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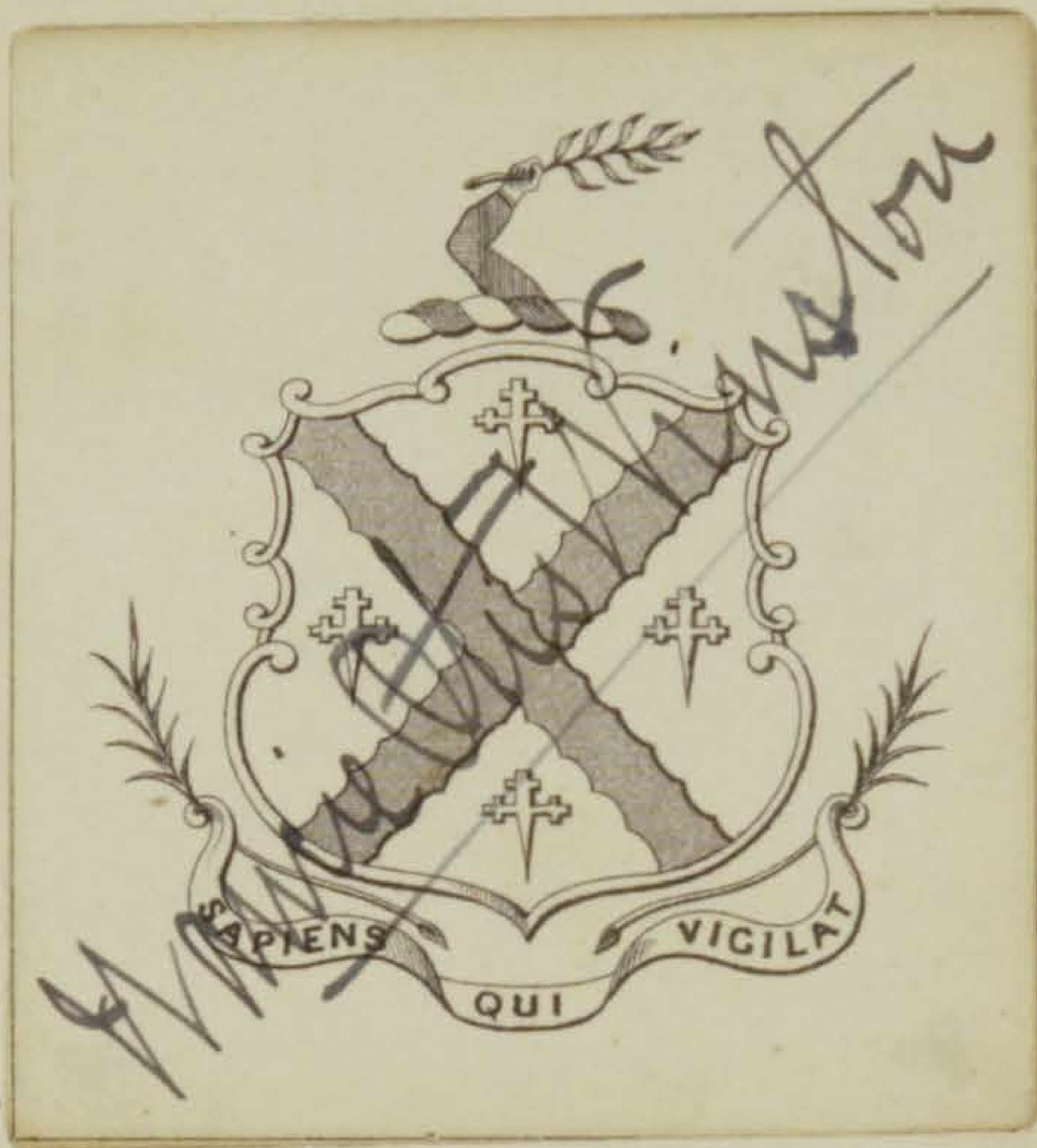
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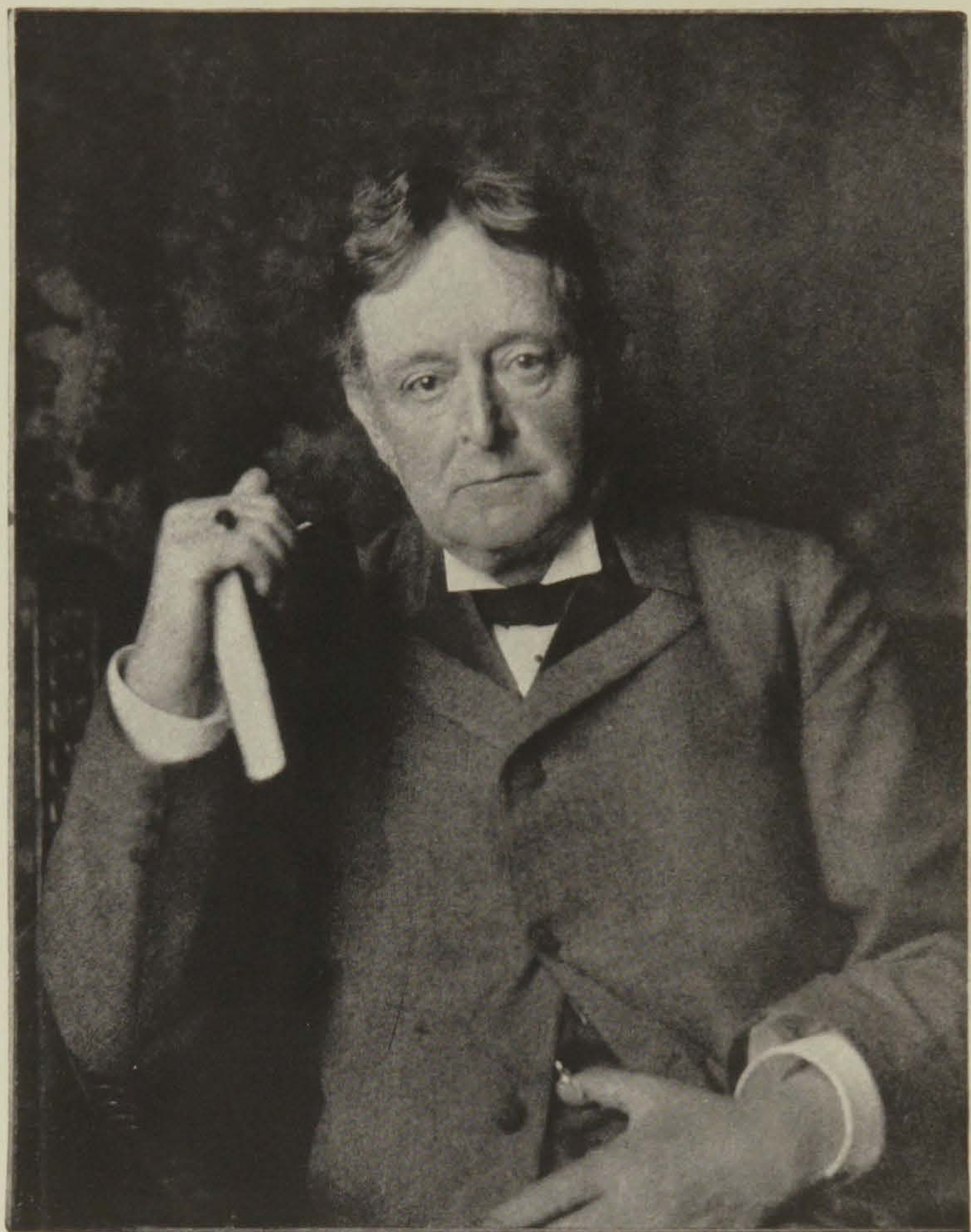
AMERICAN ADDRESSES



Joseph H. Choate

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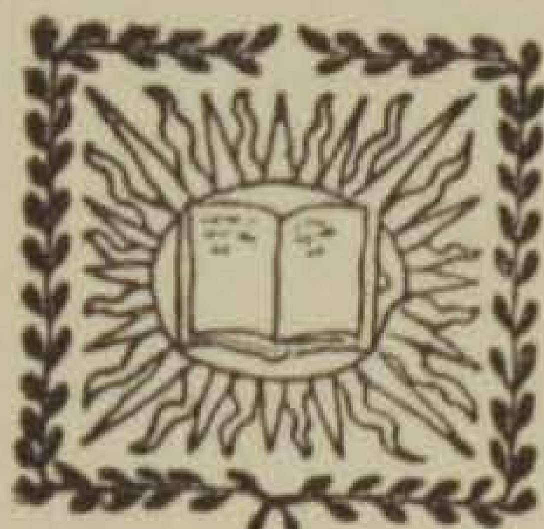
1911

AMERICAN ADDRESSES

BY
JOSEPH H. CHOATE



NEW YORK
THE CENTURY CO.
1911

PREFACE

At this distance of time I may venture to publish the letter of introduction which he gave me when I went to New York, a homeless stranger, in 1855. He was then at the zenith of his fame and Mr. Evarts, to whom it was addressed, had already, although only thirty-seven years old, attained marked eminence in the profession. The letter, an exact fac-simile of which is reprinted here, is strongly characteristic of the writer's warm heart and tender sympathy and of his lofty standard of life. It did indeed " smooth my first steps " and pave my way to fortune, as it resulted in my forty years' connection with Mr. Evarts, during which I had to live up to it as best I might.

