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ADDRESS

DELIVERED BEFORE

THE GRADUATING CLASS

OF THE

LAW DEPARTMENT

OF THE

University of Maryland,

AT THE

ANNUAL COMMENCEMENT,

MAY 31st, 1878,

BY HON. JOHN RITCHIE,

OF FREDERICK CITY, MD.

Baltimore:

PRINTED FOR THE LAW FACULTY AND THE GRADUATES,
BY KING BROTHERS, JOB PRINTERS,
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Baltimore, 42 Mt. Vernon Place, June 26, 1878.

HON. JOHN RITCHIE :

Sir :

I am deputed by the Graduating Class of the Law School of the University of Maryland, to express to you their thanks for the able and interesting address which you were so kind as to deliver to them at the late Commencement, and to request that you will allow them the privilege of having it published.

Your compliance will greatly gratify the Class, and, I am permitted to add, the Faculty also.

With high respect, &c.,

GEO. MAY.

Frederick, Md., June 28, 1878.

GEO. MAY, Esq., *President Law Graduates, &c., Baltimore :*

My Dear Sir :

In response to your complimentary request on behalf of the Law Graduates of 1878 of the University of Maryland, I cheerfully place the manuscript of the address I recently had the honor to deliver before them, at your disposal.

As the effect of the light on my eyes interfered with my following it when pronounced, I may not have spoken it exactly as it is ; but the variations could not have been very material.

Renewing the assurances of my regards and good wishes for the Class, and yourself personally,

I remain, very truly, &c.,

JOHN RITCHIE.

ADDRESS.

Let me congratulate you, Gentlemen, on having practically gained your first case.

True, you have been your own clients, (the old adage not applying); but in winning the right to be retained by others, you have displayed a diligence in study, a fidelity to engagements, and a capacity for mastering the elements of the law, that furnish the surest guaranty of public favor and professional success hereafter.

Let me also congratulate you that you commence your career as practitioners bearing the credentials of so able a Faculty and so venerable an Institution. Unfortunately, all diplomas, nowadays, do not import to the public the truth of what they certify; but those bestowed on you will have the force in your favor of a conclusive presumption, as we lawyers term it, wherever you may go.

And whilst congratulating you, we may all felicitate ourselves, that this city of our affection and pride, through the bounty of some and the cultured efforts of others, in attaining a reputation as a seat of learning and a Mecca of science, is fully abreast with her growing renown as a leading emporium of the Continent. And in this connection it is gratifying to know, that in the department of legal scholarship we are keeping pace with the progress in other branches of learning, and that the State whose Bar has been made illustrious by a Dulaney, a Martin, a Pinkney, a Wirt, a Taney, a Nelson, a Johnson, and others of her honored dead—not to mention some living, whom, in part, delicacy forbids me to name in this presence—will have just cause to be proud of the standing of her lawyers in the future, as well as in the past or present.

There are few spectacles which so awaken sympathetic interest as that of the youth, who, having finished his period of preparation, stands at the portals which open out upon the world, with sandals latched and staff in hand, ready to depart upon the pilgrimage of mature life.

He half lingers on the threshold that is to divide him from

the scenes that shall hereafter live only in memory ; yet we discern in his mantling cheek and beaming eye the hopefulness and courage that make him impatient to be gone. In those beholders who have experienced the vicissitudes of life, and know of the toils and perils and disappointments of the way, while the sight of his manly eagerness kindles their applause, there yet steals across the breast a certain solicitude, which, although it does not diminish, yet imparts a pathetic tinge to their admiration.

But this feeling of anxiousness is subordinate, and finds its proportionate expression only in the silent prayer for the safety of the pilgrim ; whilst the predominating sentiment breaks forth into cheering plaudits and glowing predictions.

The spirit of emprise is becoming to youth. Let it be chastened by no gloomy forebodings. The ardour of youth is the very force with which nature has equipped it to grapple bravely with the difficulties of the future. While we may seek to direct, we must not repress it. It should be exhausted only in efforts to achieve. The young of to-day are soon to be those whose shoulders shall bear the burdens and responsibilities of the world's advancement. Let them, then, be ushered to the field amid the encouraging acclaims of those whose cause they have in hand, and whose battles they are to fight.

Fitly may these representative young men, fresh from their merited accolade, be welcomed by this ovation of admiring friends. And may this wealth of flowers, bestowed with a profusion—though from a different motive—almost rivalling that of the shower of roses that suffocated the ancient monarch, be typical of the clustered honors they shall hereafter gather in a career of right and usefulness, so auspiciously here begun.

I do not propose, on the present occasion, to stifle this audience and becloud your temporary respite by disturbing afresh the dust on the ancient tomes and musty parchments with which you have, constructively at least, recently been closeted. Nor shall I call forth for solemn review those ancient and awe-inspiring, yet most dreary and unentertaining ghosts of obsolete lore, whose peculiar haunts are the dark corners and labyrinthian corridors of the antiquated portion of that composite and partly-modernized structure, which is Blackstone's happy simile for the law.

