, to study which this committee was appointed, will be shorn of the features which to-day make it so ominous and disheartening.

FRANK C. SMITH,
Secretary.

STATE	FAVOR CONVENTION OF OFFICIAL COURT REPORTERS?	NOTES.
United Stat	.....	ever, under sanction of court.
District Col	Yes.	(1) No "official reporter" yet appointed, reports issued, however, under sanction of court. (2) Reporter compensated by publishers.
Alabama	Yes.	(1) Paid stated amount per volume published.
Arizona	.....	.....
Arkansas	Yes.	(1) Statute requires clerks to abstract briefs of counsel.
California	Yes.	(1) And deputy, $2,400. (2) Infrequently add some facts from transcript and record. (3) Those cited by Court only.
Colorado	Yes.	(1) Do not go outside of Opinion for facts.

PROCEEDINGS

OF THE

SECTION OF LEGAL EDUCATION

AND OF THE

SECTION OF PATENT LAW.

OFFICERS OF THE SECTIONS.

1895-96.

SECTION OF LEGAL EDUCATION.

EMLIN MCCLAIN, *Chairman.*
GEORGE M. SHARP, *Secretary.*

SECTION OF PATENT LAW.

EDMUND WETMORE, *Chairman.*
WILMARTH H. THURSTON, *Secretary.*

SECTION OF LEGAL EDUCATION.

1893–94. HENRY WADE ROGERS, *Chairman.*
GEORGE M. SHARP, *Secretary.*

1894–95. JAMES BRADLEY THAYER, *Chairman.*
GEORGE M. SHARP, *Secretary.*

SECTION OF PATENT LAW.

1894–95. EDMUND WETMORE, *Chairman.*
WILMARTH H. THURSTON, *Secretary.*

PROCEEDINGS

OF THE

SECTION OF LEGAL EDUCATION.

August, 27, 1895, 3 o'clock P. M.

The Section of Legal Education convened at 3 o'clock, P. M., James Bradley Thayer, Chairman of the Section, calling the meeting to order.

The Chairman:

Gentlemen of the Section of Legal Education: I was very sorry, on arriving here last night at midnight, or a little later, to find a telegraphic despatch from our indefatigable Secretary, Mr. Sharp, whom I left a day or two ago at Bar Harbor, intending to be here, announcing that he was obliged, owing to an illness in his family, to hasten home to Baltimore; so that he is unable to be with us, and it becomes necessary, therefore, that we appoint a Secretary *pro tempore*.

On motion, Austin Abbott was appointed Secretary *pro tempore*.

On motion, Simeon E. Baldwin, of Connecticut, John D. Lawson, of Missouri and Blewett Lee, of Illinois, were appointed a committee to nominate officers for the ensuing year.

The Chairman then delivered his address.

(*See the Address at the end of these Minutes.*)

E. W. Huffcut, of New York, read his paper.

(*See the paper at the end of these Minutes.*)

E. A. Harriman, of Illinois:

I have been very much interested in Professor Huffcut's remarks on the subject of the relation of the Law School to

the University, but there seems to me to be one point that he has ignored; that the Law School is a professional school. The distinction between the professional school and the other schools of the University seems to be vital and essential. The object of the professional school is to train men for their profession. The profession of the law is the profession of the advocate and counselor, the attorney and solicitor. The lawyer must, if he has any clients, deal with their affairs, and must deal with them in a practical manner. Now, the lawyer is one thing, and the legal scholar is another. All lawyers know the difference between the scholar and the man of affairs. I advocate the sacrifice of neither the practical training of the man of affairs, such as a lawyer must be to-day, nor that of the school. What I advocate is between the two. The Law School must train for the legal profession. The training of the lawyer in the professional school should be training in the strict technical work of his profession. He should know the law. There seems to be a contrast between the advocates of the study of jurisprudence, or the pure science, and the advocates of the teaching of law, the applied science. I feel sure that the most need is in training in the applied science of law.

Marcus Pollasky, of Illinois:

Mr. Chairman: In common with others, I am very much interested in the paper of Professor Huffcut, of Cornell, and it has occured to me that I might offer a few words from the standpoint of one who has observed and experienced the difficulty of obtaining a Bachelor's Degree at a University. We feel the necessity of the greater knowledge that can be there obtained—an academic knowledge, if you please—because there can be no useless knowledge for the lawyer. In theory, at least, he ought to have a college degree before he gets the degree of Bachelor of Laws, but in practice I should have a decided preference for the lowering of the standard of admission to the Law School connected with the University, and the raising of the standard before the degree of Bachelor of Laws is conferred.

Henry Wade Rogers, of Illinois:

In reference to the Stanford University plan, allow me to say that it is well known that the distinguished President of the Leland Stanford University has long advocated a theory in reference to degrees that has not been accepted by the universities of the United States, as a whole. He has been in favor of conferring the A. B. degree only, instead of conferring the degrees as most Universities do—Bachelor of Science, Bachelor of Philosophy and Bachelor of Letters. He would merge the whole into one degree—the A. B. degree. Now, holding to that theory, it is, of course, proper for him to give the A. B. degree for law studies; but I do not believe that the time has come when these old degrees are going to become obsolete, and when the A. B. degree is to be conferred, no matter what course is pursued in the University. The A. B. degree stands for a definite course of instruction, and the tendency of the Universities is to retain it, for what it has represented in the past years, and what it represents to-day in the greater number of Universities. So that I do not look for the coming of the time when the Stanford plan is going to be accepted by the Universities of the country. And in my opinion, it is very doubtful whether the plan pursued at Columbia and Cornell Universities, of allowing the law studies to be credited on an A. B. degree, is going to be accepted by the Universities generally. It is not a question for the law faculties. It is a question for what the gentleman calls the "faculty of humanities." So far as I know, the sentiment in Universities, with very few exceptions, is against the plan, because it involves crediting the same work twice. The work in law is credited in colleges of arts and science for the A. B. degree, and the same work is necessarily credited in the law school for the degree of Bachelor of Arts. And there is that objection, which it must be admitted is a serious one. And then it will be found that the smaller colleges throughout the United States, not the Universities, but the colleges, object seriously to the adoption of any such plan, because the tend-

ency of it is to draw the students away from the smaller colleges, where there are no law schools, into the large Universities where the law school exists, in order that the course may be shortened by one year; and you will find all over the country in the smaller institutions that there is a very decided antipathy to that plan.

B. M. Thompson, of Michigan:

In regard to the preparation to be required, students in entering the law schools are confronted by a situation entirely different from the medical schools. For instance, no doctor can practice his profession in this State who is not a graduate of some reputable Medical College. But any student who has mastered the law and passed a satisfactory examination in the Circuit Court is admitted to practice in all the Courts of the State. Our sister State of Indiana, I believe, only requires a certificate of good moral character to admit any of her citizens of twenty-one years of age to practice in all the Courts of the State. Now, it seems to me, in considering the question of what shall be required, that we should take into account the general requirements of the State. It should not be a requirement of the law school of her students, but it should be a requirement by the State of every citizen of the State who intends to enter upon the study of the law. In other words, no student should be permitted to study the law, for admission to the bar, unless he has a certain qualification, and the qualification which the law should require of all students is a qualification which the University should require, before the student is admitted to the University and Law Department. We ought to have legislation of that character. No student can study law in the State of New York, unless he passes an examination, and receives a certificate. Now, it seems that should admit him to the University in the State, and especially is this true in Michigan, where the University is a State institution, and depends upon the State from year to year, from one session to another, for its support as a law school.

I agree with Doctor Rogers, that it would be very difficult for the faculties devoted to the law department to obtain a concession from the faculty in the University proper to credit studies in the law department. I think the law schools must face the situation and consider that their work must be done independently of the general work of the University. I am one of those who believe that the knowledge of the law is of itself a liberal education. I believe that there are fifty men in the State of Michigan, who are not degree men, who stand at the head of the profession of law, and who are as liberally educated to-day as any other fifty men to be found in the State of Michigan. Some of the ablest lawyers in the State of Michigan are not degree men. The very ablest judges that we have to-day in the State of Michigan were not degree men. I repeat that the knowledge of the law is itself a liberal education, and if a man is well qualified to enter the law department and take his three years' course in the law department, he stands as good a chance of being a liberally educated man as the man who goes through the academic department of the University, and then does not study law.

J. Newton Fiero, of New York:

Mr. Chairman: It seems to me that the gentleman last on the floor has reached the marrow of this matter, and that we must have in the States a provision requiring a certain degree of preliminary education, in order to justify law schools, as a general rule, in elevating their standard. You cannot by any possibility induce the law schools to take that step unless it is made necessary by the requirements for admission to the Bar, and that is proven by the number of students having a degree who are now at the different law schools, as compared with the number who have not an academic degree. The argument, it seems to me, is universally in favor of a standard of general education to be required by the State before a student may enter upon the study of the law, either in a law school or any other way which is to be credited to him by way of time spent in study for admission to the bar. There is such a standard in force in New York, which is pretty nearly equivalent to

the standard for admission to the freshman class in colleges, and it must be complied with before the three years' study of the law that the student is required or obliged to take before the entering the bar will be complete. In that way we have, in some respects, overcome the difficulty. That standard has from time to time been elevated, as it should be; and last year, in New York, three or four required subjects were added. And this provides for a thorough course of preliminary study required before the student can enter upon the study of law. I think there should be at least two years of study required upon the part of the student, in every State in the United States, devoted entirely to the study of the law, before he is a candidate for admission to the bar. We may thus build, upon the foundation of a fair, liberal education, a professional education, such as cannot be acquired, whether in a school or elsewbere, in less than that period of time. It is presumable, as matters now stand, that at least a portion of the time must be spent in a law school.

John D. Lawson, of Missouri:

Mr. Chairman: I come from one of these university law schools where the standard of admission to the law school is so low that when a student presents himself for admission to the academic department, and is refused admission, be simply steps across the campus and enters the law department. We require in the catalogue a fair English education, but that is always construed to mean that the student presenting himself shall use the English language in ordering his dinner or saying his prayers. Now, the reason for this low standard of admission to the bar is this: If we reject a student at the end of the first year, and refuse to allow him to enter the senior class, he promptly goes to one of the courts and is admitted to the bar. These students of the senior year, who receive their degree of LL.B., present themselves to the Supreme Court, and they are admitted on motion; but they are not members of the bar any quicker than those few students who receive no degree, but go to a Circuit Court and pass an examination,

lasting perhaps a half hour. So that until the State raises its standard, we of the university law school can do nothing, because we consider that we are doing the State some service at present in giving these lawyers at least some legal instruction, which they would not receive at all if we required a high standard of admission to the school. Last year I spoke of this before this section of the Association, and on the line of that address, a bill was introduced at the instance of our law department, in the Legislature of Missouri, placing the admission to the bar in the hands of the Supreme Court alone, but it was defeated in the Senate upon the argument of two Senators from the country, that it would be too great an expense to have an intended applicant for admission to the bar travel to the Capital, where the Supreme Court was held. That, gentlemen, is the reason, and the sole reason, why, in these university schools which have been spoken of, the standard of admission is so low. When that condition ceases, the standard will be raised, and no one hopes it more, or wishes it more, than the faculty of my law school.

Burton Smith, of Georgia:

Mr. Chairman: I have some hesitation in addressing this assembly, following so many distinguished men who are learned in the sciences as well as the law, being myself but a practitioner. It occurs to me, however, that the power of the law school has grown enormously in the last few years. I am informed by the gentleman from Cornell that their numbers have doubled many times over in the last eight or ten years. I know that in my own city nearly all of the young men who now come to the bar are graduates of a law school. It must be admitted, therefore, gentlemen, that the power has grown enormously. If legislatures fail to do their part—and they will fail to do it in many cases, by reason of the make-up of the legislature—I think the law schools are of sufficient force to take upon themselves the responsibility of facing the problem; and, I think, as a rule, a thorough education should be required before admission should be had to the law department.

As I understand, from the remarks here, Harvard makes an exception under certain circumstances. She will permit men to enter the law department without the requisite general education, but she will require thereafter a very high standard of efficiency before the diploma of law is given. That, of course, is proper. Many of the greatest lawyers the country has ever seen were without education, but their native capacity was such that they certainly would at the conclusion of their law course have been able lawyers. Therefore, the general rule of requiring a collegiate education, or its equivalent, and making an exception only of those who without it could come up to a higher standard in the law course, ought somewhat to solve the problem. It is suggested by the gentleman from the Northwestern University, that the law is a professional study and is not a part of a general education. It seems to me that that is not strictly correct. There are many branches of the law which, it seems to me, can be taken with more propriety as a part of a general education. Any man, without any thought of being a lawyer, would certainly be benefitted by a general series of lectures, adapted to the breadth of his mind; for instance, something upon constitutional questions, or the history of our country, or perhaps a word on evidence and common law, and thus we would be able to shorten, as suggested here, the course in law by two or three years.

The Chairman:

In reference to the suggestion which has been made that the standard of admission to the school should be lower, and the standard for graduation higher, I may say that our experience at Cambridge bears upon that a little. We instituted an examination there for a degree before we instituted any examination at all for admission. And the result was, after some years, that we found we had students who had got in and who could not get out. Persons were there who seemed likely to pass a considerable portion of their lives with us. There is that sort of difficulty about this suggestion.

E. W. Huffcut:

I desire to correct an impression, if I have conveyed one, and I judge I have from the remarks of the gentleman from Missouri, that the standard of the school I represent is appreciably higher than his own. I was entering a general reproach against the University Law Schools of which my own school is one. I claim for my own school (and others of the same type), two things. We permit the undergraduate in the University to take law and shorten the combined course, and we also induce a great many law students to lengthen their law course and take with their law a good many other subjects. In regard to the objection raised by Dr. Rogers in respect to the Leland Stanford University, it seems to me that the degree at the end is not the material thing. They might have as many degrees as major subjects; the substance is that law is put upon the same basis as regards university study as, for instance, political science. They might grant a degree of Bachelor of Law, or Arts, or Science; I do not care what; the result would be the same. In regard to another objection I would like to point out that while his University may object to granting the degrees of Bachelor of Arts, and Bachelor of Laws, counting the same work for both, his University will, nevertheless, grant the degree of Bachelor of Laws for work, one-half of which has already been accomplished in some other institution where it has been counted toward the degree of Bachelor of Arts. For instance, a student comes from Cornell University, with the degree of Bachelor of Arts, and he is also credited from the law school for one year in the law course; this will take him into the Northwestern University Law School with a credit equivalent to a year, and then he will be graduated in that law school in one year. The degree, therefore, is granted by the law school upon work which has already been counted toward a Bachelor of Arts degree, although that university would not do as much for its own students.

I also desire to correct another impression which seems to have been conveyed, and that is that the requirements of the Regents of the State of New York for students intending to

study law are equivalent to the requirements for admission to the Freshman class in colleges. I doubt if any one would be admitted into any college or university in the State of New York upon those requirements.

Henry Wade Rogers:

One word in reply. Suppose students coming from Cornell University present certificates that they had passed one year in the study of law, they would simply be credited with those law studies which they had pursued in the law school of Cornell University. Their course might or might not be shortened by one year; certainly they would not be credited for any work done at Cornell University except the work done in law.

W. L. Penfield, of Indiana:

Mr. Chairman. I would like to say a word on this question from the standpoint of the practitioner. It has been very instructive and interesting to me to listen to what we have heard from gentlemen whose profession is to train young men for the practice of law; or for the purpose of preparing them to practice law. The man who can solve the question of the fit preparation of young men for the practice of law, with the least waste of nervous force, will be the Bacon of this controversy. Mr. Chairman, it is not possible, I think, to go further in the analysis of this question than was gone by De Quincey when he said, that "all literature is divided into the literature of knowledge, and the literature of power." When it was said by Brother Huffcut, of Cornell, I believe, that the law is a culture subject, he spoke a truth which has been corroborated by my own observation for nearly twenty-five years. Some of the strongest lawyers with whom I have had to compete, or with whom I have ever crossed swords in a lawsuit, are men who have been developed without a liberal, or even an academic, education.

Again, according to the theory of Herbert Spencer, "We are endowed by nature with a maximum energy which is represented by ten," and men in whom that energy goes to the profession and practice of the law, are generally those fitted

for the profession. There are hundreds of young men who practice law without an adequate knowledge of those principles of science, mathematics and mechanics with which, as a lawyer, he has to deal in the cross-examination of witnesses, and of the application of the principles of law to the completed facts. In fact, knowledge lays the basis of an education which should lead up to the further study of the profession which leads up to the proper study of the practice of law. I am of the opinion that the method of solution which has been adopted by Cornell and by the Leland Stanford University is the solution, or something approximate to the solution, of this question. No one will deny that the study of Sanscrit affords culture; but no lawyer would recommend his son to study Sanscrit for the purpose of practicing law. He would discard from the catalogue of the college course all those studies for young men who intend to make the law their profession which do not bear upon the profession, such as principles of geometry, or principles of mathematics; in fact, all the natural sciences, so that they will at least be able readily to adapt themselves to the definite requirements of their profession. This waste of mental energy upon the study of subjects outside of those leading up directly to the preparation for the practice of law, is, in my judgment, a lamentable waste of nervous force.

I have had an especial interest in this question, in view of the desire of some of my sons to enter upon the profession of the law. I argue this question to these young men, and there are two standpoints from which we must argue: one that of the man of practical concern, and the other that of the boy, who has certain aspirations which you cannot ignore if you wish to bring his mind towards the higher forms of education. The young man does not object to the views which I approve, and which I believe are in accord with many of the leading minds of the profession. But the objection raised by the boy is that he wants the A. B. degree. That aspiration has entered into the breasts of all our young men; and, therefore, I think that some such solution as that adopted by

Cornell University or Leland Stanford University will be the ultimate solution of this question.

The Section then adjourned till Thursday evening, August 29, 1895, at 8 o'clock.

Evening Session.

August 29, 1895, 8 o'clock P. M.

The Chairman called the meeting to order.

Simeon E. Baldwin, of Connecticut:

Mr. Chairman: The Committee on Nomination of Officers for the ensuing year would report recommending the election of the following gentlemen:

For Chairman, Emlin McClain, of Iowa;

For Secretary, George M. Sharp, of Maryland.

On motion the report was accepted, and the gentlemen nominated were elected.

Austin Abbott, of New York:

Mr. Chairman: It has come to our knowledge that in several States there is a desire to adopt the system already adopted in New York, Ohio and this State, by which admission to the bar is placed under the direction of the court of last resort, by legislative act, with a view that that court may prescribe uniform examinations throughout the State. That seems to us a very desirable improvement. We hear that members of the Bar in various other States desire to take a step in the same direction. The Committee on Legal Education and Admission to the Bar will be glad to furnish any information they can in respect to what has been done in this respect.

The Chairman:

We have the honor and the great privilege of having present to-night Mr. Justice Brewer of the Supreme Court of the United States. He does us much honor and the public a great service in coming here and addressing us on the subject of "A Better Education the Great Need of the Profession." I have the pleasure of presenting Mr. Justice Brewer.

Mr. Justice Brewer then read his paper.

(*See the Paper at the end of these Minutes.*)

The Chairman:

Gentlemen: I am sure you wish me to express our very cordial thanks to Mr. Justice Brewer for his paper. The opportunity is now afforded for discussion upon this paper. The Section will be glad to hear from any gentleman. [Mr. Carter was called for.] I hear the name of Mr. Carter.

James C. Carter, of New York:

Mr. Chairman: I agree too nearly with all the conclusions which are expressed in that paper, and all that was so eloquently uttered by Mr. Justice Brewer, to engage in any discussion of the paper. For my own part, I feel rather like silently contemplating the suggestions that he has made and the thought which he has inspired.

As I understand it, the need which he has expressed, the recommendations which he makes, the resolution which he seeks to inspire among the members of the profession, the thought which he means to keep uppermost, is the importance of a higher education for lawyers; to impress upon them the vast and unspeakable importance of the profession in which they are engaged—an importance of which we hear so often that we come to think it and treat it almost as commonplace. And yet when we think that almost all the great interests of society are really dependent upon law—and, being dependent upon law, that they are dependent upon the mode in which it is administered, and that that mode is shaped and fashioned as largely by the action of the bar as it is by the bench—when

we think of these, the importance of a suitable qualification for that profession certainly cannot be too greatly magnified.

Mr. Justice Brewer did not conceive it to be any part of his plan, and did not make it any part of his address, to point out any particular methods by which the education of the members of the bar could be improved or could be elevated to a higher standard than it is. He placed before us the immense desirableness of the end, and he leaves us to fashion and to shape the means by which that end is to be attained. He tells us, and, as I conceive, rightly tells us, that the importance of the general education of the bar does not concern the interests of the members of the profession alone, but, in a far higher and more important sense, the interests of the whole public; that what may be the fate of the fortunes of the lawyers of the land, be they more or be they less, is comparatively a small consideration; that whether they are prosperous or not, whether they are admitted to the bar after little preparation and with considerable ease, although that may contribute to their own personal advancement—yet these are objects which are to be considered in no degree important by us. The main purpose, and what should be considered the only purpose, is to qualify the bar for the high function which it is called upon to perform; and that high function he has most correctly expressed to us: To qualify the bar, not only by educational attainments, and by acquisitions, not alone by mental discipline, making us intellectual athletes, but to qualify us also by that sort of moral education which, I undertake to say, and I know he thinks, is an essential part of the lawyer. The purpose is that the lawyer should obtain for himself an education which shall include as a part of it a true conception of the great function which he is to perform, a true conception of the office which he is to fulfill, not only to his clients, but to the public and to the world, for it does concern the public and the world as well.

It is these thoughts that he has laid before us, and which, I hope, gentlemen, we shall all of us take to our hearts and reflect upon to our great profit and advantage.

Noah W. Cheever, of Michigan:

I may perhaps be pardoned for saying a word after the Bismarck of the profession has sat down, but, living at Ann Arbor, where so many young men of moderate means are educated, I wish to speak in regard to one suggestion made by Justice Brewer, viz.: that it will not deter young men of ability and strong character that we require of them a thorough preparation. We all remember that old Dr. Johnson, when a good friend left a pair of shoes at his door, though he needed them much, threw them out of the window, and the world has applauded the act ever since. His poverty did not defer him from acquiring an education. We remember also that Thomas Carlyle was offered donations of money by his generous friends, and he constantly refused them. He said, "I must rise by my own ability, and I will not throw away the discipline that makes me within myself a man, or accept the generosity of any man," and that is true of all really strong characters. As Mr. Justice Brewer truly said, Abraham Lincoln would have been a great lawyer even if he had been required to acquire first a thorough education. Hundreds of young men have acquired a thorough education, notwithstanding that they have started life in poverty, and struggled through many troublesome oppressions. This has made them the strong and successful men that they are, and it will continue to do so. As we elevate the requirements we will elevate the profession.

E. B. Sherman, of Illinois:

In common with all who heard this most admirable paper, I feel we are under great obligations to Mr. Justice Brewer for the suggestions he has made, and for the inspiration which must come to every heart from the noble vision of the time when, through the efforts of this profession, peace shall dawn upon the world. It is not entirely a poet's dream.

There was one suggestion which, if I might be permitted to criticise, seems to me not exactly in accordance with the spirit of Anglo-Saxon jurisprudence, and that was the suggestion that there should be no appeal in criminal cases. In our own

city of Chicago, six judges are sitting in the criminal courts, yet the jails are full and hundreds are always out on bail. The grind of the criminal courts in our great cities, the machinery of them, is so extensive, and the mistakes that occur are often so glaring, that without an opportunity of review, great injustice must necessarily be done. And such has been the case of Anglo-Saxon jurisprudence for ages. I think it will be a long time before the American people will deprive a man who has been tried by a jury of such men as we are able to obtain in cities like New York and Chicago, of a right to have his case reviewed calmly and dispassionately by some one who is removed from the influence which surround the jury rooms and the trial of criminal cases in our great cities.

Martin Clark, of New York:

In line with the paper that has been read, and also with the announcement made previously as to uniform examinations, I would add that in New York State we also have a further provision, viz., that a preliminary education is required before a man can begin his clerkship. The effect of this is exemplified by a statement made to me several years ago, soon after this law had been adopted, when I asked one of the examiners who served in our department, what the effect of this provision was upon young men presenting themselves for examination. He said: "The effect has been wonderful. Hertofore the minority of the young men presenting themselves were college-bred men, while now the majority are graduates of the colleges." So that you can readily see that the effect of raising the standard or increasing the general education of a man before he presents himself for examination will not deter him from becoming a lawyer.

E. A. Harriman, of Illinois:

Mr. Justice Brewer has spoken only of the end to be attained. I wish to say one word as to the means by which that end may be attained. It is possible for the Federal Courts to determine what their requirements for admission to the bar shall be, independent of the States. Now, if the Circuit

Courts of the United States generally were to set a high standard for admission to the bar, without doubt that would have the greatest possible influence in raising the standard on the State bar.

John D. Lawson, of Missouri:

I desire to say, sir, as representative from the southwest, that I dissent from the opinion of Mr. Sherman of Illinois, in regard to that portion of Mr. Justice Brewer's address wherein he pleads, as I understand it, for a swifter execution of criminal law. A great deal of condemnation has been bestowed upon the people of the South and the Southwest for their apparent disregard of the administration of justice through the criminal courts. I wish to say that while there apppears to be a disregard for the workings of the criminal courts, which is unknown in England, and hardly known in the eastern and more northern States, I lay the blame for that condition not upon the people of the South and Southwest, but upon the courts themselves. In the community which I represent it has become almost an axiom that it is impossible to convict a man for a criminal offence within two, or three, or four years. Now, when Mr. Sherman says it is a principle of Anglo-Saxon law that a man shall have an appeal in a criminal case, I think he is mistaken, because I understand that until legislation was had, the writ of error in criminal cases would not lie at common law. The result of all that is, sir, that the people of the Southwest have grown tired of the slow administration of criminal law; and not to weary this audience, I wish to give an illustration of that. In my own city, not very many years ago, a crime had been committed; the people of the county pursued the criminal, and, unwilling to wait for the slow and uncertain process of criminal law, took the criminal to the court house, hung him at the very portals of the court house, and as his body swung there it partly obscured an inscription which read: "O Justice! when driven from other habitations, make your home here."

The Chairman:

It is of course within the knowledge of the members of the Section that the framers of the Judiciary Act would not allow criminal cases to go, as of course, to the Supreme Court of the United States. This association very well knows that in England they do not allow criminal cases to go up, unless the judge of the court below reserves a question. But an English dictum may perhaps be mentioned—of the present Master of the Rolls at the Lord Mayor's banquet. He remarked that "Slow justice is better than quick injustice. Few men but would prefer to be acquitted on Saturday night rather than to be hanged on the previous Monday."

E. B. Sherman:

I would say that if the English law would permit an appeal, Mr. Chairman, a probably innocent woman who is now confined in an English prison on a life sentence, sent there under the ruling of a judge clearly insane at the time he presided over her trial, would not have attracted the attention of the entire civilized world.

Adolph Moses, of Illinois:

Perhaps Mr. Justice Brewer is misunderstood by his audience in believing that he is advocating that in criminal cases no appeal shall lie on a question of law. I have interpreted his remarks to be that there shall be no appeal from the final determination of the facts found by the jury; for it would be going too far, I submit, to advocate in the latter part of the nineteenth century, under a constitutional government, that there shall be no appeal in criminal cases so far as a question of law is concerned. The announcement of Mr. Justice Brewer is one of great importance. What he has said here to-night will, through the medium of the press reports, be read all over the civilized world, and it is the more startling in view of the fact that England, at the present time, is convulsed with a determined effort to erect a criminal court of appeals. The English bar, for the last two years, have besieged Parliament to erect a criminal court of appeals, and it is very likely that the imprison-

ment of the Maybrick woman has been the reason why this discussion has been sprung upon the English people.

It was said here a little while ago that at common law there was no writ of error in criminal cases. Now sir, if that proproposition has not been controverted up to this moment, I desire to refute it now. There was a writ of error in capital cases at the common law, but it required the aid of the statute to afford a further writ of error—not an appeal, in the technical sense of appeals, for there are no appeals in criminal cases except for misdemeanors.

When we consider that there are forty-four state judicatories, forty-four constitutions where the right of trial by jury is inviolate, and the right of appeal is guaranteed in the constitution itself, then the importance of the suggestion is more apparent to this audience and to the people of America and England, or will be when the address of Mr. Justice Brewer shall be read. I desire, in my humble way, to be understood as differing with Mr. Justice Brewer, if the suggestion is intended to carry the idea that there shall be no appeal at all in criminal cases. Under the Constitution, every criminal must be convicted by due process of law; it requires the interpretation of the criminal law by the judge, and there must necessarily be a review, in a constitutional government, by the higher Court in the land in criminal cases.

The Chairman:

Will the speaker excuse me one moment? I should like to make the announcement that the General Council is in session up stairs; members who are present may desire to know of that fact.

Henry Wade Rogers:

As I am a member of the General Council and must attend its session, before I leave I desire to offer a resolution, if the gentleman from Illinois will yield the floor to me for that purpose.

Adolph Moses:

I have finished, sir.

Henry Wade Rogers:

The resolution which I desire to introduce is this:

Resolved, That the Section of Legal Education expresses its approbation of the lengthening of the course of study in law schools to three years, and that it desires to express the hope that as soon as practicable there may be prescribed in each State a rule which shall require students to study law for the period of three years before applying for admission to the bar.

After the splendid paper to which we have listened this evening, and the admirable remarks of Mr. Carter, I do not care to submit any observations in connection with the resolution.

Jay P. Lee, of Michigan:

I think the important thing which we should remember is, that a resolution, having the approval of the American Bar Association, will carry great weight in every part of the country. In the State from which I come I believe it will be of great service in calling the attention of the courts to the fact that it is the sense of the American Bar that nothing can be done for the elevation of the standard of teaching in this country without the requirement by the State, through its constituted officers, that such term of study must be occupied by every student before he comes to the bar as will be adequate. I do not believe there will be found a teacher in a law school of standing to-day who believes that a competent instruction can be adequately given in a less period than three years.

Calls were made for the question.

Simeon E. Baldwin:

I have an impression, Mr. Chairman, that at the organization of this Section rules were adopted, one of which had reference to our committing ourselves to any measure affecting Legal Education in the way of recommendation; that this Section was organized for discussion rather than for action. The chair probably recollects about that.

The Chairman:

I regret to say that I have not a distinct recollection as to that matter, and I would suggest to the mover of the resolution that he allow it to lie over until to-morrow, and in the meantime the chair will look up the subject.

Adjourned to Friday, August 30, 1895, at 3 P. M.

Afternoon Session.

August 30, 1895, 3 P. M.

The Chairman:

Gentlemen: Last night a motion was made by Dr. Rogers respecting the length of time to be required for admission to the bar. An objection was made by Judge Baldwin, of Connecticut, who stated that it was not competent for this Section to vote a recommendation of that sort; that we were required by our organization in dealing with such matters to suggest or recommend them to the Association proper. I find, on referring to the documents, that our power is limited in that way, and I shall accordingly be obliged to rule that that motion as it stands is not in order.

Henry Wade Rogers:

Mr. Chairman: I thought that after the delivery of the addresses this afternoon there would probably be an opportunity offered for the transaction of business in connection with this Section, and I proposed at that time to ask consent to withdraw the resolution I offered last evening and introduce another in its place, modified in form.

The Chairman:

In the regular order for this afternoon, we shall first have the pleasure of hearing from Rev. Dr. Lyman Abbott, of Brooklyn. Dr. Abbott was formerly a member of our profession. He is not, I believe, an LL.D., but he is a D. D. It is believed that it has not hurt him at all to have been a member

of our profession. There was once in the State of Massachusetts a distinguished and witty gentleman, who had been a member of the bar, but who had retired, and on one occasion, when he was on the stand as a witness, the usual preliminary questions were asked him, where he resided, and what was his occupation, etc. In regard to his occupation he answered that he was a reformed lawyer. We are hardly willing perhaps to designate our friend as a reformed lawyer, but this may be said, that he has not departed from the high standards to which he was accustomed in our profession. I have the great pleasure of presenting Rev. Dr. Lyman Abbott to you.

Rev. Lyman Abbott, of New York, then delivered his address.

(*See the Address at the end of these Minutes.*)

The Chairman:

Dr. Abbott alluded to some infirmity that compelled him to speak as he does. I think we should all be glad to share in an infirmity which would enable one to express in strong, clear and reasonable language such high and inspiring thoughts on subjects of the greatest concern.

We shall now have the pleasure of hearing from a venerable and wise friend, from Chicago, some statements upon "The Importance of the Study of Medical Jurisprudence by Students of Law, and the Extent to which it should be taught in Schools or Colleges for the Education of such Students." Dr. Davis is, I believe, the Dean of the Medical School in the Northwestern University. He has been for many years a professor of medical jurisprudence. I have the pleasure of presenting Dr. N. S. Davis to you.

Dr. N. S. Davis:

Like the learned and eloquent gentleman that has just addressed you, all my life I have endeavored to do my teaching by talking and very rarely to write out an address as such, but I have learned that if I trust, on some special occasion, to talk *ex tempore* I never know when I get to the end. Consequently, when I wish to be sure and express the thoughts that

I desire to communicate and bring them within certain definite limits, as I understood was desirable in this body, I have to put them on paper so that I know when I get to the end.

Dr. Davis then read his paper.

(*See the paper at the end of these Minutes.*)

The Chairman:

I think we have peculiar reason to be grateful to our friend, at his advanced age, for coming here and giving us this suggestive paper. It is now in place to consider and discuss these papers in the order in which they have been given.

Charles M. Campbell, of Colorado:

I have listened with much pleasure to the paper of Dr. Davis, but I desire to say, simply as a matter of history, that Dr. Davis has inadvertently omitted to state that Dr. Caspar Wistar, of Philadelphia, delivered lectures on medical jurisprudence as early as 1799. From 1799 to 1805, it is a well-known fact to those who have resided in Philadelphia, that he delivered a special course of lectures on that subject. In connection with this I desire to say that one of the well-known reasons which prompted him to deliver this course of lectures was that at the time he graduated in Edinboro, that university was giving especial attention to that subject. I can fortify this statement by a conversation I had with the distinguished Dr. Rees, of Philadelphia, who was mentioned here a couple of years ago, when, through the courtesy of Dr. Rees, we visited the Historical Society of Philadelphia, and there examined some of the original lectures on this subject by Dr. Caspar Wistar. I simply make this statement for the purpose of putting it upon record as an historical fact.

Tracy C. Becker, of New York:

Mr. Chairman: Having lectured on this subject in law schools since 1886, and, together with Professor Witthaus, of New York, having engaged in the preparation of a volume, or series of volumes, upon the subject, and knowing intimately how very lax the instruction is in the law schools of this country upon the subject, I feel a very urgent desire to thank Dr. Davis,

personally and publicly, for calling the attention of lawyers and of this Association to the matter, as he has done to-day. I find in speaking to gentlemen engaged in legal education upon this subject, and from practical experience, that in those States —particularly in my own State, where a considerable degree of preparation is required, such as having a Regent's certificate— so far as physiology is concerned, the students are quite well prepared. But insanity and the action of poisons require some further instruction.