Boston 24 Sept. 1855

My dear Mr. Evarts

I beg to incur one other obligation to you by introducing the bearer my friend and kinsman to your kindness.

He is just admitted to our bar, was graduated at Cambridge with a very high reputation for scholarship and all worth, and comes to the practice of the law, I think, with extraordinary promise. He has decided to enroll himself among the brave and magnanimous of your bar, with a courage not unwarranted by his talents, character, ambition and power of labor. There is no young man whom I love better, or from whom I hope more or as much and if you can do anything to smooth the way to his first steps the kindness will be most seasonable and will yield all sorts of good fruits.

Most truly

Your servant and friend

Rufus Choate.

After reading this letter, who will wonder that gratitude and affection have prompted me to accord to him the first place in this volume of addresses?

The adventures and achievements of naval heroes are among the most thrilling in human annals, and those of Admiral Farragut stand out in glowing colors. Americans will always honor his memory as one of the saviors of their country in the days of its deadliest peril. The simplicity of his character, his unsullied and lofty patriotism and his unmatched exploits which restored the integrity of the Union by sea, and led the way to Grant's final victories on the land, make him one of the greatest and most brilliant figures in our history, and I greatly valued the invitation to pronounce his eulogy at the unveiling of St. Gauden's statue in Madison Square, which will, I think, stand the test of time as that great sculptor's masterpiece.

The wounds and scars of our Civil War are fast healing, and that frightful struggle has come to be looked upon as the only means under Providence of curing the one fatal defect in our Constitution which permitted slavery, and of rebuilding upon imperishable foundations the Nation which in the fullness of time must be the greatest of all. But while the war lasted its horrors blighted the lives of the women on both sides. The women of the South suffered anguish and misery unspeakable, but those of the North were not a whit behind

them in their ardent and patriotic devotion. It was their enthusiasm and exertions that led to the formation of the United States Sanitary Commission, which, throughout the war, did such splendid service for the relief of the sick and wounded, under the presidency of Dr. Bellows of immortal memory, and sustained its great efforts from the beginning to the end. In April, 1864, when the Government was straining every nerve to bring the war to a close, and the Sanitary Commission was in great need, the women of New York organized the famous Sanitary Fair, which proved to be a wonderful financial success. General Dix presided at the opening and breathed the same spirit as he did in 1861, when he wrote, " If any man attempts to haul down the American flag shoot him on the spot! " and I esteemed it a great privilege to speak on that occasion for the women whose labors brought to that Commission a generous sum of money, encouraged the Government itself, and inspired to new exertions our struggling heroes at the front.

The breaking up of the Tweed Ring in 1871 by a universal uprising of the city of New York, and the rescue of the municipal government and treasury from the grasp of that infamous band of robbers, after its depredations had amounted to many millions, has been too often told to need repetition here. The people of the city, without distinction of party, vested all their power for that purpose in the Committee of Seventy citizens, of which I had the honor to be a member.

I was made chairman of its Sub-committee on Elections, whose duty it was to select candidates for all the offices to be filled in November, and to conduct the campaign at that election. Although we were all amateurs and wholly unpracticed in political arts, that duty was successfully performed, and resulted in the triumph of the people at the polls and the restoration for the time being of honest municipal government. My address in making the report of that committee at the mass meeting of the Cooper Institute in October fairly reflected the public sentiment in that fearful crisis. Although I fear that most of my colleagues on the committee are long since dead, I have thought that a portion of that address would still be of interest to those who believe that the only way to preserve our great city from corruption, is for all the citizens at all times to perform their public duty, whatever sacrifice of time and private business may be necessary.

"The Young Lawyer," "Our Profession," "Trial by Jury" and "The English Bar" were grateful contributions to the noble profession to which I owe so much. The immense and constant service which it has rendered in the creation and conservation of the national spirit, and in the making and administration of the laws, entitle it to the grateful recognition of the nation, which I hope it will always receive in spite of the frequent calumnies to which from time to time it is subjected.

My native city, old Salem, in Massachusetts, is

very dear to me. My ancestors were among its inhabitants from the very beginning, even before Endicott landed there with the first "founders." There is no city in the land that cherishes more quaint traditions and more interesting historical associations, or which can successfully challenge the enterprise and courage of its sailors and merchants who helped to lay the foundations of American commerce. Hawthorne, in his "Twice Told Tales," and "The House of the Seven Gables," has celebrated it in the most loyal and loving spirit, and is himself the brightest gem in its crown, and when I was invited as a son of Salem, after an absence of more than a quarter of a century, to take part in the celebration of the 250th anniversary of the landing of Governor Endicott, I responded gladly for the Salem people abroad and did my best to recall some of the charming associations of our old home and the spirit of its unique history.

Harvard College has a wonderful hold upon its sons. They are proud of its history and of the service which it has rendered to the country as a leader in the great cause of education, and they are vain enough to point to the names in its catalogue since 1642, which have been identified with every great national cause of freedom, progress and light. They never tire of sounding its praises, sometimes, perhaps, in a provincial, but always in a loyal spirit. As I have received the full measure of its honors and owe it an immeasurable debt of gratitude, I have not hesitated to

reprint brief addresses delivered at two memorable Commencement gatherings of Harvard graduates.

In 1883, when General Butler was Governor of Massachusetts, the corporation of the College following its custom from time immemorial, of recognizing the newly elected chief magistrate of the Commonwealth, had voted to confer on him the degree of Doctor of Laws, but this had been vetoed by the Board of Overseers, whose consent was necessary. This led to a great deal of agitation and discussion among the Alumni, and much excitement ensued.

General Butler had announced his intention of attending the Commencement exercises in his official capacity, as all his predecessors since the foundation of the college had done, but so strong was the feeling against him that the elected President of the Alumni, who had long been his severe political critic and adversary, refused to serve, and as vice-president I was called on to take his place. An unusual throng of the graduates attended, and much apprehension was expressed lest the Governor might improve the occasion by way of retaliation, to say something unkind of the college, as he had been known to do before, and so everybody expected a disturbance or at least something resembling it. But their expectations were doomed to a happy disappointment. In opening the proceedings, I made a conciliatory speech, appealing to that close bond of loyalty and mutual friendship which had always

united the College and the Commonwealth. His Excellency then arose and fairly turned the tables upon everybody, by making an equally friendly and a very dignified reply, but he confided to me afterwards that it was quite a different speech from that which he had expected to make when he entered the hall. He was certainly true to the traditions of his office, and his audience treated him with the utmost courtesy.

It was again my good fortune in 1885, in the absence of Phillips Brooks in Europe, to preside at the Commencement exercises at which a great gathering of the Alumni assembled to welcome James Russell Lowell on his return from the English mission. I had not at that time the slightest idea that I should long afterwards succeed him as Ambassador at that post. He had been continuously absent for eight years in the diplomatic service, in which he had added vastly to his already great prestige and distinction. He was much the most distinguished of the living graduates of Harvard, and his return home after such a long absence was naturally recognized as a signal event. Many of the most eminent of his fellows had assembled to greet him, and great was the joy of the occasion. His brilliant career as a poet, his renown as a man of letters, his services to the cause of freedom, and his success in upholding the honor and dignity of his country abroad, all appealed most strongly to our hearts, and we joined in giving him an extraordinary welcome.

The celebration of the centennial of the Hasty Pudding Club was another interesting occasion at Harvard, where, since the days of its most distinguished founder, Horace Binney, it had been the centre of undergraduate fun and recreation. I am not sure but that some of its members have derived as much benefit from its associations as from the more serious curriculum of the University, and am certain that they cherish a livelier recollection of them. At all events, the centennial of the Club was deemed a suitable occasion for its choicest spirits to come together, and make good its renowned motto of "*concordia discors*," and when I was called upon to lead their revels, I was by no means reluctant to do so.