They may doubtless be invoked at times with profit, but chiefly so by scholastic Hamlets, at that "witching time of night when churchyards yawn."

Nor am I here to address you as an honored veteran whom the full measure of service and the infirmities of age have retired from active duty, and who comes, "his bruised arms hung up for monuments," to recount his successes, and oracularly show how your brows too may be "crowned with victorious wreaths;" but I am with you rather as one still in the field, identified with its shifting fortunes, who round the camp-fire would give some random impressions of the waging campaign to a party of new recruits, who are henceforth to be his comrades and competitors.

Fortunately, there is little need for further explorations after the elements of the law.

Such delvers as Justinian, Bracton, Grotius, Glanvil, Bacon, Coke, Mansfield, and Blackstone, have already exhumed the rich ore of legal principles; and while we must still distinguish between the genuine metal and the dross with which it may be mixed, our province is mainly that of moulders and artificers, who are to fashion and apply the treasures already provided to the various necessities of practical life.

My further observations, therefore, will be rather with the Law as our Profession has to do with it, than with its essence as a Science.

And I deem it but considerate to you, and not beneath the occasion, to bestow some attention on such matters as your natural concern as to where you should locate, and whether you will succeed, and some of the dangers and discouragements that usually beset the young practitioner.

Whilst, gentlemen, you have just been admitted to an honorable profession, you have also been admitted to a crowded one.

True, Daniel Webster is credited with the saying: "There is always room up top." And so there is; but the reason is obvious: it is so very difficult to get there. Still, it is salutary to aspire; only let not "your vaulting ambition o'er leap itself." Be frank with your capabilities and aptitudes, remembering the rivalry you are to encounter. Every one of the thousands of young men annually admitted to the Bar has an equal right with you to resolve to win a seat on the Bench of the Supreme

Court ; but, as a simple arithmetical proposition, this is not feasible. And consider, besides, what an appalling affliction to the country it would prove, should you all reach this goal of ambition.

Some have even intimated that the moderate enlargement of that august body from seven to nine was of no advantage either to the Nation or the tribunal itself. Yet, it is nevertheless a good thing for young lawyers to aim to occupy that high position ; that is, provided they don't all succeed.

But, fortunately, many avenues to success and usefulness are open to you, though they may not lead to such distinction.

"Act well your part ; there all the honor lies."

In considering the fields for practice, it is evident that there is most business where there are most people ; and these are obviously to be found in large cities and the growing West.

Doubtless, in the metropolis the possibilities of fame and fortune are greatest. But where there is most to be gained the competition is sharpest. The post of honor is always the post of danger ; and where one succeeds to a Marshall's sash, thousands are buried in the trenches. How comparatively few of the many that crowd the ranks of the law in this city, for instance, will attain to fortune, or be known to the next generation !

The eminence of an O'Connor, (to take my example away from home,) is no doubt attractive, and excites emulation ; but it requires not only the talents of an O'Connor, but unremitting and exhausting toil, besides, to attain it.

If you are exceptionally endowed, and are ready to endure the inevitable labor, then you may properly seek the theatre proportioned to unusual abilities. In some localities, the rungs of the ladder are limited, and O'Connor himself, if at the top, would not be conspicuous. A Hampden in a village, is but "a Village Hampden."

Probably, however, it would be safest to assume you are not all O'Connors ; and since I have no meter with which to gauge your mental specific gravity, I would say, as a rule, that if circumstances are reasonably favorable to success in their native place, young lawyers should not lightly exchange the command of a moderate certainty for more brilliant but less assured prospects.

The exceptional instances in which it would be well to ven-

ture, will demonstrate themselves through the inherent force of native talent and enterprise.

What is predicated of the city is substantially applicable to the West.

I was amused by the shrewd reply of the not least distinguished member of the present Cabinet, when a prominent Judge of the District remarked to us during a conversation on this subject, that the Bar was already full to overflowing in the Western States. "That is so," naively observed the former gentleman; "but the difference between the West and the East is this: in the West, they are constantly bringing in fresh flocks to be shorn; while in the East, we must be content with the annual shearing of the same old flock." I did not take this remark to be confidential; if I was mistaken, please do not repeat it.

Personal characteristics enter so materially into the questions both of general success and the selection of the arena, that the same person will not only succeed in some departments of Practice and not in others, but he will do well in some localities and not in others. And I might here observe, that the increase of competition and the growth of population suggest the advantage and opportunity of cultivating specially that branch of the law for which your taste and aptitudes peculiarly fit you. In the medical profession, and in some other pursuits, this development of specialties is noticeable, and the time is at hand to recognize and improve a similar indication in the practice of the law.

Should you, however, Gentlemen, decide to locate in the West, be careful to stop this side of the Indian country.

Modocs and Comanches are not yet educated to an appreciation of our Fraternity; and Red Cloud or Sitting Bull would as lief take the scalp of a disciple of Blackstone as that of any one else; unless, indeed, as is not uncommon, care and hard work have lessened its original amount of hirsute adornment.

The Red Man knows little and cares less for the beauties of special pleading, and a disquisition on the rule in Shelley's case would be utterly lost upon him, if it did not indeed make him more impatient to use his tomahawk.