Now the question presents itself to a body of educators: By whom and how shall that instruction be given? I doubt very much if any lawyer, unless he has made a special study of these subjects or taken a course of medical lectures, can pick it out himself. To my notion a correct curriculum on medical jurisprudence would be, that the anatomical side, for instance, should be presented by such a person as Dr. Davis in the aspect of medical science in his lecture, and then the application of legal principles to the medical principles or medical knowledge should be made by a lawyer. The rules of criminal law, as to what constitutes legal responsibility and mental incompetency, are strictly legal rules; therefore it is important that these matters be presented (in conjunction with the medical and scientific lectures given by the doctor,) by a lawyer. As to poisons and the like cases in my own practice in our school, we take the students out at some time, during my course of lectures, to the medical college and let them see under certain instruction the action of poisons (for instance, the indications of arsenic and other such things,) and we find the medical college faculty very courteous and always ready and anxious to give us all the assistance in their power; and, when the time comes, the professor in chemistry is always ready to give an hour or two every week or two and to have our students come into his laboratory.

As to experts going upon the stand and acting as assistant counsel, it seems that it is time, and high time, that the legal profession should be heard from on this subject, and heard

from in a way which will lead to legislation. Our system of paying partisan experts is an imposition upon justice. In no civilized country in the world is such a thing tolerated to the extent it is in this country. And it has got to a point where the expert is usually looked upon with a considerable degree of suspicion in matters for which often he is not at all to blame, and is often misjudged in matters wherein he is entirely right, simply from the fact that other men will sell themselves, and because our profession will buy their testimony and use it in courts of justice on one side or the other. It is often said, if your purse is long enough you can get an expert in medical science who will testify any way on any subject, particularly if some doctor he does not like very well has testified the other way. But, with all kindness, I say that it is the fault of the legal, more than of the medical profession, for of the two who thus practice bribery, the man who gives is far more guilty than the man who takes, I think. How shall we correct it? In Germany, Italy, and France they have a system of state experts. The general idea is, that certain men are selected by the state, and, particularly in criminal cases, they are the ones called upon to give testimony, not for one side or the other, but, as Dr. Davis has said, to give an honest opinion and their judgment upon the facts as found. In our State Legislature, last winter, the Hon. Jno. B. Stanchfield, of Elmira, introduced a bill proposed by myself and others, carrying into effect the provision of the amended Constitution abolishing the office of coroner. The gist of it was, that the coroners hereafter should be medical men as they have been in Massachusetts since 1878. The idea that the office of coroner should be filled by anybody but medical men is very wrong, and works very strange difficulties at times. One of the provisions of our bill, which certain of the gentlemen of the Legislature saw fit to strike out, was, that certain men could be employed at any time in civil cases at the expense of the parties, and in criminal cases at the expense of the public, who were not selected by either party, but were selected by the court, to examine

into any disputed question of fact and to give their opinion as experts. I do not know how the plan will work out in its details, but some such provisions as that, some such general provision, it seems to me will be the entering wedge by which, in time, a system of high class, well grounded in science, and honest and intelligent, fearless, and impartial, medical experts will be brought into existence. I merely make these suggestions, for I presume we are here for this purpose as well as others, and it seems to me it should be instilled into the minds of lawyers as a requisite thing that we should endeavor, in our profession, to see whether there is not some better system that can be established concerning experts. I again thank Dr. Davis for his able paper, and I make these suggestions, hoping that they may be of some benefit to some one. Medical jurisprudence is a broad theme; it relates to both professions, and brings them closer together; and, if it is possible that instruction could be given on these topics in our law schools, it seems to me it would bring about good results.

Dr. Davis:

Mr. Chairman: I may remind the gentleman upon my right here, in regard to early teaching of medical jurisprudence, that I stated directly that there had been some teaching in medical jurisprudence during the seventeenth and eighteenth centuries in the school of Edinboro, and the same on the Continent of Europe, and if I had been fixing a date for simply lectures here and there, I should have alluded to those he speaks of as given by Dr. Wistar and several others, but my allusion fixing these dates, was to the earliest full establishment of chairs; full chairs of medical jurisprudence. Previously the teaching was irregular; courses given sometimes, and sometimes omitted; and they did more or less work of that character. But I merely mentioned it as it is in schools, because it was the teaching in law schools and the requirements for the law student, that I was aiming at. And to my friend before me, I can simply say, referring to his mode of illustration in teach-

ing, where the law school is alongside of the medical schools, it is perfectly easy to take the law student in and show him what he needs, as I have done many a time; but if it is not there, it does not require a great deal to take *ex tempore* apparatus enough right into the law school itself, to illustrate each principle laid down. And this is necessary to do; this is an essential of the work of education.

The Chairman:

A matter alluded to by Dr. Davis reminds me of what I have been intending to mention at some convenient time, and perhaps I may mention it here. Dr. Davis referred to what he called the case system, and that was a good deal discussed last year. The case system is one that is extensively practiced at Harvard. I want to say, as a person coming from that institution, that in our understanding of the case system, it is not a method of instruction. It is not a method of teaching. It is not, therefore, to be compared with a system of teaching by lecture, or any other system of teaching. It is a system of *studying* law. The whole essence of the case system as we understand it at Harvard is, that instead of placing in the hands of a student a text-book on which he has to prepare himself for the exercise with the instructor, there is placed in his hands a very carefully chosen series of cases, selected by an expert, and he is expected to prepare himself upon them. The whole essence of the case system lies there, in this preparatory study of the subject in hand by very carefully selected cases. In regard to the teaching and the instruction, I may mention that at Harvard, where I have been for twenty-one years nearly, and where Dr. Langdell has been for a period of twenty-five years, there has never been a moment when there has not been every variety of method of instruction. Every instructor there uses his own method. For many years I lectured, although I used the case system. At present, my method—and it is the more common method of the school—is that of questioning the men on the cases. The whole exercise frequently is taken up with questions on both sides; from the

student to the instructor, as well as from the instructor to the student on the cases, and there is an abundant opportunity for remark, for comment, and for lecture, and there is plenty of it. I make mention of that, because I hope it may tend to correct a misapprehension as to the meaning of what is called the case system. As to the mode of teaching, there are as many as there are professors.

Gentlemen, the only remaining matter is any general business that anybody may have to present.

Frank C. Smith, of New York:

Mr. Chairman: One of the most eminent members of the American bar once said: "Justice is the greatest interest of man on earth. It is the ligament which binds civilized beings and civilized nations together. Wherever her temple stands, and so long as it is duly honored, there is a foundation for social security, general happiness, and the welfare and progress of the race. Whoever labors upon this edifice with usefulness and distinction, whoever cleans its foundations, adorns its entablatures, or contributes to raise its august dome still higher in the skies, connects himself in name and fame and character, with that which is and which must be, as enduring as the frame of human society."

This sentiment, so beautifully phrased, finds an earnest acceptance in the heart of every lawyer who recognizes his vocation as something more than an agency wherewith to accumulate a store of worldly goods, or to further selfish ambitions of social or political power. But this is not the occasion for one to dwell upon the vital and fruitful theme of the true relations of the lawyer to his clients and the public, nor would it serve present purposes to do so. It is my wish, and because it is within the scope of the prescribed activities of this Section, to recall here the true relation of our profession to the administration of justice, and to see, from the actual record of its labors in justice's temple, how nearly it fulfills its almost sacred functions in that regard.

The profession of the law is organized for a mission, and that mission is to aid in the administration of justice. Our patents of nobility are the commissions given us by the State to serve in this capacity, and we are proven either worthy or unworthy of the trust reposed in us, according to the measure of fitness, mental and moral, and the former no less than the latter, which we display in the actual labor of administering the law. And right here it is well to remember that law, and that includes justice, is effective and potent only as it is applied to the affairs of men; and that, as stated, our profession is justly judged, not by its accumulated knowledge of legal principles, but by the result of its practical applications of those principles in the course of its appointed service. Every true lawyer is, therefore, interested in the record which his profession is making as the minister of justice, and anxious that only those who are fully equipped to properly serve in this ministry shall be given its high responsibilities.

The functions of the bar are no less important than those of the bench. It is the practitioner who conceives and advises litigation. It is he who gives it shape, who determines its character, who controls its issues, who conducts it through the courts, and makes up the precise question which the bench is ultimately to decide. Upon him rests the duty of preparing the pleadings, of conducting the examination of witnesses, of supervising the making up of the record, of perfecting the appeal and securing a just hearing and determination of the issues by the court of final resort. If the practitioner fails in his judgment as to the proper action to be taken in any stage of the proceedings, the course of litigation is thereby embarrassed and complicated, the rights of parties are jeopardized, and often actually impaired and lost. The courts are thereby mistrusted, and the profession derided as incompetent to do the service which it claims as its especial prerogative. In other words, it is the practitioner and not the judge who is most largely responsible for the actual results of litigation. If men fail to secure their rights through

an appeal to the courts, it is principally because the lawyers who are entrusted with the conduct of the litigation fail to present properly these rights to the judicial tribunals, and this failure arises from the lack of a proper understanding of the rules of legal procedure.

It is a deplorable fact of too general cognizance to require more than a statement thereof in this presence, that year by year the failure of remedial justice to meet the needs of the people becomes more and more conspicuous and disheartening. We know that to a very considerable extent the causes of this failure lie in the imperfect methods of legal procedure prescribed by the legislatures, but I repeat, with emphasis, born of convincing results of an investigation into the forensic practice of our profession which went deeper than that which it was my privilege to report to you last year, that, as compared with the incompetency of the profession as a whole, upon matters of legal procedure and practice, the just objections to the systems themselves are of minor influence.

It will be recalled that an examination of all the cases reported for the year covered by the General Digest for 1894, resulted in ascertaining that over 48 per cent. of the points which were therein submitted to, and determined by, the courts of appellate jurisdiction in this country, were upon questions of pleading and practice, in no sense involving the actual merits of the controversies. And it was strongly urged that this great proportion of such questions was monstrously disproportionate to the true province of legal procedure, and was a reproach to our profession through whose ignorance or indolence, it was insisted, this fact was made possible.

I was desirous of learning how far questions of legal procedure were actually determinative of litigations, deeming that such information would enable us to form an accurate judgment as to the real quality of the work of the bar in the trial of causes. For this purpose I have examined the cases reported for the year, June 1, 1894 to May 31, 1895, with the follow-

ing result: Total number of cases examined, 16,416. Of these, 1052 were originally begun in the courts reported, leaving 15,364 which were heard on error or appeal. Of these 15,364 cases submitted to the appellate jurisdiction of these courts, 9,523 were affirmed, and 5,841, or a little over 38 per cent., were reversed. Of these reversed cases, 2,302, or almost 38 per cent., were reversed upon questions of procedure. In other words, of the reversed cases, 38 out of every 100 so resulted because of the incapacity of the attorney in charge to properly present the merits of his cause for judicial determination. In 38 out of every 100 such instances, then, justice was either denied the litigant, or to gain his rights he had to submit to the anxiety, delay and expense inevitable in a new trial, or in instituting a new action. And, this, because the certified member of the bar to whom he entrusted his cause, did not know how to practice law.

Is it any wonder that men will hesitate and even refuse to submit their differences, and their property interests, to the precarious care of the average practitioner of the day, when the records of our highest courts show that in 38 out of every 100 instances of reversal, the cause is absolutely shipwrecked because of the mismanagement or stupidity of the licensed pilot? Men know these facts if not these figures, and it is because the experience of the people for the last twenty or thirty years has proven to them the degeneracy of the bar, as the efficient servant of justice, that the masses so often regard a surrender of their rights as preferable to an attempt to secure their enforcement by a recourse to litigation.

There is another serious problem upon which this investigation throws light, and which it is proper I should here mention. The profession is to-day justly complaining of the immeasurable, but continuously accumulating mass of reported decisions with which it has to deal, and is endeavoring to find some relief from the unbearable burdens they place upon us as practitioners. A committee of this Association appointed for that

particular service, will, at this session, report the fact in relation thereto, and submit suggestions for a remedy. Aside from other remedial measures, we see in the figures here stated, that a bar whose membership should be properly fitted to conduct forensic contention, would, or ought to, avoid at least 30 per cent. of the retrials now decreed; and it cannot be doubted that a bar which should measure up to that fair standard upon matters of trial and practice, would save an equal percentage of the reversals which are not consequent upon errors of procedure. It needs but this statement of the reasonable probabilities of the effect upon litigation, and its consequent result upon the number of causes wherein retrials and reporting would be saved, of a bar thoroughly educated in legal processes, to convince us where the remedy lies for a great portion of the evils which now chasten the profession.

The tabulation of the results of the examination referred to, showing the several items for each State, and for the Federal tribunals, is as follows:

COURTS.	Total cases examined.	Original.	On appeal.	Affirmed.	Reversed.	Percentage reversed.	Reversed on procedure points.	Per cent. reversed on procedure points.
United States Sup.,	657	31	626	317	309	49½	153	49½
Federal,	923	374	549	334	215	39+	82	38+
Alabama,	266	10	256	141	115	45—	48	34+
Arizona,	14	3	11	9	2	18+	2	100
Arkansas,	349	7	342	222	120	35+	46	38+
California,	476	35	441	284	157	36—	55	35—
Colorado,	190	8	182	102	80	44—	26	33—
Connecticut,	111	2	109	64	45	41+	14	31+
Delaware,	51	11	40	27	13	32—	4	31—
Florida,	83	5	78	45	33	42+	10	33+
Georgia,	316	2	314	184	130	42—	43	33+
Idaho,	36	3	33	25	8	24+	4	50
Illinois,	698	17	681	428	253	37+	94	37+
Indiana,	742	16	726	440	286	39+	114	40—
Iowa,	394	1	393	271	122	31+	41	33—
Kansas,	159	17	142	74	68	48—	23	34—
Kentucky,	443	12	431	278	153	36—	59	38+
Louisiana,	223	15	208	120	88	42+	23	26+
Maine,	153	10	143	101	42	30—	17	40+
Maryland,	193	10	183	124	59	33—	25	43—
Massachusetts,	485	22	463	305	158	34+	41	26—
Michigan,	459	38	421	229	192	46—	60	31+
Minnesota,	361	13	348	220	128	37—	43	34—
Mississippi,	194	2	192	122	70	36+	31	28+
Missouri,	656	21	635	421	214	34—	81	38—
Montana,	113	12	101	64	37	37—	14	38—
Nebraska,	516	15	501	337	164	33—	64	39+
Nevada,	24	3	21	12	9	43—	3	33—
New Hampshire,	155	12	143	104	39	27+	13	33+
New Jersey,	382	38	344	234	110	32—	44	40
New Mexico,	27	2	25	17	8	32	3	40—
New York,	2,201	128	2,073	1,227	846	41—	329	39—
North Carolina,	229	4	225	140	85	38—	28	33—
North Dakota,	51	4	47	25	22	47—	6	27+
Ohio,	412	12	400	278	122	30½	43	35+
Oklahoma,	50	11	39	24	15	38+	6	40
Oregon,	119	5	114	68	46	40+	17	38—
Pennsylvania,	586	14	572	363	209	37—	78	37+
Rhode Island,	153	27	126	86	40	32—	14	35
South Carolina,	140	2	138	87	51	37—	16	31+
South Dakota,	124	7	117	78	39	33+	18	46+
Tennessee,	257	17	240	161	79	33—	32	41—
Texas,	1,271	19	1,252	766	486	39—	187	39—
Utah,	67	4	63	37	26	41+	11	42—
Vermont,	181	5	176	121	55	32—	22	40
Virginia,	99	3	96	63	33	34+	12	37—
Washington,	261	9	252	154	98	39—	43	34—
West Virginia,	86	1	85	48	37	44—	9	24+
Wisconsin,	262	8	254	134	120	47+	46	38+
Wyoming,	18	5	13	8	5	38+	5	100
Total,	16,416	1,052	15,364	9,523	5,841	38 Av'rage	2,202	38 Av'rage

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By computation we ascertain that a little over 41 per cent. of the appealed cases in the common law States were reversed, while the corresponding percentage of such cases in the code States was something over 38. In other words, the total reversals are less in the code States than in the common law States, but when we bring the respective systems of procedure to the just test of the number of reversals upon procedure points alone, we find that in both instances the percentage is about 38. This coincidence is both surprising and significant, but I will not now make the pertinent deductions therefrom which the results justify.

In conclusion let me ask you, Mr. Chairman, whether you do not, from the facts at which we have thus hastily glanced, observe the imperative necessity for a prompt reform in the standard of requirements for admission to the bar, which shall eventually restore our profession to the proud position it deserved and occupied in the earlier years of this century, in which era, by the pre-eminent ability of its members, it elevated and maintained our jurisprudence above the steadily rising level of the people? If this is to be done, we must be more watchful than of late as to the quality of those we permit to labor within, and upon, this great temple of which Webster so reverently spoke in the quotation with which these remarks were opened. And in this matter of watchfulness, and of compelling due preparation on the part of those who shall seek the privilege of ministering at its shrines, this Section has responsibilities commensurate with its opportunities and with the stern demand of the times.

T. Elliott Patterson, of Pennsylvania:

Mr. Chairman: I do not know whether I am right or not, but I was led to infer from the Chairman's remarks that the system as now used at Harvard practically eliminates text-books. Am I correct or not?

The Chairman:

As a regular method of preparation, it does. There is constant reference to text-books and constant occasion upon the

part of students to consult them, but the regular method of preparation excludes text-books.

T. Elliott Patterson:

Mr. Chairman: This question has interested us in Pennsylvania, as doubtless you are aware from the paper read before our State Bar Association by Professor Pepper, of Philadelphia, a couple of weeks ago. And the reason I make the inquiry in regard to text-books is on account of what you have referred to as the prevailing idea of case instruction. I confess, after reading Professor Keener's paper, which was read before this Association a year ago, I have become somewhat of a convert to the system referred to. It presented the matter to me in a very different light than I had viewed it before. I do not feel like going so far as to eliminate the text-book entirely from the course, and cannot bring myself yet to believe the case system alone would be the best method. You give a student a case, as you would give a specialist a case, or as you would hand him a specimen, and he looks it over and studies it out. A system of cases has lately been placed upon the market, known as the Pattee system, in which some of the cases given have no statement of facts and others have. As I understand it, the purpose is to give the student a statement of facts so that he will pass upon it before he reads the opinion of the Court, to aid him in acquiring a discriminating turn of mind; and from that he passes on and takes up the ruling of the court as Mr. Warren told us a great many years ago, to see "whether the Court in its opinion is right upon the question of law." As stated at the outset, I cannot think of eliminating the text-book entirely, and not have it a part of the curriculum of the university or of the office. I am submitting these thoughts with all deference to those gentlemen who have been following up the methods of legal instruction for years. It seems to me that there is nothing to instruct the student in the meaning of terms; that when he comes into the class room and is subjected to this system of case study, he has had no acquaintance whatever with the technical terms, and he

would be as much at sea as he would be in undertaking some new line of work. I only submit this for the purpose of inviting some expression upon it, as to whether or not, it is the best thing for us to entirely dispense with the text-book system of study.

The Chairman:

I was not proposing to raise any question as to the merits of the case system. And, perhaps, too, at this late hour it is hardly the proper occasion to go into that subject now. I was simply correcting a misapprehension of the term.

James D. Andrews, of Illinois:

Perhaps I did not catch the words used by the chairman in defining the case system. If I understand it correctly, it strikes me there is more of a difference in language than a real difference of opinion as to the methods of study. I understood him to distinguish between a method of *teaching* and a method of *study*, but that depends merely upon the point of view. From the student side it is a method of study; from the instructor's side it is a method of teaching.

We should distinguish between the system of education and a method of teaching or learning. There must be a system of education, if the result is to be called a science. Some one must map out the field of jurisprudence and show the relation of its parts.

If the instructor desires that a text-book do the work, then the text-book is put in the hands of the student.

If it is done by the lecture system or by some other method which we have never heard discussed, the result is the same. Blackstone's text-book is nothing but a reprint of his lectures, and he had no text-book in his hand, but he used what we call the lecture system of instruction. When his lectures were subjected to the process of printing they became a text-book, an institute. When you call it instruction, you speak of it from the standpoint of the instructor. When you call it a method of study or a method of learning, you speak of it from the standpoint of the student, and it seems to me that the difference

and distinction sought to be drawn between them is more sound from an acoustic sense than it is in making a real essential distinction between the things which are different.

I have endeavored to discover what the distinction is between the case method (it is now called the case method of *instruction*) in recent years and the text-book method or system of education, about which there is a great difference of opinion. Is it a new and different method of learning the facts or a way of learning in a more methodical manner the line of citation, which teach the principles and the principles taught by cases? I do not suppose that any one from Harvard would contend that the study of cases was a new method of studying law. All the sages of the law, from Coke down, advise the students to read the cases. The distinction between the text-book and lecture system and the case method does not consist in the exclusion of studying cases under the former, as no one in the world ever pretended that they would oppose the study of cases. Has anyone ever pretended for instance that you can illustrate a principle of common law without using the decisions of the judges from whom have emanated the principles of the common law? No one I ever heard of anywhere.

The question is, shall the cases be used to the exclusion of the text-book or institutional work, and if so how is the student to obtain the methodical view of the whole field? Who is to do this work? Is the student to be left to work it out?

Of course I am aware that this is a very great departure from the subject of the afternoon discussion, but how the question of the case method of study or instruction arose you all understand. It certainly is a plain departure.

The Chairman:

There appears to be some misapprehension. No question as to the merits of what is called the "case system" is up for discussion. Incidentally to a remark of Dr. Davis I offered a correction of a common misapprehension as to the *meaning* of that phrase. As regards the suggestion that the distinction between a method of teaching and a method of studying is a

distinction without a difference, I will merely remark that to us at Cambridge, including Professor Langdell, it appears to be a real and very important distinction; and I will repeat that while we have always had there, in recent years, every variety in methods of teaching, we have long tried only one method of required preparatory study.

Henry Wade Rogers:

I desire to re-introduce a resolution which I introduced last evening, which has been modified so as to make it, as it seems to me, conform to the By-Laws under which this Association transacts its business.

Resolved, That the Section of Legal Education recommends to the American Bar Association to pass the following Resolution:

Resolved, That the American Bar Association approves the lengthening of the course of instruction in law schools to a period of three years, and that it expresses the hope, that as soon as practicable a rule may be adopted in each State which will require candidates for admission to the bar to study law for three years before applying for examination.

In introducing this resolution, I beg the gentlemen to note, that it is not a demand for the immediate adoption of such a rule in any State, but only for the adoption of such a rule as soon as practicable. I also desire to explain to the members of the section that the introduction of this resolution is not intended to be a reflection in the least degree upon the one year or the two year schools. Quite the contrary; it is intended to help those schools. It is a matter of surprise to me, when in the existing condition of things in this country a law school voluntarily adopts a three year course. It is known to all of us that it is almost impossible to hold students in law schools of the West and the South for any longer period than is required to enable the student to obtain his admission to the bar. Now in a State where a student can be admitted to the bar in a space of six months or a year, it is next to impossible for

a school in that State to adopt the three years' course. This resolution is in the interest of those schools, as well as in the interest of the schools which have already adopted the three years' course, and their numbers are certainly decreased by the adoption of such a rule, by the fact that the students may be admitted to practice law at the end of one year, or two years, and are, therefore, not content to stay in school for the three years. Now, that is the object of the resolution. I wish to say further that it is not in the interest of the students and it is not in the interest of the profession, and it is not in the interest of the public, that any man should come to the bar before he is prepared to practice law. I do not propose to argue the question. I am content to state conclusions. Professors of law, in the law schools of the United States, or in some of them, have adopted the three years' work, because in their judgment students cannot be properly prepared to practice law in a shorter time. If those gentlemen are right, then we ought to pass this resolution. If they are wrong, we should not. It is a well-known fact, too, that on the continent of Europe no man can come to the bar, unless he has studied law for four or five years. If they are right, then we should pass this resolution. If they are wrong, we should not. One thing more: the medical profession has an association like this; and it has an association of medical colleges which answers to this Section of Legal Education. That association has so legislated upon the subject of medical education, that no medical school in the United States to-day is regarded as in good and regular standing unless it has a four years course. I would like to see the legal profession abreast of the medical profession, as manifested in the action of the American Bar Association, and I believe that we should have the courage of our convictions, and, if we think that the three years' course is necessary to prepare and fit men for admission to the bar, that we should have the courage to say so, and not dodge the question.

Charles M. Campbell, of Colorado:

Mr. Chairman: I desire to say, as one of those who are deeply interested in legal education in the far West, that we have in Colorado, so far as the State University is concerned, in reference to the medical school, adopted a four years' course. In 1897 the regular course in the University Law School of the State of Colorado will be three years. The Bar Association, in Denver, has recommended, and will petition the Legislature, which assembles in January, 1897, to require a three years' course. We have found there that so far as the law school work is concerned, we cannot do satisfactory work in two years, and I think that I can safely say that, when the bill is presented to the Legislature in 1897, the emergency clause will be passed without a question.

The resolution was adopted.

On motion adjourned, *sine die*.

AUSTIN ABBOTT,
Secretary pro tempore.

ADDRESS OF

JAMES BRADLEY THAYER, LL. D.,

OF CAMBRIDGE, MASSACHUSETTS,

AS CHAIRMAN OF THE SECTION OF LEGAL EDUCATION.[1]

[DELIVERED BEFORE THE SECTION OF LEGAL EDUCATION.]

Gentlemen:—In so great a country as ours, so wide and so diversified, it is peculiarly well, now and then, to gather together from far and near, and meet on a common footing as Americans. And so we have come now to this beautiful city, a novel and strange place to many of us, to breathe for a day or two the exhilarating atmosphere of a common nationality, the broad and general air that blows not merely here or there in our country, but everywhere; to think the thoughts and interchange the sentiments that concern us as American lawyers. For myself, I have been chiefly moved, in coming here from the far-away sea-coast of Maine, by the desire to say a few words towards urging a very thorough and learned study of our English law, and the maintenance of schools of law which conform in all respects to the highest University standards of work.

We, in America, have carried legal education much farther than it has gone in England. There the systematic teaching of

[1] The reader is requested to observe that this address does not deal with mere methods of teaching, or with any differences which may be supposed to be appropriate in under-graduate instruction as contrasted with that of postgraduate and professional courses. It is directed to the University teaching of English law, by whatever methods carried on, in whatever departments, and for whatever purpose. The author had chiefly in mind the "law schools," properly so called; that is to say, schools aiming directly at professional education.

law in the schools is but faintly developed. Here it is elaborate, widely favored, rapidly extending. Why is this? Not because we originated this method. We transplanted an English root, and nurtured and developed it, while at home it was suffered to languish and die down. It was the great experiment in the University teaching of our law at Oxford, in the third quarter of the eighteenth century, and the publication, a little before the American Revolution, of the results of that experiment, which furnished the stimulus and the exemplar for our own early attempts at systematic legal education. The opportunities and the material here for any thorough work of this sort in the offices of lawyers were slight. "I never dreamed," said Chancellor Kent, in speaking of the state of things in New York, even so late as the period when he was appointed to the bench of the Supreme Court of that State in 1798, "of volumes of reports and written opinions. Such things were not then thought of. . . . There were no reports or State precedents. I first introduced a thorough examination of cases, and written opinions."[1] But wisdom, skill, experience, and an acquaintance with English books were not wanting in the legal profession here; and Blackstone's great achievement awakened the utmost interest and enthusiasm on both sides of the water—his success in the really Herculean task of redeeming to orderly statement and to an approximately scientific form, the disordered bulk of our common law. "I retired to a country village," Chancellor Kent tells us, in speaking of the breaking up of Yale College by the war, where he was a student in 1779, "and, finding Blackstone's Commentaries, I read the four volumes. . . . The work inspired me at the age of fifteen with awe, and I fondly determined to be a lawyer." As a student in the office of the Attorney-General of New York, in 1781 and later, he says that he read Blackstone "again and again."[2] Blackstone's lectures were begun in 1753, when the author, then only thirty years old, a dis-

[1] Green Bag, vii., 157.

[2] Ibid., 153.

couraged barrister of seven years' standing, had retired from Westminster and settled down to academic work at Oxford. On the death of Viner he was made, in 1758, the first professor of English law at any University; and he published his first volume of lectures in 1765. "There is abundant evidence," if we may rely upon the authority of Dr. Hammond, whose language I quote, "of the immediate absorption of nearly twenty-five hundred copies of the commentaries in the thirteen colonies before the Declaration of Independence. . . . Upon all questions of private law, at least, this work stood for the law itself throughout the country, and . . . exercised an influence upon the jurisprudence of the new nation which no other work has since enjoyed."[1] This great result, it should be observed, was the work of a young enthusiast in legal education, a scholar and a University man, who had the genius to see that English law was worthy to be taught on a footing with other sciences, and as other systems of law had been taught in the Universities of other countries.

Blackstone's example was immediately followed here, and was soon further developed in the form which he had urged upon the authorities at Oxford, but urged in vain—that of a separate college or school of law. In 1779, the year after Blackstone had published the eighth and final edition of his lectures, and only a year before his death, a chair of law was founded in Virginia, at William and Mary College, by the efforts of Jefferson, then a visitor of the institution; and in the same year Isaac Royall of Massachusetts, then a resident in London, made his will, giving property to Harvard College for establishing there that professorship of law which still bears his name. In 1790, Wilson gave law lectures at the University of Pennsylvania. The Litchfield Law School, established about 1784, was not a university school; yet if it be true, as is not improbable, that it was the natural outgrowth of an office overcrowded with students, it may well be con-

[1] 1 Hammond's Blackstone, ix.

jectured that Blackstone's undertaking chiefly shaped and sustained it. At any rate his lectures appear to have been the chief references of the instructors at Litchfield. Hammond, in referring to a collection of *verbatim* notes of lectures at the Litchfield school in 1817, representing, as he conceives, "the exact teaching" of the professors of that time, says "that the references to Blackstone not only outnumber those of any other book, but may be said to outnumber all the rest together."[1]

In England little progress was made for a century. Blackstone's plan for a law college at Oxford was not carried out, and he resigned, disappointed, in 1766. The conservatism of a powerful profession, absorbed in the mere business of its calling, itself untrained in the learned or scientific study of law, and unconscious of the need of such training, did not yield to or much consider the suggestions of what had already been done at Oxford. The old method of office apprenticeship was not broken up. The profession was contented with Blackstone's commentaries, as if these had done all that could be done and had made the full and final restatement of the law. The student simply added to his ordinary work the reading of these volumes.

But the more enlightened members of our profession in England have keenly felt the backward state of things there. One of the greatest of them, Sir Richard Bethell, afterwards Lord Chancellor Westbury, on taking his seat as president of the Juridical Society forty years ago, lamented the neglect of legal science in England and the strange indifference of the profession to the pursuit of it. Lawyers, he says,[2] "are members of a profession who, from the beginning to the end of their lives, ought to regard themselves as students of the most exalted branch of knowledge, Moral Philosophy embodied and applied in the laws and institutions of a great people. There is no other class or order in the community,"

[1] Ibid. x., note.

[2] 1 Jurid. Soc. Pap. 1.

he adds, "on whom so much of human happiness depends, or whose pursuits and studies are so intimately connected with the progress and well-being of mankind." In enumerating the causes of this failure to appreciate the dignity of their calling, he names as one of the chief of them, "the want of a systematic and well arranged course of legal education. . . . It belongs," he adds, "to the universities of England and to the Inns of Court to fill the void; but for centuries the duty has remained unperformed." It still remains very imperfectly performed. But England is moving in the direction that Blackstone pointed, and in its own way will yet solve the problem.[1] Admirable work is going forward there now; and how full a sympathy the leaders in it entertain for our own efforts is shown by the coming of Sir Frederick Pollock this summer to take part in the exercises at Harvard, on occasion of the celebration of Dean Langdell's twenty-fifth anniversary. He crossed the ocean for that mere purpose, and returned as soon as it was accomplished.

On this side of the water, while the training of our profession continued for a long time to be the old one of office apprenticeship and reading, the new conception—new as regards English law—of systematic study at the universities, has had continuous life, and has borne abundant fruit. If it has sometimes languished, and here and there been intermittent, it has always lived and thriven somewhere; and at last it has so commended itself that there is no longer much occasion to argue its merits. Few now come openly forward to deny or doubt them.

This, then, is our American distinction, to have accepted and carried for a century into practice the doctrine that English law should be taught systematically at schools and at the universities. President Rogers, the chairman of this Section last year, told us that there were then seventy-two schools of law

[1] See the highly important address delivered at Lincoln's Inn by the Lord Chief Justice of England, in October, 1895, just as these sheets are going to the press.

in this country, of which sixty-five were associated with universities. I am informed upon good authority that the number is now not under seventy-five or seventy-six, and that the proportion of university schools is about the same as that just indicated.

It behooves us now to look squarely at the meaning of these facts, and at the responsibilities that they lay upon us. The most accomplished teachers of law in England have seen with admiration and with something like envy the vantage-ground that has been reached here. We must not be wanting to the position in which we find ourselves. Especially we must not be content with a mere lip service, with merely tagging our law schools with the name of a university, while they lack entirely the university spirit and character. What, then, does our undertaking involve, and that conception of the study of our English system of law, which, in Blackstone's phrase, "extends the pomoeria of university learning and adopts this new tribe of citizens within these philosophical walls"? It means this, that our law must be studied and taught as other great sciences are studied and taught at the universities, as deeply, by like methods, and with as thorough a concentration and life-long devotion of all the powers of a learned and studious faculty. If our law be not a science worthy and requiring to be thus studied and thus taught, then, as a distinguished lawyer has remarked, "A university will best consult its own dignity in declining to teach it." This is the plough to which our ancestors here in America set their hand and to which we have set ours; and we must see to it that the furrow is handsomely turned.

But who is there, I may be asked, to study law in this way? Who is to have the time for it and the opportunity? Let me ask a question in return, and answer it. Who is it that studies the natural or physical sciences, engineering, philology, history, theology, or medical science in this way? First of all, those who, for any reason, propose to master these subjects, to make true and exact statements of them, and to carry

forward in these regions the limits of human knowledge; and especially the teachers of these things. Second, not in so great a degree, but each as far as he may, the leaders in the practical application of these branches of knowledge to human affairs. Third, in a still less degree, yet in some degree, all practitioners of these subjects, if I may use that phrase, who wish to understand their business and to do it thoroughly well.

Precisely the same thing is true in law as in these or any other of the great parts of human knowledge. In all it is alike beneficial, and alike necessary for the vigorous and fruitful development of the subject, for the best performance of the every-day work of the calling to which they relate, and for the best carrying out of the plain practical duties of each man's place, that somewhere and by some persons these subjects should be investigated with the deepest research and the most searching critical study.

The time has gone by when it was necessary to vindicate the utility of deep and lifelong investigations into the nature of electricity and the mode of its operation, into the nature of light and heat and sound and the laws that govern their action, into the minute niceties of the chemical and physiological laboratory, the speculations and experiments of geology, or the absorbing calculations of the mathematician and the astronomer. Men do not now need to be told what it is that has given them the steam engine, the telegraph, the telephone, the electric railway and the electric light, the telescope, the improved lighthouse, the lucifer match, antiseptic surgery, the prophylactics against small-pox and diphtheria, aluminum the new metal, and the triumphs of modern engineering. These things are mainly the outcome of what seemed to a majority of mankind useless and unpractical study and experiment.

But as regards our law, those who press the importance of thorough and scientific study are not yet exempt from the duty of pointing out the use of it and its necessity. To say nothing of the widespread skepticism among a certain class of practical men, in and out of our profession, as to the advantages

of anything of the sort, there is also, among many of those who nominally admit it and even advocate it, a remarkable failure to appreciate what this admission means. It is the simple truth that you cannot have thorough and first rate training in law, any more than in physical science, unless you have a body of learned teachers; and you cannot have a learned faculty of law unless, like other faculties, they give their lives to their work. The main secret of teaching law, as of all teaching, is what Socrates declared to be the secret of eloquence, understanding your subject; and that requires, as regards any one of the great heads of our law, in the present stage of the science, an enormous and absorbing amount of labor.