The Union League Club, during the Civil War (which brought it into being as a champion of "Unconditional Loyalty") and for many years afterwards, was more devoted to public affairs than it has been of late, and was often the scene of warm demonstrations of public spirit. No heartier greeting was ever extended by it on behalf of the whole country, than to those brave Englishmen who had had the wit to appreciate and the courage to support our cause of Liberty and Union, when Lincoln was struggling divinely to maintain it, and when almost all the world seemed to be banded against us. During my term of service as President of the club, we had the honor of welcoming two of these truly historical characters, Lord Houghton and the Hon. William E. Forster, and I was proud to be the spokesman

of the club in thanking them for befriending us when we needed friends so sorely. No apology seems needed, therefore, for introducing here the address of welcome to Lord Houghton, who as Monckton Milnes had found in America hosts of readers and admirers, even before he championed our cause.

In 1905, after fifty years' service in the New England Society (which strives to keep alive the traditions and the principles of the Pilgrim and the Puritan founders of Massachusetts), I was asked, as the sole survivor of the members present who had attended the celebration of 1855, to give an account of that occasion. It had occurred at a critical point in our history, half way between the compromise measures of 1850 and the election of Abraham Lincoln in 1860. The fatal Kansas-Nebraska bill had been passed and was fast dividing the country into two hostile camps, the one determined by force, if need be, to resist the further extension of slavery, the other by the same means to extend its domination over our whole area. But the spirit and the hope of compromise were still warmly cherished by the conservative classes. On that occasion the presence and eloquence of two noble citizens, Dr. Oliver Wendell Holmes and the Reverend Dr. John Pierpont, a glorious champion of Liberty, had made the day memorable, and I was glad that I had preserved a record of it.

My welcome home by the Pilgrims touched me quite as deeply as any distinction conferred upon

me abroad, and I have thought it not immodest to include my address on that occasion.

I also wished to record the gracious generosity and good will of Earl Grey, Governor General of Canada, who, at my suggestion, restored to our nation the portrait of Franklin, which in 1777 was taken by John André from Franklin's house in Philadelphia, and which had hung as a precious possession in Earl Grey's ancestral home in Northumberland for one hundred and thirty years.

The story of Florence Nightingale's life was really told for the benefit of all the trained nurses of America, who had assembled to celebrate the semicentennial of the foundation by her of the first training school for nurses, by which she conferred countless blessings on mankind.

The rest of the addresses, tributes to such great citizens as Phillips Brooks, Dr. Richard Salters Storrs, James Coolidge Carter, Carl Schurz and Charles Follen McKim need no further introduction from me.

I fully realize the miscellaneous character of these addresses, all of which were prepared in "moments snatched from the iron grasp of an engrossing profession," and I commit them to the indulgent favor of such of my friends as may be interested in their various subjects.

JOSEPH H. CHOATE.

STOCKBRIDGE, MASS., September 14, 1911.

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RUFUS CHOATE

RUFUS CHOATE

Address delivered at the unveiling of French's statue of Rufus Choate in the Court House, Boston, October 15, 1898.

I DEEM it a very great honor to have been invited by the Suffolk Bar Association to take part on this occasion in honor of him who still stands as one of the most brilliant ornaments of the American Bar in its annals of two centuries. Bearing his name and lineage, and owing to him, as I do, more than to any other man or men—to his example and inspiration, to his sympathy and helping hand—whatever success has attended my own professional efforts, I could not refuse the invitation to come here to-day to the dedication of this statue, which shall stand for centuries to come, and convey to the generations who knew him not some idea of the figure and the features of Rufus Choate. Neither bronze nor marble can do him justice. Not Rembrandt himself could reproduce the man as we knew and loved him—for until he lay upon his death-bed he was all action, the "noble, divine, godlike action" of the orator—and the still life of art could never really represent him as he was.

I am authorized, at the outset, to express for the surviving children of Mr. Choate their deep sense of gratitude to the generous donor of this statue of their honored father, and their complete appreciation of the sentiment which has inspired the

city and the court to accept it as a public treasure, and to give it a permanent home at the very gates of the Temple of Justice, at whose shrine he worshipped They desire also to express publicly on this occasion their admiration of the statue itself, as a work of art, and a faithful portrait, in form and feature, of the living man as he abides in their loving memory. The City of Boston is certainly indebted to Mr. French for his signal skill in thus adding a central figure to that group of great orators whom its elder citizens once heard with delight—Webster, Choate, Everett, Mann, Sumner and Garrison. In life, they divided the sentiments and applause of her people. In death, they share the honors of her Pantheon.

It is forty years since he strode these ancient streets with majestic step—forty years since the marvellous music of his voice was heard by the living ear—and those of us who, as students and youthful disciples, followed his footsteps, and listened to his eloquence, and almost worshipped his presence, whose ideal and idol he was, are already many years older than he lived to be; but there must be a few still living, and present here to-day, who were in the admiring crowds that hung with rapture on his lips—in the courts of justice, in the densely packed assembly, in the Senate, in the Constitutional Convention, or in Faneuil Hall consecrated to Freedom—and who can still recall, among life's most cherished memories, the tones of that matchless voice, that pallid face illuminated with rare intelligence,

the flashing glance of his dark eye, and the light of his bewitching smile. But, in a decade or two more, these lingering witnesses of his glory and his triumphs will have passed on, and to the next generation he will be but a name and a statue, enshrined in fame's temple with Cicero and Burke, with Otis and Hamilton and Webster, with Pinkney and Wirt, whose words and thoughts he loved to study and to master.

Many a noted orator, many a great lawyer, has been lost in oblivion in forty years after the grave closed over him, but I venture to believe that the Bar of Suffolk, aye, the whole Bar of America, and the people of Massachusetts, have kept the memory of no other man alive and green so long, so vividly and so lovingly, as that of Rufus Choate. Many of his characteristic utterances have become proverbial, and the flashes of his wit, the play of his fancy and the gorgeous pictures of his imagination are the constant themes of reminiscence, wherever American lawyers assemble for social converse. What Mr. Dana so well said over his bier is still true to-day: "When as lawyers we meet together in tedious hours and seek to entertain ourselves, we find we do better with anecdotes of Mr. Choate, than on our own original resources." The admirable biography of Professor Brown, and his arguments, so far as they have been preserved, are text books in the profession—and so the influence of his genius, character and conduct is still potent and far reaching in the land.

You will not expect me, upon such an occasion, to enter upon any narrative of his illustrious career, so familiar to you all, or to undertake any analysis of those remarkable powers which made it possible. All that has been done already by many appreciative admirers, and has become a part of American literature. I can only attempt, in a most imperfect manner, to present a few of the leading traits of that marvellous personality, which we hope that this striking statue will help to transmit to the students, lawyers and citizens who, in the coming years, shall throng these portals.

How it was that such an exotic nature, so ardent and tropical in all its manifestations, so truly southern and Italian in its impulses, and at the same time so robust and sturdy in its strength, could have been produced upon the bleak and barren soil of our northern cape, and nurtured under the chilling blasts of its east winds, is a mystery insoluble. Truly, "this is the Lord's doing, and it is marvellous in our eyes." In one of his speeches in the Senate, he draws the distinction between "the cool and slow New England men, and the mercurial children of the sun, who sat down side by side in the presence of Washington, to form our more perfect union." If ever there was a mercurial child of the sun, it was himself most happily described. I am one of those who believe that the stuff that a man is made of has more to do with his career than any education or environment. The greatness that is achieved, or

is thrust upon some men, dwindles before that of him who is born great. His horoscope was propitious. The stars in their courses fought for him. The birthmark of genius, distinct and ineffaceable, was on his brow. He came of a long line of pious and devout ancestors, whose living was as plain as their thinking was high. It was from father and mother that he derived the flame of intellect, the glow of spirit and the beauty of temperament that were so unique.