You will find in his savage haunts, squalor, rapine, barbarism; but no lawyers. Even amid the rude cabins of the pioneer settlements but few briefs will await you. Where life is so

primitive that questions of right are determined chiefly by the rifle and bowie-knife, there is small field for the exercise of our Profession.

And this fact is the germ of a serious and philosophic reflection.

The lawyer is an outgrowth of civilization. It is only when men have sufficiently emerged from a state of barbarism to feel the necessity for peace and order, that respect for law prevails; and with the supremacy of law is incidentally developed a class devoted to its application.

The classic eloquence of a Cicero was unheard in the camp of Alaric, sweeping with his desolating hordes across the plains of Italy; and no sages of the law were lighted to their researches by the torch of an Omar.

Essentially, a development of advanced and peaceful civilization, if the lawyer appear upon the scene of public commotion in his characteristic capacity, it is as the champion of established rights and order, to arraign a Cataline, impeach a Hastings, rebuke an aggressive king, or prosecute a regicide.

The legal profession is so identified with a settled, prosperous and enlightened condition of society, that its status is an index of the advance or decline of the civilization to which it belongs.

So long as men prefer the law as the arbiter of their differences the profession is held in esteem. As violence usurps the methods of peaceful adjustment, the office of the lawyer declines in repute.

"Inter Armu silent leges."

The lawyer, with his precedents and pleas, is but the Goddess of Peace, and her olive branch in a more prosaic form. And when the voice of the lawyer is drowned in the clatter of sabres, we soon behold the spectacle of the venerable judge, issuing that charter of personal freedom, the Writ of Habeas Corpus, in vain,—shorn of all the attributes that give value, dignity, and power to the Bench, save the moral courage of the man who wears the ermine, that inspires the citizen to renew the struggle for the recovery of those rights which Peace bestows and War destroys.

But wherever you may become candidates for practice, you will probably undergo a season of irksome waiting for clients.

One of the severest ordeals to the soldier is to endure the

bombardment of the enemy without returning a shot. And your experience will be somewhat similar, when you are assailed by doubts and misgivings as to your ultimate success, and perhaps the anxieties of a slender purse besides, with no relief but what your own fortitude and hopefulness may supply.

But "All things come to him who waits," is a proverb from which you may derive comfort. Resist the despondency and idleness which are the dangers of this period. It is a probation which, rightly used, will prove a "blessing in disguise."

The occasion to show what you are will eventually come; be prepared to improve it. Thus have risen to fame men deserving of it, who remained long in obscurity before the chance was afforded to disclose their merits. It is being ready when the opportunity arrives, that is the pith of the poet's maxim: "There is a tide in the affairs of men which, taken at the flood, leads on to fortune."

This season of comparative leisure is the time to ground yourselves in the principles of the law, and give symmetry to research and study.

The wise commander lays his plans and provides his stores and ammunition before the battle begins. In the struggle of actual conflict men must fight as best they may with the means ready at hand. And so the lawyer in active practice has no longer the time for systematic and comprehensive culture he had when less engaged. He improves, no doubt, in efficiency in applying such law as his range of business calls into requisition; but his advance in depth and embellishment is seldom in the same ratio.

Nor need you be disheartened if your first essays in public are not what you would have them be, through nervousness or lack of self-confidence.

The instances are not few of men, afterwards giants at the Bar, who in their maiden speech could stammer no further than "Gentlemen of the Jury." Erskine, Brougham, Fox, and our own Taney contended to a degree with nervous embarrassment all their life.

And here let me caution you against contracting the habit of resorting to artificial aids to brace your courage or brighten your faculties.

This is not the occasion to discuss the abuse of stimulants

from a moral standpoint ; but, looking merely to your professional success, a word of warning in this connection may be in place.

If you depend upon these extraneous helps in your earlier efforts, you will soon become unwilling to trust to your native powers alone.

Moreover, I think our profession is peculiarly liable to the seductiveness of potions or drugs that assuage nervous excitement or solace a wearied brain.

We are called upon to undergo a mental strain and protracted nervous tension in the necessary vigilance and exertion of trying cases, exacted in few other vocations ; and the soothing or supporting effects of spirits or anodynes is likely to wield a potent fascination.

Sadly true is it, that the professional highway is marked all along with the graves of genius prematurely lost through this means of self-destruction.

Undue indulgence in stimulants will ultimately break down physical strength ; and good health is one of the prime conditions, as a rule, of success in the legal profession.

With a shattered nervous-system, you may indeed pursue the life of a student in the alcoves of a library, and perhaps attain to celebrity as a writer on the law : but you may not hope to be equal to the labors and responsibilities of the Bench, much less to command sustained success in the exhausting struggles of the trial table ; unless you can exercise a fortitude almost equal to that of the Spartan youth, who felt the fox steadily preying into his vitals, yet made no outward sign.

Beware of the dominion of this vice ! It has often been the fatal dart that has brought the struck eagle, towering toward the zenith, dishevelled and lifeless to the earth.