Consider how vast the material of our law is, and what the subject matter is which is to be explored, studied, understood, classified, and taught in our schools of law. It lies chiefly in an immense mass of judicial decisions. These, during several centuries, have spelled out in particular instances, and applied to a vast and perpetually shifting variety of situations, certain inherited principles, formulas and customs, and certain rules and maxims of good sense and of an ever developing sense of justice. It lies partly, also, in a quantity of legislation.

What does it mean to ascertain and to master, upon any particular topic, the common law? It means to ascertain and master, in that particular part of it, the true outcome of this body of material. In an old subject, like the law of real property, such an inquiry goes far back. In a new one, like constitutional law, not so far; but still, even in that we must search for more than a century, and if we would have a just understanding of some fundamental matters, it means much remoter and collateral investigation. As regards a great part of our law it is not comprehensible, in the sense in which a legal scholar must comprehend his subject, unless something be known, nay, much, of the great volume of English decisions that run back six hundred years to the days of Edward the First, when English legal reporting begins. That is the period

which is fixed, in the two noble volumes of "The History of the English Law" just published by the English professors. Sir Frederick Pollock of Oxford and Mr. Maitland of Cambridge, as the *end* of their labors, viz.: The time when legal reporting begins. In giving the reasons for dealing with this as a separate period, they say "so continuous has been our English legal life during the last six centuries, that the law of the later middle ages has never been forgotten among us. It has never passed utterly outside the cognizance of our courts and our practicing lawyers." Such is the long tradition that finds expression in the law of this very day, and of this place in which we sit. The volumes just mentioned, ending thus six centuries ago, themselves throw light on much which concerns our own daily practice in the courts; and they indicate the value and importance of much remoter investigation. You remember, perhaps, that the judicial records of England carry us back to the reign of Richard the First in 1194, seven centuries ago, and that there are scattered memorials of earlier judicial proceedings for another century, gathered for the first time by one of the most learned of our brethren in this association, Professor Melville M. Bigelow.

Much of this vast mass of matter is unprinted, and much is in a foreign tongue. The old records are in Latin. As to the reports, for the first two hundred and fifty years after reporting begins, it is all in the Anglo-French of the Year-Books, and mostly in an ill-edited and often inaccurate form. To all these sources of difficulty must be added the generally brief and often very uninstructive shape of the report itself. A few of the earlier Year-Books have been edited in thorough and scholarly fashion, accompanied by a translation and illustrations from the manuscript records. But most of them are in a condition which makes research very difficult. The learned historians just quoted have said that "the first and indispensable preliminary to a better legal history than we have of the later middle ages is a new, a complete, a tolerable edition of the Year-Books. They should be our glory, for no

other country has anything like them; they are our disgrace, for no other country would have so neglected them." The glory and disgrace are ours also, for English law is ours. Efforts on both sides of the water to accomplish this result have as yet failed; but they should succeed, and they will succeed. I wish that my voice might reach some one who would help in securing that important result; he would have the blessing of legal scholars now and hereafter. After the Year-Books, come three centuries and a half of reported cases in England; and one of these centuries, more or less, includes the multitudinous reports of our own country and of the English colonies, which continue to pour in upon us daily in so copious and ever-increasing a flood.

Now, will it be said, perhaps, that in bringing forward for study all this mass of material, past, present, and daily increasing at so vast a rate, I am recommending an impossibility and an absurdity? No, I am not; I speak as one who has seen it tried. It is not only practicable, but a necessary preliminary for first-rate work. One or two things must be observed here. Of course no one man can thus explore all our law. But some single thing or several connected things he may; and every man who proposes really to understand any topic, to put himself in a position to explain it to others, or to restate it with exactness, must search out that one topic through all its development. Such an investigation calls for much time, patience, and labor, but it brings an abundant harvest in the illumination of every corner of the subject. Another thing is to be noticed. Not all our law runs back through all this period. This great living trunk of the common law sends out shoots all along its length. Some subjects, like the law of real property, crimes, pleading, and the jury go very far back; others, like the learning of Perpetuities or the Statute of Frauds, not so very far; and others still, like our American Constitutional law, the learning of the Factors' Acts, of injuries to fellow-servants and other parts of the law of torts, are modern, and perhaps very recent. But be the subject old or

new, or much or little, every man in his own field of study must explore this mass of material,—viz., all the decided cases relating to it,—if he would thoroughly understand his subject.

Before I pass on, let me say, as if in a parenthesis, a word or two more about the Year-Books. These great repositories of our mediæval law have been the subject of many cheap and foolish observations, as to their mustiness and mouldiness; but never, so far as I know, from persons who had any considerable acquaintance with them. It has dwarfed and hurt our law that research has usually stopped short about three centuries back; as to what went before, it has been the fashion to accept Coke as the epitome, or to take the summaries in the abridgments. Back of Coke, these ill-printed, unedited, untranslated folios, the Year-Books, have stood like a wall, repelling for most men any further search. But not all scholars have been deterred; and those who have gone through these volumes have found a rich reward. Amidst their quaint and antiquated learning is found the key to many a modern anomaly; and the reader observes with delight the vigorous growth of the law from age to age by just the same processes which work in it to-day in our latest reports. There, as well as here, together with much that is petty and narrow, one remarks not only well digested learning and thoughtful conservatism giving its reasons, but also growth, the vigor of original thought, liberal ideas, and the breaking out of what we call the modern spirit.

Coming back to the task of the student of our law, it spreads far beyond what I have yet set forth; it has been wisely said that if a man would know any one thing, he must know more than one. And so our system of law must be compared with others; its characteristics only come out when this is done. As to the examination of continental law, mediæval and modern, we have hardly made a beginning. When we trace our law far back, the only possible comparison with anything long-lived and continuous is with the Roman law. If any one would remind himself of the flood of light that may come

from such comparisons, let him recall the brilliant work of Pollock's predecessor at Oxford, Sir Henry Maine, in his great book on Ancient Law. That is the best use of the Roman law for us, as a mirror to reflect light upon our own, a tool to unlock its secrets. And so the recent learned historians of our law have used it. In writing of the English system of writs and forms of action, for instance, they put meaning into the whole matter in pointing out that all this, beginning in the middle of the twelfth century, finds a parallel in Rome "at a remote stage of Roman history. We call it distinctively English; but it is also in a certain sense very Roman. While the other nations of Western Europe were beginning to adopt as their own the ultimate results of Roman legal history, England was unconsciously reproducing that history."

Of the value of such comparative studies, and their immense power to lift the different subjects of our law into a clear and animating light, no competent person who has once profited by them can ever doubt. But, again, observe what this means. It means adding to the wide and difficult researches already marked out another great field of investigation. If it be said that our teacher of English law may profit by the labor of others, and has only to read his "Ancient Law," and his "History of English Law," I reply that the field is still largely unexplored; and, furthermore, that, for the scholar, such books are helps and guides for his own research, and not substitutes for it.

So much for this head of what I have to say. Over these vast fields the competent teacher of law must carefully and minutely examine the history and development of his subject. I set down first this thorough historical and chronological exploration, because in this lie hidden the explanation of what is most troublesome in our law, and because in this is found the stimulus that most feeds the enthusiasm and enriches the thought and the instruction of the teacher. The dullest topics kindle when touched with the light of historical research, and the most recondite and technical fall into the order of common

experience and rational thought. Sir Henry Maine's book, like that of Darwin in a different sphere, at about the same time, created an epoch. Such books have made it impossible for the law student ever again to be content with the sort of food that fed his fathers, with that "disorderly mass of crabbed pedantry," for instance, as our recent historians of the law have justly called it, "that Coke poured forth as institutes of English law." Never again can he receive the spirit of bondage that once bent itself to teach or to study the law through such a medium.[1]

And now comes another labor for the legal scholar. After such researches as I have indicated, in any part of the law, the outcome of it is certain to be the necessity of restating the subject in hand. When things have once been thus scrutinized and traced, many a hitherto unobserved relationship of ideas comes to light, many an old one vanishes, many a new explanation of current doctrines is suggested and many a disentangling of confused topics, many a clearing away of ambiguities, of false theories, of outworn and unintelligible phraseology. There is no such dissolver and rationalizer of technicality as this. A new order arises. And so when the work of exploration has been gone over, there comes the time for producing and publishing the results of it. Admirable work of this sort, and a good bulk of it, has already been done—work that is certain to be of inestimable value to our profession. In some instances it is but little known as yet; in others, it appears already in our handbooks on both sides of the ocean, and in the decisions of the courts.

The publishing of these results by competent persons is one of the chief benefits which we may expect form the thorough and scientific teaching of law at the universities. In no respect can more be done to aid our courts in their great and

[1] In saying of Coke what is just quoted, it will be observed that he is dealt with as a writer of institutes of the law. Of course that great name stands for much else in our law and our constitutional history—for much that is great and good and never to be forgotten.

difficult task. There are many useful handbooks for office use and reference, and some excellent ones. But the number of really good English law treatises—good, I mean, when measured by a high standard—is very few indeed. They improve; and yet, to a great extent to-day, the writers and publishers of law books are abusing the confidence of the profession, and practicing upon its necessities.

If I am asked to specify more particularly the sort of thing that may come out of the researches to which I have referred, and that has already been produced from the universities, I am tempted to refer first to a foreign book about one of our English topics—a book which is a little remote from our every-day questions, but full of value in any deep consideration of the subject—the admirable History of the Jury by Brunner, professor of law at Berlin, published in 1872. That is a book of the first class, superseding all others upon the subject; and yet, to the disgrace of the English-speaking race, it has not yet been translated into our language. English and American scholars have supplemented the work of Brunner; and the material for a true understanding of the history and uses of the jury system, and for a wise judgment as to continuing or modifying the use of it, were never anything like so good as now.

Then there is that masterly History of the English Law by two English law professors of our own time, of which I have already spoken. In mentioning this book, it is only just to Professor Maitland, one of the finest scholars of our time, that I should quote the remark of his distinguished associate, where he says in the preface that, "although the book was planned in common and has been revised by both of us, by far the greater share of the execution belongs to Mr. Maitland, both as to the actual writing and as to the detailed research which was constantly required." Of other English work to be credited to the universities, I have already mentioned the great performances of Blackstone and Maine, and I need only allude to the important works, well known among us, of Dicey, Hol-

land, Markby, and Pollock. Less well known, but masterly in its way is Maitland's editing of that selection from the judicial records of the thirteenth century which is known as Bracton's Note Book, and of other unpublished material brought out by the Selden Society.[1]

As to this country, I will not mention names. I need not refer to the famous and familiar books from our university schools of law, by our leaders, living and dead. I will simply say this, that in recent times the researches and contributions of our own teachers of the law at the universities in various parts of the country—and I include now not less than seven of these institutions—have produced most important material which is already finding its way into the current hand-books of the profession here and in England—material which not only illuminates the field of the student's work, but lightens the daily drudgery of the bench and bar. The true nature of equitable rights and remedies; the doctrines of equitable defences; the history and analysis of the law of Contract, Torts, Trusts and Evidence; the nature and true theory of the negotiability of obligations; the nature of the Common Law itself; the whole doctrine of Quasi-Contract; the doctrine of Perpetuities—these things make only a part of this material. As I said, I do not speak of work done at any one institution or in any one part of the country merely.

But now suppose some one says, what is the use of carrying on our backs all this enormous load of the common law? Let us codify, and be rid of all this by enacting what we need, and repealing the rest.

[1] If the members of our profession knew how great a service this Society is doing for our law and for the careful students of it, by its annual publication of hitherto unpublished material, they would, in much larger numbers, become members of it. Lord Herschell is the president of the Society and Professor Maitland the chief editor. The American Secretary and Treasurer is Mr. Richard W. Hale, 10 Tremont Street, Boston, Mass. The annual subscription is a guinea ($5.18), which may be sent to Mr. Hale. It entitles the subscribers to the year's publications of the Society.

Well, I am not going to discuss codification. There is not time for that. And the word is an ambiguous one; some good things and some bad ones are called by this name. I will only say that as yet we do not well understand our law; it is our first duty to understand it. The effort to codify it, or systematically to restate it for purposes of legislation—for any purpose other than a merely academic one—should come later, if it come at all. To codify what is only half understood is to perpetuate a mass of errors and shallow ambiguities; it is to begin at the wrong end. Let us, first of all, thoroughly know our ground. I can say this with confidence, that as regards one or two departments of law with which I have a considerable acquaintance, I have never seen any attempt at codification, here or abroad, which was not plainly marked by grave and disqualifying defects. Good will, strong general capacity, courage, sense, practical gifts, are indeed not wanting in some of these attempts; but a competent knowledge of the subject is wanting.

My honored friend, Judge Dillon, in his excellent address last year, said a word or two in connection with this subject which should be supplemented, I think, by a word or two more. In speaking of law reforms, he remarked that "no mere doctrinaire or closet student of our technical system of law is capable of wise and well directed efforts to amend it. This must be the work of practical lawyers." If the expression "mere doctrinaire or closet student" refers to any class of pedants and incompetent persons who do not appreciate the nature of what they are studying, I should not wish to qualify that portion of the remark just quoted which reaches them. But if it may be supposed to allude to the class of legal scholars as such, to the experts in legal and juristic learning, this remark, at the best, is but half a truth. The practical work of carrying through any considerable measure of reform, of getting it enacted, is indeed peculiarly a task for the practical lawyer. His judgment also is important in the wise shaping of such a measure; as his authority and influence will be quite

essential in gaining for it the confidence of legislators and their constituents. But no "wise and well-directed efforts" of this character can dispense with the approval and co-operation of the legal scholar. I am speaking, of course, of competent persons, in both the classes referred to, and not of pedants or ignoramuses; and am assuming on the part of the systematic student of law, as on the part of the judge or practitioner, a suitable outfit of sense, discretion, preliminary professional education, and capacity to understand the eminently practical nature of the considerations which govern the discussion of legal questions. Perhaps I may be permitted to speak on this subject with the more confidence, as having been a busy practitioner at the bar of a large city for eighteen years, before beginning an experience as a professor at the Harvard Law School which has now continued for twenty-one years.

Professor Dicey has remarked, I believe, of the jurist's work in England, of the sort of work which he himself has so admirably done, that it "stinks in the nostrils" of the average English practitioner; and Sir Frederick Pollock, in his inaugural lecture, twelve years ago, as Corpus Professor of jurisprudence at Oxford, in speaking of his associates there, Dicey and Bryce and Anson, says, with dignity, that they are "fellow-workers in a pursuit still followed in this land by few, scorned or depreciated by many, the scientific and systematic study of law."[1] That state of things is slowly disappearing in England, as well as here, with the gradual improvement in the legal education of the bar. One of the best and most important results of this improvement will be a more cordial respect and a closer co-operation between the different parts of our profession, the scholars and the men of affairs. Nothing is more important to the dignity and power of our common calling.

Let me now finally come down to this question: If what I have been saying as to the scope of the work of the university

[1] Oxford Lectures, 38.

teaching of law be true, what does it mean as regards the outfit and the carrying on of these schools?

It means several things. (1) Limiting the task of the instructors. Instead of allotting to a man the whole of the common law, or half a dozen disconnected subjects at once, it means giving him a far more limited field,—one single subject, perhaps; two or three at most; if more than one, then, if possible, nearly related subjects; to the end that his work of instruction may be thoroughly done, and that as the final outcome of his studies some solid, public, and permanent contribution may be made to the main topic which he has in hand.

It means (2) that instructors shall give, substantially, their whole time and strength to the work. In mastering their material and qualifying themselves for their task, they have in hand, say for the next two generations, much formidable labor in exploring the history and chronological development of our law in all its parts. On this, as I have indicated, a brave beginning has been made, and it is already yielding the handsomest fruits. They have also, of course, all the detail of their difficult main work of teaching; and this, when the work is fitly performed, calls for an amount of time, thought and attention bestowed on the personal side of a man's relation to his students which instructors now can seldom give.

It means (3) that the pupils also shall give all their time to the work of legal study while they are about it. There is more than enough in the careful preliminary study of the law to occupy three full years of an able and thoroughly trained young man. It is, I think, a delusion to suppose that this precious seed-time can profitably be employed, in any degree, in attendance upon the courts or in apprenticeship in an office. I do not speak, of course, of an occasional excursion into these regions when some great case is up, or some great lawyer is to be heard, or of the occasional continuous use of time in such ways during these long vacations which are generally allowed nowadays. Nor do I mean to deny that attendance upon courts to witness the trial of a case now and then will be a good

school exercise. I speak only of systematic attempts to combine attendance at law schools with office work and with watching the courts. The time for all that comes later, or perhaps in some cases, before.

It means (4) that generous libraries shall be collected at the universities suited to all the ordinary necessities of careful legal research; and it also means gathering at some one point in the country, or at several points, the best law library that money can possibly buy.

And (5) in saying that proper university teaching of law means all this, I am saying in the same breath that it means another thing, viz.: The endowment of such schools. The highest education always means endowment; the schools which give it are all charity schools. What student at Oxford or Cambridge, at Harvard, Yale, Columbia, Ann Arbor or Chicago pays his way? We must recognize, in providing for teaching our great science of the law, that it is no exception to the rule. Our law schools must be endowed as our colleges are endowed. If they are not, then the managers must needs consult the market, and consider what will pay; they will bid for numbers of students instead of excellence of work. They will act in the spirit of a distinguished, but ill-advised trustee of one of the seats of learning in my own State of Massachusetts, when he remarked, "We should run this institution as we would run a mill; if any part of it does not pay, we should lop it off." They will come to forget that it is the peculiar calling of a university to maintain schools that do not pay, or, to speak more exactly, to maintain them whether they pay or not; that the first requisite for the conduct of a university is faith in the highest standards of work; and that if maintaining these standards does not pay, this circumstance is nothing to the purpose—maintained they must be, none the less. It has been justly said that it is not the office of a university to make money, or even to support itself, but wisely to use money.

If, then, we of the American Bar would have our law hold its fit place among the great objects of human study and con-

templation; if we would breed lawyers well grounded in what is fundamental in its learning and its principles, competent to handle it with the courage that springs from assured knowledge, and inspired with love of it—men who are not, indeed, in any degree insensible to worldly ambitions and emoluments, who are, rather, filled with a wholesome and eager desire for them, but whose minds have been lifted and steadied and their ambitions purged and animated by a knowledge of the great past of their profession, of the secular processes and struggles by which it has been, is now, and ever will be struggling towards justice and emerging into a better conformity to the actual wants of mankind—then we must deal with it at our universities and our higher schools as all other sciences and all other great and difficult subjects are dealt with, as thoroughly, and with no less an expenditure of time and money and effort.

THE RELATION OF THE LAW SCHOOL TO THE UNIVERSITY,

BY

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During the past year (1894–95) there were in the United States seventy-three law schools open for the reception of students. In these schools there were enrolled upwards of nine thousand students. Of these nine thousand students less than two thousand were graduates of colleges or universities; over seven thousand were entering upon their professional studies without the previous training represented by the average college course.

Seven of these schools are not connected in any way with colleges or universities. These seven schools enrolled about one thousand students, of whom about three hundred were college graduates.

It follows that sixty-six law schools and law departments are connected with colleges or universities, and are educating upwards of eight thousand law students annually, of whom about sixteen hundred have had the liberal training represented by a college course.* Of these sixteen hundred college graduates about one-half were in eight of the university schools which enroll nearly two thousand students, and one-fifth of the sixteen hundred were in a single school. Of the remaining fifty-eight university law schools only about twelve per cent. of the students begin their professional studies with the training and discipline represented by the work of the college course.

*Two additional university law schools will open at the beginning of the next academic year.

These statistics serve to show that there are now pursuing law studies in the various university law schools and law departments of the United States, nearly sixty-five hundred students who may fairly be presumed not to possess what we are wont to term a liberal education. I would not be understood to say that no one of these has in fact the equivalent of a liberal education. It is far from my thought that a college diploma is decisive proof that a student has a liberal education, or that the want of a college diploma is decisive proof that he has not; but the law, of all sciences, deals with uniform rules and presumptions, and what I wish to invoke is the presumption, based on the experience of mankind, that a college education is better for the average man than a non-college education or no education at all, and that he who has it may be presumed to be better qualified for intellectual labors of a high order than he who has it not. In view of this it is certainly a serious question for consideration as to what shall be done for the eighty men out of one hundred who are thus indifferently prepared for the study of the law, and especially what duty rests upon the colleges and universities which are conferring upon these students their diplomas as bachelors or masters of the laws. We may leave out of account for the present, at least, the seven independent schools not connected with colleges or universities, because it would ill become us of the universities with our less than twenty per cent. of college graduates in our schools, to venture to advise them with their upwards of thirty per cent. of college graduates, though it is but just to say, that all of these thirty per cent. are in two out of the seven independent schools.

The question is not merely one for us of the law, but affects as well our colleagues of the humanities in general. With the development of the law school as a part of the university system there has come upon us and upon them the pressing question as to the relation and correlation of our work. It is hardly necessary to argue at this time that there is a real and even necessary relationship between their work and ours. We

have come to realize in these latter days as never before, that law is something more than a technical art of whose mysteries only the professional craftsman may profitably have knowledge. Since Blackstone, to quote the happy phrase of his greatest and severest critic, Bentham, "made the law speak the language of the gentleman and scholar," its value to the historian and student of political institutions has been increasingly recognized. Beginning with Gibbon, the English historians have read in the statute books, the reports and the court rolls, a new and deeper meaning of the progress of civilization and government. Students of government have come to know that law is not only an important element in political institutions, but that it is *the* important element in them. Students of philosophy and ethics are beginning to understand that a like importance for their work and for them attaches to the study of legal conceptions and the administration of justice, though it is to be feared that it will be long before speculative philosophy gets its feet on the firm ground of sanctioned human conduct.

If it be desirable for the student of history, political science and philosophy to acquaint himself with the import of legal conceptions, institutions and practices, it is equally desirable for the student of law not to divorce himself from history, politics and philosophy; and here after all is the heart of our problem. We may assume that our colleagues of the humanities will look after their own interests, though there can be no harm in our wishing them that fulness of light that would attend their diligent study of the law. But we must first answer for those of our own household. We must make sure, if we can, that the law schools do not give the stamp of their credit to a mintage of narrow craftsmanship which does not ring true in the marts of modern scholarship and in the stern tests of our modern complex civilization. We must be careful that we lay ourselves not open to the charge that "any man may walk in from the streets" to our schools, and fare forth

again after the space of a year or may be two, with our certificate that he is a graduate in law.

Yet shall we say that he may walk in only from the university? and shall we add that he may go forth with our certificate only after tarrying for three years? Shall we say to him who would go with confidence and honor into his profession, that he must spend seven years in preparation after he has done with the exactions of high schools, academies and fitting schools? And if so, what is to become of the ambitious and struggling poor, the potential strength and glory of the profession?

I think it is just here, at this point of the problem, that we need to confer with our colleagues of the other departments of the university. We are free to confess that we need their aid. We venture to think that they may profit from ours. Cannot the work done by them and the work done by us be so wedded and harmonized that mutual benefit will follow to students of history and politics and philosophy on the one side, and to students of law on the other?

Let us see what are the factors in the problem. In the academic courses in the university are students who wish to take law as a branch of political science or philosophy, and students who wish to take it eventually as a professional study. In the law school are students who need to take history and political science and the humanities generally as a background for their study of the law. How great is their need in this regard we have already seen from the glance at the actual educational status of the students in American law schools.

The manner in which the problem has been met, so far as it has been met at all, varies greatly. Leaving out of view the schools or departments which have only a nominal or governmental relation to the universities with which they are connected, the schools or departments which have a vital or organic relation to their universities fall into three classes: First, those which treat the law school as strictly or essentially a graduate department of the university; second, those which

treat it as strictly or essentially an undergraduate department of the university; third, those which treat it as a quasi-undergraduate department of the university so far as concerns the interests of students in the college courses, but as an independent professional school so far as concerns the interests of members of the school.

The first class is represented at present by but a single school. Harvard University announces that it will admit as candidates for the degree of Bachelor of Laws only those who have the degree of Bachelor of Arts, or Science, or Philosophy from a university or college of recognized standing; though this announcement is modified by the further provision that applicants passing a satisfactory examination in Latin, French and Blackstone's Commentaries, may be received as special students, and will be admitted to graduation if they reside three years at the school and attain a standing within five per cent. of that required for the honor degree. This step is a radical one and involves an interesting question. Four years are required for the baccalaureate degree in arts, science or philosophy. Three years are required for the baccalaureate degree in law. Law is erected into a graduate department, yet it has no necessary place in the undergraduate work. In other words, unlike any other graduate department, it requires no undergraduate work specially related to the graduate work. The graduate student in other branches of political science comes to his work with the elementary subjects all behind him; the graduate student in law comes to his work with no knowledge of the elementary subjects and spends three graduate years, or at least two of the three graduate years, in acquiring a knowledge of the elementary branches. A student of economics in these seven years would have spent perhaps two undergraduate years in special work in the elementary branches of his subject, and would have received the degree of Bachelor of Arts; at the end of one graduate year in economics he would have received the degree of Master of Arts; and at the end of three graduate years he would

have received the degree of Doctor of Philosophy; in all he would have had the equivalent of from four to five years of continuous work in a single field. Is the study of law less worthy of such favor than the study of economics, or politics, or sociology, or any other field of political science? Is the discrimination not based on the survival of the notion that law is a technical art or craft and not a legitimate branch of history and political science? Harvard University has set a high standard of legal education and every law school in the country will feel the impulse of her example. But we may properly question whether a graduate school of law ought not to be based upon an undergraduate department of law, and whether a vital branch of political science ought thus to be cut off from the main trunk.

The second class, like the first, is represented by but a single institution. The Leland Stanford Junior University has placed the department of law upon exactly the same basis as any and all other departments of the University. Law is both an undergraduate and a graduate study. Under the system of electives prevailing at Stanford a student may select any department in which to pursue a continuous and connected course of study equivalent to about one hour a day for three, or possibly four years, or roughly one-third of his undergraduate work. He may select the department of law on the same terms as the department of economics, or history, or literature, or any branch of science. At the end of his four years of undergraduate work he receives, if successful, the degree of Bachelor of Arts in history, or economics, or law, or whatever may have been his chosen department. He may then pass into the corresponding graduate department for advanced work. The student of law comes then to the graduate law department with his elementary law studies all behind him, with a liberal culture acquired during his undergraduate years in subjects, apart from law, equal to two-thirds or more of his undergraduate course, and fitted to devote all his time and energies to the special and thorough study of the law. He is

prepared to accomplish as much in one year as the graduate who has had no law can hope to achieve in two. He passes into his professional work at least one year earlier than his less fortunate fellow, as liberally educated and as specially equipped. He and society have gained a year in the span of active service without the sacrifice of any sound principle of education.

The third class presents a less perfect recognition of the principle involved in the Stanford plan. It is represented in varying degree by Cornell, Columbia, the University of the City of New York, the Indiana University, the Iowa State University; possibly by some others. The completest development of the plan includes two ideas: First, that of permitting undergraduates in the college courses to elect law subjects as a part of their work required for the baccalaureate degree; second, that of permitting law students to pursue studies in the college courses as supplementary to their law studies. We may take Cornell University as a type. In that institution an undergraduate in the college courses may, in his junior and senior years, elect an amount of law work equivalent to one year of the required law course. Upon his graduation from the college course he may pass at once into the second year of the law school. He is thus enabled to save one full year of the time required for the two degrees. The second half of the plan contemplates that the law student who is not a college graduate shall voluntarily lengthen his law course by one or more years and elect subjects from the general courses to supplement the course as thus lengthened. Many students do so on the advice of the law faculty. On the other hand the larger part of the law students are neither college graduates nor do they lengthen their law course in order to pursue studies in the college courses. Under this plan, therefore, it is still possible for a student to enter upon the study of the law indifferently prepared and to receive his degree in law without having had any studies broader than the field of law. The merit of the plan consists in the encouragement it offers to those students who desire to broaden their course of study.

We may now enquire which of these three methods of viewing the relation between the law school and the university is likely to do the most for the better education of members of the bar? Obviously, if the Harvard method was universally followed, and if every law student submitted to it, there would be a guaranty of a highly educated profession. But I apprehend that those in charge of the Harvard Law School would be among the first to recognize that the conditions there are not what they are in most other schools, and particularly in the Western schools. To insist upon a college degree as preliminary to the study of the law and upon three years of such study, would be to drive the majority of the law students back into the offices for their legal education. Moreover, as I have already intimated, it is at least an open question whether such a requirement is in accordance with the soundest principles of education or gives to the subject of law its just place in the university system.

There then remains only the choice between the second and the third of the systems thus far devised of bringing the law school into connection with the university. We may safely give our assent to the plan adopted at Stanford, and say that the study of the law is to be treated like the study of any other branch of human knowledge; that the preparation for it should be mainly the same as for the study of history and political science, and that law upon the one hand and history, political science and philosophy on the other, will profit from the closer union between the two. I confess that this plan has for me personally many attractive features. It drives out at the outset the professional or technical atmosphere which is likely to surround the study of law when disconnected from all other human interests. It brings the law school into the warmth and color and light of a general university atmosphere. It relates the subject of the law logically and consistently to the general field of political science. The student from the outset of his studies in the field of law is encouraged, if not compelled, to make constant investigations in the field of

history, political science and government which cannot fail to give him a broader apprehension of the true meaning and import of legal institutions and the administration of justice. Supplemented by an additional year or more of strictly legal study, the course thus pursued is likely to give, in my judgment, most favorable results, and to advance in a very marked degree the ideal of legal education.

The Stanford plan has, however, the faults, or the perfections as you choose to call them, of its qualities. It can be successfully worked only in connection with a curriculum devised in accordance with that of the Stanford University. So long as educators in the universities are at variances as to the particular formation of the curriculum and the degree of guidance or compulsion necessary for the proper direction of the studies of undergraduates, it will be impossible to urge the introduction of the Stanford system. There, I am assured, both by members of the faculty and by students, it works with the greatest success, and has the hearty support of all who are interested.

There remains, then, for the greater number of the universities only the third plan. But this, in order to be wholly effective, needs to be carried to its logical conclusion. If every graduate of the law school were also a graduate of the college there would be no essential difference between the Stanford and the Cornell plan. In each the student would have mastered the elements of the law in his undergraduate course and would pass into the law school as into a graduate department. In each he would shorten the combined college and law school courses by at least one year. As the matter stands at present, neither the professors of the college on the one hand, nor the professors of the law school on the other, will consent to shorten the period required for the granting of their respective degrees; but the two together will enter into a treaty that the period of study required for both degrees shall, in the aggregate, be shortened by one year. Something is thereby gained toward a speedier entrance into the profession and at the same

time toward an ampler preparation for it. The temptation to omit altogether the undergraduate college course is lessened; the possibility of omitting it altogether may even be removed.

There are two ways in which the universities may close the door to the ill-prepared law students under this plan. The first is to require for admission to the law school the undergraduate college course, which may include one year of law work. The second is to require for admission at least as much preparation as would admit the applicant to the junior class of the college course.

There is one way in which schools may admit students on less preparation and yet insure some equivalent of undergraduate college work. This is to admit students to the law school on practically the same requirements as would admit them to the freshman class of the college course, but to require students so admitted to take at least one year longer for the law degree than students admitted upon undergraduate college work, and to spend the additional time so required in studies selected from the college courses.

It is quite feasible to combine all of these features under the Cornell plan. Students may be admitted to the law school: (1), if graduates of a college, and may, if their college course included one year of law, pass into the second year of the school; (2), if entitled to junior standing in the college, and may take the full course in law in the minimum time prescribed; (3), if entitled to freshman standing in the college, but must take for the full course in law one year longer than the minimum time prescribed and pursue certain studies in the college course. Whether the third feature is desirable or practicable I do not now feel disposed to discuss. I merely indicate it as a possible alternative for schools that are not prepared to require too high a standard for admission.

There are two classes of universities that might object to this plan. The first are those where the law school is separated in space from the college departments, so that it is impracticable for students to pass to and fro between the two.

As to these it is possible to dismiss students entitled to senior standing in the college to instruction in the law school, and upon the completion of one year in the latter, to grant the baccalaureate degree in arts. This is practically what occurs at Cornell where seniors in the college are often devoting all their time to law subjects. I am also informed that at Harvard seniors are sometimes given a leave of absence from the college when they have completed as much work as is required for the degree in arts and may then enter at once upon the work of the law school; but there the law work is not counted toward the arts degree.

The second class of universities that might be unfavorably affected by this plan are those which have no departments or schools of law. It would be unwise to stimulate unduly the establishment of such schools, which require for successful work large and expensive libraries and trained faculties. Yet without some equivalent provision such institutions might find themselves deprived of all students who intend to pursue the study of the law. Is it too much to hope that we may in time reach a catholicity in education which will make it possible for such institutions to dismiss seniors to any sound law school upon whose certificate of the completion of one year of work, they may grant their degree in arts? I have some confidence that such a hope is not beyond realization. If it is, then we may leave these institutions to guard their own exclusiveness at their own cost.

The sum of the matter is this: We desire a higher standard of legal education. We do not wish to achieve it at the needless expense of the time and substance of the student. Our law schools are parts of a university system. By making them organic parts of that system, asking our colleagues of the universities to recognize that our work is part and parcel of their own, and ourselves frankly recognizing that theirs is essential to the success of ours, we may yet arrive at a solution of our problem which shall advance the interests of legal education and of all sound learning.

A BETTER EDUCATION THE GREAT NEED OF THE PROFESSION,

BY

HON. DAVID J. BREWER,

Justice of the Supreme Court of the United States.

The lawyer is evermore the leader in society; and by society I do not mean that little coterie which lives simply to dine and wine, but that larger association of all individuals whose mingled labors have achieved the present, and will work out the future of human life and destiny. In society, in this better sense of the term, the lawyer is the leader.

Temporarily, it is true, he may be displaced by the soldier. In the abnormal and chaotic movements which accompany revolution and war the lawyer is ignored. *Inter arma silent leges.* The man on horseback becomes the leader, and around his life there is a pyrotechnic splendor which has lifted him into undue prominence, and made him too frequently the central figure in written history. But his leadership is always temporary, and conditioned upon some disarrangement of the normal condition of human society. When life is moving on in peaceful and regular lines the soldier drops to his appropriate place, as simply the representative of force—the one ready to help the lawyer as the true leader in all efforts which make for the bettering of human life and the coming in of a higher civilization.

So, in the early days of New England, the minister, for a while, superseded him. Legislation denounced him, and society under its theocratic leadership endeavored to forbid his presence, and exclude him from recognition. Washburn, in his Judicial History of Massachusetts, says:

"It was many years after the settlement of the colony, before anything like a distinct class of attorneys at law was

known. And it is doubtful if there were any regularly educated attorneys who practiced in the courts of the colony during its existence. Lechford, it is true, was here for a few years, but he was soon silenced, and left the country. Several of the magistrates had also been educated as lawyers at home, among whom were Winthrop, Bellingham, Humfrey and probably Pelham and Bradstreet. But these were almost constantly in the magistracy, nor do we hear of them ever being engaged in the management of causes. If they made use of their legal acquirements, it was in aid of the great object which they had so much at heart—the establishment of a religious commonwealth, in which the laws of Moses were much more regarded as precedents than the decisions of Westminster Hall, or the pages of the few elementary writers upon the common law which were then cited in the English courts."