And his nurture to manhood was worthy of the child. It was "the nurture and admonition of the Lord." From that rough pine cradle, which is still preserved in the room where he was born, to his premature grave at the age of fifty-nine, it was one long course of training and discipline of mind and character, without pause or rest. It began with that well-thumbed and dog's-eared Bible from Hog Island, its leaves actually worn away by the pious hands that had turned them, read daily in the family from January to December, in at Genesis and out at Revelations every two years; and when a new child was born in the household, the only celebration, the only festivity, was to turn back to the first chapter, and read once more how "in the beginning God created the heaven and the earth," and all that in them is. This Book, so early absorbed and never forgotten, saturated his mind and spirit more than any other, more than all other books combined. It was at his tongue's end, at his fingers' ends—always close at hand until those last lan-

guid hours at Halifax, when it solaced his dying meditations. You can hardly find speech, argument or lecture of his, from first to last, that is not sprinkled and studded with biblical ideas and pictures, and biblical words and phrases. To him the book of Job was a sublime poem. He knew the Psalms by heart, and dearly loved the prophets, and above all Isaiah, upon whose gorgeous imagery he made copious drafts. He pondered every word, read with most subtle keenness, and applied with happiest effect. One day coming into the Crawford House, cold and shivering—and you remember how he could shiver—he caught sight of the blaze in the great fireplace, and was instantly warm before the rays could reach him, exclaiming, "Do you remember that verse in Isaiah, 'Aha! I am warm. I have *seen* the fire'?" and so his daily conversation was marked.

And upon this solid rock of the Scriptures he built a magnificent structure of knowledge and acquirement, to which few men in America have ever attained. History, philosophy, poetry, fiction, all came as grist to his mental mill. But with him, time was too precious to read any trash; he could winnow the wheat from the chaff at sight, almost by touch. He sought knowledge, ideas, for their own sake, and for the language in which they were conveyed. I have heard a most learned jurist gloat over the purchase of the last sensational novel, and have seen a most distinguished bishop greedily devouring the stories

of Gaboriau one after another, but Mr. Choate seemed to need no such counter-irritant or blister, to draw the pain from his hurt mind. Business, company, family, sickness—nothing could rob him of his one hour each day in the company of illustrious writers of all ages. How his whole course of thought was tinged and embellished with the reflected light of the great Greek orators, historians and poets; how Roman history, fresh in his mind as the events of yesterday, supplied him with illustrations and supports for his own glowing thoughts and arguments, all of you who have either heard him or read him know.

But it was to the great domain of English literature that he daily turned for fireside companions, and really kindred spirits. As he said in a letter to Sumner, with whom his literary fraternity was at one time very close: "Mind that Burke is the fourth Englishman—Shakespeare, Bacon, Milton, Burke": and then in one of those dashing outbursts of playful extravagance, which were so characteristic of him, fearing that Sumner, in his proposed review, might fail to do full justice to the great ideal of both, he adds: "Out of Burke might be cut 50 Mackintoshes, 175 Macaulays, 40 Jeffreys and 250 Sir Robert Peels, and leave him greater than Pitt and Fox together." In the constant company of these great thinkers and writers he revelled, and made their thoughts his own; and his insatiable memory seemed to store up all things committed to it, as the books not in daily use are stacked away in

your public library, so that at any moment, with notice or without, he could lay his hand straightway upon them. What was once imbedded in the gray matter of his brain did not lie buried there, as with most of us, but grew and flourished and bore fruit. What he once read he seemed never to forget.

This love of study became a ruling passion in his earliest youth. To it he sacrificed all that the youth of our day—even the best of them—consider indispensable, and especially the culture and training of the body; and when we recall his pale face, worn and lined as it was in his later years, one of his most pathetic utterances is found in a letter to his son at school: " I hope that you are well and studious, and among the best scholars. If this is so, I am willing you should play every day till the blood is ready to burst from your cheeks. Love the studies that will make you wise, useful and happy when there shall be no blood at all to be seen in your cheeks or lips." He never rested from his delightful labors—and that is the pity of it—he took no vacations. Except for one short trip to Europe, when warned of a possible breakdown in 1850, an occasional day at Essex, a three days' journey to the White Mountains was all that he allowed himself. Returning from such an outing in the summer of 1854, on which it was my great privilege to accompany him, he said: " That is my entire holiday for this year." So that when he told Judge Warren so playfully that " The lawyer's vacation is the space between

the question put to a witness and his answer," it was of himself almost literally true. Would that he had realized his constant dream of an ideal cottage in the old walnut grove in Essex, where he might spend whole summers with his books, his children and his thoughts.

His splendid and blazing intellect, fed and enriched by constant study of the best thoughts of the great minds of the race, his all-persuasive eloquence, his teeming and radiant imagination, whirling his hearers along with it, and sometimes overpowering himself, his brilliant and sportive fancy, lighting up the most arid subjects with the glow of sunrise, his prodigious and never-failing memory, and his playful wit, always bursting forth with irresistible impulse, have been the subject of scores of essays and criticisms, all struggling with the vain effort to describe and crystallize the fascinating and magical charm of his speech and his influence.

But the occasion and the place remind me that here to-day we have chiefly to do with him as the lawyer and the advocate, and all that I shall presume very briefly to suggest is, what this statue will mean to the coming generations of lawyers and citizens.

And first, and far above his splendid talents and his triumphant eloquence, I would place the character of the man—pure, honest, delivered absolutely from all the temptations of sordid and mercenary things, aspiring daily to what was higher and better, loathing all that was vulgar

and of low repute, simple as a child, and tender and sympathetic as a woman. Emerson most truly says that character is far above intellect, and this man's character surpassed even his exalted intellect, and, controlling all his great endowments, made the consummate beauty of his life. I know of no greater tribute ever paid to a successful lawyer, than that which he received from Chief Justice Shaw—himself an august and serene personality, absolutely familiar with his daily walk and conversation—in his account of the effort that was made to induce Mr. Choate to give up his active and exhausting practice, and to take the place of professor in the Harvard Law School, made vacant by the death of Mr. Justice Story—an effort of which the Chief Justice, as a member of the corporation of Harvard, was the principal promoter. After referring to him, then, in 1847, as "the leader of the Bar in every department of forensic eloquence," and dwelling upon the great advantages which would accrue to the school from the profound legal learning which he possessed, he said: "In the case of Mr. Choate, it was considered quite indispensable that he should reside in Cambridge, on account of the influence which his genial manners, his habitual presence, and the *force of his character,* would be likely to exert over the young men, drawn from every part of the United States to listen to his instructions."

What richer tribute could there be to personal and professional worth, than such words from

such lips? He was the fit man to mould the characters of the youth, not of the city or the State only, but of the whole nation. So let the statue stand as notice to all who seek to enter here, that the first requisite of all true renown in our noble profession—renown not for a day or a life only, but for generations—is Character.

And next I would point to it as a monument to self-discipline; and here he was indeed without a rival. You may search the biographies of all the great lawyers of the world, and you will find none that surpassed, I think none that approached him, in this rare quality and power. The advocate who would control others must first, last and always control himself. "Every educated man," he once said, "should remember that 'great parts are a great trust,'" and, conscious of his talents and powers, he surely never forgot that. You may be certain that after his distinguished college career at Dartmouth—first always where there was none second—after all that the law school, and a year spent under the tuition of William Wirt, then at the zenith of his fame, could lend to his equipment, and after the five years of patient study in his office at Danvers, where he was the only lawyer, he brought to the subsequent actual practice of his profession an outfit of learning, of skill and research, which most of us would have thought sufficient for a lifetime; but with him it was only the beginning. His power of labor was inexhaustible, and down to the last hour of his professional life he never relaxed the most

acute and searching study, not of the case in hand only, but of the whole body of the law, and of everything in history, poetry, philosophy and literature that could lend anything of strength or lustre to the performance of his professional duties. His hand, his head, his heart, his imagination were never out of training.

Think of a man already walking the giddy heights of assured success, already a Senator of the United States from Massachusetts, or even years afterwards, when the end of his professional labors was already in sight, schooling himself to daily tasks in law, in rhetoric, in oratory, seeking always for the actual truth, and for the "best language" in which to embody it—the "precisely one right word" by which to utter it—think of such a man, with all his ardent taste for the beautiful in every domain of human life, going through the grinding work of taking each successive volume of the Massachusetts Reports, as they came out, down to the last year of his practice, and making a brief in every case in which he had not been himself engaged, with new researches to see how he might have presented it, and thus to keep up with the procession of the law. Verily, "all things are full of labor; man cannot utter it: the eye is not satisfied with seeing, nor the ear filled with hearing."

So let no man seek to follow in his footsteps, unless he is ready to demonstrate, in his own person, that infinite work is the only touchstone of the

highest standing in the law, and that the sluggard and the slothful who enter here must leave all hope behind.