Let me also warn you against yielding too much to the distractions of politics during that period when you should be laying strong and deep the foundations of your legal success.

The law is a jealous mistress, and clients are wary in bestowing confidence.

Whatever diverts from application is dangerous ; for it is more than genius for success in the law ; and the excitements and dissipations of politics are rarely compatible with diligence in study or attention to business.

There are, unquestionably, charms to youthful ambition in the political arena ; but see that they do not draw you away from the main business of your life.

It is true that, in our country especially, politicians and legislators are mostly taken from the ranks of the profession, and patriotism forbids that you should wholly neglect, or resign to others, your proper share of public duty. But keep politics subordinate, till you have acquired such a mastery of the law and such a hold upon clients, that you will be reasonably independent of the scanty emoluments and fickle fortunes of political life, and can defy at less personal cost its sometimes dishonorable overtures and degrading dictations.

And if you postpone your entrance upon public life till experience has taught you wisdom and study has taught you law, the chances will be greatly enhanced of your statesmanship proving of value to the Commonwealth, and your own fame being bright and lasting.

Gentlemen, the profession to which you now belong, from the importance of its functions, imposes much responsibility.

Not only is incumbent upon you faithful attention to the interests of those who may engage your services, but you owe it to the profession itself to make it worthy of its high mission as the perfecter of the law.

Of your obligations to the client I need scarcely speak. To the lawyer's keeping and management are confided business and domestic matters of the most important and delicate nature. To the honor of our profession it may be said, that it is a trust seldom betrayed.

Indeed, so faithful, as a rule, is the devotion of the lawyer to his client, that the public is accustomed to censure the Bar as serving private interests unduly.

This criticism is so common, that the public mind should be disabused of its misapprehension.

To do this, only an accurate understanding of the office of the lawyer is necessary.

Let it be first clearly ascertained how far the client himself is entitled to avail of the provisions of the law in the adjustment of his interests, and the province of the lawyer will be at once defined.

In a state of nature, no man is subject to control over his

person or property by others. But in a state of society, this exemption must be abridged for the good of the whole. The law is but the measure of this abridgment—the standard by which the conventional authority created is to be exercised. In other words, the conditions of the compact between society and the individual.

Courts and juries are only the artificial contrivances through which this compact is enforced. They have no inherent right to dispose of a man's life, liberty, or property; but derive this power from the law alone.

When, therefore, the interests of a citizen are submitted to their adjudication, he has the right to insist upon the exercise of their authority in strict accordance with the grant of their powers.

If this be denied him, he is despoiled of the equivalent for which he surrendered his primitive immunity and independence.

The claim of the citizen that his rights shall be passed upon according to the law, rather than the varied and indeterminate sense of right of the individuals who may happen to compose the tribunal, may result occasionally in failures of justice, and the escape of the guilty; but this is incident to one of the most valuable characteristics of law—its uniformity of operation.

Far better to endure the exceptional evils that are consequent upon established rules, than to adopt in their stead the personal conceptions of equity of judges and jurors in particular cases, as they arise.

The latter method would be the end of all certainty in legal proceedings. And where the law is readily violated, even in the name of justice, the way is opened for the incursion of the despot or the mob.

Human prescience is not equal to framing general laws in advance that will cover all the possible combinations of human circumstances; but much more harm would result from having no fixed standards at all for the regulation of society.

With all the advantages to navigation of chart and compass, an individual ship may yet be lost amid the dangers of the deep; but how much greater the peril, if the seaman undertake to cross the sea trusting only to his own skill as the emergency arises, to weather the shifting winds and currents he may encounter in his passage.

Apart from the tragedies and universal dread that would ensue upon the adoption of ordinary "lynch law," what utter

uncertainty would attend adjudications, even if the forms of legal procedure were adhered to, and yet jurors were permitted to make up their verdicts merely according to their ideas of "the right and equity of the matter."

With a panel composed, for instance, of a Mormon and a Shaker, a railroad king and a striker, a capitalist and a communist, a freethinker and a sabbatarian, a liquor dealer and a local optionist, with a woman suffragist thrown in, and a Bob Ingersoll, a George Francis Train, or a Wendell Phillips for a foreman, it would be a riddle harder than a Chinese puzzle, to guess what their finding would be on any of the many issues touching the vexed problems of the day that now commonly occur in our Courts, with no guide but their own notions of the "eternal fitness of things."

The mitigation of such a system would lie in the strong probability that the juries would remain forever hung.

If it be conceded that a member of society may properly invoke the law as it is, instead of submitting to the private standards of the individuals who compose the tribunal, his right to employ the aid of one having a more thorough knowledge of what his legal rights are than himself, becomes at once manifest.

In view of the multifarious relations and multitudinous laws that spring from social organization of an advanced type, it is impossible for one whose pursuits do not afford opportunity to study the law, to readily apply it to his necessities. Hence becomes indispensable a body of men who, from devoting themselves to the legal research impossible to the mass of the community, can supply this deficiency when the occasion for litigation or defence arises.

This class of men we denominate lawyers.