It is curious to note some of the legislation aimed to dispossess the lawyer from his rightful position, and exclude him from even existence in society. In 1656 the following statute was enacted in that colony: "This court, taking into consideration the great charge resting upon the colony, by reason of the many and tedious discourses and pleadings in the courts, both of plaintiff and defendant, as also the readiness of many to prosecute suits in law for small matters. It is therefore ordered, by this court and the authority thereof, that when any plaintiff or defendant shall plead by himself or his attorney, for a longer time than *one hour*, the party that is sentenced or condemned shall pay twenty shillings for every hour so pleading more than the common fees appointed by the court for the entrance of actions, to be added to the execution for the use of the country." There was a crafty wisdom in this statute which commends itself to any one of much experience on the bench, and I venture to suggest that a similar act would to-day be sustained by every court. By an act passed in 1663 "usual and common attorneys" were excluded from seats in the General Court, as the Massachusetts Legislature was called. But notwithstanding these efforts it soon developed that the needs

of society were stronger than the wishes of the theologic advisers, and little by little the lawyer was lifted in even that theocratic society into his proper and accustomed place, and there, as elsewhere in the land, became the recognized leader.

To-day, wealth is striving to dispossess him from his position of leadership, and money is used to secure position and control, but with the ordinary result that place and power acquired alone by such means simply expose the possessor to ridicule and scorn. It takes something more than a $200 silk night shirt to make a man a leader in social forces, and whatever of prominence and notoriety money may purchase, it never purchases the power to change the currents of life.

This leadership of the lawyer is not accidental nor enforced, but natural and resulting from his relations to society. That which binds society together and makes possible its successes and its blessings, is the mystic force which we call "law." It is that which transforms humanity from a mere aggregation of individuals, each by his own strong arm asserting his rights, into an organized society, the rights of whose individual members, as against one another, are enforced by the united strength of all, and in whose consequent freedom of personal action has been wrought out all the achievements of the past, and rest all the possibilities of the future. He, therefore, who voices the law, who is its interpreter, must inevitably stand in the front as the leader in the social organization, the one to direct the movement of all its uplifting forces. Sneer at it as any one may, complain of it as any one will, no one can look at American society as it is to-day, and has been during the century of national existence, without perceiving that the recognized, persistent and universal leader in social and political affairs, has been the gentleman of the green bag. A distinguished member of our profession said to me the other day in Nashville: "It is a curious fact that though there is no express authority therefor in any constitution or statute in the land, the lawyers have always been the rulers of this nation." We speak of our constitution as the wise organic instrument

under whose provisions the nation has moved on to strength and glory, but that constitution was the handiwork of lawyers. They framed it, and they have interpreted it. Think how we should have drifted, and what a helpless mass of people we should have been, without its grants, limitations and distributions of power. And, in a general way, the same may be said of every State constitution, and of every statute. It is the brain of the lawyer which fashions them, and his brain that applies and makes them useful. As a general rule, made more conspicuous even by the few brilliant exceptions, the lawyer has been the legislator, the judge, and the executive.

The power which alone permanently controls and lifts upward is brain power, and brain power applied in such a way and to such forces as regulate life in its daily action. Leadership, however, does not attend on the mere name of lawyer. It will continue in him and become more or less potent as his capacity therefor improves or wanes, according to his increasing or lessening fitness for interpreting the rules of human conduct and directing the movements of society. There is no physical force to compel his supremacy. He has no inherited right, and he must always stand intellectually in front if he would lead. Civilization lifts all men up. The schoolroom places each man on a higher level than his father occupied. Knowledge is not only more widely distributed, but also moving on a higher plane. And the lawyer of the future, to continue the leader, must be a wiser man than the lawyer of the past or present.

The thought of some is to dispossess the lawyer by giving to each man a knowledge of the rules of law, and you will find on many bookshelves such volumes as these: "Every Man His Own Lawyer," "The Business Man's Guide,"—books aimed to place before all men the common rules for interpreting and controling business transactions. Some fancy that with this diffusion of knowledge the need for the lawyer will cease. They who indulge in such fancy forget the fact that the many never keep pace with the few, that social and business relations

become more complicated as civi ization advances, and that with the complexity of those relations comes a multiplicity of rules and laws beyond the reach of the ordinary education of the many. There is as much difference between the few primitive rules that controlled society in its early stages of development and those which are now required for the management of its great and interlaced interests, as there is between the hatchet, the saw and other ordinary tools of the carpenter, and the marvelous and intricate machinery of our great manufacturing establishments. It may require but little time and effort to learn how to use a plane or a hand saw, but to construct and keep in motion and order all the involved machinery of a great manufacturing establishment requires years of patient study and careful attention. So it may be that a little knowledge will enable one to go into a primitive society and advise as to the rules of law controling its few transactions, but he who would stand in one of our great commercial cities as a power and a leader, advising and directing all its multiform affairs, must be a man of superior knowledge and large wisdom.

We hear many suggestions to-day as to the means necessary to make the law keep pace with the needs of advancing society. Law reform is a great cry. Simplicity in mode of procedure is thought by some to be the one thing needful. Far be it from me to belittle this demand. I do not wonder that the lawyer fell into disrepute when the highest effort seemed to be put forth in solving mere questions of pleading and practice, when the pride of the lawyer was in tripping his adversary through a mere technicality, and when the outcome of too many a law suit was not the determination of the relative rights of the litigants but simply how nearly the pleadings on the one side or the other conformed to a technical and arbitrary system. Chief Justice Taney, writing of his professional experience, says: "In that day strict and nice technical pleading was the pride of the bar, and I might also say of the court. And every disputed suit was a trial of skill in pleading between counsel, and a victory achieved in that mode was much more

valued than one obtained on the merits of the case." I am glad that law reformers have swung ponderous blows against the common law system of pleading and practice, and are striving to give the utmost simplicity to modes of procedure. Once in a while we see one of those technical devotees of ancient ways, whose delight is simply in the maneuvers of the court room. I remember one, who, employed to defend a chancery suit, wearied the court by the multitude of his dilatory, evasive, and technical pleas and motions. Finally, the judge, in his impatience, said to him, "why do you take up my time with these frivolous and technical matters; why do you not come to the merits of the case at once?" and his reply, which illustrates so well the spirit of the old practitioners, was, "the moment I get to the merits of the case I lose all interest in it." No thoughtful man can doubt that simplicity in modes of procedure is of the utmost importance. The mere tools of the profession should be easily handled. Writing a pleading, or any other document, in a dead language is not the best evidence of the highest practical learning, or the greatest capacity. And it is to the credit of our profession that its members are rapidly coming to appreciate this truth; to realize that mere form is of trifling moment, and that substance of right and justice is the one thing to be striven for. God speed the day when a victory won by a trick shall ruin the lawyer who wins it.

Again, another demand is for more speed in the despatch of litigation. A slow procedure with free right of appeal from court to court and abundant license of indirect collateral attack was barely tolerable when life itself moved slowly, when business transactions were few, when travel was by canal boat or stage coach, when the mail was weekly or at best tri-weekly, and when leisure was abundant. The pure gold of truth and justice was finally separated, it was said, after being sifted through many judicial sieves. Yet Jarndyce *vs.* Jarndyce expressed even then the contempt of thoughtful minds. The law's delay became proverbial. Now, when travel is by steam,

and correspondence by electricity, when business transactions challenge the seconds in their flight, when men grow rich or poor in a fortnight, and all life moves in the hot haste of a Kansas cyclone, something must be done to bring the movements of the courts into harmony with the speed of other things. It is not strange that business men are compelling the members of their various commercial bodies to settle their controversies through committees rather than by law suits. Lawyers are proverbially conservative, and they do not change their habits or notions as easily or as quickly as some might wish. Precedent is an awful tyrant in our profession. What has been is to many the sacred law of what must be, and an iconoclast on the bench is a sacrilegious judicial monster. Even that tribunal of the nine black gowns glories in the past, and follows in its traditions, and the agonizing cry of the despondent dissenter, even in the income tax case, is that *stare decisis* is being stabbed in the house of its friends. *Et tu, Brute!*. When the court had little to do, the justices were wont to spend the morning hours of each Monday in reading at length what they had written during the prior weeks. What has been must be, and so, although the great stress of accumulating business demands every hour, the customs of the past still largely control. Some one has denounced in language too strong for me to quote the waste of time in reading to an audience of 100 or so that which is the interpretation of the law for 70,000,000 of people, who learn what has been decided not from the lips of the justices but from the pages of the press. And, I may add, the acoustic properties of the court room are so imperfect, and the voices of the justices generally so low, that scarcely half the scanty audience hear what is said. And when one speaks so that all in the room do chance to hear, the press dispatches announce to the world that the audible justice has made a stump speech from the bench. But "great is Diana of the Ephesians," and so for "about the space of two hours" every Monday morning, the reading must go on.

Yet speed of itself may be more of a vice than a virtue. Important questions are not rightly decided unless fully considered, and the administration of justice would soon be pronounced a mockery if first impressions controlled every case. But greater expedition can be obtained without detracting from fullest examination and consideration. Shorten the time of process. Curtail the right of continuance. When once a case has been commenced, deny to every other court the right to interfere, or take jurisdiction of any matter that can be brought by either party into the pending litigation. Limit the right of review. Terminate all review in one appellate court. Reverse the rule of decision in appellate courts, and instead of assuming that injury was done if error is shown, require the party complaining of a judgment or decree to show affirmatively not merely that some error was committed in the trial court, but also that if that error had not been committed the result must necessarily have been different. It may be said that this would make reversals difficult to obtain. They should be difficult. The end of litigation should be almost always in the trial court. Business men understand that it is best that the decisions of their committees of arbitration should be final and without any review; while some of our profession seem to think that justice is more likely to be secured if by repeated reviews in successive courts, even to the highest in the nation, the fees of counsel can be made to equal, if not exceed, the amount in controversy between the clients. In criminal cases there should be no appeal. I say it with reluctance, but the truth is that you may trust a jury to do justice to the accused with more safety than you can an appellate court to secure protection to the public by the speedy punishment of a criminal. To guard against any possible wrong to an accused, a board of review and pardons might be created with power to set aside a conviction or reduce the punishment, if on the full record it appears not that a technical error has been committed, but that the defendant is not guilty, or has been excessively punished.

The truth of it is, brethren: in our desire to perfect a system of administration, one which shall finally extract from confused masses of facts and fictions the absolute and ultimate verities, we forget that tardy justice is often gross injustice. We are putting too heavy burdens on our clients, as well as exhausting the patience of the public. Better an occasional blunder on the part of a jury or a justice of the peace, than the habit of protracted litigation.

The idea of home rule and local self-government is growing in favor. Thoughtful men more and more see that the wise thing is to cast upon each community full responsibility for the management of its local affairs, and that the great danger to free government is in the centralization of power. Is it not in line with this thought that as far as possible the final settlement of all controversies which are in themselves local shall be by the immediate friends and neighbors of the litigants? Was not that the underlying thought of the jury as first established? And while we boast that the jury system is the great bulwark of our liberties, are we not in danger of undermining its strength and impairing its influence by the freedom of appeals? Is not the implication therein that the jury and the trial judge cannot be trusted, and is not the sense of responsibility taken away from both when they understand that no matter what they may decide some superior and supposably wiser tribunal is going to review all their decisions and correct whatever of mistake they may make?

We boast of the educating influence of the ballot-box, and say that only as each citizen realizes that the responsibilities of government rest upon him is possible the development of a perfect system of popular government. Is it not also true that the jury room has its educating influence, and that we ought so to adjust our system of jurisprudence that each juror shall come to feel that the responsibility for the administration of justice rests largely upon him?

But whatever of help may be in these suggested reforms, they are impotent of themselves to create the leader. They

are simply a matter of machinery. The power must be in the man. The lawyer must be fitted to lead. For that a thorough education is necessary. And so I come to the thought which I wish to impress upon you; and that is: if our profession is to maintain its prominence, if it is going to continue the great profession, that which leads and directs the movements of society, a longer course of preparatory study must be required. A better education is the great need and the most important reform. The door of admission to the bar must swing on reluctant hinges, and only he be permitted to pass through who has by continued and patient study fitted himself for the work of a safe counselor and the place of a leader.

I do not propose to discuss the different methods of legal education, or compare the law school with the office, the case with the text book. These are questions which others can and doubtless will discuss with far more ability and with the benefit of a larger experience. That which I wish alone to emphasize is the need of securing in some way to every one admitted to practice the benefit of a preparation therefor far surpassing that which most young lawyers now enjoy. I speak with the utmost freedom, for I did that which I now condemn. I hastened through my legal studies and was by the diploma of a law school and a certificate from a court declared fit to advise as to all rights and liabilities and to carry on any litigation before I was old enough to be entrusted with the right to vote. I appreciated the mistake when I attempted to practice, and I fear some of my clients became equally aware of the fact.

But why is a higher education to-day the special need of the profession? Because, first, the law is a more intricate and difficult science than heretofore. The very complexities of our civilization and the multiform directions of human enterprise have not only increased the number but have also given greater variety to the rules controling business transactions. He who would become qualified to counsel and guide must therefore have a larger legal lore, and that is only obtained by a more extended study and training. While it is true that the prac-

tice of the law is becoming divided into specialties, and we have the insurance lawyer, the railroad lawyer, etc., yet no man can become a successful specialist without a general knowledge of the rules obtaining in other departments than his own.

Because, second, to preserve the confidence of the community in the profession, each member must be qualified for the higher demands now made upon it. When society preceives that the great number are but slightly educated, how soon will the lawyer fall into disrepute. He will be only the object of the sneer of the cynic and the laugh of the wit. He will be thrown from his position of leader, and no longer sought after, respected, or followed.

Because, third, his mistakes are freighted with greater possibilities of injury. When business transactions are nothing more than an occasional barter of a chattel, or a simple contract for labor, a mistake works but little injury, and only to a few. But when they involve the great railroad and commercial dealings, so common to-day, a mistake may be fruitful of large and widespread ruin. So the responsibilities which rest upon us are greater than ever before, and we must rise to the level of those responsibilities, or both we and the society we attempt to lead will suffer.

Because, fourth, society each day of its advancing civilization needs and demands a wiser leadership. The welfare of humanity rests not on what has been accomplished, but on the steps forward which it takes. If those steps are wisely advised and prudently taken, then we may confidently look for the coming in of the day of which poets have sung, and which prophets have foretold, when peace and righteousness shall fill the earth. While, on the other hand, if illy advised and rashly taken, progress ceases and society resolves itself again into the anarchy and chaos from which it has so slowly arisen. It has often been said that a community is no better than its leaders, and while there may be temporary exceptions, that is certainly the general rule. So if we would have a steady advance in

social order we must have an equally constant advance in the character and accomplishments of the lawyers, its leaders.

I know that mere education is not all-sufficient There must be a man to be educated. It is an old saying that you cannot make a silk purse out of the auricular appendage of the female swine. No more will any amount of study and training pour legal lore into some craniums or give that rare and blessed gift, common sense. Still that does not prove that there is no need of education. Henry Ward Beecher once said that dress does not make the man, but when the man is made he looks a great deal better dressed up. So while mere study will not supply the lack of legal capacity, given one capable of becoming a lawyer, and a thorough education will place him in the front.

The strength of an army is not in its numbers, but in its discipline and training. Cortez, with a handful, rode through thousands of opposing Mexicans and entered the capital city in triumph. Japan's disciplined troops saw scarcely anything else than the backs of the fleeing Chinese, and the most numerous people on the face of the earth were conquered within a few weeks. So it is with our profession. Its power lies not in the mere number of its members, but in their learning and capacity. A single true and noble lawyer is strength and glory, while a thousand pettifoggers are weakness and shame. In our late war, with its millions of volunteer soldiers, who became the victorious leaders? The trained students of military science. Their education had fitted them to lead. The great movements of civilized society upwards are struggles, though not wars. Who can lead in those movements? Mainly the trained lawyers, they whose long study of human rights and obligations enables them to place before each individual the limits of action, and to guide into paths of life and conduct, which are ways of pleasantness and paths of peace, and so the paths through which civilization moves on and up.

It may be objected that if the course of study is extended and the conditions of admission to the bar increased a great

many will be deterred from entering the profession. A perfect answer is that a great many ought to be deterred. A growing multitude is crowding in who are not fit to be lawyers, who disgrace the profession after they are in it, who in a scramble after a livelihood are debasing the noblest of professions into the meanest of avocations, who, instead of being leaders and looked up to for advice and guidance, are despised as the hangers-on of police courts and the nibblers after crumbs which a dog ought to be ashamed to touch. Even of those who would love to keep up the dignity of the profession many find no adequate compensation from the practice, and so mingle with it dealing in insurance, real estate, and kindred matters, to eke out the living the law does not furnish. It would be a blessing to the profession, and to the community as well, if some Noachian deluge would engulf half of those who have a license to practice. Webster's reply to the question whether the profession was not crowded was that the first story was full, but that there was plenty of room in the second. We should see to it that there be no first story, and that only second-story lawyers be found on our rolls.

It is said that some of the noblest of our members would be shut out from the law and turned into other pursuits. If a four years' course of study had been required, would Abraham Lincoln have become a lawyer? My reply is twofold. First, seldom would any one capable of becoming a hero of the bar be turned away. Obstacles only stimulate the efforts of such men. They work their way up in spite of all difficulties. They glory in their ability to overcome all opposition. Secondly, if perchance some one worthy of a place on our rolls should be kept away there will be plenty left. The general level of professional standing should not be lowered for fear some single chieftain is never found.

Finally, it is objected that the high standard should not be insisted upon, because in our hamlets and smaller villages there is room for very ordinary lawyers. This is a mistake. There is no place anywhere on the face of the earth for a cheap lawyer.

It is true that in a village there may be but little business, true that many transactions are of such a simple character that a limited knowledge of the law will guide one safely through them; but it is also true that the relations between the villages and the great business cities are becoming more and more intimate, and are such that often the highest legal lore is required to properly advise the dwellers in the former as to their rights, duties and liabilities, and so the lawyer in the village must be qualified to meet the lawyer in the city on equal terms. Further, he will represent the village in the Legislature, and he should be able to make that village a power in the legislation of the State. There should be a general lifting up of the profession so that all its members everywhere be recognized as leaders.

The final peace of the world will be wrought out through our profession. I know the poet sings of the day

> "When the war drum throbs no longer and the battle flags are furled
> In the parliament of man, the federation of the world."

But the poet is mistaken. The legislator will not bring the day of universal peace. There will never be one great parliament, one Federal republic embracing all races and ruling the world. The law of race individuality with its consequent differences and antagonisms cannot be overcome. Gaul and Teuton, Slav and Saxon will never become one people. Blood is thicker than water. Because individuals of these varied races come to this new land of ours and dwelling as neighbors are slowly moving towards one homogeneous people, it does not follow that the law of race will ever be forgotten or ignored in the native land. The vision of one great nation with a single parliament is only a poet's dream. But the lawyer will work out the final peace, and bring in the glad day when the spear shall be turned into a plowshare and the sword into a pruning hook, and nations learn war no more. In each separate nation as it advances in civilization more and more are differences settled and rights adjusted by the lawyer and the judge, rather than by the pistol and bowie-knife; so as the world advances

in civilization will differences between nations be in like manner settled. Arbitrations are growing in favor, and international courts will soon be a part of the common life of the world. I know the time may seem far distant when any such court shall come into existence. It will be witness to a great advance in civilization, and yet within the last fortnight I have seen it stated in the papers that the French Assembly has unanimously passed a resolution looking to the establishment of some tribunal of arbitration to settle all differences that may in the future arise between that nation and this country. The world is becoming familiar with international arbitrations, and the settlement of disputes thereby; and every successful arbitration is but a harbinger of the day when all disputes between nations shall be settled in courts of peace and not by the roar of cannon and waste of blood.

When in youth I studied the structure of our goverment, I looked with awe and reverence upon the Supreme Court of the United States, a tribunal taking no cognizance of the minor disputes between individuals within the several States, but sitting in judgment upon the weightier controversies between States and citizens thereof, and determining the rights and liabilities of States to each other and to citizens. I thought of the solemn sense of responsibility which must rest upon each justice thereof as he came to the decision of every case. The years have brought me to a place on that bench. With a profounder reverence and a personal sense of responsibility I now look upon that court and its work, and I would that every judgment it pronounces should be wrought out with such wisdom as through the long stretch of coming years to stand the supremest test.

Does it tell of the coming on of second childhood, or is it proof of a growing confidence in man and his capacity for self-control, that I now look with the full assurance of faith to the dawning of a day when some great international court shall come into being, whose judgments, touching no questions between individuals, shall determine all controversies between

nations, and by such determinations bid the world's farewell to the soldier? But by whom shall such a tribunal be established, and who is to sit therein and render the judgments which shall command such confidence and respect that willing obedience thereto be yielded by all? Out of the rich brain of our profession shall be wrought the form and structure of that court, its fashion and its glory, and the lawyers shall be the judges thereof.

So believing, let us all strive to lift the standard of professional character and acquirements so that no one shall ever think of challenging our place in the front.

THE RELATION OF LAW TO OUR NATIONAL DEVELOPMENT,

BY

REV. LYMAN ABBOTT.

OF BROOKLYN, NEW YORK.

Mr. Chairman and Gentlemen: Among the various undeserved honors which have been given to me in my life I count few, if any, greater than the honor accorded in inviting me to address the American Bar Association. I trust that you will not think that it shows any lack of appreciation of this honor that I do not read a paper, but speak to you without notes. It is due not to any lack of respect to this body, but to my own infirmity, for I am so confined to no notes by a long practice of *ex tempore* speaking that I do not understand the art of speaking from a manuscript.

The hesitation with which I accepted your invitation has been rather increased by my attendance upon your deliberations. I have no expert knowledge to add to your information. I can make no suggestions respecting the administration of law, and it would argue a singular self-conceit if, to this body, I should endeavor to speak of what is called the ethics of the legal profession. We were told last night that the lawyers are the leaders of the nation, and, if that be true, then the American Bar Association is composed of the leaders of the leaders of the nation, and no one, certainly, who claims no other position than that of an humble minister, would undertake to lecture such a body of men on their moral duties and obligations. There is only one justification, indeed, for my appearing before you at all. Burns, in that famous and familiar quotation, says:

> "O wad some power the giftie gie us,
> To see oursels as others see us!"

And it may be some advantage for you, gentlemen of the bar, to consider for a little while what one who, though technically a member of the bar, still is really a stranger to your profession, thinks, as representing others in the community, concerning your functions and your duty in the national development.

Aristotle has divided governments into three classes: Government by the one, government by the few, government by the many. To this category we have added a fourth—self-government. For self-government is neither government by the one, by the few, nor even by the many. It is primarily and essentially the government of the individual over himself, and the government of the community over itself. The fundamental hypothesis of American democracy is not that every man is capable of self-government. It is that every man is better capable of governing himself than any man is of governing the community; that the dangers which will come to any individual from his own ignorance and inexperience are less than the dangers which will come to him from the despotism of selfishness. We start, therefore, with the idea that in all matters which concern the individual alone, he is supreme. We will not undertake to exercise authority over him, not even for his own good. He is to determine for himself what he shall eat, how he shall be clothed, and, you will allow me to add, what he shall drink. He is the master of his own destiny, and it is only when his actions collide with the interests and rights of his neighbor, that law undertakes to interfere with his course.

But this individual does not stand alone. He is a member of a community, a village, a town or a city. So we have our next application of this principle of American government—local self-government. This village, this town and this city is to govern itself. It is not to be ruled by any authority from outside in those matters which concern its own welfare. But this town, this village, this city is a member of a larger community—a State. There are matters which concern the State,

and the State is sovereign in such matters, though it has no right to exercise authority over the village, the city, or the individual, in matters which are peculiar to the city, the village or the individual. Finally, we come to the nation. It may be unpopular to say it after the events of the last half century, yet I venture to affirm that the State is sovereign in its own domain, as the city is sovereign in its domain, and the individual is sovereign in his domain; that it is despotism for the city to undertake to control the individual in matters which concern the individual, and do not concern the welfare of the city; that it is despotism for the State to undertake to control the city in matters which concern the well being of the city, and do not concern the well being of the State, and that it is despotism for the Nation to undertake to control either city, State or individual in matters which do not concern the well being of the Nation. Thus we have a hierarchy of liberty, found in every phase of it, in this fundamental principle, self-government—the government by the individual over himself, by the village, the town or the city over itself, by the State over itself, and lastly, by the Nation over itself.

I have said, and I repeat it, this is not a government of the many; it is not, as it is often termed, government by the majority. The majority do indeed decide what the course of action shall be, but in the American commonwealth, when that course of action is determined on by the majority, that determination is enforced by the entire population: it is not left to be enforced by the many over the few. An election has just taken place in England. In that election the majority for the Conservatives is less than two-thirds of one per cent. of the entire number of votes cast. Nevertheless, England is now to be Conservative in her policy for the next three or four years, and the Liberals themselves will join hands with the Conservatives, if it be necessary, to enforce the decree which has been uttered at the ballot box: the Liberal will recognize the right of an Established Church; the Liberal will recognize the authority of the magistrates to license the liquor traffic; the

Liberal will recognize the integrity of the Empire and the subject relations of Ireland in that Empire; the Liberal will recognize the authority of the House of Lords to veto the action of the House of Commons. He will recognize for the time being that the train is run by the brakeman and not by the engineer; and, if there should be any attempt on the part of a recalcitrant minority to set aside the decree registered only by a majority of two-thirds of one per cent. of the vote cast, Liberal would shoulder musket with Conservative to enforce the law of the land. Before the McKinley tariff was adopted Democracy said, "It is robbery!" After it was passed Democracy said, "It is now the will of the Nation," and Democrat and Republican combined in maintaining its enforcement. This Nation was very nearly divided on the question: Shall there be an income tax, or not? By what has been very felicitously termed "the indecision of the Supreme Court of the United States"—an exact division of the body into two equal parties—it was decided that the income tax should be paid, and all over the country men who believed that the income tax was both unjust and unconstitutional proceeded to make out their returns and examine their bank accounts to see if they had money enough with which to pay the tax. No sooner, however, did the Supreme Court of the United States, by a majority of one, reverse that decision and declare that the income tax was unconstitutional, than the very Administration which had depended upon this income to meet the expenses of the Government began to study the question how it could repay to the tax-payers the money they had too precipitously paid into the Treasury. Why is this? Because we recognize in this Nation not government by the majority, but self-government. Whenever the majority declare what the will of the Nation is, then it becomes the will of the entire Nation. In the City of New York to-day, so soon as the liquor dealers ascertained that the Sunday law was not a piece of Puritan advice for the satisfaction of the conscience of the men who do not want to drink, but was really a law put upon the statue-books to be enforced,

they declared: "We are ready to enforce it, and any man in our trade that violates this law shall be turned out of our organization." The minority enforce the law against their own protests and against their own interests because it is the will of the community.

This is the difference between the South American republic and the Anglo-Saxon community. In South America government is by the majority. Whenever, therefore, the majority have passed a vote, the minority straightway prepare to resist. and the majority maintain their authority only as they are able to enforce it. On the other hand, in England and in America so soon as the majority have decided a question, the whole Nation rallies to make that decision its own. We may, indeed, continue to persuade, if we can, our fellow-citizens to change that decision, but so long as it is the registered decision of the Nation, it is the will of the Nation. This is the reason why we all combine to condemn every form of mob violence. If the American people shall by and by decide that the brakemen and trainmen of our great railroads shall be entrusted with the administration and control of our interstate commerce, why, then when the Railway Union decides what trains may run, and what not, the rest of us will submit—until we can get the law changed. But so long as the law provides that interstate commerce shall be administered by the legislature of the Nation and by the judiciary, if a mob raises its hand, it is not against the railroad corporation, it is not even against the travelers; it is against the fundamental principle of American self-government. That is the reason of the universal indignation throughout the country against the mob and against the men who have fomented it. They are traitors to the fundamental principle of this free nation, the principle of self-government.

Austin has defined—I quote from memory—law as a command of the superior over the inferior relating to a series of actions. That definition, I venture to submit to you, gentlemen of the bar, is not an adequate definition for our country

and our time. Law is not a command addressed by a superior to an inferior. It is the command of the Nation addressed to itself. It is its own corporate will. It is its resolute purpose. For the Nation has a corporate will. It is not a mere aggregation of individuals. The American commonwealth is not merely sixty or seventy millions of people who happen to reside contiguously on the same continent. They have an organic character. A comparison of a nation to an individual is as old as Plato. The Nation is itself an individual. It considers, hesitates, deliberates, weighs, measures, and finally decides, but when it decides the decision is not the decision of the majority—it is the decision of the nation. And as the individual, when he has ended his deliberation and comes to his decision, throws the whole force of his being into the execution of the purpose which he has formed, if he be a wise man, so the American Nation, when, by constitutional methods, it has reached its result, puts its entire force into the execution of that result. In that execution, minority and majority agree. Law in the national development is the corporate will of the community. Law is the "I will!" of the American people.

If this be true, then the function of the lawyer is to formulate, in the first place, and to execute, in the second place, the corporate will of the community. It is to transmute aspiration, desire, half-formed purposes, into deliberate, determined, resolute purpose. It is to turn feeling and desire into action. It is to convert aspiration into life Perhaps I can make my meaning clearer if I may for a moment set in contrast our functions in the community—in contrast, it is true, sharper than the actual reality would justify; nevertheless, in contrast which is measurably and, for our purpose, true. The Nation, like the individual, has its body which must be fed and clothed and housed; its mind, which must be educated; its sentiments, its emotions, its ideals, which must be encouraged, purified, elevated; and, finally, its will, which must be formulated and carried into action. The farmer, the merchant, the manufacturer, the railroad operator, minister to the material necessities

of the body of this corporate individual. The teacher, the press, the scientific investigator, educate the mind of this corporate individual. The poet and the prophet, literature and preaching, speak to the motive powers, to the ability and the imagination; they hold before this corporate Nation high ideals; they encourage pure and noble motives. But all this is in vain if this is all that is done. The man whose body is fed and clothed and housed, the man whose intellect is brightened until it reflects like polished brass, the man whose aspirations are noble and whose emotions are pure, neverthless is absolutely unavailing in the community unless he has a definite purpose and pursues that purpose with a definite and strenuous resolve. We shall all readily recall the ancient proverb which tells us what hell is paved with. What is true of the individual is true of the Nation. It is only as the Nation turns its ideals into actualities, only as the Nation converts its aspirations into resolves, only as the Nation is moved by its higher motives to higher needs that the Nation achieves anything. In the 50's this American Nation and its understanding of liberty was to be judged, and was judged, by God and man, not by the glittering generalities of the Declaration of Independence which we read to one another on the Fourth of July, but by the Dred Scott decision and the Fugitive Slave Law. The Nation is what its executed laws are—no higher, no better.

These functions of merchant, teacher, minister, lawyer, are not interchangeable. A little while ago the Populists of Kansas resolved that they would have no more lawyers in the legislature. I venture to say that if they were able to carry out that resolve their crop of laws would be no better than the crop of wheat and corn which the prairies of Kansas would yield if the agriculturalists were to stay at home and you were to handle the plow. More than fifty per cent., as Mr. Dillon showed you last year, of the legislators of this country, in Congress, and considerable more than fifty per cent. in the great constitutional conventions, have been lawyers. It ought so to be, for it is the specific and definite function of the lawyer in

the national development to take the Nation's will in its inchoate, unformed state and formulate it into definite resolve and carry it out into positive action. It can hardly be necessary to say in this presence that this work of formulating the life of a nation into definite resolves, is not done only, nor even chiefly, by legislative enactment. I read in the daily papers from time to time sneers at Court-made law. For my part, gentlemen, I think if we could dispense with either, we could easier dispense with legislative-made law than with Court-made law. We need continual and permanent sessions of the Courts, but we get along very well with biennial sessions of the legislatures in some States, and some people are inclined to think we could get along better with quadrennial sessions. The legislature represents the superficial will of the people. Too often it represents the passing whim and passing passion; too often the party purpose, and even the factional purpose, within the party. Too often it enacts to-day what is repealed to-morrow. Too often it makes inconsistent resolutions which the courts have great difficulty to reconcile one with another. Too often it starts out on hazardous experiments, only to draw back after irreparable damage has been done. On the other hand, the courts are to represent, and in very large measure they do represent, the deeper, the more deliberate, the more settled, the more carefully formed purposes of the Nation. They understand and they interpret the trend of the national life and lead it in the direction in which it is to go. It would be a mere affectation of learning for me to cite in this assembly illustrations from our history,—I, relatively ignorant of them, you familiar with them. It must be enough to refer, by way of illustration, to the decision of the Supreme Court that the great waterways of the Nation belong to the Nation, and that no State can give exclusive control over any one of them; to its decision that the great lakes of the West are high seas, and that over them the Federal Court may and will extend the ægis of its protection, and to the decision of the various Federal Courts that the great interstate railways are the high-

ways of the Nation and are subject, on the one hand, to the jurisdiction of the Federal system, and, on the other hand, are entitled to its protection.

It must be enough to remind you that these three great decisions, all of them having to do with the National highways, have probably had a greater influence on the destiny of the American people than any three statutes that you can find in the Congressional Record from the days of the foundation of the Commonwealth. As Court-made law, so is executive made law, the act of the people. No act by the Legislature has produced a more profound influence in the destiny of America than the Emancipation Proclamation signed by Abraham Lincoln. It was not his act. If it had been his act it would have been nugatory. Some men were desirous that he should have signed it long before he did. If he had it would have failed of its purpose. His genius lay in this, that he waited until he saw the will of the Nation set towards freedom, and it was the hand of the American people that held the pen which declared this Nation forever freed from slavery.

This then is the function in our national development of law and the lawyer. The lawyer is not, if I understand his place aright, merely one to settle disputes between individual citizens. He is not merely one to prevent disputes by counseling individual citizens how they may avoid them. Both of these functions he performs, and they are both valuable functions, but beyond them, profounder and deeper and more far reaching than these by far, is this function which law and the lawyer perform in the commonwealth. He translates the aspirations and half-formed desires of the nation into deed, action, life. If I may be allowed to use for the moment the language of my own profession, he converts creed into deed. And after all, gentlemen, while I am not here to cast any aspersion upon creeds, we are measured by what we do far more than by what we think. Not creed but deed, is the measure of life, or, rather, deed is the measure of the creed, and we only believe that which issues in activity. Have you ever been in a great car-

pet factory and seen the pattern of the carpet hanging on the loom and the operator working among the threads? The American Nation sits thus before a great loom, and yet is itself the thread which enters into the fabric. The thread out of which the national life is to be woven are sensitive and living threads. The minister hangs up beside the loom the ideal, and every year tries to make that ideal nobler and better. The lawyer takes the threads of individual life and works them into the national fabric and makes the nation what the nation really and finally is.

Is the lawyer, then, simply to take the will of the nation and formulate it? Is he to take all its passions and its prejudices, all its whims and its phantasies and work them out into definite resolve? No. I venture to think that Blackstone is nearer right than Austin in his criticism of Blackstone. There is a real and genuine analogy between what we call laws of nature and laws of jurisprudence. The laws of right and wrong are eternal. We do not create them. Laws of social justice exist. They are not manufactured. The history of jurisprudence is not the history of ingenious man contriving ingenious mechanism. It is the history of an exploration after the fundamental principle of social justice. Daniel Webster once said that it was useless to re-enact the laws of God. Gentlemen, it is useless to re-enact any other. Put a law on the statue book that is against the law of God and you have put the temporary and the human against the divine and the eternal, and it ought not to require a great deal of intellect to know what will be the result to the temporary and the human. No; the great divine, eternal, infinite principles of right and wrong are written in the human conscience. The human conscience is like an ancient Greek palimpsest manuscript. Originally on this parchment was written something of Virgil or of Paul, and then some later scribe took it, half erased that writing, and wrote upon it some fancies of his own, and scholars finding these palimpsest manuscripts, contrived how they might erase the upper writing and bring out again the lower forgotten

writing. So deep in the heart of the American people are written the principles of justice, righteousness, truth and honor.