Again we hail this statue, which shall stand here as long as bronze shall endure, as the fit representative of one who was the perfect embodiment of absolute loyalty to his profession, in the highest and largest and noblest sense; and, if I might presume to speak for the whole American Bar, I would say that in its universal judgment he stands in this regard pre-eminent, yes, foremost still. Truly, he did that pious homage to the Law which Hooker exacted for her from all things in Heaven and Earth, and was governed by that ever-present sense of debt and duty to the profession of which Lord Bacon spoke. He entered her Courts as a High Priest, arrayed and equipped for the most sacred offices of the Temple. He belonged to the heroic age of the Bar, and, after the retirement of Webster, he was chief among its heroes. He was the centre of a group of lawyers and advocates, the ablest and the strongest we have known, by whose aid the chief tribunal of this ancient commonwealth administered justice so as to give law to the whole country. Such tributes as Loring and Curtis and Dana lavished upon his grave can never wither. Each one of them had been his constant antagonist in the great arena, and each could say with authority:

——"*experto credite quantus*
In clypeum assurgat, quo turbine torqueat hastam."

One after the other, they portrayed in words not to be forgotten his fidelity to the Court, to the client and to the law, his profound learning, his invincible logic, his rare scholarship and his persuasive eloquence, his uniform deference to the Court and to his adversaries—and more and better than all these—what those specially interested in his memory cherish as a priceless treasure—his marvellous sweetness of temper, which neither triumph nor defeat nor disease could ruffle, his great and tender and sympathetic heart, which made them, and the whole bench and bar, love him in life, and love him still.

He magnified his calling with all the might of his indomitable powers. Following the law as a profession, or, as Judge Sprague so justly said, "as a science, and also as an art," he aimed always at perfection for its own sake, and no thought of money, or of any mercenary consideration, ever touched his generous and aspiring spirit, or chilled or stimulated his ardor. He espoused the cause of the poorest client, about the most meagre subject of controversy, with the same fidelity and enthusiasm as when millions were at stake, and sovereign States the combatants. No love of money ever planted the least root of evil in his soul; and this should not fail to be said in remembrance of him, in days when money rules the world.

His theory of advocacy was the only possible theory consistent with the sound and wholesome administration of justice—that, with all loyalty to

truth and honor, he must devote his best talents and attainments, all that he was, and all that he could, to the support and enforcement of the cause committed to his trust. It is right here to repeat the words of Mr. Justice Curtis, speaking for himself and for the whole Bar, that "Great injustice would be done to this great and eloquent advocate, by attributing to him any want of loyalty to truth, or any deference to wrong, because he employed all his great powers and attainments, and used to the utmost his consummate skill and eloquence, in exhibiting and enforcing the comparative merits of one side of the cases in which he acted. In doing so he but did his duty. If other people did theirs, the administration of justice was secure."

His name will ever be identified with trial by jury, the department of the profession in which he was absolutely supreme. He cherished with tenacious affection and interest its origin, its history and its great fundamental maxims—that the citizen charged with crime shall be presumed innocent until his guilt shall be established beyond all reasonable doubt; that no man shall be deprived by the law of property or reputation until his right to retain is disproved by a clear preponderance of evidence to the satisfaction of all the twelve; that every suitor shall be confronted with the proofs by which he shall stand or fall; that only after a fair hearing, with full right of cross-examination, and the observance of the vital rules of evidence, shall he forfeit life, liberty or

property, and then only by the judgment of his peers.

Regarding these cardinal principles of Anglo-Saxon justice and policy as essential to the maintenance of liberty and of civil society, he stood as their champion

> "with spear in rest and heart on flame,"

sheathed in the panoply of genius.

To-day, when we have seen a great sister republic on the verge of collapse for the violation of these first canons of Freedom, we may justly honor such a champion.

But he displayed his undying loyalty to the profession on a still higher and grander scale, when he viewed and presented it as one of the great and indispensable departments of Government, as an instrumentality for the well-being and conservation of the State. *"Pro clientibus saepe; pro lege, pro republica semper."*

I regard the magnificent argument which he made on the judicial tenure in the Constitutional Convention of 1853 as the greatest single service which he ever rendered to the profession, and to the Commonwealth, of which he was so proud. You will observe, if you read it, that it differs radically in kind, rather than in degree, from all his other speeches, arguments and addresses.

Discarding all ornament, restraining with careful guard all tendency to flights of rhetoric, in clear and pellucid language, plain and unadorned, laying bare the very nerve of his thought, as if

he were addressing, as no doubt he meant to address and convince, not alone his fellow delegates assembled in the convention, but the fishermen of Essex, the manufacturers of Worcester and Hampden, and the farmers of Berkshire—all the men and women of the Commonwealth, of that day and of all days to come—he pleads for the continuance of an appointed judiciary, and for the judicial tenure during good behavior, as the only safe foundations of justice and liberty.

He draws the picture of "a good judge profoundly learned in all the learning of the law;" "not merely upright and well intentioned;" "but the man who will not respect persons in judgment;" standing only for justice, "though the thunder should light upon his brow," while he holds the balance even, to protect the humblest and most odious individual against all the powers and the people of the Commonwealth; and "possessing at all times the perfect confidence of the community, that he bear not the sword in vain." He stands for the existing system which has been devised and handed down by the Founders of the State, and appeals to its uniform success in producing just that kind of a judge; to the experience and example of England since 1688; to the Federal system which had furnished to the people of the Union such illustrious magistrates; and finally to the noble line of great and good judges who had from the beginning presided in your courts. He then takes up and disposes of all objections and arguments drawn from other States, which

had adopted an elective judiciary and shortened terms, and conclusively demonstrates that to abide by the existing constitution of your judicial system was the only way to secure to Massachusetts forever "a government of laws and not of men."

It was on one of the red-letter days of my youth that I listened to that matchless argument, and, when it ended, and the last echoes of his voice died away, as he retired from the old Hall of the House of Representatives, leaning heavily upon the arm of Henry Wilson, all crumpled, dishevelled and exhausted, I said to myself that some virtue had gone out of him—indeed some virtue did go out of him with every great effort—but that day it went to dignify and ennoble our profession, and to enrich and sustain the very marrow of the Commonwealth. If ever again the question should be raised within her borders, let that argument be read in every assembly, every church and every school-house. Let all the people hear it. It is as potent and unanswerable to-day, and will be for centuries to come, as it was nearly half a century ago when it fell from his lips. Cling to your ancient system, which has made your Courts models of jurisprudence to all the world until this hour. Cling to it, and freedom shall reign here until the sunlight shall melt this bronze, and justice shall be done in Massachusetts, though the skies fall.

And now, in conclusion, let me speak of his patriotism. I have always believed that Mr. Web-

ster, more than any other one man, was entitled to the credit of that grand and universal outburst of devotion, with which the whole North sprang to arms in defense of the Constitution and the Union, many years after his death, when the first shot at Fort Sumter, like a fire bell in the night, roused them from their slumber, and convinced them that the great citadel of their liberties was in actual danger. Differ as we may and must as to his final course in declining years, the one great fact can never be blotted out, that the great work of his grand and noble life was the defense of the Constitution—so that he came to be known of all men as its one Defender—that for thirty years he preached to the listening nation the crusade of nationality, and fired New England and the whole North with its spirit. He inspired them to believe that to uphold and preserve the Union, against every foe, was the first duty of the citizen; that if the Union was saved, all was saved; that if that was lost, all was lost. He moulded better even than he knew. It was his great brain that designed, his flaming heart that forged, his sublime eloquence that welded the sword, which was at last, when he was dust, to consummate his life's work, and make Liberty and Union one and inseparable forever.