Whatever the citizen may properly do, therefore, for himself, we may do for him. This is stating the rule broadly, but not incorrectly, keeping in view that all general rules are qualified in operation.

The proposition that any suitor may command our services at will, must be taken subject to the obligations of morality, which are paramount in all relations.

The particular circumstances, however, that constitute exceptions to the rule can hardly be defined in advance.

But there ought to be "a Court of honor" in every lawyer's breast, which, exercising plenary equity jurisdiction, should be

able to enjoin him from a fraudulent execution of the rule laid down.

A profound thinker has declared that the liberties of England would be at an end, if lawyers felt at liberty to grant their services only according to their estimate of the merits of cases.

And, no doubt, much of the utility of our profession to the public consists in the facility it affords the citizen to avail of his legal privileges according to his own appreciation of his exigencies.

A lawyer of honest sentiments knows how to exercise generally the functions of a counsellor, without becoming an accomplice in villainy, or a wrestler of the law to base purposes.

As a general rule, it is our duty to serve any citizen whose legal rights are at stake. Nevertheless, we are not merely convenient tools to be used to pick a lock or break a safe by every burglar of the law who may choose to take us up; nor simply like horses at public livery, to be ridden by any comer, at pleasure, who may be ready to pay a certain rate of hire.

And if right to espouse the cause of our client, it is right and expedient besides, to support it zealously.

Experience has demonstrated that justice is best promoted by the hearty and sympathetic efforts of opposing counsel to present the cause of their respective clients in the best aspect. And if our province were more correctly appreciated, we would not be censured to the extent we are as having too little scruple in serving private interests. We are but advocates; the Court and jury are the judges. Our function is to try the case; theirs to decide it.

It is related of James II, that when a Prince he went into Westminster Hall to observe how justice was administered. He was carried away by the speech of the first barrister that addressed the jury, who displayed so much eloquence and feeling, that James remarked to his companion he had never heard so able, and withal, so upright and humane an advocate, and justice must surely be on his side. The succeeding counsel, however, proved equally cogent and affecting; and the Prince, puzzled and disgusted, forthwith left the Court, exclaiming: "Rogues, all! rogues, all!"

If each of the counsel had assumed to pass judgment on his client's case, beforehand, in his office, His Highness might have

been spared the scene that so perplexed him ; but it by no means follows, that either substantial justice or public policy would have been more surely promoted.

The lawyer that should conscientiously resolve to try no case he had not himself first decided to be strictly meritorious, would soon be hopelessly mired in egregious blunders. His information, at best, could only be *ex parte* ; and we know how inconclusive even the presentments of a Grand Jury are, although their investigations are conducted with the power to summon witnesses, and under the solemnities of an oath.

Doubtless, lawyers, in discussing the facts, often present them in a light more favorable to their side than is warranted by a close scrutiny of their legitimate effect ; but the human mind is multifold in the phases of its operation ; and the system, with all its imperfections, of submitting issues between citizens to a skilled tribunal, aided by the efforts of active, opposing counsel, is the best yet devised for the practical administration of justice.

This method finds its illustration in the fact in physical nature, that there is no such thing as inertia or a state of absolute rest ; what seems so is but an equipoise between opposing forces.

Be zealous, therefore, for your client. It is right, and earnestness is always effective. Half-hearted support is but furnishing troops to your adversary. To be absorbed in your case is to go far towards winning it.

There is much point in an anecdote related of Garrick :

"How is it," inquired a prosy parson of him, "that your renderings of the unreal drama are so effective, while I fail to move men when discoursing on such actual solemnities as their eternal welfare?"

"Because," replied the actor, "we portray fiction as if it were truth ; while you preach truth as if it were fiction."

Another complaint laid at our door is, the imperfections which mark the law as the instrumentality of justice.

While the law is yet defective, so far from its being our fault, the profession is largely entitled to the credit of its present degree of development in serving its purposes.

What has been accomplished in liberalizing its provisions and simplifying its procedure, appears from contrasting its condition

when the Feudal tenure was in full force with what it is now.

That the law, notwithstanding its progress, is still, in many respects, unsatisfactory, must be admitted; but our clients, (to contemplate but a minor aspect of their ameliorations,) at least, no longer have to resort to such ordeals as walking barefoot over red-hot iron, being plunged into water over their heads, or belaboring each other with cudgels till the sun goes down, to attest the righteousness of their cause; and can get to an issue without being obliged to *butt* and rebut and surrebut each other in intricate pleadings expressed in a barbarous foreign lingo.

Progress in the law has indeed been slow; but the advancement in the recognition of human rights, with which the law necessarily keeps pace, has been tedious and difficult. It is a tardy process from barbarism to enlightenment. Hereditary possessors as we now are of freedom enshrined in law, it seems as natural and matter of course, that no man should be deprived of his life, liberty, or property but by the judgment of his peers, or the law of the land, as to breathe the air of Heaven; but the successful assertion of so reasonable an immunity is the history of a long, an arduous, and sometimes bloody struggle.

And, after all, the progress in adapting the law to the ends of justice has not been slower than the progress in other important relations.