It is not true that one-half the American people, or one-quarter of them, want dishonest money. We all want honest money, though we may differ in our judgment as to what is honesty in currency. The nation is true and honest, and the function of the lawyer, whether he be advocate in the court room, legislator in the halls of Congress, or a judge upon the bench, is to get down below the transient and temporary writing, the ebullition of passion and of partisanship, and see what in the American conscience is the deep, earnest, moral purpose, and make that effective in the national life.

If this be so true then the education of the American lawyer can neither be too broad nor too deep. Sending him into a law office to study a few precedents and a few pleadings, equipping him to make a brilliant speech before a jury or a dull one before a judge, does not prepare him for the function which he is to exercise in our national life.

We have been shown here on this platform how the great principles of our national jurisprudence run back into Anglo-Saxon times, and run back of Anglo-Saxon times into Roman times, and I venture to add that it would be easy to show how many of them run back of Roman times to the times of the Mosaic commonwealth. The great fundamental principle of human liberty and human justice have always been the same—not always clearly seen, but always the same—and honest men have always been groping to grasp them, always looking to find them. The lawyer educated for his profession must be quick to discern these great principles of social right. He must understand how to discover great principles in innumerable precedents. He must know how to trace the trend of history thus far on the road that he may perceive in what direction the nation is to move towards a larger liberty and a a better justice in the future. Perhaps you will not think I run beyond my legitimate domain if for a moment I draw an illustration out of my own studies. The religions of the world

may be roughly divided into two classes. Most—not all—Pagan religions have considered God an angry being who was to be appeased by sacrifice, or a corrupt being whose favoritism was to be bought by gifts. The Hebrew prophets bore this as their message to the world: God is a just God, administering justice; not to be bought by gifts; with no wrath to be appeased; demanding of his own children only this, that they shall treat one another with equal and honoring justice. And based on that came the second revelation: That God is a merciful God, helping men to the higher life of justice who found themselves enmeshed in temptation and struggling to escape from it. We have already learned in America the first lesson. Theoretically we believe that the end of all good government should be justice and equal rights. We are gradually learning the second. Our prisons and reformatories are witnesses to our growing faith that the administration of justice is really the administration of redemption, and that the best way to punish a criminal is to reform him. These two functions which the Hebrew prophet attributed to the God whom he revered, the administration of justice and the working out of penalty for redemptive ends, are preeminently the function of the lawyer in the American commonwealth. It is ours as ministers, gentlemen, to present the highest ideals we can before the American people. It is not ours to form statutes or shape policies. Whenever the ministry have attempted that they have failed, whether they have been Jesuit priests in Rome, Puritan preachers in New England, bishops of the Church of England in the House of Lords, or American clergymen convened in assemblies such that men could hardly tell whether they were ecclesiastical or political. The function of the minister is to hold up the highest ideals of truth, of purity, of righteousness, of justice, of love. It is the function of the lawyer to take the thoughts, the aspirations, the ambitions. the ideals which the poet and the prophet enkindle in the heart of the nation, and shape it into a resolute, a final, a living act of the will.

THE IMPORTANCE OF THE STUDY OF MEDICAL JURISPRUDENCE BY STUDENTS OF LAW, AND THE EXTENT TO WHICH IT SHOULD BE TAUGHT IN SCHOOLS OR COLLEGES FOR THE EDUCATION OF SUCH STUDENTS.

BY

NATHAN S. DAVIS, M. D., LL. D.,

CHICAGO, ILLINOIS.

Medical jurisprudence was defined by Dr. T. R. Beck, one of its early and most eminent cultivators, as "that *science* which applies the principles and practice of the different branches of medicine to the elucidation of doubtful questions in courts of justice."

"The different branches of medicine" alluded to in this definition are chemistry, anatomy, physiology, pathology, etiology, hygiene and the practice of medicine, surgery and midwifery.

The value of the application of chemical processes in detecting and determining the nature of poisons in cases of alleged crime; and in detecting adulterations and impurities in air, water, food and drinks for protection of the public health; the application of a thorough knowledge of anatomy and physiology for determining the extent, nature and consequences of all wounds and personal injuries, whether homicidal, suicidal or accidental: and the application of the facts and principles constituting the physiology and pathology of the brain in determining questions concerning idiocy, insanity and mental incompetency, is so apparent and so generally acknowledged that any illustration of such value is unnecessary.

It was not until during the last half of the fifteenth century, A. D., that the actual practical study of analytical chemistry

and human anatomy had progressed so far as to impart to each of these fundamental departments of knowledge the character of a distinct branch of medical science. And while we may find in the history of the Jews, the Egyptians and the early Romans, items that fairly belong to the domain of medical jurisprudence, we find no recognition of the value of medical facts in legal proceedings until in the Code of Laws by George Bishop, of Bamberg, in 1507, and still more fully in the "Caroline Code" by Charles V., of Germany, in 1532, which was the first to provide for requiring medical men to appear in court as witnesses. This was soon followed by the publication of essays or papers on separate topics within the scope of medical jurisprudence, but the earliest works worthy of special mention are those of Fidelis, of Italy, in 1598; Zacchias, in 1621; Ambrose Pare, 1630; Deveaux, 1693; Bohn, 1702; and Fodere, 1796. During the seventeenth and eighteenth centuries a limited amount of instruction in medical jurisprudence was given in the medical school of Edinburg and some of those on the continent of Europe. The credit of establishing the first full professorship of medical jurisprudence is due to the medical department of Columbia College of New York, in 1804, and it was ably filled several years by Dr. J. S. Stringham. This was followed by the establishment of similar chairs in the Louisville Medical College 1812, occupied by Dr. Charles Caldwell; in the college of physicians and surgeons of the western district of New York 1815, filled by Dr. T. Romeyn Beck, and in the medical school of Harvard 1816, filled by Dr. Walter Channing.

Subsequently this branch became recognized as a necessary part of the curriculum of all the more important medical schools of both this country and Europe. And at the present time no medical school or college is recognized as in good standing by the several State Boards of Medical Examiners that does not give to its students full instruction in medical jurisprudence. The propriety of this will be conceded when it is remembered that every medical practitioner is liable to be

called into the courts to give strictly medical evidence necessary not only for the detection of crimes and the deciding of questions relating to mental incompetency, but also concerning the nature and extent of the constantly recurring personal injuries in the many modern modes of transit or travel, and the bearing of all establishments for prosecuting the various industries of society on the public health. But you are doubtless ready by this time to remind me that all concede the very great value of a thorough knowledge of medical jurisprudence to *medical men*, because on them devolves the responsible duty of occupying the witness stand and imparting such facts and opinions as may enlighten courts and juries and facilitate the administration of justice, while the question assigned to me for discussion at this time is the importance of the study of medical jurisprudence by students of law and the extent to which it should be taught in schools or colleges for the education of such students.

It is true that the legal attorney is not, like the medical man, required to occupy the witness stand and endeavor to impart valuable medical knowledge to the court and jury; and it is not, therefore, necessary that he should have mastered all the details of chemical analysis, the causes of disease, mental and physical, and the possible consequences of all acts of personal injury. It is equally true, however, that on the attorney devolves the duty of deciding when, and what kind, of medical evidence is required in a given case; and on him also devolves the responsible task of eliciting such evidence from the medical witnesses in such manner as to be understood by both court and jury. But if he has not, at least, as much medical knowledge as is contained in our best works on medical jurisprudence, how can he know accurately the kind of medical witnesses he may need, or how to frame his questions to elicit from them the facts and opinions that are necessary to attain the ends of justice?

To examine another with the purpose of eliciting the important facts belonging to any department of knowledge

about which you are ignorant, is always embarassing and often results in failure. At least an outline knowledge of any subject is necessary to enable one to construct questions, especially of a hypothetical character with sufficient skill to elicit direct and intelligible answers. A properly constructed hypothetical question is one predicated on all the facts, or assumed facts, bearing on the question and none others. If the facts belong strictly to the domain of medicine, and the attorney has no reliable knowledge of such facts, how can he know whether he has included all that a solution of his question requires or not? I have several times been obliged to listen to questions of this class so imperfectly constructed that they could not be answered either affirmatively or negatively without liability of inculcating errors or necessitating lengthy and qualifying explanations. And even in the direct examination of medical witnesses concerning the nature, extent and consequences of personal injuries in both civil and criminal cases, the attorney who has omitted from his curriculum of study the department of medical jurisprudence often fails to ask the questions that would elicit answers of great importance and on the other hand wastes much time in pressing questions that are irrelevant or useless.

The truth of these observations is corroborated by the frequent appearance of some medical man at the elbow of the attorney in important medico-legal cases, evidently acting as assistant attorney by suggesting the necessary medical questions and references for a share of the fees. If his services are confined to this they may be tolerated, though certainly not complimentary to the actual attorney in the case; but if, as has often happened, he finally appears on the witness stand to give expert testimony in the same case he disgraces himself and inflicts an injury on the character of the profession to which he belongs. The sole business of a medical witness should be to state such facts and opinions as he believes to be true without fear or partiality, which is very difficult for him to do and at the same time act the part of an assistant attorney.

The very great number and variety of cases before the different courts in which medical testimony is required, and the fact that the proper eliciting of all such testimony devolves upon the legal counsel and advocates engaged, is sufficient proof that the study of medical jurisprudence should constitute an important part of the education of every student of law.

Consequently this most interesting and important branch of study should constitute a part of the curriculum of every school or college of law. The extent to which it should be taught and the method of teaching may differ in some respects from the teaching of the same branch in the schools for the instruction of students of medicine. For instance, the medical student should be taught all the details of chemical analysis, the nature of poisons, and the methods of their detection, because he is the one who is to impart the results of such detailed knowledge on the witness stand. But the student of law requires only such knowledge of the classification and general properties of poisons as would enable him to conduct examinations intelligently. The same comparison is applicable in regard to the study of the nature and consequences of all acts of personal violence, and also regarding the details of mental defects, disorders and incompetencies. Hence the schools and colleges of law do not need to require their students to do a large amount of personal work in the laboratories of chemistry, anatomy, physiology, microscopy and the clinical wards of hospitals as do the schools of medicine. It is, however, necessary for successfully teaching medical jurisprudence to such classes as are at present found in our law schools that every annual course of instruction should commence with at least six lectures or lessons, giving a general review or outline of the anatomy of the several regions and cavities of the human body and of the physiology of the more important organs and functions as of the brain and nerves, of digestion, circulation, respiration and of nutrition and disintegration. These should be illustrated by the aid of a human skeleton and appropriate

models and drawings that are readily obtainable at a small expense.

Such a preliminary course is always listened to intently and earnestly; and greatly facilitates the more correct comprehension of the strictly medical facts and principles used in all the subsequent part of the course. The domain of medical jurisprudence proper embraces a consideration of the causes and modes of dying; the nature and consequences of acts of personal violence whether by mechanical force or by poison; questions concerning idiocy, insanity and all grades of mental impairment; and questions concerning everything supposed to be capable of effecting the public health or morals. From a personal experience of more than twenty years in endeavoring to teach this branch, to classes of students in a law school, I am satisfied it cannot be presented fairly and efficiently in less than about eighteen lessons or lectures of one hour each. If we include the six preliminary lectures, as I have indicated, it would make the entire course occupy twenty-four hours of instruction, which is equivalent to about one lesson or lecture each week through the first and second terms of the ordinary college year.

In the report of the Committee on Legal Education made to the American Bar Association, August, 1892, and accompanying documents, it is stated that the whole number of law schools then existing in the United States was fifty-six; and that any amount of instruction in medical jurisprudence was given in only "about one-fourth" of that number. And in the curriculum of several of these, it is included only as an elective study. Consequently it would be fair to assume, that four-fifths of all those who enter annually the ranks of the legal profession, do so with no systematic instruction in this very important department of medico-legal knowledge. And yet there is seldom a legal tribunal or court, from the preliminary inquiry before the coroner up to the highest courts in the State or nation, that is not frequently dealing with cases, for the proper adjudication of which, an application of the facts

and principles embodied in the department of medical jurisprudence is actually necessary. From ample personal observation, I have long been of the opinion that a large part of the confusion or lack of proper method in introducing and eliciting medical evidence, is owing to the general omission of this study as a necessary part of legal education. And I may be excused for adding that a large part of the apparent collisions, misunderstandings and contradictions between attorneys and medical witnesses in our courts, arises from the inadequate study of this department by the members of both professions. With such views I must repeat with emphasis, the declaration that the study of medical jurisprudence should constitute an important part of the obligatory requirements of every school or college of law.

In the report of the Committee on Legal Education, to which I have already alluded, considerable space is occupied in discussion of the different methods of imparting instruction in the law schools. These methods are chiefly grouped under three heads, viz: First, recitations from text-books; second, lectures; third, citation of cases and colloquial discussions thereon. The advantages and disadvantages of these methods are fairly presented in the report. But in deciding upon the best methods of teaching, perhaps not sufficient importance has been given to the nature of the subjects to be taught. In the study of all those branches consisting of the collation of historical facts and their logical arrangement for the deduction of general principles or rules of law, and their application for the guidance of human conduct, teaching by text-book recitation supplemented by explanations and the frequent citation of illustrative cases, is perhaps the most efficient method. And with the addition of moot courts and some colloquial discussion of cases, it may be said to constitute the prevailing method of instruction in the law schools of this country. On the other hand, in teaching the physical sciences and branches of knowledge admitting of demonstration to the eye and the touch, by far the most effectual method is to present the essential facts

and principles by lecture and illustrate them by direct experiments or demonstrations before the class. It only requires a glance at the table of contents of any modern work on medical jurisprudence to see that nearly all the topics included belong to this class. And in 1873, when I was requested to occupy the position of teacher of medical jurisprudence in the Union College of Law in Chicago, now the Northwestern University Law School, I found no text book adapted to the use of classes of law students; and but few members of such classes possessed of sufficient knowledge of anatomy, physiology and analytical chemistry to enable them to understand the more technical parts of the subject. The two principal works in our language at that time were the twelfth edition of the classical work of Dr. T. Romeyn Beck of our own country, and that of Dr. Alfred Swayne Taylor, of England; both exceedingly valuable, but too voluminous for convenient text-book use. Later, several brief complications have been published of which that of Professor J. J. Reese, of Philadelphia, is decidedly the best for text-book use in law schools. Under such circumstances I was obliged to choose the lecture method of teaching, commencing with the elementary facts and illustrating every topic by anatomical preparations, physical methods of investigation, drawings and citation of cases; occupying from 22 to 24 hours each college year. If we add to this, an allotment of fifteen minutes at the commencement of each lecture for questioning members of the class on the subject of the preceding lecture to render it certain that we had been correctly understood, and to recall the more important points or items, I think it would still constitute the most efficient method of teaching and studying this important branch of medico-legal knowledge.

It is the department of study that forms a most important and interesting link or connection between the domain of law and that of medicine.

It is the application of the facts and principles established in the more scientific departments of medicine, in aid of legal processes for the support and protection of the highest inter-

ests of society, namely, the detection of crimes, the promotion of the public health, and the more exact administration of justice for all classes of society. It is the common ground on which the members of the two professions meet for the common purpose of aiding each other in elicting truth and its application for protecting the innocent, the punishment of the guilty, and the prevention or alleviation of human suffering under the forms of law. And the more thoroughly the members of both professions study this branch of human knowledge the more harmonious will be their intercourse with each other, and the more successful their efforts to promote the administration of justice.

PROCEEDINGS

OF

THE SECTION OF PATENT LAW.

August 27, 1895, 3 o'clock P. M.

In the absence of Edmund Wetmore, of New York, Chairman of the Section, George H. Lothrop, of Michigan, was elected Chairman *pro tempore.*

The Special Committee on Patent Law submitted the report prepared by them for presentation to the Association, and the meeting proceeded to an informal discussion of the report and of the amendments to the patent law therein recommended.

At the conclusion of the discussion, James H. Raymond, of Illinois, offered the following resolution:

Resolved, That the Section of Patent Law approves of this report and recommends its adoption by the American Bar Association, and further recommends that the committee of fifteen be continued to report further at the next meeting of the Association, with power to lay the report this day submitted before Congress and to urge the adoption of the amendments to the statutes proposed therein.

This resolution was adopted, and the Section then adjourned to Thursday evening, August 29, 1895, at 8 o'clock.

August 29, 1895, 8 o'clock P. M.

The Section of Patent Law was called to order by the Chairman, Edmund Wetmore, of New York, who announced that Robert S. Taylor, of Indiana, would read a paper on "Some Reflections Suggested by the Creation of the Section of Patent Law in the American Bar Association."

Mr. Taylor then read his paper.

(*See the paper at the end of these Minutes.*)

The Section adjourned to Friday, August 30, 1895, at 3 o'clock P. M.

August 30, 1895, 3 o'clock P. M.

The Section of Patent Law was called to order.

On motion of Robert S. Taylor, of Indiana, Edmund Wetmore, of New York, was elected Chairman of the Section, and Wilmarth H. Thurston, of Rhode Island, Secretary, for the ensuing year.

On motion the Section adjourned *sine die*.

WILMARTH H. THURSTON,
Secretary.

PATENT LAW AND PRACTICE,

A PAPER

READ BY

R. S. TAYLOR,

OF FORT WAYNE, INDIANA.

A few weeks ago the Chairman of the Patent Section asked me to read on this occasion a short paper on any topic suitable to the advent of this Section into the fellowship of the American Bar Association. What I have written is in the nature of random reflections suggested by the creation of that Section.

The creation of a Section of Patent Law in the American Bar Association, is a notable event in cotemporaneous history. It is not many years ago that an eminent western lawyer, since an occupant of high position at Washington, said to me that he hardly regarded a patent lawyer as a member of the profession. I suppose it was never quite so in the East. The names of some of the greatest lawyers of that part of the country appear frequently in the reports as counsel in patent causes, from the earliest days. But until a very recent period, the sentiment expressed in the remark to which I have referred, was a common one in the West. The conception of property in inventions was a long time in finding recognition in the law itself. When it came, a great deal of law had to be made to accommodate it. That kind of property had to be defined, title to it prescribed, injuries to it anticipated and remedies for them

provided. This involved nothing less than the creation of a new and unique system of jurisprudence.

The history of the rise and growth of this system would be a most interesting and instructive aid to the study of the evolution of the law. It is all within historic times. As the geologists go to the recent glaciers of Alaska and the Alps to study the laws of the motion of the ice sheets in geologic ages gone by, so we may learn in the history of the patent law, many important facts bearing on the evolution of the law at large.

Upon this enticing topic I pause now only to remark that while the patent law seems at first sight to be to a greater extent statutory in its origin and provisions than the law in most others departments of jurisprudence, this is, as I believe, only apparently true. The statute is but the skeleton of the law, and it was an imperfect skeleton at that, in the beginning.

As John Marshall transformed the parchment of the Constitution of the United States into a thing of life and power by judicial construction, the courts have built around the slender frame work of the patent statute, a complete and symmetrical system of law and practice. A considerable part of the law thus evolved, has found its way into the statute by amendments, but the larger part still remains in the body of precedents found in the reports.

It is a respectful form of speech to ascribe the wisdom of judicial decisions to the courts, but we know that in fact the judges imbibe most of their wisdom from the bar. They are the most unblushing plagiarists in the world. So that when we get at the final truth, it comes to this; that the despised and rejected fraternity of patent lawyers, are in reality the authors of the present system of patent law in America. And whether we consider the magnitude of the interests committed to their keeping, or the nature of the questions which arise in respect to those interests, it must be affirmed that no department of the profession ought to outrank that of the patent law in dignity, honor and usefulness to the public welfare.

We know, but rarely quite realize, how true it is that in these days we live, move and have our being in an atmosphere of invention and a world of patents. We may drop down anywhere for an illustration; a snap shot at one of ourselves at the hotel breakfast table this morning with a morsel of beef on the way to his mouth, would serve as well as any thing else. He came down from his room in a vertical car plastered over with patents like a billboard in the circus season, seated himself in a chair made by patented machinery and finished with patent varnish, spread on his knee the product of a patent loom, swallowed a few mouthfuls of patent process oatmeal, and then passed on, out of the region of patents, as one might suppose, to the consumption of a plain steak. But he shall not escape even here, for though the steak be the gift of God and no man's invention, there is no way to get a morsel of it into your stomach at a city hotel, without the intervention of scores of patents. The cars that transported it from the fields where it grew, the machinery that killed it, the Bate refrigerator that cooled it and the hotel range that cooked it, were all, ten chances to one, the subjects of patents by the dozen, as are also the plated fork on which he holds it poised in the air and the hard rubber gums and porcelain teeth which open to receive it.

If we pursue the same train of thought into the departments of dress, travel, books, amusements, or business, we find ourselves everywhere pursued and surrounded by patented inventions and dependent upon them either directly or remotely, for every necessity of life. And there does not appear to be any likelihood of any alteration of these conditions. Instead of there being nothing new under the sun, as Solomon declared, thereby disqualifying himself under the civil service rules from ever receiving an appointment as Examiner in the Patent Office, we seem to have fallen upon times when everything under the sun is new. The fertility of inventors' brains seems to be suffering no diminution. The road we are traveling passes out of view on distant heights far above us.

It is a question to speculate upon whether or no this marvelous development of invention would have been possible without the stimulus of the patent system. The forces at work in modern society are so many and powerful, and so intricate in their combinations, that it is impossible to prove what the result of the absence of any one of them would have been. But the weight of conjecture is certainly to the effect that, while the pursuit of science for the love of it and the enterprise of business would have disclosed many things which have come to us through the patent office, a large part—just how large no one can tell—of the inventions which have been made, particularly of those whose special object is to save labor and cheapen production, would have remained unknown. The rewards which the patent law offers are of a kind to spur human nature to its best. The common soldier in the ranks, fired with a hope of promotion and glory, the prospector with his pick searching mountain ledges .for gold, the pioneer, sailor, trader, artist, writer, have none of them, within such seeming possibility of reach, the rewards which the patent law offers to the successful inventor. And so far as we can judge, it is the prodigious impulse which this incitement gives to individual effort that sustains the march of invention. It is not the manufacturer who has adjusted his machinery, wages and prices to the conditions around him, nor the merchant whose controlling interest is profits, not prices; nor the consumer, who rarely knows the history or cost of what he buys or bothers himself with speculations as to whether it could be cheapened or not, that gives to society its labor-saving inventions, but the solitary dreamer looking at the world from his garret window and burning with the thought that to achieve an invention may be wealth, fame and honor for him.

It is impossible that such a system shall exist without those conflicts of interest which give rise to litigation. And of this the amount has greatly increased in recent years, the multiplication of suits keeping pace with the multiplication of patents.

The patents granted in the year					1850	numbered.....	883
"	"	"	"	"	1860	"	4,363
"	"	"	"	"	1870	"	12,157
"	"	"	"	"	1880	"	12,926
"	"	"	"	"	1890	"	25,322

The patent cases reported in the United States Supreme Court reports prior to 1870, number 103, those reported since that date, 424, and those decided by the Circuit Courts of Appeals and reported in the twelve published volumes of the reports of that court, 73, making the whole number prior to 1870, 103, and the whole number since, 497. That is to say of 600 reported patent cases decided in the courts of last resort since the organization of the government, 500, less 3, have been decided within the last twenty-five years.

This field of litigation is one to tax the powers of the best equipped lawyer. It is full of controversies of fact as nipping and close as those which arise in criminal trials. There is no more artistic lying down anywhere than in patent causes. In the matters of experiments, dates, entries and exhibits there are boundless fields of dispute among witnesses and many occasions for counsel to exercise the highest skill in sifting the true from the false. There are also to be dealt with in patent causes some kinds of questions of fact peculiar to that practice and peculiarly difficult, as for example, the question of invention—a question of fact in which the facts themselves are less important than the rules of law for applying them, and in which the new combinations presented are exhaustible.

The questions of law which arise in patent litigation are no less numerous and difficult. The great question of law everywhere is construction. And nowhere is it presented in more varied and refined aspects than in the construction of patents. No written words are subjected to more critical judicial analysis than the claims of a patent. The whole case with all the vast interests involved in it often depends on the construction of a phrase or a word in the claims. And if I may interject a thought which may possibly present a disputable proposition, I will say that in my opinion it is a field of construction in

which the underlying principle applied is a little different from that applied in any other department of the law.

In the construction of wills, the personal intent of the testator is the paramount object sought.

In the construction of contracts, it is the common intention of the parties.

In the construction of statutes, it is the presumable intention of the legislature in view of the exigencies which gave occasion for the enactment of the law.

In the construction of patents, it is the naked meaning of words. The rule that all parts of an instrument shall be construed in the light of the whole is as applicable to a patent as to anything else; and the court will also look into the history of the art in construing claims; but subject to those purely impersonal considerations, the sole question is, what do the words mean?

The transfer of the greater part of patent litigation to the chancery side of the court, which has taken place in recent times, has made it, in effect, an equitable system; involving in its administration all the principles of that department of jurisprudence and requiring for its wise administration a profound knowledge by both bench and bar of that great science.

The practice of patent law takes a lawyer into more numerous and varied fields of scientific research than any other specialty. In many litigations, the whole controversy is over a purely scientific question, no other substantial issue of law or fact being present. Chemistry, metallurgy, electricity and every branch of engineering has its place and turn. Not unfrequently science herself is debtor to a patent suit for the solution of questions which the schools and professors had failed to work out. And this is a feature of the patent practice which grows in interest. As the world acquires more and more scientific knowledge, more and more of it is applied in inventions. To a lover of scientific study, that part of the work is ever fresh and attractive. It is something, too, to try all one's cases before such judges as are found on the federal

bench of the United States. I have not the means of comparing them with a like body of judges in Great Britain, but I am sure that unless it be there, they are as a whole, without their peers in the world.

On the other hand, it has to be said that one of the tendencies of the pursuit of any specialty, is to "sharpen, not enlarge" the intellects of its votaries. It does seem a little slavish to run always in one rut. As a New Englander at San Diego, after a year of perfect days begins to yearn for a nor'easter, a patent lawyer cannot help longing once in a while for a hand in a scrimmage before a jury over some plain matter of fact like slander or trespass. There is, in my opinion, no arena of human effort to compare with a *nisi prius* court room with a jury in the box, your adversary across the table, the air electrified with suppressed excitement, the guarded secrets of the case all undisclosed, and the event depending on a short, hot fight, begun and over in a few hours. If ever a man needs to have all that he knows with him, a clear, cool head, a steady hand and a brave heart, it is then. One of the drawbacks of a purely patent practice, is its want of such experiences as these.

But it is idle to lament the fates which the conditions of modern life impose upon us. A grey-bearded lawyer may be excused for recurring with a sense of regret to the good old days when the practice of law meant the practice of the whole law, and lawyers rode the circuit in jolly squads, every one of them ready to try any sort of a case on sight, whether it belonged to the department of contracts, corporations, wills, real estate or crimes. In the same spirit the grey-bearded farmer turns fondly to the days when the soil of his own farm and the labor of his own and his good wife's hands, supplied directly all the necessaries of life to his family, and he was as independent as Robinson Crusoe on his island. But the same economic laws inexorably compel us all to obedience. Subdivision and specialization of labor is the prime condition of highest social efficiency. To that condition we must submit,

whether we will or not. And the lawyer who finds himself drifting into corporation, admiralty, commercial or patent work, is as powerless to help himself, as the mechanic whose father made wagons, but who earns his own living by making spokes.

I have said that the creation of a section of patent law in the American Bar Association deserves to rank as a notable event. It is a recognition of patent lawyers and of the dignity, worthiness and importance of the work to which they devote their lives, which ought to gratify and stimulate all the members of that branch of the profession. But like every other good fortune of that kind, it lays upon its recipients the burden of corresponding obligations. It imposes on the members of this Association who affiliate with this section of it, the duty of endeavoring, by all that in them lies, to improve the patent law and practice, and lift up the standard of professional qualifications and conduct in all who pursue it. Part of that duty is to be discharged in the organized work of the Section and Association, and part of it—perhaps the greater part, at home and in the offices and courts where we spend our time.

The report made at the present meeting by the Committee on Patents, is an example of a kind of work which, as it seems to me, can be wisely and usefully done by this Section and the Association. There are peculiar difficulties in the way of patent legislation by Congress, one of the chief of these being the quantity of it proposed at every session, the greater part of which is crude and ill advised. The majority of the members of both houses, conscious that they know but little of the subject themselves, naturally hesitate to act on conflicting and untried schemes, and so do nothing. Such amendments as have been proposed at this meeting, few in number, conservative in character, and of such merit as to command the general approval of patent lawyers, ought, when supported by the endorsement of the American Bar Association, to appeal strongly to the confidence of members of Congress. It is to

be expected that we shall find among ourselves, a little of the same embarrassment which attends our legislators in selecting from a multitude of individual suggestions brought forward, the few that command substantially unanimous approval. But if we will give our time and thought to the subject, and attend to the business, and deal with each other in a large spirit of mutual concession and co-operation, it ought to be possible for the patent section of the American Bar Association in the course of a few years to come, to render valuable services to society in the improvement of the law on the statute book.

There are some respects in which the practice needs reformation as well as the law, and in which this section will no doubt interest itself at the right time and in the right way. One of these, in my estimation, is the length and cost of records.

I doubt whether the rules of evidence are as grossly disregarded any where else as in the taking of proofs in patent causes. The length and irrelevance of cross-examinations frequently—I might almost say, commonly indulged in, is a burden to courts and parties, and a discredit to the profession. When we count the fees of counsel and witnesses, the services of the master and stenographer or typewriter, the printing, sometimes done twice, and the time and labor expended by counsel and court in threshing out the wheat from the staw on the final hearing, it warrants the statement that a day spent in needless cross-examination is not merely a day wasted; it is a day viciously and injuriously spent, a wrong to everybody concerned, an impediment to the administration of justice, a discouragement to meritorious inventors and patentees, and in the line of the interest of that worst class of infringers—those who appropriate the inventions of others with high hand, depending for immunity on the cost, uncertainty and delay of litigation.

It must be recognized that the subject is difficult to deal with. The vice is one to which we are all tempted; sometimes by our incapacity, sometimes by our laziness. To lay the whole case bare by a few skillful questions, marks a master,

and as only a few of us are masters, we are prone to make up in number what our questions lack in point. But if we cannot all be masters we need not be slovens. We need not go to the examination room with a few half baked ideas about the case and trust to luck or inspiration for the balance. To study the case thoroughly beforehand, to know just what you want to do before you begin and to have a definite purpose in every question asked, is the way to examine a witness in a patent case with effect and with reasonable brevity. And this takes *work*. And that is one of the obstacles in the way of reform. Another is the difficulty of presenting the question and getting action on it by the court. If you interrupt an examination by a motion based on the irrelevance or incompetence of testimony, the judge will tell you that he can't decide the question without having the whole case before him, that you can submit your motion and he will decide it at the hearing, which he rarely does. If you wait until the record is closed the mischief is done. You can't make your objection without emphasizing the evidence to which you are objecting, and you don't want to do that in the face of the hearing. If you wait until after the hearing, the judge will tell you that you should have presented the question sooner. More than that, by the time the record is closed and the briefs written and the case argued, you are so sick of the whole business that you would rather take a dose of ipecac than drag through it again in a motion to tax costs. And so you let it go, vowing that you never will again, and half justifying yourself by the reflection that if all goes well the other fellow's client will have to pay it anyway.

I know of no way of reaching this evil, which I believe to be a real and serious one, except by rules of court which shall forbid not only the irrelevant, immaterial and imcompetent matters now excluded by the rules of evidence, but also mere unreasonable length of examination where it consists of needless repetitions, refinements or details, with the right to such allowance in costs as shall justify the labor of making the objections and presenting them to the court.

A kindred inconvenience, which I think could be remedied by suitable action on the part of this Association, is the contrariety of rules which prevail in different circuits respecting the printing of records. There is no good reason why the same regulations as to size of page and type and number of copies to be printed should not obtain in all the Federal courts, or why the same matter should ever be printed twice in the same case. If the parties were required to deliver to the clerk of the court in which the cause is first heard enough printed copies, preferably unbound, in addition to those required in that court for all appeals allowable, and the clerk required to use a printed copy in making up his transcript for appeal and send up the additional printed copies necessary in the appellate tribunal, the cost of appeals and the time necessary to perfect them would be lessened, and much labor of counsel and cost to client would be saved.

I have said that the creation of the Section of Patent Law in this Association, lays upon those who affiliate with it, some obligations which follow them home and stay with them through the year. What I mean by that is this: We all remember the time in our lives when a certain atmosphere of romance glorified the profession to which we were aspiring; when we looked at the older lawyers, and especially those who tried cases in far away places, in great cities and in United States Courts, with a sense of awe and admiration that was delightful to experience. It seems ridiculous to think of and absurd to say, but no doubt we are ourselves the objects of some such sentiments on the part of the generation which is following us, albeit the youngsters of the present day are not so easily awed as we were in our callower youth. To a certain extent the general public share the same feelings. The American Bar Association is to the people a representative assembly, the parliament of the profession. They have a right to look to its members as exemplars of professional attainments, methods, deportment and ideals. And hence I say that to be one of this Section, adds a little stress to the obligation that attends us all everywhere,

to do what may be within our power to advance the standards of the profession all along the line.

Always first and foremost among these is the standard of education. An eminent electrician in a recent address, delivered, I believe, to the graduating class of a polytechnic school, said that a first-class electrical engineer wanted to be about ninety per cent. engineer, and ten per cent. electrical engineer.

A similar formula will do for a patent lawyer. No young man ought to be encouraged to embark in patent practice without a full course of study, necessary to fit him for the general practice. And if he can spend a few years in miscellaneous work, so much the better—even petty practice—trials before justices of the peace, or in police courts—anything that will compel him to exercise his tongue, throw him on his resources and teach him the noble uses of defeat. And throughout his career he should never, as it seems to me, cease to be a student of the law at large. His library should contain, not merely the Official Gazette, and Walker and Robinson on Patents, and a score or so of volumes of selected patent cases, which too often complete the list, but a fair working collection of general text books and digests, and as many reports as he can afford. And when a question outside the domain of patent law comes up in one of his cases, he should, instead of leaving it to the court without any real effort toward the discussion of it, as is too often done, make it the coveted occasion of special study. Not very long since I heard two quite eminent patent lawyers present a close question of prior adjudication at a final hearing, in a way that seemed to me to indicate that neither one of them had looked at it at all.

I do not forget that in these matters we are not entirely our own masters. The pathetic catalogue of the things we hoped to do—what lawyer does not keep one? The studies we intended to pursue, the delightful wanderings through the by-ways of the law where many and curious forms of learning are found, the long waited for opportunity to write something that may outlive a brief—where are those dreams of your

youth, ye lawyers of fifty? But the compulsions of business are inexorable. The case that is to be tried must be gotten ready. The things that *must* be done have to take precedence. And if these conditions compel the general practitioner to forego much that he would like to do in the liberal study of his profession and by way of side excursions into other fields, how much more is this so with the specialist? In a patent case the patents, file wrappers, state of the art, questions of infringement and the like have the first call. Until these things have been done other things must wait. Meanwhile the great garden of the law grows and blooms around you. Your soul hungers to pluck its flowers and taste its fruit. But each succeeding day brings its duty which cannot be put aside in the morning, its weariness and exhaustion at night. The rut of your life wears deeper and narrower year by year.