And so, in large measure, it was with Mr. Choate. His glowing heart went out to his country with the passionate ardor of a lover. He believed that the first duty of the lawyer, orator, scholar was to her. His best thoughts, his noblest

words were always for her. Seven of the best years of his life, in the Senate and House of Representatives, at the greatest personal sacrifice, he gave absolutely to her service. On every important question that arose, he made, with infinite study and research, one of the great speeches of the debate. He commanded the affectionate regard of his fellows, and of the watchful and listening nation. He was a profound and constant student of her history, and revelled in tracing her growth and progress from Plymouth Rock and Salem Harbor, until she filled the continent from sea to sea. He loved to trace the advance of the Puritan spirit, with which he was himself deeply imbued, from Winthrop and Endicott and Carver and Standish, through all the heroic periods and events of colonial and revolutionary and national life, until, in his own last years, it dominated and guided all of Free America. He knew full well, and displayed in his many splendid speeches and addresses, that one unerring purpose of freedom and of Union ran through her whole history; that there was no accident in it all; that all the generations, from the Mayflower down, marched to one measure and followed one flag; that all the struggles, all the self-sacrifice, all the prayers and the tears, all the fear of God, all the soul-trials, all the yearnings for national life, of more than two centuries, had contributed to make the country that he served and loved. He, too, preached, in season and out of season, the gospel of Nationality. He was the faithful disciple of Web-

ster, while that great Master lived, and, after his death, he bore aloft the same standard and maintained the same cause. Mr. Everett spoke nothing more than the truth, when he said in Faneuil Hall, while all the bells were tolling, at the moment when the vessel bringing home the dead body of his lifelong friend cast anchor in Boston Harbor: "If ever there was a truly disinterested patriot, Rufus Choate was that man. In his political career there was no shade of selfishness. Had he been willing to purchase advancement at the price often paid for it, there was never a moment, from the time he first made himself felt and known, that he could not have commanded anything that any party had to bestow. But he desired none of the rewards or honors of success."

He foresaw clearly that the division of the country into geographical parties must end in civil war. What he could not see was, that there was no other way—that only by cutting out slavery by the sword, could America secure Liberty and Union too—but to the last drop of his blood, and the last fibre of his being, he prayed and pleaded for the life of the nation, according to his light. Neither of these great patriots lived to see the fearful spectacle which they had so eloquently deprecated. But when at last the dread day came, and our young heroes marched forth to bleed and die for their country—their own sons among the foremost—they carried in their hearts the lessons which both had taught, and all Massachusetts, all New England, from

the beginning, marched behind them, " carrying the flag and keeping step to the music of the Union," as he had bade them, and so I say, let us award to them both their due share of the glory.

Thus to-day we consign this noble statue to the keeping of posterity, to remind them of " the patriot, jurist, orator, scholar, citizen and friend," whom we are proud to have known and loved.

ADMIRAL FARRAGUT

ADMIRAL FARRAGUT

Address delivered at the unveiling of St. Gaudens' Statue of Admiral Farragut in New York, May 25, 1881.

THE fame of naval heroes has always captivated and charmed the imaginations of men. The romance of the sea that hangs about them, their picturesque and dramatic achievements, the deadly perils that surround them, their loyalty to the flag that floats over them, their triumphs snatched from the jaws of defeat, and deaths in the hour of victory, inspire a warmer enthusiasm and a livelier sympathy than is awarded to equal deeds on land. Who can read with dry eyes the story of Nelson, in the supreme moment of victory at Trafalgar, dying in the cockpit of his flagship, embracing his beloved comrade with, "Kiss me, Hardy! Thank God, I have done my duty," on his fainting lips, bidding the world good-night, and turning over like a tired child to sleep and wake no more? What American heart has not been touched by that kindred picture of Lawrence, expiring in the cabin of the beaten *Chesapeake,* with "Don't give up the ship," on his dying lips? What schoolboy has not treasured in his memory the bloody fight of Paul Jones with the *Serapis,* the gallant exploits of Perry on Lake Erie, and of McDonough on Lake Champlain, and the other

bright deeds which have illuminated the brief annals of the American navy?

We come together to-day to recall the memory and to crown the statue of one of the dearest of these idols of mankind—of one whose name will ever stir like a trumpet the hearts of his grateful countrymen.

In the first year of the century—at the very time when the great English admiral was wearing fresh laurels for winning, in defiance of orders, the famous battle of the Baltic, one of the bloodiest pictures in the book of naval warfare—there was born on an humble farm in the unexplored wilderness of Tennessee, a child who was, sixty years afterwards, to do for America what England's idol had just done for her, to rescue her in an hour of supreme peril, and to win a renown which should not fade or be dim in comparison with that of the most famous of the sea-kings of the old world. For though there were many great admirals before Farragut, it will be hard to find one whose life and fortunes combine more of those elements which command the enduring admiration and approval of his fellow-men. He was as good as he was great—as game as he was mild, and as mild as he was game—as skillful as he was successful, as full of human sympathy and kindness as he was of manly wisdom, and as unselfish as he was patriotic. So long as the republic which he served and helped to save shall endure, his memory must be dear to every lover of his country, and so long as this great city shall

continue to be the gateway of the nation and the centre of its commerce, it must preserve and honor his statue, which to-day we dedicate to the coming generations.

To trace the career of Farragut is to go back to the very infancy of the nation. His father, a brave soldier of the Revolution, was not of the Anglo-Saxon stock for which we are wont to assert a monopoly of the manly virtues, but of that Spanish race, which in all times has produced good fighters on sea and land. His mother must have been a woman fit to bear and suckle heroes, for his earliest recollection of her was upon the occasion when, axe in hand, in the absence of her husband, she defended her cottage and her helpless brood of little ones against an attack of marauding Indians, who were seeking their scalps. Like all heroes, then, he was born brave, and got his courage from his father's loins and his mother's milk. The death of the mother and the removal of the father to New Orleans, where he was placed by the Government in command of the naval station, introduced the boy to the very scene where, more than half a century afterwards, some of the brightest of his proud laurels were to be won, and led him, by a singular providence, to the final choice of a profession, at an age when children generally are just beginning their schooling. The father of the renowned Commodore David Porter happened to fall ill and die under the roof of Farragut's father, and his illustrious son, whose heart overflowed with gratitude for

the hospitable kindness which had welcomed his dying father, announced his intention to adopt a child of that house, and to train him up in his own profession.

That happy conjunction of great merit with good fortune which attended the future Admiral through his whole life, was nowhere more signally marked than in the circumstance which thus threw together the veteran naval commander, already famous, and soon to win a world-wide name for skill, and daring, and enterprise, and the boy who, in his own last years, was destined to eclipse the glory of his patron, and to witch the world with still more brilliant exploits.

The influence of such a spirit and character as Porter's on that of a dutiful, ardent and ambitious boy like Farragut, cannot be overestimated. It was not a mere nominal adoption. Porter took him from his home, and became his second father, and with him the boy lived, and studied, and cruised, and fought, having thus ever before him an example worthy of himself. No wonder that he aspired to place himself, at last, at the head of the profession into which his introduction had been under such auspices!

Behold him, then, at the tender age of nine years the happy recipient of a midshipman's warrant in the United States Navy, bearing date December 17, 1810; and two years later, on the breaking out of the war with Great Britain, making his first cruise with his noble patron, who, as Captain Porter, now took command of the *Essex,* whose name he was to render immortal by his achieve-

ments beneath her flag. It was in this severe school of active and important service that Midshipman Farragut learned, almost in infancy, those first lessons in seamanship and war which he afterwards turned to practical account in wider fields and more dangerous enterprises. His faithful study of all the details of his profession, guided and inspired by that ever present sense of duty, which was the most marked characteristic of his life, prepared him, step by step, for any service in the line of that profession which time or chance might happen to bring; and when, at last, in March, 1814, the gallant little frigate met her fate in that spirited and bloody encounter with the British frigate *Phebe* and the sloop of war *Cherub,* off the port of Valparaiso, a contest which brought new fame to the American navy, as well as to all who bore a part in it, the boy of twelve, receiving an actual baptism of fire and blood, was found equal to the work of a man. He seems never to have known what fear was. If nerve makes the man, he was already as good as made. He thus describes this first of his great fights in his modest journal:

" During the action, I was like ' Paddy in the catharpins,' a man on occasions. I performed the duties of captain's aid, quarter gunner, powder boy, and, in fact, did everything that was required of me. I shall never forget the horrid impression made upon me at the sight of the first man I had ever seen killed. It staggered and sickened me at first, but they soon began to fall around me so fast, that it all appeared like a

dream, and produced no effect on my nerves. I can remember well, while I was standing near the captain, just abaft the mainmast, a shot came through the waterways and glanced upwards, killing four men who were standing by the side of the gun, taking the last one in the head and scattering his brains on both of us. But this awful sight did not affect me half as much as the death of the first poor fellow. I neither thought of nor noticed anything but the working of the guns."

He never was in battle again until forty-eight years afterwards, when he astounded the world by the capture of New Orleans, but who can doubt that that memorable day in the *Essex,* when her plucky commander fought her against hopeless odds, only lowering his colors when she was already sinking with all but one of her officers and more than half of her crew on the list of killed and wounded, was a lifelong inspiration to his courage and loyalty, that it planted forever, in the heart of the boy, that starry flag, which, as an old man, he was to bear at last, through bloodier conflicts still, to final victory?