The first and universal necessity of our race, tilling the earth for food, had improved so little in its methods, that so late as down towards the close of the last century, Agriculture had not gotten beyond a wooden plow and the rude flail as its principal implements.

What more essential to human society than the diffusion of thought? and yet not till about A. D., 1450, was printing invented.

How obvious the need of ready facilities for transportation and movement; and yet, only within the memory of living men has been supplied any better means of either than beasts of burden, or vessels driven by the wind.

And if we may extend our observation to the domain of man's spiritual interests, what do we behold?

Although Philosophy and the silent teachings of Nature, and even Revelation itself, in the trump of Sinai and the voice of the present Dispensation, have responded to that first great ques-

tion of the conscious soul: "Whence am I, and whither do I go?" the mass of mankind have attained to no higher conception of their spiritual relations than was represented in a Jupiter or is symbolized in a Juggernaut.

Yet, the slowness of the law's advancement, or the measure of its present attainment, is no reply to the demand for its further improvement; and we owe it to the public and the profession, to which the responsibility belongs, to rid the law, as far as may be practicable, of the defects and uncertainties that are still manifest in its operation.

Let no attachment to forms because we are accustomed to them, nor the less worthy motive of preserving technicality to increase the importance or emoluments of our art, stand in the way of such amendment as will increase its efficiency as the medium of justice.

Subtle distinctions and niceties may promote the intellectual suppleness that comes of fencing with them, and thus flatter the vanity of the professional expert; but the need for the display of such gladiatorial skill is at the hazard of the justice it ostensibly champions.

An incident in the life of the celebrated Sir Astley Cooper may illustrate this point.

In comparing experiences with an eminent French surgeon, Sir Astley discovered that while he himself had not ventured to undertake a certain difficult and perilous operation on more than eleven occasions, his Parisian brother had not hesitated to perform it some hundred and thirty times.

"And I," remarked Sir Astley, who regarded the life of the patient as the first *desideratum*, "was successful in but seven of my cases; in how many instances did you succeed?"

"O, as to that," was the reply, "my patients all died; but then it was one grand and magnificent operation!"

We commonly style our Courts the "Temples of Justice;" but the reluctance of the citizen to repair to their sacred precincts is notorious.

This would not be so if the law were less precarious.

The suitor often finds his fate depending on a technicality as delicate as the hair which suspended the sword of Damocles.

The extent of the uncertainty of result in law-suits is exemplified by a glance at the published cases of our own Court of Appeals.

Since the organization of the present Court, it appears from the Reports that about one thousand appeals have been decided. Of this number, there were some three hundred and sixty-five reversals—amounting to nearly forty *per cent.* of the whole!

Such a difference of judgment cannot be attributed to pride of function or mere arbitrariness in the Appellate Bench, or to want of legal capacity in either of the tribunals concerned; for our State is exceptionally fortunate in its Judiciary, throughout.

The difficulty must be inherent in the present state of the law and its modes of procedure. And there is little doubt, if our Court of Appeals, distinguished as it justly is, were to be reviewed as frequently in turn, their decisions would fare little better than those which they pass upon.

A man would hardly go out to shoot robins with a gun that missed fire once in three times; and yet the uncertainty that still attends the adjudication of the important, but ordinary, questions of every day concerns, is greater.

Too many of the old flint locks our grandfathers used are still among the weapons of our legal armory. Can nothing surer be substituted? or must we still defend our rights with guns that vexatiously flash in the pan and sometimes kick to death the honest suitor who pulls the trigger, instead of doing execution on the trespasser they are aimed at?

With all the accumen and "*curia vult advisares*" that can be brought to bear upon the law as it now is, the most enlightened tribunals frequently disagree upon its exposition; and there is hardly a practitioner whose experience has not taught him there is no case so bad it may not be won; no case so good it may not be lost.

Is it any wonder that business men adopt such devices as Boards of Trade or Arbitration to settle their disputes, instead of resorting to the "Temple of Justice?"

The "half a loaf," left after the pinchings of compromise, "is better than no bread;" but the man who is entitled to the whole loaf should be so reasonably assured of getting it, that he should not feel it wiser to accept the half than to contend for the whole in the place appointed by the law itself to award him his own.

That there is no Utopia for the law, is true, and the impress of human imperfection must ever remain upon it; but the improvements already made in it encourage us to believe it is

susceptible of being still further moulded into subserviency to its great end.

The law is not a mummy from the tombs of the Pharoahs, merely for savans to puzzle over; it is a thing of life and power, with useful work to do. It is the appointed champion and defender of our rights. By all means, then, let us unfetter its limbs of whatever remains of the stiff and cumbrous panoply adapted only to by-gone eras. The cuirass and the helmet had their uses once; but this is the age of gunpowder and the needle-gun.

The soldier of to-day who visits the Tower of London, may look with curious interest on the heavy armor with which the Crusaders met the followers of Saladin, but he would laugh at the absurdity of so encasing himself now, if he should go forth to battle with the Turks.