But it is a horrible thing to become a legal automaton. Fight that fate, I say, to the day of your death. Get out of your rut once in a while at any cost whatsoever. Buy a new law book occasionally, if it be only to smell the leaves. Be an all round, all over lawyer in heart, sympathy and aspiration, and as nearly that in fact as the conditions of your life will permit.

There is another topic which is never far from the thoughts of a patent lawyer to which I am irresistibly drawn, yet dread to approach. I allude to to the everlasting expert. I cannot help thinking that there is some room for reform in the matter of the employment and use of experts in the trial of patent causes. In the first place the fashion of examining one in every case is a vicious custom. In many cases his services are indispensable, but it is no assistance to counsel, no compliment to the intelligence of the court, to examine an expert on the construction of a suction pump or a road scraper. It consumes time, piles up costs and swells the record to no useful purpose whatever. It enervates lawyers by taking off of their shoulders a responsibility which belongs to them, to understand and present in argument the nature and operation of the invention for themselves. It puffs up the expert with an undue sense

of the importance of his function, tempts him to magnify his office, to make mystery and difficulty when none exists, and spin out long discussions of small matters.

This is an evil which can be remedied only by lawyers themselves, by example in omitting the examination of experts where such testimony is not really needed, and by such expressions of opinion on the subject as shall encourage others to do likewise.

I think also that abuses exist in extending the examination of experts beyond the proper field of such testimony. The useful functions of an expert is to explain such technical and scientific words, facts or operations as are not within the common knowledge of lawyers and judges. It is not within his province to construe claims, decide questions of infringement or pronounce upon the presence of invention. The quite common practice of calling upon him to swear to everything in issue in the case degrades his office, exposes him to ridicule and weakens his standing with the court as to those matters in respect to which his testimony is necessary and important.

Another error of practice not frequently committed, in my opinion, is to let the expert run the case. That duty belongs to counsel. There is no other kind of litigation in which the lawyer assumes a responsibility like that placed upon him in patent causes. There is, in every case, a plan of campaign to be laid out, into which the history of the art, the scope and construction of the patent in suit, and the nature of the alleged infringement all enter. In this the client interested can usually render but little assistance. It involves, or may involve, nice considerations of law, fact, science and policy, all to be weighed in the balance and set down, each at its proper value. The testimony which the expert will give, ascertained by full preliminary consultation with him, is one of the elements—sometimes the most important element in the combination. But the final responsibility is with counsel, and he can discharge his duty to his client in no other way than by meeting that responsibility without shrinking, and taking and holding absolute direction and control of the case.

OBITUARIES.

COLORADO.

GEORGE J. BOAL.

The members of the legal profession in this country are especially charged with great interests which prop organized society and support the institutions of civilization. The lawyer who regards his profession only as a means of making money, fails in the highest conception of its place and function in human affairs.

The principles of the science of law are the natural rule by which society is organized, and as these principles became known and were applied to men and things, to person and property, the modern state became possible and the nations rose in which millions of men safely associate, because the law defines and defends the rights of each individual and restrains the encroachments of the strong hand.

The ideal suggested by this statement was held in its highest refinement by George J. Boal, the subject of this memoir, whose death at Denver, Colorado, in May, 1895, bereaved the bar of that State of one of its most honorable members, and took from the professional ranks a lawyer whose life and practice increased the respect in which the profession is held.

From the beginning of his practice in Iowa to its close thirty-eight years later in Colorado, he used his ready and profound knowledge of legal science to bring issues between intending litigants to amicable adjustment. By encouraging what at first may have been but a slight spirit of accommodation, his charming manner, his unfailing example of good fellowship with others, and charity for their weakness, seldom

failed to lighten the sodden temper of disputants, and bring a settlement out of court of issues which otherwise might have gone through costly litigation, and by increased friction of temper, have caused permanent personal estrangement and bitterness, inimical to the well-being of families and communities. He never cared to be the hero of legal battles won by questionable means, and on his long professional record there is no stain.

As he was facile in the settlement of contentions that arose in wilful temper or a minor misconception of the limitations of personal or property rights, he was firm and fought to the end in any issue that concerned the settlement of great principles of law which affected non-parties to the action, and required in the statement the use of that keen analytic and synthetic faculty which he possessed in a high degree and used superbly. He took a case apart, separating every tissue no matter how delicate, and, excluding such as were not necessary to his conclusion, with perfect touch restored the dissected members to articulation and adjustment, so that in the process judge and jury saw all mystery and complexity exorcised, and witnessed the illumination of the plain members of the proposition by the legal principles which he applied.

Western lawyers find a comparatively fresh field and, to a degree, novel issues to which legal principles must be applied. In this there is a lure to the lover of his profession which has drawn much talent and ability away from the large cities of the East to the newer country where the angles of contact of men and property are novel, and every great doctrine of the law may be applied to new problems. The effect of this lure, however, is rather to abridge fame, because the achievements which merit it are not in the focus of a great city, a dense population and under conditions which pass quickly from man to man the story of professional triumph.

Had Mr. Boal practiced in New York City his acquirements and qualities as a lawyer and a man would easily have ranked him with the foremost professional worthies of his generation;

but his name in that case would have gained honor at the expense of those faithfully served in nearly two score years of western practice, and his career now written in light amongst the memorials of the profession in the West would have been lacking in its annals.

Such a lawyer contributes constantly to public education and refinement. Mr. Boal's fine taste in literature and his extensive and well assimilated reading garnished delightfully his statements to judge or jury, and worked a quickening influence upon all hearers. His professional brethren were moved to seek like means of intellectual enrichment, and laymen, especially the young, were stimulated to seek the same source at which he had equipped and constantly recruited his admirable powers.

It is not possible in this brief notice to more than outline this fine character and worthy career. That may be done in other than these pages. But the man who brightened and bettered the world as he crossed the stage of action, and elevated a great profession which champions all rights and remedies all wrongs, deserves this ascription and the laurel with which it crowns him.

CONNECTICUT.

DWIGHT MORRIS.

Dwight Morris, of the Connecticut Bar, was one of the older members of the profession in that State. He was born in the town of Litchfield, November 22, 1817. His father was a distinguished officer in the Revolutionary War, and led one of the supporting columns of the "Forlorn Hope" at Yorktown. He was one of the original members of the society of the Cincinnati in the State of Connecticut, of which his son, the subject of this sketch, was president at the time of his death.

General Morris prepared for college at the Morris Academy in Litchfield, an institution founded by his father, who was one

of the leading educators of his time. He entered and graduated at Union College with honor. He returned immediately to Litchfield and began the study of the law with the late Chief Justice Seymour, who, for a number of years after the death of Judges Reeve and Gould, carried on the law school at that place.

General Morris' professional life was spent in Bridgeport, where, for over fifty years, he was actively engaged. He was at different times Judge of the Court of Probate, member of both branches of the General Assembly, and Secretary of State. In 1861 he went into the war as Colonel of the 14th Regiment of Connecticut Volunteers, and for a long time acted as Brigadier General of the 3d Division of the Second Corps, and retired with the rank of Brevet Brigadier General. After leaving the army, President Lincoln offered him the appointment of Judge of the United States District Court for the Territory of Idaho, but he declined the position. He was afterwards United States Consul at Havre.

General Morris was not a hard student or worker in the profession, but was ever quick and ready to take every fair advantage of the positions most favorable to his client. His bearing and manners were those of the old school of practitioners, always courteous, always full of the dignity of the profession, a manner that of itself perfected the matter. His death was a grief to many who did not have the pleasure of his personal acquaintance, but who looked upon him as a worthy representative of a bar that had for years past been distinguished for the ability of its members, and as a link connecting the present with the past.

GEORGIA.

GEORGE DUDLEY THOMAS.

George Dudley Thomas was born in Athens, Georgia, on April 10, 1857. He was the second son of Colonel Stevens

Thomas and Isabella Hayes Thomas. He graduated with the highest honors at the University of Georgia in 1876, taking the degree of Bachelor of Science, and in 1877 received from the same institution the degree of Bachelor of Law.

He began the practice of law in 1878, and was for many years in partnership with Hon. Pope Barrow, ex-United States Senator, the firm being Division Counsel of the Richmond & Danville Railroad Company, and attorneys for other large corporations.

In 1882 he was elected a professor in the Law School of the University of Georgia, a position which he retained with signal ability until he resigned it in 1893 on account of failing health.

His death occurred in Richmond, Virginia, on January 5, 1895.

In 1883 he married Miss Kate Morton, eldest daughter of State Senator W. J. Morton, also of Athens, a lady whose remarkable beauty, gentle nature, strong intellect and rare accomplishments make her one of the most admirable types of true Southern womanhood. She, and four little daughters, survive the husband and father.

Of refined and cultured parentage, Mr. Thomas was himself the embodiment of all manly and Christian traits and graces. Though modest, unassuming and unselfish, he was, almost from the beginning of his professional career, a recognized leader at the bar, and at the time of his death stood among the foremost of the many great lawyers of Georgia. He seemed to know legal principles intuitively, but was, nevertheless, a close and untiring student, and, therefore, became thoroughly learned in the lore of the law. In a marked degree he was clear-headed, accurate and logical, and was always gentle in his manners and courteous in his intercourse with others. His love of truth, justice and right, his unvarying honesty of purpose, his never-failing kindness of heart, and his scorn of all things base, made it impossible for him to do even a questionable act. Although for a long time actively

engaged in a large practice, in the course of which he successfully managed hundreds of important cases, he never once attempted to mislead a judge or jury, and championed no unworthy cause. He deserved and enjoyed in the fullest measure the unbroken confidence and esteem of all who knew him. No calumny ever reached him, and he closed his useful and blameless life without incurring a suspicion of having in any instance violated the code of personal or professional integrity.

As a legal instructor he had a rare faculty of communicating knowledge. Scores of lawyers in this and other States, whose privilege it was to learn of him, attest his ability and efficiency as a teacher, and all of them hold his memory blessed.

As a director of the Southern Mutual Insurance Company and of the Georgia Railroad & Banking Company, he was upright and wise and faithful to the large trusts reposed in him.

He was a consistent member of the Presbyterian church, one of its deacons and a devoted Christian.

In his relations as a son, brother, husband and father, he was thoroughly admirable and lovable, failing in no duty and fully meeting every claim which affection could suggest. As a friend, he was true; and as a citizen, liberal, charitable and patriotic—in all things, at all times and in all places a model gentleman.

He never sought nor desired public office. Had he done so, the people of Georgia would surely have demanded his services in high stations. He would have made a great judge. Possessing every qualification for the bench, he was worthy of a place in any court of his State or country.

The space allotted to this imperfect sketch is all too small to record, or even briefly epitomize, his lofty character, his many virtues or his splendid talents. To our human understanding, his death, occurring before he reached the glorious prime of manhood, was untimely. It struck from the ranks of the Georgia bar a distinguished member and one of its

brightest ornaments; it deprived the State of one of its best, most honored and most useful citizens; it left in the hearts of his friends and loved ones an aching void; and it filled with unspeakable sadness the homes of the people all over this broad commonwealth, because of the irreparable loss they thus sustained.

In this day of universal greed, when the unscrupulous pursuit of wealth, place and power is so all-absorbing, we seldom witness so noble an example of real greatness, so true a type of gentle-mannered, honorable and unselfish manhood. There are, alas, too few like him to make the world better because of the lives which they live and of the work which they do. When his life's work fell from his folded hands, and he closed his eyes in the sleep of a painless death, it was but the beginning of his inheritance of the promise given to the pure in heart. He went to see God, and to dwell in endless peace and rest in the bright realm beyond the uttermost stars.

ILLINOIS.

JOHN W. CARY.

John W. Cary, General Counsel of the Chicago, Milwaukee & St. Paul Railway Company, died at the Victoria Hotel in the City of Chicago, on the 29th day of March, 1895. He was born in the State of Vermont on the 11th day of February, 1817. When he was fourteen years of age, his father moved to the State of New York, and it was in that State that Mr. Cary's education was completed. He graduated at Union College in 1842, and was admitted to the Bar of the Supreme Court of New York in 1844. He practiced his profession with considerable success in Wayne county, until 1850, when he removed to Racine, Wisconsin. There he entered upon a large and growing practice, and remained there until 1859, when he went to Milwaukee and soon after took charge of the foreclosure of several railroad mortgages which finally

resulted in the organization of the Chicago, Milwaukee & St. Paul Railway Company. He resided in Milwaukee until 1890, when the general offices of the company were removed to Chicago.

He was a member of the Senate of Wisconsin in 1853 and 1854, and again in 1872. It was at that session of the legislature that he caused to be enacted a law for the government and operation of railroads, which has passed into history as one of the most important laws ever enacted in that State. It is still in force and is regarded by all as a law fair to both the people and to the railroad companies. Mr. Cary was the chief legal adviser of the Chicago, Milwaukee & St. Paul Railway Company from the time of its organization until his death. He was not only the legal adviser of the company, advising on all questions and conducting all its litigation, in which he was eminently successful, especially before the Supreme Court of the United States; but during all that time he was the chief counselor and advisor of the general policy of the company. Every act relating to its organization and consolidation, passed through his hands, and every issue of bonds and of stock was his work. He stood high in the legal profession, and was regarded by all as one of the best equipped railway lawyers in the country.

Some of the cases in which he appeared as counsel before the Supreme Court of the United States, and in which he was successful, rank among the most notable cases of that court. He argued before that court what is known as the Milk Rate case, which was a case of the State of Minnesota against the Chicago, Milwaukee & St. Paul Railway Company, decided in April, 1890. The magnitude of that case, both as regards the principle involved and the moneyed interest affected, places it by the side of such cases as the Dartmouth College Case, the case of McCulloch *vs.* Maryland, and the Slaughter House Cases. The Supreme Court in that case held, as Mr. Cary had for many years contended, that the reasonableness of a rate of charge for transportation of property by a railroad

company, was a question of judicial determination, rather than of arbitrary legislative action, and that state legislatures in fixing the rates of freight, must fix reasonable rates; that is, rates which are compensatory and such as will permit carriers to receive reasonable profits upon their invested capital, the same as other persons are permitted to receive. The success of Mr. Cary in this case is all the more notable from the fact that fifteen years previous thereto, he appeared as counsel for the St. Paul Company in what are known as the Granger Cases, in which that court declined to adopt the rule which it afterwards established in the Milk Rate case. Of the members of the court at the time the Granger Cases were argued, but one remains, Justice Field, and of the leading counsel who appeared in those cases, all have passed away except William M. Evarts. It is a notable fact that Mr. Cary survived every justice who was a member of that court at the time of his first appearance therein, as well as the leading lawyers who were practicing in that court at that time. At one term of the Supreme Court of the United States, Mr. Cary argued fourteen cases and won them all, against such men as Caleb Cushing, Matt. H. Carpenter, Henry A. Cram and other eminent lawyers. These suits involved the ownership of the St. Paul Company.

No person in the northwest was better or more favorably known than Mr. Cary. His reputation as a lawyer of marked abilities and his character for candor and integrity as a man, were enviable. At all times and everywhere he maintained the honor of his profession and the majesty of the law. Those who knew him will bear testimony to his calm, strong mind, his stately equipoise, his broad equity, his inspiring truth, his breadth of view, his great and constant humanity, his tenderness as a husband and a father, his constancy as a friend, his fairness, his honesty, his loyalty, his patience and his goodness. Each one of these qualities Mr. Cary not only possessed in a high degree, but he examplified them all in that every day

life whose burdens we bear and whose vicissitudes are to us such a mystery. All who knew him are in accord in saying he was a man greatly beloved.

PHILIP A. HOYNE.

Philip A. Hoyne was born of Irish parents, November 28, 1824, in the city of New York, and died on November 3, 1894, at his home in Chicago. He was the third of seven children, three sons and four daughters, only one of whom survives. His father and mother died before he was five years old, leaving the family in poor circumstances. He was cared for by friends and attended the public schools in his native city until about fourteen years of age when he was apprenticed to a book binder. Attracted by the opportunities offered by the then far west, he made his way in 1841, by the Erie Canal and great lakes, a journey then requiring two weeks, to Chicago, which had at that time a population of less than five thousand souls. There he commenced the study of law in the office of his older brother, Thomas Hoyne, who had preceded him and was already a prominent figure in the new community. The following year he went to Galena, Illinois, where he became a bookkeeper in a commission house. Owing to its lead mines Galena was then thought by many to give greater promise than Chicago. In 1844, Mr. Hoyne returned to Chicago as agent for the St. Louis Fur Company, which position he occupied for about eight years. When yet in that position he was elected Clerk of the Recorder's Court, which office he held for two years, during which time he resumed his law studies. In 1855 Mr. Hoyne was appointed by the late Judge Drummond United States Commissioner for the Northern District of Illinois. This important position he held with great acceptability until the end of his life. He also received appointments from the Governors of the several States as Commissioner of Deeds. He served for nine years as a mem-

ber of the Board of Education of the City of Chicago, and was President of the Board for two terms.

Mr. Hoyne was a member of many societies. He became a member of the American Bar Association in 1889. He was a citizen of great public spirit, and was prominent in charitable and church enterprises. During the thirty-nine years of his official life he attended to his official duties with promptness, intelligence and unfailing urbanity. He was married at the age of twenty-five to Theresa C. French, a lady of many accomplishments, with whom he lived happily for nearly half a century, surviving her but a few months. Mr. Hoyne was a member of a family of great force of character and was a prominent and representative figure for more than half a century in the great community in which his lot was cast. He was a strong and lovable character, and will be long remembered by the many friends who survive him as one who lived an honorable and useful life.

LOUISIANA.

FELIX PIERRE POCHÉ.

Felix Pierre Poché was born in the Parish of St. James, in Louisiana, May 18, 1836, and died in the City of New Orleans, on June 16, 1895. He was of French Acadian stock. He was educated at the public schools of Louisiana until he reached the age of sixteen years, and was then sent to St. Joseph's College at Bardstown, Kentucky, and after leaving that school in 1855 he remained for a time in Bardstown, reading law in the office of Ex-Governor Charles A. Wickliffe. After having been admitted to the bar of Kentucky, he went to Louisiana and continued his legal studies in the office of Judge Roman of Thibidiaux, in the Parish of Lafourche, and was admitted to the bar of Louisiana in 1859. In the following year he returned to St. James Parish and

began practice. In June, 1862, he entered the Confederate Army as Captain of Infantry. In 1865 he returned home and resumed the practice of law in the Parish of St. James where he was immediately employed in many important cases, especially in the settlement of successions and the liquidation of estates which had become embarrassed during the war. In January, 1866, he was elected to the State Senate. In 1879, he was a prominent member of the Constitutional convention of that year, and in 1880 he was appointed an Associate Justice of the Supreme Court of Louisiana, and held that office for ten years.

Judge Poché was one of the founders and charter members of the American Bar Association, and was a Vice-President for eight years. He was a brilliant and impressive advocate and spoke equally well both in French and English. He was an intelligent student of both the common and the civil law, and the opinions he rendered, exhibit also an especial ability for dealing with questions of fact on appeal. They will be found reported in the Louisiana Annual from volume 32 to volume 41.

MARYLAND.

HENRY STOCKBRIDGE.

Henry Stockbridge died March 11, 1895. He was born in Western Massachusetts, August 31, 1822, of old Puritan lineage, his immigrant ancestor having been among those who came to this country in the Blessing in 1635. From a boyhood passed on a farm he entered Amherst College, from which he was graduated in 1845, and immediately thereafter removed to Maryland. He at once entered upon the study of law in the office of Coleman Yellott, and in May, 1848, was admitted to practice. Soon thereafter he formed a law partnership with S. Morris Cochran, which lasted until the latter was elected to the bench of the Court of Appeals. Mr. Stock-

bridge, whose early affiliations had been with the old Whig party, and who, on its break-up, had voted for Fremont in 1856, threw himself with ardor into the movement for the overthrow of the Know Nothings.

From the very start of the Civil War Mr. Stockbridge was a staunch Union man, one of those most trusted by the government, and in 1862 was appointed by Governor Bradford as commissioner of the draft. In 1864 he was elected a member of the legislature, and made chairman of the Committee on Judiciary, in which position he drafted and reported the bill calling the constitutional convention of that year. When the convention assembled, Mr. Stockbridge was made preliminary chairman, and subsequently chairman of the Judiciary Committee of that body, in which position he contributed largely to giving form to the work of the convention. Notable at this point was the conservative spirit manifested in the work done, for while partisan feeling ran high and the bitterness was intense, the constitution of that year was so guarded as to interfere but little with the judiciary of the State, and legislated none of the judges off the bench.

In the winter of 1865, by appointment of the Court of Appeals, he served as judge of the Baltimore County Court during the long illness of Judge Emery. Nominated in 1867 for Judge of the Court of Appeals, he was defeated by the late Judge Bartol in the tidal wave which swept over the State in that year. During the period immediately following the war, Mr. Stockbridge devoted himself assiduously to the practice of his profession, and, among other important engagements, was for a time counsel for the Freedman's Bureau, and by the *habeas corpus* cases, which Chief Justice Chase came from the Supreme Bench to hear and determine, frustrated the attempt by means of the apprentice laws to virtually enslave thousands of colored children. It was during this same period, when Governor Swann sought to change the entire police board of Baltimore, that Mr. Stockbridge, as counsel for the Republican board, by his conservative

course contributed materially to averting riot and bloodshed. After this he withdrew very largely from the political arena until 1879, when he was made chairman of the Republican State Committee, continuing in that position for four years. It was while occupying this position in 1882 that he managed the Republican share in the judiciary campaign of that year which proved so successful for the independent movement.

During these years of political activity his professional labors were no less engrossing, and the records of the Orphans' Court and trust records of the Circuit Court attest the confidence in which he has been held for the administration of large and intricate fiduciary affairs. For many years he was the first vice-president of the Maryland Historical Society and chairman of its committee on publication. From its start he served as president of the West Baltimore Improvement Association. He was one of the trustees of Howard University, Washington, D. C.; president of the Humphrey Moore Institute in Baltimore City, and the first governor of the Society of Colonial Wars, besides being actively interested in numerous organizations in this city.

In 1852 he married Fanny Montague, who, like himself, was descended from an old Puritan family in New England.

MASSACHUSETTS.

PELEG EMORY ALDRICH.

Peleg Emory Aldrich was born in New Salem, in the county of Franklin, Massachusetts, on the twenty-fourth day of July, 1813. He died at his home in Worcester, March 14, 1895. During this period of more than eighty years, his intellectual faculties had never ceased to broaden, his eager pursuit of knowledge had never faltered, his zeal for labor known no abatement, his enthusiasm in every cause, old or new, which makes for righteousness, never lessened.

His ancestors were sturdy New Englanders, descended from George Aldrich who settled in Dorchester, in 1635. From them he inherited, with a slight frame, a vigorous constitution, considerable powers of endurance, strong will, and great capacity for labor, so that while his physical appearance was neither powerful nor robust, his energy and elasticity enabled him to go through with an amount of work which, as his years advanced, seemed marvelous. His early education was obtained while attending, and, later, teaching the district schools of his native town. At the Shelburne Falls Academy his education was carried on until he met an opportunity to teach in a school in Tappahannock, Virginia, in 1837. There he remained, continually carrying on his classical studies and beginning to read law until he entered the Harvard Law School, in 1842. After obtaining his degree from that department of the college he returned to Virginia where he was admitted to the bar in 1845. Soon returning to Massachusetts, after further study in the office of Chapman, Ashman & Morton, at Springfield, he began practice in Petersham, in 1846. The old legend, still remembered by lovers of those quiet villages on their hills, shaded by oak and chestnut, and beaconed by October's maple, is "Barre for beauty, Petersham for pride." Of the two, Judge Aldrich chose the former and set up his staff of rest in Barre, and there practiced his profession, edited the *Barre Patriot*, and entered into the politics of the town. In 1854, after having served in the Constitutional Convention of 1853, and having been appointed District Attorney for the Middle District covering the large county of Worcester, he removed to the city of Worcester. For twelve years as district attorney he discharged the duties of the office with ability, integrity and courage, meeting at the bar, during his first terms, vigorous and able advocates, eager and competent to try the mettle of the new aspirant for professional honor. In 1854 he formed a partnership with the late Peter C. Baron, remembered by the present generation as the venerable Nestor of the bar, and that partnership, a union of labor,

friendship and mutual respect, continued until Judge Aldrich went on the bench of the Superior Court in 1873. The position of justice of that court he accepted at the time partly with a feeling that his labors at the bar would ere long exhaust his strength. But for twenty-two years he gave ample proof that his powers were by no means waning. He continued an enthusiastic student of the law to his latest day. Equity jurisdiction being conferred on the Superior Court in 1883, he especially turned his attention in that direction, and prepared a manual of equity practice and pleading, which has proved an authority among Massachusetts practitioners. His mastery of succinct, vigorous English, was a keen delight to those who listened to his charges to the jury. He looked upon the law as a means of doing justice between party and party, and was earnest in applying his stores of learning to that end.

As an advocate, he was upright, tenacious, powerful in argument before juries, especially when he had to deal with what seemed to him chicanery, fraud or moral turpitude. These characteristics he brought with him to the bench, and it was a saying that any fraudulent practice or unveracious witness found no mercy in his court. But his service at the bar and on the bench did not confine his powers. He served his city as Mayor in the first year of the Civil War, and then and since his death, soldiers in various sections of the United States have spoken of his kindness and care for them when they were serving at the front. He made his mark in the Legislature in 1866 and 1867, and on the Board of Health for three years before he became Judge. His membership in various historical, literary, educational and charitable organizations, was a source of delight to him and of advantage to them. Especially as one of the Council of the American Antiquarian Society, and as President of the Trustees of the Worcester Polytechnic Institute, his tastes for scholarly pursuits were gratified, and his sagacity, experience, and wide reading were of value.

His religion was a part of his intellectual as well as spiritual life. He was a righteous man by nature and principle, and something of a theologian by nature and training. The latest object of his care and devotion was the building of a new edifice for the church of which he was a member. He lived to see the success of the enterprise assured, but not to enjoy the fruits thereof.

In all that he did he was thoroughly, dreadfully in earnest. If such a one's manners partake of the austerity of the Puritan, it is grand to know that his labors share the Puritan's reward.

In 1850 he married in Barre, Sarah, the daughter of Harding P. Woods, who, with their three daughters, two sons and seven grandchildren, survive him.

THOMAS WILLIAM CLARKE.

Thomas William Clarke, the son of Calvin W. and Ann R. (Townsend) Clarke, was born in Boston, Massachusetts, December 1, 1834. He was descended on both his father's and his mother's side from old New England stock, the names of his ancestors on each side, Clarke and Townsend, appearing prominently in the early records of the Massachusetts colony, and achieving distinction also in the later generations. His father was a native of Roxburg—now Boston—and was a well known merchant in that city, repeatedly filling important municipal as well as business positions, and dying in 1879 at the age of 83. His maternal grandfather, Dr. David Townsend, was a pupil of Dr. (Gen.) Warren, and one of the surgeons at the battle of Bunker Hill, becoming later Gen. Gates' chief surgeon at Saratoga, and director general of hospitals during the Revolution, and was afterwards elected president of the Society of the Cincinnati.

The subject of our notice was educated at Chauncy Hall School in his native city, and graduated at Harvard College in the class of 1855, of which Philips Brooks and Judge James

T. Mitchell of the Supreme Court of Pennsylvania were also members. His natural aptitude for scientific study and research led him during his university career to pursue these with quite as much industry as the prescribed routine of college studies, which was then much more strictly limited than now and excluded that choice on the part of the student which a more liberal policy now fosters. But, while Clarke did not achieve mere college honors, he was no inattentive student, and he also acquired, beyond the measure of the regular courses, a very unusual and practical knowledge in several departments of science, notably mechanics, optics and chemistry, and much beyond the average of his class.

He was admitted to the bar of his native State in 1857, and soon acquired a considerable general practice. He was elected to the office of Commissioner of Insolvency for three years before the breaking out of the war of the Rebellion. In 1861 he was among the earliest to enter the service. He raised a company called the Wightman Rifles, of which he became captain, and which took part in the engagement at Big Bethel, June 10, 1861, and after some months of active service was incorporated with the 29th Massachusetts Regiment. He served throughout the war with a gallant record in Virginia, Louisiana and East Tennessee. He filled various positions of responsibility the last of which was that of Adjutant General in the Second and Third Brigades, First Division, Ninth Army Corps, and received at the close of the war the appointment of Colonel.

He returned to the bar in Boston at the termination of his military service, and was admitted as a counselor of the United States Circuit Court for the first Circuit on March 21, 1866. At first he engaged in general practice and became counsel for the Highland Street Railway at its organization, when this department of law was mainly new and novel, and important questions arose and had to be met with but little aid from precedent. His accurate and inventive mind, however, found much more congenial scope in the department of patents, copyrights and trade-marks, and to these he soon devoted himself

exclusively, securing an extensive and valuable business, and his name is associated with several of the leading cases in each of these branches. He was admitted to practice in the United States Supreme Court on October 27, 1874. He continued in active practice almost to the day of his death, February 17, 1895.

His mind was quick, penetrating and singularly free from vague speculation, and while taking in with intuitive discrimination all the sides which the case might suggest, he never failed to seize the salient point. This was the more striking as he was by nature a student, and keenly interested in curious inquiry in all departments of knowledge and not in the beaten paths alone. He had a scholar's love of thorough investigation, and the depth as well as the width of his information was very remarkable. But few subjects could be presented in which he was not well informed, and in many he had the knowledge of a specialist.

A genuine and racy sense of humor, a ready wit, united with a rare sweetness of nature and unvarying kindly consideration for every one with whom he came in contact, went to make up a personality that endeared him not only to a large circle of friends, but to all whom he met.

He married Miss Eliza A. Raymond, of Boston, whose lamented death followed his own after not many months. Three children (one son and two daughters) survive them.

JOSHUA N. MARSHALL.

Joshua N. Marshall was born May 22, 1830, in the town of Dracut, Massachusetts, which is near Lowell, and died in Lowell on March 2, 1895.

He was the son of Simeon and Jannette Marshall, and traced his ancestry back to the early Puritan stock. He graduated from Amherst College in 1853, and studied law in Hopkinton, where, after his admission to the bar in 1855, he practiced law for about a year, after which he removed to Lowell where he

practiced law continuously until the day of his death. In 1863 and 1864 he was a member of the Massachusetts House of Representatives, and from 1867 to 1869 he was a member of the State Senate. He also was a member and chairman of the State Board of Harbor Commissioners from 1869 to 1874, and was City Solicitor in 1872. Since 1886 he was a member of the Board of Visitors of Andover Theological Seminary. For nine consecutive years he was a member of the Executive Board of the Massachusetts Home Missionary Society. He has also served as a Director of the Merchants National Bank of Lowell, and at the time of his death was a Director of the Kitson Machine Company, and a Trustee and Clerk of the Rogers Hall School. As a lawyer, he was identified with many very important cases. He was once offered by the Governor of his State the appointment as a Justice of the Superior Court, and at one time was offered a Judgeship of the United States Circuit Court. He was a close and intimate friend of the late General Butler, with whom he was associated in many important cases, and by whom his judgment on questions of law was often sought.

His practice in the courts was of the highest character; he never allowed his ambition to swerve his better judgment, or in the least to detract from strict honor and integrity.

One of the Lowell papers, speaking of him, says: "Able in his profession, upright and honorable as a citizen, kind and indulgent as a parent, his death removes one more of the worthy citizens whose sterling character was a substantial monument to his memory."

ALONZO BOND WENTWORTH.

Judge Wentworth died at his home in Dedham, Massachusetts, on the 12th of July, 1894.

He was born at Somersworth, New Hampshire, March 28, 1840, coming from the well-known family which furnished New Hampshire with three of its early governors. He was of

revolutionary stock. His father was Amasa Wentworth, whose great-grandfather, grandfather, Amaziah, and two great uncles took part in the battle of Bunker Hill.

Mr. Wentworth's mother was Susan, daughter of Col. Ebenezer Ironell, of Sanford, Maine. He received his early education in the common schools, but he quickly outstripped these limits and was sent by his parents to Philips Exeter Academy to prepare for Harvard. He decided to take the legal course and entered the University Law School in 1862. He was graduated with honors, taking the first prize offered to the members of his class (1860) for the best dissertation. While at the law school he served as librarian, and assisted Hon. Joel Parker in the preparation of several law books. He was admitted to practice at the Middlesex County bar in 1862. He represented Cambridge in the General Court in 1870 and Dedham in 1884. From 1885 to 1891 he was one of Norfolk County's trial justices.

In 1890 he was appointed by Gov. Brackett District Attorney of the southeastern district of Massachusetts.

He served as a member of the Boards of Selectmen and Assessors, Overseers of the Poor and on the school committee, and had been moderator of the town meetings for many years. He was considered one of the best presiding officers, having an unusually clear conception of law and procedure. He enjoyed a large and varied practice in the Federal courts. As a lawyer he was the peer of any jurist of the State.

Several articles on the construction of the constitution have given him more than a local fame. In 1888 he edited two volumes of "Lindley on Partnership," part of the American Law Series. Judge Wentworth was a veteran of the war, having served in a New Hampshire regiment as a musician.

He was a charter member of Constellation Lodge of F. and A. M., and at the time of his death was *Generalissimo* of Cyprus Commandery, Hyde Park. He delivered an able address before the Bostonian Society, of which he was an enthusiastic life member, in 1887 upon "The Development of

the Federal Constitution." He represented that body at the Centennial Exposition at Philadelphia in 1876.

Mr. Wentworth was one of the leading and most popular citizens of Dedham, and held the esteem and friendship of a very large circle of acquaintances.

The District Attorneys' Association, of which he was one of the founders, sent to the Superior court at Dedham resolutions in his memory, incorporating the following: "He was a friend and associate whose presence was always a pleasure, whose advice and counsel were always of value, and whose character was always to be respected. As a public officer he was able, conscientious and just in the performance of his public duties, and ever upheld the honor and credit of the commonwealth."

He leaves a widow, three sons and four daughters.

"With happy heart and clear uplifted eyes,
He, hoping all, the wondrous race began."
* * * * * * *
And angels, where high Heaven begins,
Cried out, exultant, "Lo! he wins!"

MICHIGAN.

WILLIAM HENRY HARRISON RUSSELL.

Mr. Russell was born among the beautiful lakes and hills of Livingston county, Michigan, in November, 1840, and named in honor of General William Henry Harrison, that year elected President of the United States. His parents were born in New England, his mother, Jane Althea Knox, died in 1850, and his father, William S., in 1870.

On the farm of his father he received a common school education. At the opening of the War of the Rebellion, as a bright and promising student, he was in attendance at the Union School at Ypsilanti, when, like thousands of others throughout the country, he promptly enlisted under the first call for volun-

teers for three months' service. Upon the expiration of the term, after participating in the first Battle of Bull Run, his next elder brother, DeWitt Clinton Russell, having enlisted for three years, and his other brother being in the government service at Washington, Mr. Russell desired to remain near the old homestead, on account of his enfeebled father and motherless sisters, and entered the law department of the University at Ann Arbor, from which he graduated with credit.

He then went to Memphis, Tennessee, and commenced practice with Mr. Poston, a distinguished lawyer of that city, and as a young attorney, very soon attracted favorable consideration in his profession, especially in connection with cases arising from the military situation.