It is wonderful how that half century of routine service in a navy that had nothing to do, in times of profound and unbroken peace, prepared and equipped him for those immense responsibilities and novel undertakings that were finally thrown upon him. One would naturally suppose that fifty years of dead calm—waiting for dead men's shoes while there was no fighting to kill them off—no active service anywhere—would

have benumbed the energy and stifled the ambition of an ordinary man and have unfitted him altogether for action, when at last the day of action came. But Farragut was no ordinary man. He magnified his calling when there was nothing else to magnify it, and by being faithful over a few things fitted himself at a moment's notice, to become a ruler over many. Porter, in his report to the Government, had commended him for bravery, but regretted that he was too young for promotion. The close of the war left him at the very bottom round of the ladder, but with a heart full of generous ardor and an unflinching will to do his duty, and so to climb, step by step, to the top, on which he ever kept a steadfast eye. The faithful midshipman was indeed the father of the future admiral. The boy that never shirked moulded the man that never flinched and never failed.

The traditions of the little American Navy of that early day were proud and glorious ones—and well calculated to fire a youthful heart with generous enthusiasm. It had carried off the honors of the war, and on the lakes and on the ocean in skill, pluck and endurance it had coped successfully with the proud flag of England—the undisputed mistress of the seas—arrogant with the prestige of centuries, and fresh from the conquest of her ancient rivals. Its successful commanders were recognized as heroes alike by their grateful countrymen and by a generous foe, and furnished examples fit to be followed and imitated by the

young and unknown midshipman whose renown was one day to cast theirs all in the shade.

It was neither by lucky accident nor political favor, nor by simply growing old in the service, that Farragut came in time to be the recognized head of his profession. From the first he studied seamanship and the laws of naval warfare as a science, and put his conscience into his work, as well in the least details as in the great principles of the business. So as he rose in rank he grew in power, too, and never once was found unequal to any task imposed upon him. Self-reliance appears to have been the great staple of his character. Thrown upon his own exertions from the beginning, buoyed up by no fortune, advanced by no favor, he worked his own way to the quarter-deck, and by the single-hearted pursuit of his profession was master of all its resources and ready to perform great deeds, if a day for great deeds should ever come.

Had that protracted and inglorious era of peace and of compromise, which began with his early manhood and ended with the election of Lincoln, been continued for another decade, he would have passed into history without fame, but without reproach, as a brave and competent officer, but undistinguished in that bright catalogue of manly virtue and of stainless honor which forms the muster roll of the American navy. But when treason reared its ugly head, and by the guns at Fort Sumter roused from its long slumber the sleeping courage of the nation to avenge that insulted flag

—that flag which from childhood to old age he had borne in honor over every sea and into the ports of every nation—his country found him ready and with all his armor on, and found among all her champions no younger heart, no cooler head, no steadier nerve, than in the veteran Captain, who brought to her service a natural genius for fighting and a mind stored with the rich experience of a well-spent life, and then, at last, all that half-century of patient waiting and of faithful study bore its glorious fruit.

Much as the country owes to Farragut for the matchless services which his brains and courage rendered in the day of her peril, she is still more in debt to him for the unconditional loyalty of his large and generous heart. Born, bred, and married in the South, with no friends and hardly an acquaintance except in the South, his sympathy, while there was yet time or room for sympathy, must all have been with her; "God forbid," he said, "that I should ever have to raise my hand against the South!" The approaching outbreak of hostilities found him on waiting orders at his home in Norfolk, surrounded by every influence that could put his loyalty to the test, in the midst of officers of the army and navy, all sworn like him to uphold the flag of the Republic, but almost to a man meditating treason against it. Could there have been a peaceful separation, could those erring sisters have been permitted, as at least one great Northern patriot then insisted they should be permitted, to depart in peace, he

would doubtless have gone with his State, but with a heart broken by the rupture of his country. But when the manifest destiny of America forbade that folly, there was but one course for Farragut, and there is no evidence that his loyalty ever for a moment faltered.

Other great and manly hearts, tried by the same ordeal, came to a different issue, and, perhaps, history will do them better justice than we can. But, now that it is all over, now that a restored Union has made them fellow citizens once more, we cannot refuse to recognize the manhood with which they struggled even to their fall.

No candid Northern man can read at this distance of time, without emotion, the heartrending letter of General Lee to Scott, resigning his commission, and redeeming his sword for Virginia, although history has pronounced it treason; but this we may say, and must say, that Lee and all who followed his example loved their State indeed, but forgot and betrayed their country, while Farragut, when the issue came, knew only his country; loved only his country and meant still to have a country to love. Not a single moment could he hesitate, and when Virginia, who had only a few weeks before elected delegates by a large majority, pledged or instructed to maintain her allegiance, was suddenly and treacherously, as he expressed it "dragooned out of the Union," he could not sleep another night on the soil of Virginia. At ten o'clock in the morning on the 18th of April, 1861, news came to Norfolk that the or-

dinance of secession had passed—and Farragut's mind was made up; he announced to his faithful wife, that for his part, come what might, he was going to *stick to the flag;* and at five in the afternoon they had packed their carpet bags and taken the first steamboat for the north. That *stick to the flag* should be carved on his tombstone, and on the pedestals of all his statues as it was stamped upon his soul. *Stick to the flag* shall be his password to posterity, to the latest generations—for he stuck to it when all about him abandoned it. He was

> "Faithful found
> Among the faithless—faithful only he."

It is a striking coincidence, recalling the most critical and gloomy hour through which the country was then passing, that when the steamboat which bore Farragut northward flying from secession, and hastening to lay his sword at the feet of the President, arrived at Baltimore on the morning of the 19th of April, the brave boys of the Massachusetts Sixth Regiment had just been fired upon in the streets, as they were marching to the rescue of the imperilled capitol—the pavement was still wet with their blood, the first blood of the Rebellion for slavery, just as eighty-six years before, at that very day and hour, the common at Lexington had been crimsoned with the blood of the ancestors of those very lads, the first that was shed in that other rebellion which, for freedom's sake, at once became a Revolution.

What a day for Massachusetts to celebrate! Mother of Liberty, as she is! Lincoln and his distressed Cabinet at Washington stood in sore need that day of the voice and the presence and the sword of every patriot, and the timely coming of so great a naval captain as Farragut to the rescue was as good to their souls as the arrival of a friendly squadron, as events soon proved.

Never was a nation less prepared for naval war than the United States in April, 1861. Forty-two old vessels, many of which were unseaworthy, the remains only of a decrepit peace establishment, constituted our entire navy; and all at once we had three thousand miles of exposed sea-coast to blockade and defend, our own great sea-ports to protect, rebel cruisers to pursue, and American commerce to maintain, if possible. The last was utterly impossible; the merchant service took refuge under other flags, and our own almost vanished from the seas, where it had so long proudly floated. But the same irresistible spirit of loyalty, the same indomitable will to preserve the imperilled Union, which brought great armies all equipped into the field, soon created a fleet also that commanded the respect of the world, and placed the United States once more in the front rank of naval powers.

The active services of such a man as Farragut could not long be spared, and when that great naval enterprise, the opening of the Mississippi, was planned—an enterprise the like of which had never been attempted before—he was chosen by

the Government to lead it, by the advice of his superiors in rank, and with the universal approval of the people, on the principle of choosing the best man for the service of greatest danger; and he accepted it on his favorite maxim, that the greatest exposure was the penalty of the highest rank. His experience was vast, but there was no experience that would of itself qualify any man for such a service.

It was upon his personal qualities that the country relied. Success was absolutely necessary. The depressing reverses of the first year of the war, the threatened intervention of foreign powers, and the growing arrogance of the Confederacy forbade the possibility of a failure. And all who knew Farragut knew that in his lexicon there was no such word as—fail. When he saw the gigantic preparations that had been made, he had said that he could take New Orleans, and everybody knew that he would take it, or pay his life as the forfeit. "I have now attained," said he, "what I have been looking for all my life—a flag—and having attained it, all that is necessary to complete the scene is a victory. If I die in the attempt, it will only be what every officer has to expect. He who dies in doing his duty to his country, and at peace with his God, has played out the drama of life to the best advantage." He put his trust in God, and in his own indomitable will, and none of Homer's heroes had more implicit faith in the God of Battles than he was wont to express. In every trying moment he looked

to Him as his leader, and after every victory he gave to Him the praise.