Law may, indeed, be a science; but it is not one of algebraic quantities, or whose motions are to be calculated only as you would an eclipse of the moon.

There are no legal Maurys or Meyers that can prognosticate how the wind will blow from judicial quarters, or whether the skies will prove clear or foul when you embark on the waters of litigation.

All architecture must involve mathematics; but what shall be the form and style of the edifice, or whether it shall prove adapted to its uses, depends mainly on the practical judgment and art of the builder.

The law was meant to serve the purposes of every-day life, as much as a house or a garment; and it should be modernized till it answers modern needs.

The castles that perch upon the heights of the Rhine are imposing and picturesque; but their towers and battlements, their great halls and subterranean ways, no longer serve as convenient habitations for men.

A moat would render the street-car difficult of access; the only dungeon we require is a place for a coal-bin or a furnace; and instead of calling, "Ho! warder, ho! let the portcullis fall!" an occasional glance at the window fastenings by a municipal "star," is the only "watch and ward" we need.

The powdered ques, starched ruffles, and small swords that so became our stately ancestors, while appropriate "in auld lang syne," would be too stiff an array for the present count-

ing room or Corn Exchange, and be sadly out of place in the jostle of our crowded thoroughfares.

The big wigs that once lent a quaint and artificial awe to the brow of judicial authority in the palmy days of the "*absque hoc*," and when "John Doe and Richard Roe" were still important personages, and when a man was obliged to "grant, bargain, sell, alien, enfeoff and confirm" a foot of land he wanted to deed, instead of simply "granting" it, as he now can do, have been consigned to the lumber room, or appear only among the curiosities of the museum; where, as we contemplate them as venerable relics, we at the same time felicitate ourselves that progress has disencumbered us of much that was represented by those obsolete aids to judicial dignity, while we still retain, as precious legacies, the thoughts of those whose heads they once surmounted, and dubiously adorned.

The needs of our civilization demand the laying aside of all that is superfluous, or in the way of a speedy adjustment of its practical wants and issues. Simplicity, despatch, and effectiveness are the requirements in regard to the administration of the law, as in other relations; and the law itself enjoins obedience to the mandate in its own maxim of "*Utile per inutile non vitiatur*."

It would be presumptuous in me to undertake to point out how the required liberalization can be best effected. That is a work commensurate with the sagacity of the profession as a body. But if the spirit of improvement be at work, a combination of the results of professional experience and reflection, taking impress from "the very form and pressure of the times," will gradually supply the indications for the salutary moulding of the law.

The development of Equity Jurisprudence; the memorable flexibility of the law in the hands of a Mansfield, when the commercial growth of Great Britain called for its adaptation to new exigencies; the Procedure Acts of England; and the simplification of Pleadings, Practice and Conveyancing in our own country; and the enlarged competency of witnesses, demonstrate that the law is plastic enough, without ignoring, but rather subserving its fundamental principles, to meet the wants of a progressive civilization, if the wisdom and enterprise be not lacking to avail of its capabilities.

Even when less than the conventional number of twelve

may, as recommended by Lord Campbell, make the verdict of the Jury, and thus it be no longer in the power of a single knave or idiot to thwart a proper result; when such a judicial spirit shall be developed, or such a rule devised, that the reversal of judgments, deliberately rendered after full investigation, shall occur only for errors of substance, or on grounds that warrant the belief of a change of verdict on the merits; when the admissibility of evidence shall have been extended to its just latitude, and when the now separate stream of Equity shall mingle most of its waters with the current of actions at law, might we not realize the removal of some, at least, of the uncertainties and delays which are now the reproach of legal procedure, and sometimes make a sacrifice of the honest worshipper who goes up to the Temple of Justice, instead of the victim he brought to offer on its altar.

Having said thus much in reference to general considerations, let me dwell briefly upon the special relations of the Bar to the society and institutions of our own country.

The perpetuity of any established Government depends upon the existence of conservative elements within it.

In despotisms, this force is a standing army, maintaining order by physical power; in limited monarchies, the equilibrium of society is preserved by the establishment of privileged classes, with such incidents as primogeniture.

And while the spirit of a democratic form of government is incompatible with these devices, the need nevertheless equally exists in a free country for elements of stability. Individual patriotism and self-control are not of themselves an absolute reliance; they must be supplemented by conditions in the texture of society itself.

One of the surest breakwaters to sudden and dangerous popular movement, was formerly supplied in the homogeneity and steadiness of Southern society, as it existed in connection with African slavery.

That barrier or balance-wheel, whatever may be thought of the compensations of its loss, is gone.

The agricultural, and landed interest in general, is still one of the prime regulators of social motion; and the instincts of property of other kinds are also potent in the same direction. But when we consider the avocations of our people in this

regard, the lawyers are probably the most important factor.

In a free State, knowledge of and respect for the law, are indispensable to its preservation. And no class, from its pursuit and training, does so much in distributing this necessary leaven throughout the general mass as our fraternity.

Not only is respect for law as it deals with the private interests of men, essential to the preservation of public order, but a general recognition and maintenance of the organic law, in which reside the very genius and form of the government, are indispensable to the perpetuity of our free institutions.