Shortly after the close of the war he established himself at St. Louis, Missouri, where he soon became prominent in politics and as a lawyer. Here he remained for about ten years, having in the meantime been elected to the Legislature of the State, where his record was brilliant. His business in St. Louis was large, many of his cases being handled by him with marked skill and success in the highest courts of that State and in the Supreme Court of the United States.

His health failing, however, at the point of his best promise, upon the recommendation of eminent lawyers of New York City, including ex-Governor Tilden, he left St. Louis and removed to the Metropolis of the country, as affording a higher and broader field for the exercise of his ability and the preservation of his health. Mr. Russell at once took a high position, but as he was an intense worker upon all cases, and business entrusted to his charge, his removal to New York did not bring the restoration to health which he anticipated. During his five years' sojourn there he was continually employed in important litigation, and came into national notice as a political speaker and desirable orator for social occasions, and scientific and educational purposes.

From New York, principally for his health, he went to California, where he became the special counsel of the Inter-

national Company of Mexico, and other corporations, attracting there the same attention and consideration that characterized his career elsewhere. In 1889, finding, after all, that the climate of California was not suitable to him, he concluded to return to the State of his birth, and in 1890 took an office with his brother, F. G. Russell, in Detroit. During the greater portion of his residence there several cases of magnitude in the State and United States Courts were entrusted to his successful management, but for the reasons stated, because of his literary toiling and persistent work upon his cases, his physical strength was not equal to the demands upon him, and for the last two years, to the time of his death, he was more or less incapacitated for work in the profession which for thirty years he labored so meritoriously to distinguish and embellish.

He died at the place of his nativity July 31, 1895, gently, and conscious to the last second, only regretful that he could not round up and complete the career so masterfully entered upon. Never having married, he left surviving him only one brother, F. G. Russell, of Detroit, and two sisters.

He was a Mason of high degree, a member of Kane Lodge, New York City, and was buried under the auspices of a little lodge of the Masonic Order at Brighton, Michigan, in the village burying ground, on August 2d. He was a member of other orders and societies and of the American Bar Association.

Mr. Russell was peculiarly careful in the preparation of all of his cases and investigation of every legal question submitted to him; he was tenacious and forcible before the courts in his arguments, eloquent and powerful as an advocate before juries, and most entertaining, convincing and popular as a general orator.

He was a great reader, a careful scrap gatherer of choice items, and extensive contributor to the leading publications of the country, he had traveled largely at home and abroad, and his brain was a great storehouse of brilliant thought and valuable information. He was broad minded, kind hearted and especially fond of music.

His last business request was, that his large and select collection of miscellaneous books, together with portrait and several valuable steel engravings, should go to the village of Brighton, in his native county, towards the founding of a public library.

NEW HAMPSHIRE.

CHARLES E. BATCHELDER.

Charles E. Batchelder, late of the New Hampshire Bar, was born in North Hampton, New Hampshire, in 1849. His father was the ninth of thirteen children, and Judge Batchelder was the youngest of seven.

He was a direct descendant of the Rev. Stephen Batchelder, a man celebrated in the early colonial history of New England, and of this latter person it may be interesting to narrate, that he was an Englishman, who in 1632, thirteen years after the first settlement in New England, emigrated from his native land at the age of seventy-one, locating first at Lynn, then at Salem, later at Ipswich, then at Yarmouth, later still at Amesbury, and in 1638 at Hampton, New Hampshire, where his family and descendants have ever since lived.

In 1654 this remarkable individual, at the age of ninety-three, owing in part to his life of trial in America, and in part to the overthrow of the Royalists by Cromwell and the dis-establishment of the English Church, returned to England and died there at Hackney in 1660. It will thus be seen that this common progenitor of the Batchelder family possessed remarkable self reliance, energy and longevity.

The subject of this brief sketch was naturally imbued from his earliest years with an earnest desire to search diligently into his fading ancestral traditions, and he was inspired by their teachings.

We find him as a boy finishing his common school education in his native town, earnest, untiring and industrious. Later

he attended Philips Academy at Exeter, and during his stay there walked to his home and back at the end of every week, a distance of some twelve miles. His preparatory work at Exeter was marked by attention and strictness in little things as well as in those of more moment.

Leaving Exeter, he entered Harvard College in 1869, taking the full academic course. Here, obliged to confront the necessity facing every self-made man of making his own way unaided, he gave up all outside recreations and attended to making the best possible use of his opportunities. During his senior year he taught school in various places, and at the close of his course he attended for a time, the Harvard Law School, and then entered the office of Hon. John S. H. Frink of Portsmouth, New Hampshire, staying there two years and a half, finishing his legal studies with the Hon. William Gaston of Boston.

He was admitted to the Suffolk Bar in 1876, and began the practice of law in Portsmouth the same year.

Very shortly thereafter he was appointed Judge of the Police Court of Portsmouth, and in 1882 he became associated in business with Mr. Frink, this association ending only with his death.

He was prominently identified with the educational and charitable interests of his city, was a trustee in many local organizations; and was president of the Portsmouth Savings Bank from 1893.

He was prominently mentioned as a Republican Congressional nominee from the first New Hampshire District in 1888, but his health forbade, and his natural disinclination made it repugnant to him to seek office. It is especially noteworthy that all positions to which he was appointed or elected, he held continuously to the time of his death.

As a lawyer, Judge Batchelder was learned, honest, frank and industrious; sham and hypocrisy he abhorred, dodging the question with him was impossible; he met every issue fairly and promptly. No case intrusted to him ever failed of proper

preparation, no question propounded to him was answered by mere words; his growth, mentally as well as naturally was well proportioned and thorough, there was no retrogression; there was no pause, but a steady onward and upward development that was a source of inspiration to those to whom he was a model.

Debarred by ill health from very active court practice in his later years, the best glimpse of him could not there be had. All knew his unfailing good nature and his ever ready disposition to do a brother lawyer a favor. It was with office work that he was obliged then to be content, and that he did this well was evidenced by the abundance of it that he had.

As a municipal judge he possessed a keen insight and an ability to go to the root of the matter. Rarely was an appeal persisted in.

As a man he was exact, methodical and punctual; he believed that every person should have some outside pursuit to be followed apart from his regular calling, as a means of recreation. His recreation was a study of early New England traditions and history. When confined to the house for more or less extended periods, he would delve into some unsettled question of Colonial history and write out his conclusion. He was a frequent contributor to the New England Historical and Genealogical Register. His taste in this direction found further gratification in the preparation of a history of his own family from earliest traces of it to be found, which he had in preparation for the press. In a vain search for health, he made several trips abroad, spending most of his time in the southeast of England, browsing about in his ancestral acres, and enjoying, by himself, those days of three hundred years ago.

No reference to Judge Batchelder is complete which does not make mention of a home life, so pastoral in its simplicity, so fond in its associations, so mutually interdependent, as was his. No favor was there too small to be asked, none too great to be granted. No outside function was allowed to interfere with it, none could interfere with it.

Judge Batchelder was a man who could never grow old; he was a friend to the young man, and among the many who regretted his untimely decease, none were more sincere in their grief, none felt his loss more keenly than those young men who were fortunate enough to have walked within the circle of his influence during his life, and who, now that he has gone, cherish the memory of this man of whom none ever said aught but good.

NEW JERSEY.

JAMES FLEMMING.

James Flemming, the oldest son of James Flemming, Senior, and grandson of Isaac Edge, was born in Jersey City, January 24, 1832. He received an academic education, attended first the old school in Sussex Street, and afterwards the High School of New York City, and continued his course under the kindly eye of Rev. Dr. Barry in the study of the classics. He prepared to enter the University of New York, but instead took up the study of medicine under Dr. Clark, which he pursued for a short time and abandoned for the law. He entered the law office of Edgar B. Wakeman, and was admitted to the bar as an attorney at the February term 1855, and as a counselor at the June term 1858. Upon coming to the bar, he entered into partnership with his late preceptor, which continued for some years as the law firm of Wakeman & Flemming. He then formed a partnership with Washington B. Williams, which lasted for some time, and during the latter part of his life he has conducted his law bnsiness alone, taking into partnership Joseph Anderson, Esq., just previously to his death.

The first distinction which Mr. Flemming won after he came to the bar was the defence of Margaret Hogan, who was indicted for the murder of her infant child. John P. Vroom was associated with him, they having been assigned by the court to defend the woman. Mr. Flemming brought into this

cause all of his youthful ardor and zeal. He was untiring in research for every scrap of evidence which would tend to throw light on the woman's innocence, and so able and thorough was the defence, that the woman was acquitted, and her counsel were highly commended by the public press of that day.

In Mr. Flemming's riper years he engaged in the defence of Jennie E. Smith and Robert D. Bennett, indicted for the murder of Mrs. Smith's husband. Before the Coroner's jury Mr. Flemming and his old preceptor, Edgar B. Wakeman, appeared for the prisoners, and upon their defence upon the trial he had associated with him Messrs. Charles H. Winfield, William I. Hoffman and Gilbert Collins. This was one of the most celebrated murder trials of modern times. The evidence was entirely circumstantial, and the defendants were convicted of murder in the first degree, and were sentenced to death. Money was not at hand to print the record, and prepare it for the Court of Errors and Appeals; at the last moment, Rev. Spencer M. Rice came to their rescue; he got a reprieve from the Governor just as they were about to be executed, interested Miss Emma Abbott, who gave a public concert to raise funds, and by the efforts of the press, Dr. Rice secured the money to defray the expenses of the appeal. The verdict was set aside on the exception taken by Mr. Flemming, and a new trial granted, and upon the second trial the defendants were acquitted. The litigation lasted over 18 months, and Mr. Flemming gave a great part of his time to this trial for that period without fee, as did the other gentlemen engaged.

It can be truly said of Mr. Flemming, that in the defence of a person on trial for murder, no fee, however large, could incite him to greater zeal and energy in the defence of the case than the life of the prisoner placed at the bar of the court, and in both of the murder trials in which he has been engaged, he has been successful in securing acquittals.

Mr. Flemming had a large and varied practice, and the reports of New Jersey will show that he was a successful practitioner. He also took an active part in all public movements

in Jersey City. He was a director in many corporations, and President for some years of the Cosmos Club, a literary society of high rank.

Mr. Flemming was admitted to the membership of the American Bar Association at its meeting at Saratoga Springs, in 1881, and continued his membership until the close of his life, October 1, 1894.

Mr. Flemming was a man of broad culture. He was fond of art, and in his youth had painted some clever pictures. He had with his family spent considerable time abroad, and was correspondent of the Evening Journal, and his European letters were of great interest. But his highest and most endearing traits were displayed on the social side of his character. He was greatly devoted to his family and friends; gave splendid entertainments, and was never more happy than on these occasions.

He married Sarah Totore, daughter of the late Robert Totore, of New York City, and she, with his three children, survive him.

ANTHONY Q. KEASBEY.

Anthony Q. Keasbey, of New Jersey, died suddenly at Rome, Italy, on the fourth of April, 1895, in the seventy-second year of his age.

Mr. Keasbey was one of the original members of the Association, and attended its first meeting, and has been one of the Local Council for New Jersey since 1880. He was regular in attending the meetings of the Association and took an active part in its proceedings.

He was intensely interested in every effort of the Association to promote efficiency and simplicity in the law and its application to the administration of justice. He was himself engaged in a very active practice throughout his professional life of nearly fifty years. With a profound knowledge of legal principles, he studied them always with reference to their

application to the affairs of men with which lawyers have to deal.

His practice had given him experience in the application of the law to affairs of many different kinds. After being graduated at Yale College, in 1843, he studied law in Newark with Cortlandt Parker, and began his practice in his native town, Salem, New Jersey, attending the circuits in all the southern counties of the State. In 1853 he removed to Newark, and, in partnership with Mr. Parker, he soon acquired a large practice in the common law courts and in the Court of Chancery. In 1861 he was appointed, by President Lincoln, District Attorney of the United States for New Jersey, and held this office for twenty-five years. During the first years of his service he had to deal with the important questions arising out of the conduct of the war and the enforcement of the revenue laws, and took an active part in the exposure and defeat of a widely extended conspiracy against the whiskey tax. As a prosecutor he was always just, but vigorous and inflexible in the prosecution of those that he believed to be guilty. He was very skilful and successful as an advocate before a jury, and used his powers effectively in the United States District Court. During the latter part of his term he was successful in exposing and bringing to punishment the persons engaged in a conspiracy to defeat the will of Joseph L. Lewis, of Hoboken, who left a legacy of one million dollars to the Government to help to pay the debt incurred in the war, and after a long litigation the whole sum, less only the interest, was paid into the Treasury.

During all this time he carried on an extensive and varied private practice, and was the legal advisor and leading spirit in many important business enterprises. He was especially at home in the Federal Courts, both in New Jersey and in Washington, and showed great ability in dealing with patent cases and constitutional law. He devoted himself, however, to no one branch of the law, but in whatever direction his clients required his services, he was able and willing to give them,

working with enthusiasm and untiring energy, whether it was in the business of the office, the study of a question of law, or the trial or the argument of a case.

As an advocate he showed great skill in the cross-examination of witnesses, and in the management of a case before a jury, he grasped easily all the facts of a complicated case, stating them with remarkable clearness and precision. He spoke simply and easily, and with the force of sincere and earnest conviction engaged and held the attention of the court or jury. With his clear knowledge of the principles of equity, and his true instinct for their application, he was especially persuasive as an advocate before the Court of Chancery, and delighted in the argument of cases in equity.

He was a good political speaker, and often used his powers on behalf of the Republican party, of which he was from the beginning a devoted adherent. He delivered several thoughtful orations on important public occasions, and was graceful and happy in after dinner speeches.

He was a man of broad culture and extensive and varied knowledge, keenly interested in literature and science and in social and political affairs. Courteous, genial and sympathetic he was loved by all who knew him.

He married successively two daughters of Jacob W. Miller, United States Senator from New Jersey, and left six sons and two daughters.

NEW YORK.

EDGAR MAYER JOHNSON.

Edgar Mayer Johnson was born November 5, 1838, at Cincinnati, Ohio, of Jewish parents. He attended the common, high and law schools of that city. His precocity and mental vigor were unusual. He passed the examination for the bar when only seventeen years old, having to await his majority for admission. He was shortly afterward elected

Prosecuting Attorney of the police Court of his native city, which office he filled for two years with marked ability. Seeing the disadvantages and limitations of criminal practice, he abandoned it; although his high reputation and capacity in that branch of the law led to his occasional appearance in important criminal cases all his life. He served for a short time as second lieutenant of the Sixth Ohio Volunteer Infantry. His firm, Jackson and Johnson, secured a large share of the important litigation which arose during and after the war, and in 1866 induced George Hoadly, then one of the judges of the Superior court of Cincinnati, to resign and join them. One of the inducements was a guaranty of $10,000 a year, double the judge's salary. This guaranty, reluctantly accepted because of the supposed risk, was always a standing joke, because Hoadly, Jackson and Johnson became at once one of the leading firms in the West. Afterward as Hoadly and Johnson and then Hoadly, Johnson and Colston, the firm carried on probably the largest practice in Ohio until 1887 when Mr. Johnson, with Governor Hoadly, entered the firm of Hoadly, Lauterbach and Johnson in the city of New York, which continued until Mr. Johnson's death, December 10, 1893.

The eminent success of all these firms was largely due to Mr. Johnson's wide acquaintance which brought business, and to his fine tact and capacity for disposing of it. He had the quick perception, unfailing sagacity, power of rapid and correct analysis and fullness of resource which his race has so often furnished to the profession. While he could not be called a learned lawyer, he was well versed in legal principles and could apply them with rare promptness and effect. His retentive legal memory enabled him, with little apparent effort, to keep well informed in all matters relating to the profession. The writer of this sketch has often been surprised by letters from him calling attention to recent decisions bearing on cases in which Mr. Johnson had only a friendly interest. He had the rare faculty of absorbing law from the legal atmosphere in

which he moved, and quickly supplying his needs as they arose by well directed study.

There has seldom been a more brilliant or effective display of the varied powers of a lawyer in research, advocacy, tactics, and mental and physical endurance than Mr. Johnson's in defending what are known in Ohio as "The Doughty Over-issue Cases," involving the question of corporate liability for fraudulent stock certificates.

Mr. Johnson had great power of statement and a clear, forcible style of argument. There never was any doubt about what he claimed or why he claimed it. He had a keen sense of humor, a ready wit and the faculty of apt illustration as well as of ridicule and invective, but his nature was so frank and wholesome that he seldom gave offense save when offense was due. He could say the boldest and most surprising things, and point his argument by anecdote or illustration without offending the dignity of others or losing his own.

He had the hearty hatred of subterfuge and sham which bold, outright natures like his always have. He never lied or tolerated a lie, never deceived nor failed to resent deceit by indirection. He was the ideal of generosity. Hearing at his club one night expressions of sorrow for an acquaintance who had come to want, he said, "How much are you all sorry for him? I am sorry so much," laying down a fifty dollar bill to which those present could not refuse to add their contributions. He gave away more money than many lawyers make, and did it with a hearty promptness which doubled the gift. And he gave to every young lawyer who had ever been connected with him or studied in his office what was better than gold—advice, encouragement and opportunities, often going out of his way to give them.

Such failings as he had touched only himself. He had no truer friends than his clients and his partners, and no human being could ever truly say Edgar M. Johnson had done him wrong by act or omission. He was admirably fitted to shine in public life, but never sought to enter it. He was neverthe-

less nominated for Lieutenant Governor of Ohio by the Democratic party, running far ahead of his ticket, though failing of election. But he took a deep interest in public affairs and never failed in his duty as a citizen. His power to aid or oppose was felt in many an important public matter.

Take him all in all he was one of the most brilliant, versatile, original, forceful and successful lawyers of his day. He was manly, sincere, courteous, kind and just, free from all pretense and affectation, and loyal to his friends and his convictions. A student in his office in the long ago, paying this tribute to his memory, has merely expressed the common sentiment.

EBEN CARLTON SPRAGUE.

There died at Buffalo, on the 14th day of February, 1895, Eben Carlton Sprague, a lawyer who impressed his memory upon the bar of Erie County, in the State of New York, by his eminent attainments, by his right living, by his genial, courteous manner, and by his ideal death.

Mr. Sprague was a native of New Hampshire, where he was born November 26, 1822. He became a resident of Buffalo in 1826, and witnessed her growth from a straggling village to a great city, and during that time he was part and parcel of her, and helped, in his way, to make her what she is now. Mr. Sprague's parents were believers in good education as the grand foundation of success in life, and though at that early day Buffalo was away off in the wilderness, as it were, yet he was sent to Philips Academy at Exeter to school and thence to Harvard College, from which he graduated in 1843, and in 1893, Harvard honored him and evidenced her appreciation of his worth and wisdom by the degree of Doctor of Laws.

After graduation he began the study of law in the office of Fillmore & Haven, a distinguished firm, whose senior subsequently became President of the United States. He was admitted to the bar in 1846, and from that time, litterally down to the day of his death, he steadily, and most industriously pursued the practice of his profession.

He achieved eminence and success, and he managed the affairs of The Erie County Savings Bank, with its many millions of money; The Grand Trunk Railway; The Erie Railway; The Great Western Railway of Canada; The International Bridge Co., and other large corporations, besides numberless private interests, with signal ability and with the most scrupulous honesty. He never sought political preferment, but in 1876 was called upon by his fellow citizens to represent them in the State Senate, which he did to the satisfaction of every one.

He was an active citizen and took the most earnest interest in all things which tended to enlighten and elevate the people, and thus it happened that Mr. Sprague was called upon to fill the highest places in most of the educational, social and charitable undertakings in his city. For several years he was Chancellor of the University of Buffalo, President of the Harvard Club of Western New York, and of the Liberal Club, and of the Buffalo Club and the Buffalo Library, and he was active in The Charity Organization and the Civil Service Reform Club. He was a most graceful speaker and was always in demand to preside at entertainments of a social character.

Unlike most lawyers he found time for literary pursuits, and there was no man at the bar of Buffalo who had read more widely of art and science and poetry, or who was better versed upon the general topics of the day, or better able to impart his knowledge in beautiful diction.

As a lawyer he impressed his hearers with his fairness and his justness. He did not attempt to win his case by abusing or belittling his adversary, but depended upon the equity of his cause and his sound construction of the law. He made no enemies and he had a host of friends. The young men loved him and they never feared him. His cotemporaries respected him as an opponent and they clung to him as a friend. He left his imprint on many a man, and by his good example exemplified the ease with which one may be a distinguished lawyer, a pure man, a brilliant companion, a skillful adversary, and a gentleman.

OHIO.

CHARLES CANDEE BALDWIN.

Judge Charles Candee Baldwin, who died at his home in Cleveland, Ohio, upon the second day of Februrary, 1895, was born at Middletown, Connecticut, December 2, 1834. His parents, Seymour Wesley Baldwin and Mary Candee Baldwin were both descended from early New England stock. When Charles was five months old they removed to Elyria, Lorain county, Ohio.

Seymour Baldwin was a successful merchant, and, having accumulated a comfortable fortune, returned with his family to Meriden, Connecticut, in 1847, where he remained nine years. Charles entered Wesleyan University at Middletown at the age of sixteen, and graduated, four years later, with the class of 1855. He entered directly upon studies in the Harvard Law School, graduating in 1857.

In March, of the same year, he entered the law office of S. B. and F. J. Prentiss, in Cleveland, Ohio, and was admitted to practice in that city in October, 1857. Remaining in the office where he studied, he was admitted in 1861 to equal partnership by the senior of the firm under the name of S. B. Prentiss & Baldwin. In 1867 the firm was dissolved by the election of S. B. Prentiss to the bench of the Common Pleas and the successive partnerships became C. W. Prentiss & Baldwin; Prentiss, Baldwin & Ford; and Baldwin & Ford, which latter was the style when, in 1884, Mr. Baldwin was nominated to the Circuit Bench, a position which he held to the time of his death, having been re-elected for a third term shortly before.

The following tribute to Judge Baldwin is paid by his associate, Hon. John C. Hale:

"Judge Baldwin's sound business judgment, his unswerving integrity, added to a thorough knowledge of law, combined to give value to his professional advice and to render his work in

the conduct of a trial of a contested case, efficient and successful. Not a few business men of this city remember with the deepest feeling of gratitude his professional advice, given them upon complicated business matters, whereby they were saved the trouble and vexations of long litigation; and still others, with a like gratitude, will remember the efficient aid given to them in cases where adjustment was impossible and litigation unavoidable. As a lawyer his advice was always conscientiously given, and his work faithfully performed. He never deceived a client or took undue advantage of an opponent. He was, in the true sense of the word, an honorable and efficient practitioner. As a Judge, his examination of cases was thorough and exhaustive. His conclusions were reached upon the facts and law involved in the case without the slightest reference to the parties to be affected by the judgment, the personnel of the counsel, or any outside influences whatever. He deserved, and I believe commanded, the confidence and respect of the entire bar."

Judge Baldwin's early practice was quite general, but later it was largely relating to banks, corporations, and the management of trusts. The noted case of Brown, Bonnell & Co., the great iron manufacturers of Youngstown, Ohio, who were compelled to go into bankruptcy, was argued by him by brief and orally several times in the Supreme Court of the United States. Many of Judge Baldwin's decisions are reported in the first nine volumes of the Ohio Circuit Court Reports and very few of them have ever been reversed.

In 1867, Mr. Baldwin's health broke down, and in the enforced partial suspension of his professional labor he devoted himself to local and general historical studies, achieving a wide reputation. The Western Reserve Historical Society of Cleveland, was organized in 1867, and is largely the child of his brain. For many years he was its secretary, and in 1886 was elected its president, an office which he filled up to the time of his death. It was through his untiring efforts that their valuable property was secured upon the Public Square.

He was the author of numerous historical monographs, while his early maps of Ohio and the West, illustrating Indian migrations, have been adopted in standard histories. In 1892 he received the degree of Doctor of Laws from his *Alma Mater*. Judge Baldwin had been a member of the American Bar Association from its organization in 1878, and a member of the Committee on Uniform State Laws since 1890. He leaves a widow (the daughter of his former partner, Charles W. Prentiss), and two children.

EDWIN P. GREEN.

Edwin P. Green died at his home in Akron, Ohio, on Sunday, December 23, 1894.

He was born in Gaysville Village, in the town of Stockbridge, Windsor County, Vermont, March 10, 1828.

His boyhood and youth were passed on his father's farm, and his early education was acquired in the district school of his native village. Later he attended the Bradford Academy, and subsequently himself taught in the schools of Haverhill and Littleton, New Hampshire, and Potsdam, New York. He began his legal studies under the preceptorship of Charles W. Rand, Esq., of Littleton, and completed them in the office of Humphrey, Upson & Edgerton in Akron. He was admitted to the Ohio Bar in September, 1853, and at once entered upon the practice of his profession. The next year he was elected Clerk of Courts for Summit County, and discharged the duties of that office for the six years ending in February, 1861. Immediately thereafter he resumed the practice of law in Akron, and continued it until he was elected in October, 1883, Judge of the Court of Common Pleas for the Fourth Judicial district, to fill the vacancy occasioned by the resignation of the Hon. Newell D. Tibbals. At the expiration of that term he was re-elected for the full term of five years. He occupied the bench until January, 1891, when he resigned. He again resumed his law practice and relinquished it only

when compelled to do so by his last illness. In 1864 he held by appointment the office of prosecuting attorney of his county, *ad interim*, during the absence in the military service of the country of the elected incumbent. He was deputy provost marshal for Summit County in the time of the Civil War, and also a member of the Congressional Military Committee. He was an incorporator of Buchtel College and a member of its board of trustees from its organization in 1870 up to the time of his death. He was a director and President of the Akron Library Association, and one of the grantors in the deed of transfer by which its library was vested in the City of Akron for the free use of the public. Subsequently to this conveyance he was a member of the Board of Control of the Akron Public Library, and for three years its President. For several years he served as one of the school examiners for Summit County and the City of Akron. He was a member of the American Bar Association, and for a considerable time the Ohio member of the General Council. He was President of the Ohio Bar Association for the year 1887.

Judge Green was twice married; to Isabella M. Moore, of Littleton, New Hampshire, December 31, 1855, who died March 16, 1869, and to Elizabeth A. Moore, her sister, who survives him. Three children were the fruit of the latter marriage. two of whom survive him.

The environment of Judge Green's boyhood and youth—the conditions upon which he entered upon active life shouldered its burdens and undertook its work—were calculated to make a *man* of him—robust, self-concentred, symmetrical.

The legal mind found in the New England law office the complement of the New England academy, and gravitated thither by the principle of natural selection. Here both preceptor and student felt the energizing and quickening influences of that marvel of customary jurisprudence which sprang warm and spontaneous from the daily wants of our rude ancestors, the Anglo-Saxon people—the common law of England—supplemented and enriched by the common sense of New England,

condensed into wholesome usage or crystallized into the orderly forms of statutory enactment. But the New Hampshire law office contained no *mere* lawyer with all the dwarfing and narrowing tendencies which the name implies. Not satisfied with the husks of precedent nor content with the text-book or adjudicated case, its occupant explored with effect all the cognate fields which yield in their season the fruits of informed patriotism and responsible citizenship.

Through these gates Judge Green entered upon the larger life of his adopted State, casting his lot with New England's most richly dowered daughter, the Western Reserve of Ohio. His patrimony was diligence, integrity, intelligence, sobriety, courage, correct personal habits, self-control, a cultivated and quickened moral sense. He came

> "Lord of himself, though not of lands,
> And having nothing, yet had all."

As a public officer he was painstaking, prompt and accurate in duty, accomodating to those for whom he transacted business, and urbane to all with whom he had to deal. As a counselor he was sagacious, ready to defer to any well-grounded opinion of others, cautious in advancing his own, and advising no line of conduct all the consequences of which he could not forecast with reasonable certainty.

At the bar he was industrious in the preparation of his cases, cogent in presenting them to court or jury, clear in analysis, skillful in marshalling facts and arraying authorities, fertile in expedients, not apt to be disconcerted by any unlooked for tactics of his adversary, unwillingly indulging in adverse criticism of men or motives, but not hesitating to do so if the occasion were fit, tenacious of his client's rights and admitting no defeat until every weapon in his great armory of legal resource had been exhausted, but then accepting it with what cheer he might. He disliked to waste his own time, or that of others, by tedious examination or cross-examination of witnesses when no good end was to be subserved thereby.

He was not eloquent; he never pretended to be. But when he had finished his client's cause before the jury, all had been said that could profitably be said, and, generally, it had been well said.

It is not to be claimed for him, as Wirt said of Sir Matthew Hale, that—he "sat upon the bench a descended God," but his cast of mind was judicial, and he had an infinite capacity for work. He was inclined to tread strictly along the narrow way of precedent, as being the path of safety and peace. He endeavored to look at a cause on trial before him from every rational point of view; and while the record might be spotted all over with exceptions, yet when the case was finally given in charge to the jury, counsel never felt aggrieved because his instructions were not the fruit of patient and exhaustive research, and fairly presented, in intention if not in fact, or because he had invaded the province of the jury by taking unwarranted liberties with the facts submitted to them. If at some time, or with some men, he manifested impatience of further argument, it doubtless was because at such times he was racked with bodily pains which usually he bore with fortitude, or because it was given to him to see things far more quickly and clearly than were those men who undertook to present them to him. He often said—and it is believed he said truly—that upon the bench he had no pride of opinion as such, and no ambition but to be right; and that, if counsel thought him in error, his wish was for them to have the courage to cause him to be set right by the reviewing courts.

As a citizen and a neighbor, he was public-spirited, kindly, tolerant of the views of others, sympathetic, just. He never sank the man in the magistrate, and sometimes his tenderheartedness interposed its shield of mercy between the wrongdoer and the literal demands of justice. On such occasions he preferred to be the American father rather than the Spartan lawgiver or Roman praetor.

Under affliction he was patient, cheerful and self-denying. Like heaven-born charity, he was ready to hope all things and

to endure all. For years he walked in the shadow of the summons which at last came to him in mercy, but it cast no shade upon his daily life.

Like others, he had his ambitions, and they were not unworthy ones. Next to being the manly man, the upright citizen, the affectionate husband, the tender parent, the firm friend, the incorruptible magistrate, he was ambitious to be considered, and to be, a good lawyer, well equipped for the many-sided duties of his calling and well read in its literature. He loved to see the sages of the law—living still in the printed page—looking down upon his labors from their russet vestments, and speaking with the voice which is the world's harmony. He had small charity for those practitioners who follow the profession as a trade or handicraft, and often reprobated them with Theodore Parker's name of "mechanics-at-law." In his contemplation, it was the most elevating and satisfying of all the ethical sciences.

This tendency of mind carried him forward to an acquaintance with general literature, and especially with that which contends for men's rights and enjoins the performance of the correlated duties in all walks of life; and the judiciously selected books, upon these and kindred subjects, in the Akron Public Library bear witness to his efforts in this behalf while he was a member of its Board of Control, an form and educating power among us to-day not inferior in healthful influence to any.

Judge Green appreciated wit, and was not averse to perpetrating a joke upon others. This resulted not from a spirit of levity or love of mischief for its own sake; it was, rather, the natural and healthy effervescence of boyhood projected into mature life; in it the ingredient of malice was wholly wanting, and it left no sting behind. And so it was that he could serenely rest in the belief that "the laughter of man is the contentment of God."

Judge Green was singularly placable in disposition; he neither sought occasion for strife himself, nor encouraged quar-

relsomeness in litigants with whom he had to deal; if he ever had what John Randolph called "a talent for turbulence," he must have early lost it by non-use.

His innate love for children, and the intuitive trust with which children went to *him*, are sure evidences of his goodness of heart.

No man felt more keenly his own limitations, by which, in his estimation, he had been shorn of opportunity for usefulness in the world. Circumstances over which he had no control prevented his intimate acquaintance with the language and literature of the ancients. And it was matter of profound regret to him that his soul had never been illumined by the great lights of classical learning. He always thought—and no doubt rightly—that to this defect of education he owed a certain lack of smoothness of diction and some infirmities of style. To his youthful vision Dartmouth College was a veritable garden of the Hesperides, but with untoward fortune forever standing as the dragon to guard its golden fruit. How much and how bravely he did without it, we know. And he insisted, upon occasion, that the scholastic standard of admission to any field of intellectual endeavor, over which he had any control, should be high and not low, advanced and not reduced. He wished that advantages, which to his youth were denied, should be accorded to other youth without price, other than a self-respecting effort, and that they might reap in strength that which he had sown in weakness.

In him the imaginative faculty was not highly developed, and he felt that here, too, he was hampered in applying himself to a jury, and perhaps in influencing his fellow-men. His compensating reflection was that lack of leisure alone had stood in the way of its cultivation; that he had been too busy a man, that he had been obliged to concern himself too closely with the nearer duties of life, to soar in the higher realms of fancy.

There may be no impropriety in saying that the domestic relations of Judge Green—the ties which bound him to his family and his family to him—were inexpressibly precious and

tender. More than this ought not to be said here where words are to pass into the common property of public record.

Judge Green sprang from a long-lived ancestry, his frame was massive, his habits of life abstemious and his physical constitution rugged. He felt that nature had built him to last until he should have reached and passed the Psalmist's utmost span. And he would have preferred to live if life could have added commensurate scope for usefulness.

ISAIAH PILLARS.

Isaiah Pillars was born in Jefferson County, Ohio, March 17, 1833. His parents were Samuel and Charlotte (Potts) Pillars, the former of Pennsylvania, of German extraction, the latter of Virginia, of English descent. His early childhood was spent in Carroll County, he with his parents then moved to Risden, Seneca County, where his mother died when he was but eight years of age; from that time on, his life was that of a poor boy thrown amongst strangers. At the age of sixteen he commenced teaching school, and by industry and application, prepared himself for an academic course, beginning in the Seneca County Academy, then under the management of the late T. W. Harvey, an eminent educator and author, and subsequently School Commissioner of Ohio, and finishing at Heidelberg College, Tiffin. He then read law in the office of his brother, the late Judge James Pillars, and was admitted to the bar when he was not quite twenty-one years of ago. In 1855 he began the practice of his profession in Lima, Ohio, and soon secured a large and lucrative business.

In 1856 he was united in marriage with Miss Susan Fickle, of Lima; four children were born to them, two of whom survive him. Mrs. Pillars, a most estimable woman, died in 1870, Mr. Pillars remained a widower. In 1862 he was appointed commandant of Camp Lima, by Governor Tod, with the rank of Colonel, and organized the 99th, 118th, and 81st Regiments.

In 1866 he was elected prosecuting attorney on the Democratic ticket. In 1871 he was elected a representative in the

General Assembly, but declined a re-election. During his legislative term he opposed a bill for levying a tax for the purpose of railroad construction. The bill became a law, but was declared unconstitutional by the Supreme Court, sustaining the position taken by General Pillars. He also favored the abolition of capital punishment, and sustained his position by a minority report which showed great learning and research.

In the fall of 1877, he was elected Attorney-General, in which position he distinguished himself by his industry, painstaking and eminent legal ability. One or two greater lawyers may have held this position in Ohio, but no one ever did more or better work.

A few years ago, on the solicitation of the entire bar of the county, he was appointed by Governor McKinley a member of the Committee on the Torrens system of land titles, which position he held until his decease

General Pillars was a close and indefatigable student, a hard worker and an ideal lawyer. He did not allow politics to distract his mind and engaged in no matters of business which would in any wise interfere with the successful pursuit of his chosen profession. His character as a lawyer is exemplified in his chosen motto: "*Spe et labore.*"

He had a passion for books, and his studies were not confined strictly to the law.

He was retained in all the important cases in this part of the state, and was remarkably successful. From the time he was Attorney-General to five or six years before his death, he rarely lost a case.

While not a great orator, few could state a proposition more clearly or more forcibly to judge or jury than he. In the examination of a witness he never blustered nor badgered a witness, nor quarreled with the court, witness or opposing counsel; always calm, self-possessed, and master of the details of his case, he asked such questions, and such questions only, as were necessary to elicit the desired answers and having done

this he dismissed the witness. His aim was not to obscure a question, but to make it clear to judge and jury, and no lawyer ever succeeded better.

PENNSYLVANIA.

RICHARD VAUX.

Richard Vaux, of Pennsylvania, a member of the American Bar Association since its organization, died in the city of Philadelphia on March 22, 1895, being at the time more than 78 years old. His conspicuous person attracted attention, while his courtly manners made him a great favorite among his friends. He was, at different times, Vice-President, member of the Local and General Council, and various committees of the Association. He attended nearly all its meetings, and took a wide interest and active part in its proceedings. Although Mr. Vaux was not actively engaged in the practice of his profession, yet he always kept up his connection with the legal fraternity, and gave his best efforts to the improvement and progress of the law.

Mr. Vaux was born in the city of Philadelphia on December 19, 1816. He was the son of Roberts Vaux, a lay judge of the Court of Common Pleas of the County of Philadelphia, and a philanthropist of high repute. The elder Mr. Vaux was prominent in the amelioration of the evils of the old prison systems, and took an active part in establishing the Pennsylvania system of separate treatment of prisoners. His mantle fell upon a worthy son, the subject of this sketch, whose reputation as a penologist is spread over foreign lands as well as his native country.

Richard Vaux was a student in and graduated from the office of the Honorable William M. Meredith, a lawyer of the highest repute, a statesman, Attorney-General of Pennsylvania, and Secretary of the Treasury of the United States in the cabinet of President Taylor.

Mr. Vaux was admitted to the bar on April 15, 1837, and immediately thereafter went to England as a bearer of dispatches to the Honorable Andrew Stevenson, of Virginia, the American Minister to the Court of St. James. While in London, Mr. Vaux became a member of the legation. He visited the continent of Europe, and made observations and acquaintances, and absorbed ideas which were of great service to him in after life.

In his native city, Mr. Vaux occupied many important public stations, making his mark in each and leaving impressions which have been of great benefit to his fellow citizens. He was Recorder of the City of Philadelphia, a committing magistrate of high rank, before whom the most important criminal prosecutions were instituted. He published a book called the "Recorder's Decisions," containing his opinions filed in some of the important cases brought before him. His opinions show an intelligent comprehension of the law and independence and courage in the discharge of his duties. He was also one of the Controllers of the Public Schools of Philadelphia.

On January 7, 1842, Mr. Vaux was appointed an Inspector of the Eastern State Penitentiary, located in Philadelphia, and held that position, notwithstanding the changes made in the appointing power, until the time of his death, more than fifty-three years after he was first appointed. The peculiar system of treatment of prisoners in use in Philadelphia called the separate, as distinguished from the congregate system, and, notwithstanding adverse criticisms, it has been approved as wise and humane, and has been adopted by several European nations as well as some of the American States. During Charles Dickens' visit to the United States, he was met by Mr. Vaux who took his distinguished guest through the Penitentiary and explained to him the manner in which it was conducted and the prisoners treated. Mr. Dickens, in his American notes, severely criticised and condemned the system which he thought would make prisoners insane. He mentioned particularly a prisoner subsequently known as Dickens'

Dutchman, who, after he had completed his term of imprisonment, was again sentenced three or four times, outlived Dickens, and died in the penitentiary where he had gone in search of a place to pass his last days, at the time when, by reason of old age, he was unable to commit a crime for which he might be sentenced to the penitentiary.

Mr. Vaux was elected Mayor of Philadelphia in May, 1856, and served two years in that important office. In this office he advocated a system of government for cities similar to that of the Federal government, the appointing power and executive duties to be vested in the Mayor and taken away from the legislative body, a system which in later days has been adopted.

Mr. Vaux was also a member of the Board of Directors of Girard College from 1859 to 1866, and subsequently became a member of the Board of Directors of the City Trusts, which have charge of all the charitable funds held by the city government in trust for the several purposes designated by the donors of the funds. This board has charge of Mr. Girard's bequest and when Mr. Vaux was appointed a member of it in 1884, he was returned to a duty with which he was well acquainted, and in which he felt the greatest interest. He remained a member of this Board until his death. As President of the Board of Directors of Girard College he was an earnest and persistent advocate of the system of manual training of the orphan boys in the college, and lived to see that system adopted as part of the regular instruction imparted in the institution.

In the year 1890, Mr. Vaux was elected to Congress as the successor of the Honorable Samuel J. Randall, who died that year. There he took a prominent place and became a conspicuous member of that great representative body. He served the remainder of the term and then returned to his home and the performance of the trusts reposed in him by his native State and City.

Mr. Vaux was also prominent in the Fraternity of Free Masons, having occupied the highest station in the Grand

Lodge of Pennsylvania in which he served as its Grand Master for three years. He was as widely known as a mason as any member of that society. He wrote on Masonic matters for more than twenty-five years, and occupied a place in the highest rank among Masonic writers.

As a philosopher and writer on the subject of prison discipline and the treatment of prisoners, it is doubtful whether any one has excelled him. His works are numerous, and in addition he wrote every year a report filled with good ideas strikingly presented and effective in results. He presented his views in well chosen vigorous language. He was always willing to listen and ready to reply. The members of the American Bar Association will no doubt remember him as he frequently sat in the midst of a witty, brilliant and intellectual circle of conversationalists. He had reached the fullness of a busy, active and beneficial life, leaving behind him memories which will not soon fade away.

ROBERT EMMET MONAGHAN.

Robert Emmet Monaghan was born July 24, 1822, in West Fallowfield Township, Chester County, Pennsylvania. His father, James Monaghan, was a native of County Fermanagh, Ireland. His mother, Catharine (Streeper) Monaghan, was of German descent, and was born in Montgomery County, Pennsylvania.

Mr. Monaghan's early life was passed upon his father's farm in Chester County. His father, having been closely associated with Robert Emmet, sought refuge in the United States upon the failure of Emmet in his contest with the British Government. At the common schools of the day and the academies at Unionville and New London in his native county, and Strasburg, Lancaster County, he acquired his education. After a few years spent in teaching, he was appointed Collector on the Pennsylvania Canal at Liverpool, Perry County, and this position he satisfactorily filled for

three years. While engaged as collector he found time to devote himself to the study of the law, and after the expiration of his term as collector, having pursued a legal course under Hon. Hamilton Aldricks, of Harrisburg, he was admitted to the bar.

He returned to his native county and established himself in practice in 1847. He soon gained the confidence of the people by his frank and fearless advocacy of the cause of his clients. In his professional intercourse he was candid and outspoken. He had nothing to conceal, and his professional career was an open book. He had the respect of every member of the bar at which he practiced, and his strength as an advocate lay in the unbounded confidence of the people in his earnestness and zeal in his trial of causes.

Politically he was a Democrat, and for years was the leader of his party in his native county. During his early career he represented his county in the State Legislature. He was a foe of jobs and jobbery, and an earnest and active advocate of measures for the public good. The State conventions of his party found him present as a delegate and an adviser. The party of his county honored him with an election as delegate to the national convention on two occasions. Just prior to the late Civil War he was a member of the commission appointed by a convention of his party in the interest of peace between the two sections of the country.

At the close of the war he was nominated for Congress on the Democratic ticket, and in conjunction with the Honorable Washington Townsend, the Republican nominee, he stumped the district, but was defeated.

In public affairs he was always prominent. He was a member of the Town Council of the borough in which he lived (West Chester), and for a period of twelve years he was a member of the Board of Trustees of the West Chester State Normal School.

He was a lover of his profession and was always interested in suggestions that had for their object its elevation and bet-

terment. His interest in the law was active, and when the Governor of his State was authorized to appoint a commission for the "Promotion of the Uniformity of Legislation in the United States," he was honored with an appointment together with two other distinguished members of the bar of the State.

In 1890 he was appointed by Governor Beaver a member of the commission to establish the line between the States of Pennsylvania and Delaware.

Mr. Monaghan's health began to fail early in 1895. He had then reached the age of 73 years. His life had been an active one and ill health had never troubled him. It was evident to his family and friends that his life was then of short duration, and on June 29, 1895, he passed away.

Upon his death the various organizations of which he was a member adopted suitable resolutions commending his life work and his personal worth. The bar of his county, in a meeting largely attended, gave expression to their feelings of regret at his death and eulogized him as a citizen, a member of the bar, a husband and parent, and a worthy citizen.

At no time during his career was he idle. His interests were large and varied, and they received his constant attention. In his profession he was careful and painstaking. In all his dealings he was frank and honest. He was a man of recognized ability, not only at home, but throughout the State in which he lived, and, by his death, those who knew him recognized a serious loss.

VIRGINIA.

F. H. McGUIRE.

At different times within the last few years we have been called on to deplore the loss of veterans of the Bar, lawyers of eminence who passed away, old in years and in honors. At this hour, we commemorate one, who, in the prime of life and vigor, yet having reached the foremost rank of our profession,

ended his career in the very midst of his useful and honorable labors.

Francis Howe McGuire was born on the 4th of June, 1850, in Mecklenburg County, Virginia, and died on the 30th of October, 1894. He was the son of the Rev. Francis H. McGuire, a minister of the Protestant Episcopal Church, and of Mary Willing Harrison, a descendant of Benjamin Harrison of Berkley. The history of his too short life is one conspicuous in many ways. Especially was it a life of faithful work and of unceasing labor. At the age when many young men are fitting themselves at college, in academic and legal schools, for the practice of their profession, he was teaching school in order to obtain the means, when the opportunity should come, of receiving the instruction which he desired above all things. He taught faithfully and studied intensely; lived abstemiously, yet contributed to the support of others near to him; and in time he obtained his desire, and acquired at the University of Virginia academic learning, and, later, instruction in professional lore from the grand old teacher of the law, who has so recently entered into rest, whom all Virginians reverence, and lawyers everywhere are proud to name as their preceptor.

His professional life of only twenty years was passed in Richmond, Virginia. In its commencement it was without the help of wealthy or influential connections. It was a struggle, single-handed and alone, against poverty, against the discouragements and weariness, against all the disadvantages which beset every young lawyer making such a beginning. That this struggle led to victory, complete and satisfying, was due alone to the qualities of mind and heart which were his sole equipment.

Perhaps the most distinctive characteristic of his mind was his painstaking thoroughness. In the study and preparation of his cases no point was left uninvestigated, no labyrinthine question unexplored, no difficulty unanticipated. His judgment was clear and sound. In his later years his advice was often sought by members of the bar, young and old, who

knew him to be well furnished and grounded in the law, wise and prudent in counsel.

His success was measured not only by the pecuniary returns of his practice, but by the magnitude of the matters confided to his care, and his bringing to a satisfactory result many important and hard fought cases.

He was proud of his profession, and no man has done more in our day to uphold its dignity, or has been more true to its highest tradition. He never inclined to turn aside to other occupations or ventures. In his business of life, he was a lawyer for law's sake, and the jealous mistress well rewarded his undivided service.

His conscientiousness was absolute. His allegiance was, he believed, due first to law and right, and next to his client.

In his practice at the bar, as in his private life, he bore himself with calm courage and determination, never yielding a point where yielding seemed even to suggest a compromise of right or duty.

For several years he had been a useful member and for one term President of the Bar Association of the City of Richmond.

In this last-named body he set on foot the plan which resulted in the organization of the State Association. To his efforts and abilities have been due in great part the successful conduct of that organization, its advantages as well as its pleasures.

To those of us who knew him well, the memory of his warm friendship, ever-ready kindness and genial manner is a precious legacy. He was a man to wear in one's heart of hearts; and those who knew him best were the better for their knowledge and his companionship. The influence of his example, and of his pure and earnest Christian life was widely felt. His deeply religious nature dominated and directed his course in all affairs in which he engaged. He lived and worked and died "as seeing Him who is invisible," and to whom he wished to render account daily and hourly for all he thought and did and attempted.

WISCONSIN.

BRADLEY G. SCHLEY.

"Died suddenly on June 18, 1895, Bradley G. Schley, in the 37th year of his age." This is the brief formal notice of the passing from the Known to the Unknown of a soul whose earthly tenement walked among men and was beloved of them. In the prime of life, active, ambitious, building on well-laid foundations of study and practice, the edifice of business and professional success whose completion, with its promise of well earned rest, seemed assured at no distant day, a bolt from a clear sky struck him down and he died.

Sensitive to a fault, the soul of honor, the epitome of personal pride and self reliance, he was a law unto himself, and erred, as few men do, in self-blame, magnifying to himself the faults that others readily forgave him. A pleasant, forcible and logical speaker, his forensic efforts were both agreeable and convincing. A close student, he always knew whereof he spoke, and invariably won that attention and appreciation which are the highest compliments to one of his profession. Of a genial and lovable nature, his friends were legion, and his was the rare gift of attracting and retaining by his personality, the warm friendship of mature and ripened men. By nature, birth and education, he was a gentleman, and his mental capacity and attainments warranted his pride and ambition. The legal mind was a direct heritage, for his was a family of lawyers, his father, grandfather and great grandfather having been active and prominent members of the Maryland Bar.

Mr. Schley was an only son and unmarried. He was born in Milwaukee, October 3, 1857, and was educated at the State University of Wisconsin. He was a charter member of the "Juneau Club," the "Milwaukee Club" and the "Milwaukee Lawyers Club," of his native city; was one of a committee of three appointed by the Governor of the State to promote

and effect uniformity of inter-state laws; was a member of the American Bar Association, and the Western member of its Executive Committee. He was also an active member of the League of Democratic Clubs. For some time he was Assistant United States District Attorney, and also Assistant General Solicitor of the Milwaukee, Lake Shore & Western Railway Company. Believing, as he did, that political position was detrimental to a young lawyer, he persistently declined nominations to office, but always lent his faithful and efficient aid to his party when called upon.

He died at his desk, with a volume of the law he loved lying open before him. A second of time, and it was a sealed book to him; he had gone to the highest court of all.

WYOMING.

JOHN W. BLAKE.

John W. Blake was born at Bridgeton, Cumberland county, Maine, on February 11, 1844. He died at his home in Laramie, Wyoming, on February 25, 1895.

At the age of sixteen years he enlisted in the war of the Rebellion for nine months. After the expiration of that term of service he removed with his parents to Aurora, Illinois, where he assisted in recruiting a company for three year's service in the war, and received a commission as lieutenant. He served throughout the war, and at its close he had the rank of captain and was acting as regimental quartermaster. For a time he was an aide upon the staff of General Sheridan. After the close of the war he was transferred to the regular army as a commissioned officer, and was detailed to superintend a burial corps in Virginia, and in that capacity assisted in establishing the soldier's cemeteries in that State on the line of the movement of the army under General Grant from the wilderness to Richmond. Upon the completion of that detail he was assigned to a regiment stationed in California, but before joining it he obtained six months leave of absence with

permission to go beyond the seas, and accompanied by a brother officer similarly situated, he went to Mexico. The desperate situation of Maximilian appealed so strongly to the young man of twenty-one that he offered his services to the Emperor, which were accepted, and he was attached to his personal staff. When Maximilian was taken prisoner, the subject of this sketch was captured and sentenced to be shot. He did not lose his usual courage or undaunted bearing, even under these rather discouraging circumstances, but dared his captors to put the sentence into execution. He was finally released upon condition that he leave the country. He accepted the condition gladly, and crossed the country overland to Texas.

Becoming dissatisfied with army life, he resigned his commission and embarked in business in Chicago, attaining some prominence on the Board of Trade. In 1876 he removed to Wyoming, where he studied law, and eventually entered upon the practice of that profession, in which he won many laurels. He served one term as city attorney of Laramie, and two terms as prosecuting attorney of Albany county; was a member and the presiding officer of the upper branch of the legislative assembly of 1886, and a member of the house of representatives of the territorial legislature of 1888. He was a member of the commission which revised the statutes of the territory in 1887.

When Wyoming was admitted as a State, he was elected to the office of judge of the second judicial district, and held that position at the time of his death.

Judge Blake was a man of rare qualities of head and heart. He was an incorruptible judge and a noble man. The people of his State were strongly impressed with his courage and sterling integrity, and his evident purpose as a judge to reach just and proper conclusions. He was beloved by the people among whom he lived for twenty years. He never married, but his aged parents with whom he resided were left to mourn his death.

LIST OF BAR ASSOCIATIONS IN THE UNITED STATES.

NOTE.—This list has been compiled by the Secretary of the American Bar Association from replies to circulars sent out; and while pains have been taken to make it as complete as possible, it is probable that some Associations have been omitted. All Associations which are purely Library Associations are intended to be omitted. In some cases the officers for former years are given where officers for 1895 are not known. The Secretary will be much indebted for information of any omissions and for corrections of the names of the officers.

ALABAMA.

NAME.	PRESIDENT.	SECRETARY.
Alabama State Bar Association.	Richard C. Jones, (V. Prest.) Tuscaloosa.	Alex. Troy, Montgomery.
BIRMINGHAM BAR ASSOCIATION.	C. A. Mountjoy, Birmingham.	James L. Cole. Birmingham.
MONTGOMERY BAR ASSOCIATION.	John W. A. Sanford, Montgomery.	Philip H. Stern, Montgomery.

ARIZONA.

The Territorial Bar Association of Arizona.	William H. Barnes, Tucson.	J. W. Crenshaw, Phoenix.

CALIFORNIA.

California State Bar Association.	Lawrence Archer('93), San José.	Charles J. Swift ('93), San Francisco.
LOS ANGELES BAR ASSOCIATION.	F. H. Howard ('94), Los Angeles.	F. G. Finlayson ('94), Los Angeles.
OAKLAND BAR ASSOCIATION.	J. H. Smith, Oakland.	Geo. E. DeGolia, Oakland.
BAR ASSOCIATION OF SAN FRANCISCO.	Edward R. Taylor, San Francisco.	E. Burke Holladay, San Francisco.

COLORADO.

NAME.	PRESIDENT.	SECRETARY.
DENVER BAR ASSOCIATION.	T. J. O'Donnell ('94), Denver.	Robert H. Latta ('94), Denver.

CONNECTICUT.

State Bar Association of Connecticut.	Chas. E. Perkins, Hartford.	Chas. M. Joslyn, Hartford.
BRIDGEPORT BAR ASSOCIATION.	Curtis Thompson, Bridgeport.	Wm. H. Kelsey, Bridgeport.
HARTFORD COUNTY BAR ASSOCIATION.	Charles E. Perkins, Hartford.	William F. Henney, Hartford.
LITCHFIELD COUNTY BAR ASSOCIATION.	James Huntington, Woodbury.	Dwight C. Kilbourn, Litchfield.
NEW HAVEN COUNTY BAR ASSOCIATION.	John W. Alling, New Haven.	Edward A. Anketell, New Haven.
TOLLAND COUNTY BAR ASSOCIATION.	B. H. Bill, Rockville.	Lyman T. Tingier, Rockville.
WINDHAM COUNTY BAR ASSOCIATION.	John J. Penrose, Central Village.	S. H. Seward, Putnam.

DELAWARE.

BAR ASSOCIATION OF NEW CASTLE COUNTY.	John Biggs, Wilmington.	Herbert H. Ward, Wilmington.

DISTRICT OF COLUMBIA.

Bar Association of the District of Columbia.	Nathaniel Wilson, Washington.	Blair Lee, Washington.
FEDERAL BAR ASSOCIATION OF D. C.	John W. Douglass, Washington.	George A. King, Washington.

GEORGIA.

Georgia Bar Association.	John W. Park, Greenville.	John W. Akin, Cartersville.
ATLANTA BAR ASSOCIATION.	Jno. L. Hopkins, Atlanta.	Vacant.

IDAHO.

NAME.	PRESIDENT.	SECRETARY.
Idaho Bar Association.	John Ainslie .('94).	Hugh McElroy ('94).

ILLINOIS.

Illinois State Bar Association.	Oliver A. Harker, Carbondale.	James H. Matheny, Springfield.
CHICAGO BAR ASSOCIATION.	Thomas Dent, Chicago.	Wm. B. McIlvaine, Chicago.
THE LAW CLUB OF THE CITY OF CHICAGO.	Chas. E. Kremer, Chicago.	Jesse Holdom, Chicago.

INDIANA.

DEARBORN COUNTY BAR ASSOCIATION.	Hugh D. McMullen Aurora.	Warren D. Hauck, Lawrenceburg.
GRANT COUNTY BAR ASSOCIATION.	R. T. St. John, Marion.	Elias Bundy, Marion.
INDIANAPOLIS BAR ASSOCIATION.	H. C. Allen Indianapolis.	Vincent G. Clifford, Indianapolis.
NOBLESVILLE BAR ASSOCIATION.	Thomas J. Kane, Noblesville.	Meade Vestal, Noblesville.
TERRE HAUTE BAR ASSOCIATION.	Joshua Jump ('94), Terre Haute.	Saml. M. Huston ('94), Terre Haute.
WABASH COUNTY BAR ASSOCIATION.	B. F. Williams ('94), Wabash.	James D. Conner, Jr. ('94), Wabash.

IOWA.

Iowa State Bar Association.	L. G. Kinne, Des Moines.	J. W. Bollinger, Davenport.
DECATUR COUNTY BAR ASSOCIATION.	R. L. Parrish, Leon.	Stephen Varga, Leon.
DES MOINES BAR ASSOCIATION.	William Phillips, Des Moines.	Nelson Royal, Des Moines.

IOWA—Continued.

NAME.	PRESIDENT.	SECRETARY.
DUBUQUE BAR ASSOCIATION.	William Graham, Dubuque.	P. S. Webster, Dubuque.
SCOTT COUNTY BAR ASSOCIATION.	John C. Biles, Davenport.	W. H. Wilson, Davenport.

KANSAS.

Bar Association of the State of Kansas.	H. L. Alden, Kansas City.	C. J. Brown, Topeka.
WICHITA BAR ASSOCIATION.	E. W. Moore.	C. H. Brooks, Wichita.

KENTUCKY.

Western Kentucky Bar Association.	Malcolm Yeaman ('93), Henderson.	J. G. Poore ('93), Frankfort.

LOUISIANA.

Louisiana State Bar Association.	J. W. Burgess, Baton Rouge.	T. Sambolo Jones, Baton Rouge.
LAW REFORM ASSOCIATION OF LOUISIANA.	Ernest J. Florance, New Orleans.	Hugues J. De La Vergne, New Orleans.
NATCHITOCHES BAR ASSOCIATION.	Wm. H. Jack ('94), Natchitoches.	C. V. Porter ('94), Natchitoches.
NEW ORLEANS LAW ASSOCIATION.	Jas. McConnell, New Orleans.	J. Ward Gurley, Jr., New Orleans.

MAINE.

Maine State Bar Association.	Chas. F. Libby, Portland.	Leslie C. Cornish, Augusta.
CUMBERLAND BAR ASSOCIATION.	Henry B. Cleaves, Portland.	Frank W. Robinson, Portland.
FRANKLIN COUNTY BAR ASSOCIATION.	H. L. Whitcomb, Farmington.	B. M. Small, Farmington.
OXFORD BAR ASSSOCIATION.	David R. Hastings ('94), Fryeburg.	A. S. Austin ('94), Paris.

MAINE—Continued.

NAME.	PRESIDENT.	SECRETARY.
PENOBSCOT BAR ASSOCIATION.	Albert W. Paine, Bangor.	F. H. Appleton, Bangor.
YORK BAR ASSOCIATION.	John M. Goodwin ('94), Biddeford.	Graham N. Weymouth ('94), Biddeford.

MARYLAND.

BAR ASSOCIATION OF ALLEGANY COUNTY.	DeWarren H. Reynolds, Cumberland.	Vacant.
BAR ASSOCIATION OF BALTIMORE CITY.	Samuel D. Schmucker, Baltimore.	Conway W. Sams, Baltimore.
BAR ASSOCIATION OF MONTGOMERY COUNTY.	Thomas Anderson, Rockville.	Philip D. Laird, Rockville.

MASSACHUSETTS.

BAR ASSOCIATION OF THE CITY OF BOSTON.	Solomon Lincoln, Boston.	Sigourney Butler, Boston.
BERKSHIRE BAR ASSOCIATION.	Henry W. Taft, Pittsfield.	Edward T. Slocum, Pittsfield.
ESSEX BAR ASSOCIATION.	Eldridge G. Burley, Lawrence.	Alden P. White, Salem.
FALL RIVER BAR ASSOCIATION.	Jonathan M. Wood, Fall River.	Arthur S. Phillips, Fall River.
FRANKLIN COUNTY BAR ASSOCIATION.	Samuel O. Lamb, Greenfield.	Samuel D. Conant, Greenfield.
HAMPDEN BAR ASSOCIATION.	Geo. D. Robinson, Chicopee.	Robert O. Morris, Springfield.
NEW BEDFORD BAR ASSOCIATION.	Edwin L. Barney, New Bedford.	Frank A. Milliken, New Bedford.
BAR ASSOCIATION OF NORFOLK COUNTY.	Erastus Worthington, Dedham.	George K. Clarke, Needham.
PLYMOUTH COUNTY BAR ASSOCIATION.	Benj. W. Harris ('94), E. Bridgewater.	Arthur Lord ('94), Needham.

MASSACHUSETTS—Continued.

NAME.	PRESIDENT.	SECRETARY.
WORCESTER COUNTY BAR ASSOCIATION.	Wm. S. B. Hopkins, Worcester.	Webster Thayer, Worcester.

MICHIGAN.

Michigan State Bar Association.	Geerge P. Wanty, Grand Rapids.	Ralph Stone, Grand Rapids.
BAY COUNTY BAR ASSOCIATION.	H. H. Hatch ('94), Bay City.	Frank S. Pratt ('94), Bay City.
DETROIT BAR ASSOCIATION.	Geo. V. N. Lothrop, Detroit.	Edward W. Pendleton, Detroit.
HOUGHTON COUNTY BAR ASSOCIATION.	T. L. Chadbourne, Houghton.	R. S. Shelden, Houghton.
LENAWEE COUNTY BAR ASSOCIATION.	Alfred L. Millard, Adrian.	Walter S. Westerman, Adrian.
SAGINAW COUNTY BAR ASSOCIATION.	L. T. Durand, Saginaw, E. S.	A. H. Swarthout, Saginaw.

MINNESOTA.

Minnesota State Bar Association.	W. J. Hahn, Minneapolis.	Edward H. Ozmun, St. Paul.
BLUE EARTH COUNTY BAR ASSOCIATION.	E. P. Freeman, Mankato.	Jean A. Flittie, Mankato.
MINNEAPOLIS BAR ASSOCIATION.	Stanley R. Kitchel, Minneapolis.	John T. Baxter, Minneapolis.
RICE COUNTY BAR ASSOCIATION.	Geo. W. Batchelder, Faribault.	A. D. Keyes, Faribault.
ST. PAUL BAR ASSOCIATION.	E. H. Ozmun, St. Paul.	Samuel E. Hall, St. Paul.
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CLEARFIELD LAW ASSOCIATION.	Cyrus Gordon, Clearfield.	B. F. Chase, Clearfield.
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Waupaca County Bar Association.		
Winnebago County Bar Association.	Geo. Gary, Oshkosh.	A. H. Goss, Oshkosh.

MEMORANDUM OF SUBJECTS REFERRED TO COMMITTEES.

Jurisprudence and Law Reform.

History of anti-trust law and proper amendment. (See Report of 1894, pages 71 and 72; 1895, page 13.)

Judicial Administration and Remedial Procedure.

Appeals in criminal cases. (See pages 57 to 60.)

Legal Education and Admission to the Bar.

To secure the passage of an Act of Congress for the distribution of Government publications to law schools, etc. (See pages 41 to 43.)

Law Reporting and Digesting.

To report on publication, digesting and indexing of State and Federal statutory law. (See pages 36 and 44.)

Classification of the Law.

No Report in 1895. (See page 18.)

Indian Legislation.

To ask the Secretary of the Interior for an investigation. (See page 19.)

The Committee continued with power to add to its number. (See page 35.)

Uniform State Laws.

The securing of the appointment by States of Commissioners on uniform state laws.

The Committee continued. (See pages 22 and 23.)

Federal Code of Criminal Procedure.

The Committee continued. (See pages 23 and 24.)

Patent Law.

To Advocate before Congress certain changes desirable in patent law and practice and to report. (See page 28.)

Uniformity of Procedure and Comparative Law.

To inquire and collate the facts relative to the movement now in progress. (See page 33.)

ANNUAL ADDRESSES.

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1879.	EDWARD J. PHELPS,	John Marshall.
1880.	CORTLANDT PARKER,	Alexander Hamilton and William Paterson.
1881.	CLARKSON N. POTTER,	Roger Brooke Taney.
1882.	ALEXANDER R. LAWTON,	James Lewis Petigru and Hugh Swinton Legaré.
1883.	JOHN W. STEVENSON,	James Madison.
1884.	JOHN F. DILLON,	American Institutions and Laws.
1885.	GEORGE W. BIDDLE,	An Inquiry into the Proper Mode of Trial.
1886.	THOMAS J. SEMMES,	The Civil Law and Codification.
1887.	HENRY HITCHCOCK,	General Corporation Laws.
1888.	GEORGE HOADLY,	Codification.
1889.	SIMEON E. BALDWIN,	The Centenary of Modern Government.
1890.	JAMES C. CARTER,	The Ideal and the Actual in the Law.
1891.	ALFRED RUSSELL,	Avoidable Causes of Delay and Uncertainty in our Courts.
1892.	J. RANDOLPH TUCKER,	British Institutions and American Constitutions.
1893.	HENRY B. BROWN,	The Distribution of Property.
1894.	MOORFIELD STOREY,	The American Legislature.
1895.	WILLIAM H. TAFT,	Recent Criticism of the Federal Judiciary.

PAPERS READ.

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1879.	CALVIN G. CHILD,	Shifting Uses, from the Standpoint of the Nineteenth Century.
1879.	HENRY HITCHCOCK,	The Inviolability of Telegrams.
1879.	GEORGE A. MERCER,	The Relationship of Law and National Spirit.
1880.	HENRY E. YOUNG,	Sunday Laws.

YEAR.	NAME.	SUBJECT.
1880.	GEORGE TUCKER BISPHAM,	Rights of Material Men and Employees of Railroad Companies as against Mortgagees.
1880	HENRY D. HYDE,	Extradition between the States.
1881.	THOMAS M COOLEY,	The Recording Laws of the United States.
1881.	SAMUEL WAGNER,	The Advantages of a National Bankrupt Law.
1882.	GUSTAVE KOERNER,	The Doctrine of Punitive Damages and its Effect on the Ethics of the Profession.
1882.	U. M. ROSE,	Titles of Statutes.
1882.	THOMAS J. SEMMES,	The Civil Law as Transplanted in Louisiana.
1883.	ROBERT G. STREET,	How far Questions of Public Policy may enter into Judicial Decisions.
1883.	JOHN M. SHIRLEY,	The Future of our Profession.
1883.	SIMEON E. BALDWIN,	Preliminary Examinations in Criminal Proceedings.
1883.	SEYMOUR D. THOMPSON,	Abuses of the Writ of Habeas Corpus.
1884	ANDREW ALLISON,	The Rise and Probable Decline of Private Corporations in America.
1884.	M. DWIGHT COLLIER,	Stock Dividends and their Restraint.
1884.	SIMON STERNE,	The Prevention of Defective and Slipshod Legislation.
1885.	RICHARD M. VENABLE,	Partition of Powers between the Federal and State Governments.
1885.	REUBEN C. BENTON,	The Distinction between Legislative and Judicial Functions.
1885.	FRANCIS RAWLE,	Car Trust Securities.
1886.	JOHNSON T. PLATT,	The Opportunity for the Development of Jurisprudence in the United States.
1886.	WILLIAM P. WELLS,	The Dartmouth College Case and Private Corporations.
1886.	JOHN F. DILLON,	Law Reports and Law Reporting.

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1887.	JAMES K. EDSALL, ...	The Granger Cases and the Police Power.
1888.	J. RANDOLPH TUCKER, ...	Congressional Power over Inter-State Commerce.
1888.	J. M. WOOLWORTH, ...	Jurisprudence Considered as a Branch of the Social Science.
1889.	HENRY B. BROWN, ...	Judicial Independence.
1889.	WALTER B. HILL, ...	The Federal Judicial System.
1890.	HENRY C. TOMPKINS, ...	The Necessity for Uniformity in the Laws Governing Commercial Paper.
1890.	DWIGHT H. OLMSTEAD, ...	Land Transfer Reform.
1890.	JOHN F. DUNCOMBE, ...	Election Laws.
1891.	FREDERICK N. JUDSON, ...	Liberty of Contract under the Police Power.
1891.	W. B. HORNBLOWER, ...	The Legal Status of the Indian.
1892.	JOHN W. CARY, ...	Limitations of the Legislative Power in Respect to Personal Rights and Private Property.
1892.	WILLIAM L. SNYDER, ...	The Problem of Uniform Legislation.
1893.	HENRY WADE ROGERS, ...	The Treaty-Making Power.
1893	W. W. MCFARLAND, ...	The Evolution of Jurisprudence.
1893.	U. M. ROSE, ...	Trusts and Strikes.
1894.	HAMPTON L. CARSON, ...	Great Dissenting Opinions.
1894.	CHARLES CLAFLIN ALLEN, . .	Injunction and Organized Labor.
1895.	WILLIAM WIRT HOWE, ...	Historical Relation of the Roman Law to the Law of England.
1895.	RICHARD WAYNE PARKER, . .	The Tyrannies of Free Government, or the Modern Scope of Constitutional Guarantees of Liberty and Property.

SECTION OF LEGAL EDUCATION.

YEAR.	NAME.	SUBJECT.
1893.	AUSTIN ABBOTT,	Existing Questions of Legal Education.
1893.	SAMUEL WILLISTON,	Legal Education.
1893.	EMLIN MCCLAIN,	The Best Method of Using Cases in Teaching Law.
1894.	HENRY WADE ROGERS, Ch'rm'n,	Annual Address as Chairman.
1894.	JOHN F. DILLON,	The True Professional Ideal.
1894.	JOHN D. LAWSON,	Some Standards of Legal Education in the West.
1894.	SIMEON E. BALDWIN,	Law School Libraries, and How to Use Them.
1894.	WOODROW WILSON,	Legal Education of Undergraduates.
1894.	JOHN H. WIGMORE,	A Principal of Orthodox Legal Education.
1894.	EDMUND WETMORE,	Some of the Limitations and Requirements of Legal Education in the United States.
1894.	WILLIAM A. KEENER,	The Inductive Method in Legal Education.
1895.	JAMES B. THAYER,	Address as Chairman on The Teaching of English Law at Universities.
1895.	ERNEST W. HUFFCUT,	The Relation of the Law School to the University.
1895.	DAVID J. BREWER,	A Better Education the Great Need of the Profession.
1895.	LYMAN ABBOTT,	The Relation of Law to Our National Development.
1895.	NATHAN S. DAVIS,	The Importance of the Study of Medical Jurisprudence by Students of Law, and the Extent to which it should be Taught in Schools and Colleges for the Education of such Students.

SECTION OF PATENT LAW.

YEAR.	NAME.	SUBJECT.
1895.	R. S. TAYLOR,	Patent Law and Practice.

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