No class of citizens, by the very nature of their daily occupation, so assiduously contribute to keep in full force the life and power of the fundamental law.

Our structure of political and legal rights is largely based on the foundations of a written Constitution; and every lawyer, whether in city, hamlet, or country, throughout the land, is a teacher and upholder of the sanctity of that instrument.

Truly, it may be said, lawyers are the standing army of the Republic!

The advocates of the political as well as the ordinary rights of the citizen, and the class from which the judges and statesmen of the land must be mainly furnished, the important character of our functions, with reference to the preservation of our distinctive form of government, can scarcely be over-estimated.

Accordingly, therefore, as the members of the legal profession shall prove imbued with a spirit of fidelity to the organic law of our national autonomy, may we expect to see Republican institutions maintained in their integrity.

Popular frenzy, evoked or misdirected by legal apostates, may indeed for a time cause the fabric of Constitutional Republicanism to tremble, and the assaults of Civil war may almost extinguish the sacred fires of its altar, displace, or even shake down some of its pillars, and leave lasting traces of its disfigurement and desecration; but if the American bar, as a body, shall remain faithful to their responsibility as the special guardians of that temple, and continue true to their vows as the very priests who minister at its shrine, sooner or later the ravages of the storm will be repaired; the tarnish of its rude touch, where effaceable, be obliterated; and the sacred edifice, substantially restored and renovated, be preserved to coming generations as the abode and asylum of regulated liberty, and

the monumental exponent of the beauty and strength of the Federative System.

As a defender of established rights, the American lawyer is no longer called to resist the encroaching prerogatives of the crown. The assaults come now from a different quarter, and in other forms. But the instincts of his education impel him to maintain the supremacy of law, as the only ægis of order and genuine liberty, equally when menaced by the tyranny of popular passion, or other dangers peculiar to Democratic institution, as when assailed by the aggressions of sceptered and established royalty.

The spirit of centralization; the colossal growth of corporate power; the hydra forms of communistic movement, and the intolerance, intrigues and corruption of partizanship, are some of the special shapes of public peril that are now to engage our powers and test our fidelity.

Let us acquit ourselves in our present field of duty as lawyers, in the highest signification of the term; and we will thus prove worthy of our country and our profession as exemplars of a patriotism, valuable not only from its purity, but because effective in its enlightenment, and timely in its opportunities.

Then, whether our high trust shall have been discharged in the glare of a metropolitan fame, or in the less conspicuous, but not less honorable station of rural seclusion, we shall win the consciousness of duty performed—that index and guerdon of genuine success—and which is far richer than wealth and more to be coveted than renown.

In every aspect, how elevated and important the functions you have assumed! Practitioners, Architects, Guardians of the Law! Not merely its philosophers, resolving its elements as a science, but the practical administrators of its comprehensive relations.

Contemplating the law, not in its anatomy as a science, but as a practical potentiality, how may we portray it?

Human law is the reduction into palpable form and living force by human intelligence of the sentiment of justice for the enforcement of the rights of men as they exist in a state of society.

Thus embodied, it appears as the opposer of the tyrant and the defender of the oppressed; the ruler of the strong, the sup-

porter of the weak ; the punisher of the guilty, and the vindicator of the innocent. It is at once the organizer of society and the body-guard of the individual. With one hand it stays the encroachment of prerogative ; with the other it quells the outburst of popular turbulence.

Whilst it breaks the grasp of avarice, it yet stands sentry over the legitimate possessions of the rich, and alike preserves inviolate the scanty savings of the poor. It is the creator of order, the author of peace, the very parent of civil liberty ; the genius and guardian of Republicanism, the Moses that strikes the rock of national life and prosperity.

Under its protecting ægis, life is sacred, liberty secure, home is a castle of refuge, property acquires its value, and labor is assured of its wages ; Agriculture goes forth in confidence to extend its domain and garner the multiplying rewards of its toil from the earth ; Commerce, on expanded wing, flies in security to the uttermost parts of the sea, to return laden with the rich trophies of its prowess ; while the various arts of Mechanical Industry, as does vegetation when stimulated by a congenial clime, bloom and fructify into the myriad comforts and luxuries that ameliorate human condition.

Through its highest ministrations we behold the humble and the great, clothed in the same garb of political equality, together working out the processes and enjoying the immunities of Self-government, whose coronal benefaction is the spiritual enfranchisement of Religious Toleration.

Law is the only sovereign that may justly claim to rule by Divine right. And King and Commune, President and People, must yield to its sway and respect its mandates ; or, rejecting its authority, stand revealed as the emissaries of despotism, the allies of anarchy, the fomenters of revolution, and " the public enemies " of human society itself !

But I must not longer detain you.

The hour of separation has arrived. The anchor is weighed, the sails are set, and the signal of departure is sounding.

Speed forth, then, on your destined voyage, cheered by the assurance that within the breasts of the multitude assembled to honor your embarkation, are a thousand hearts that will beat in sympathy in your struggles with difficulty and danger, and heartily rejoice in the successes that we trust await you.