But still, like Sydney, he believed that God only helps those who help themselves, and acted on Cromwell's advice, " Trust in God, my boys, but keep your powder dry." So he wrote from Ship Island, " God alone decides the contest, but we must put our shoulders to the wheel." And when he was putting the *Hartford* into action, he crowded her with guns wherever a gun could be worked. It was Farragut's peerless courage that ironclad his wooden frigate, and carried her safely through the hellish fire of the forts. He had that two-o'clock-in-the-morning kind of courage of which Bonaparte boasted, and defined as "unprepared courage—that which is necessary on an unexpected occasion, and which, in spite of the most unforeseen events, leaves full freedom of judgment and decision." Happy was the day, therefore, for us all when Farragut, on his own merits, was put in command of by far the most powerful naval expedition that had ever sailed under the American flag, for one of the most perilous enterprises that any fleet had ever attempted.

The sun would set upon us if we were to undertake this afternoon to tell the story of the capture of New Orleans. The world knows it by heart, how when Farragut gave the signal at two o'clock in the morning, the brave Bailey, in the *Cayuga,* led the way, and how the great admiral, in the *Hartford,* in two short hours, carried his wooden fleet in triumph through that storm of

lightning from the forts, and scattered and destroyed the whole fleet of rebel gunboats and ironclads, and how it pleased Almighty God, as he wrote at sunrise to his wife, to preserve his life through a fire such as the world had scarcely known. Thus, in a single night, a great revolution in maritime warfare was accomplished, and a blow struck at the vitals of the Confederacy which made it reel to its centre. New Orleans, the key of the Mississippi—the Queen City of the South, was taken never to be lost again, and the opening made for all those great triumphs which soon crowned our arms in the West. But victory found our brave captain as modest and merciful as the conflict had proved him terrible, and history may be searched in vain for greater clemency shown to a hostile city captured after such a struggle than that with which the Federal commander, under circumstances of the utmost aggravation and insult, treated New Orleans.

In all his subsequent service on the Mississippi—in clearing the river at Vicksburg and running the batteries of Port Hudson, we find him exhibiting the same great traits of character, on the strength of which, at New Orleans, both friends and foes had united in pronouncing him a hero of the first class. The same fertility of resource—the same contempt of personal danger—the same caution in his designs, and the same resistless energy in execution, and withal, the same gentleness and modesty always.

"You know my creed," he says, on the day

after his gallant passage of the terrible batteries of Port Hudson, " I never send others in advance where there is a doubt; and being one on whom the country has bestowed its greatest honors, I thought I ought to take the risks which belong to them, so I took the lead. I knew the enemy would try to destroy the old flag-ship, and I determined that the best way to prevent that result was to try and hurt them the most."

The ardent loyalty of his officers and men, who loved and believed in him, and whom his own coolness and courage inspired, the generous applause of a grateful country, and the faithful support of the Government, who realized his merits, sustained him through all those trying months and years, while the final triumph of the cause of the Union, so long promised and expected, seemed ever receding like the horizon before him.

But, at last, he got the chance that his hopeful heart had longed for—to strike that fatal blow at Mobile, which forever sealed up the Confederacy from all intercourse with the outer world, and hastened its final dissolution, making hopeless, on its part, any further struggle in the West, while Grant and Sherman and Sheridan and Hancock were dealing its death blows in Virginia and Georgia.

The battle of Mobile Bay has long since become a favorite topic of history and song. Had not Farragut himself set an example for it at New Orleans, this greatest of all his achievements might have been pronounced impossible by the

military world, and its perfect success brought all mankind to his feet in admiration and homage. As a signal instance of one man's intrepid courage and quick resolve converting disaster and threatened defeat into overwhelming victory, it had no precedent since Nelson at Copenhagen, defying the orders of his superior officer, and refusing to obey the signal to retreat, won a triumph that placed his name among the immortals.

When Nelson's lieutenant on board the *Elephant* pointed out to him the signal of recall on the *Commander-in-Chief,* the battered hero of the Nile clapped his spyglass with his only hand to his blind eye, and exclaimed: "I really do not see the signal. Keep mine for closer battle flying. That's the way I answer such signals. Nail mine to the mast!" and so went on and won the great day.

When the *Brooklyn* hesitated among the fatal torpedoes, in the terrible jaws of Fort Morgan, at the sight of the *Tecumseh* exploding, and sinking with the brave Craven and his ill-fated hundred in her path, it was one of those critical moments on which the destinies of battles hang. Napoleon said that it was always the quarters of an hour that decided the fate of a battle; but here a single minute was to win or lose the day, for when the *Brooklyn* began to back, the whole line of Federal ships were giving signs of confusion, while they were in the very mouth of hell itself, the batteries of Fort Morgan making the whole of Mobile Point a living flame. It was the supreme moment

of Farragut's life. If he faltered all was lost—if he went on in the torpedo-strewn path of the *Tecumseh* he might be sailing to his death. It seemed as though Nelson himself were in the maintop of the *Hartford*. "What's the trouble?" was shouted through a trumpet from the flagship to the *Brooklyn*. "Torpedoes," was the reply. "Damn the torpedoes," said Farragut. "Four bells, Captain Drayton, go ahead. full speed," and so he led his fleet to victory.

The painters and poets have vied with each other in depicting the hero of Mobile Bay lashed in the shrouds of the *Hartford,* as she sailed through that fiery storm of shot and shell, leading her companions to glory. That was, indeed, no holiday station, for, in nineteen months of actual service, the flagship had been struck already not less than two hundred and forty times, but never once had a hair of that head, which always showed in the most exposed position on the vessel, been touched. No wonder that his crews and officers believed that he bore a charmed life, and were always ready to follow in the same spirit wherever he dared to lead—no wonder that this last sublime self offering of their dear leader to the God of Battles, whom he trusted, inspired every man in the fleet to almost equal confidence and daring, as it did.

Van Tromp sailed up and down the British channel, in sight of the coast, with a broom at his mast-head, in token of his purpose to sweep his hated rivals from the seas. The greatest of Eng-

lish admirals, in his last fight, as he was bearing down upon the enemy, hoisted on his flagship a signal which bore these memorable words: "England expects every man to do his duty"—words that have inspired the courage of Englishmen from that hour to this; but it was reserved for Farragut, as he was bearing down upon the death-dealing batteries of the rebels, to hoist nothing less than himself into the rigging of his flagship, as the living signal of duty done, that the world might see that what England had expected, America, too, had fully realized, and that every man, from the rear-admiral down, was faithful.

The creative genius of the young and brilliant artist, who produced this noble statue of Farragut, which has to-day been unveiled, to stand for centuries in this busy highway of American life—presents him, as he stood in that crowning hour of victory, the very incarnation of courage and loyalty, commanding the homage of his countrymen, and the admiration of mankind. That terrible era of fraternal bloodshed, which witnessed his conflicts and triumphs, can never be forgotten, but the great Civil War will be worth all its frightful cost—if it has realized in the heart of every American the lessons of Farragut's life, and his supreme conviction, that the people of these thirty-eight States have but one country, that unconditional allegiance to the Union—to the Union for Liberty only—is the sole condition of citizenship, and that whoever hereafter lifts his hand against its Flag must be forever dishonored.

The golden days of Peace have come to last, as we hope, for many generations. The great Armies of the Republic have been long since disbanded—our peerless Navy, which, at the close of the war, challenged the wonder of the world, has almost ceased to exist—but still we are safe against attack from within and from without. The memory of our heroes is "the cheap defence of the Nation, the nurse of manly sentiment and of heroic enterprise" forever. Our frigates may rot in the harbor—our ironclads may rust at the dock, but if ever again the flag is in peril, invincible armies will swarm upon the land, and steel-clad squadrons leap forth upon the sea to maintain it. If we only teach our children patriotism as the first duty, and loyalty as the first virtue, America will be safe in the future as she has been in the past.

When the war of 1812 broke out she had only six little frigates for her navy, but the valor of her sons eked out her scanty fleet, and won for her the freedom of the seas. In all the single engagements of that little war, with one exception, the Americans were victors, and, at its close, the Stars and Stripes were saluted with honor in every quarter of the globe. So, when this war of the Rebellion came suddenly upon us, we had a few ancient frigates, a few unseaworthy gunboats, but when it ended, our proud and triumphant navy counted seven hundred and sixty vessels of war, of which seventy were ironclads. We can always be sure, then, of fleets and armies enough. But

shall we always have a Grant to lead the one, and a Farragut to inspire the other? Will our future soldiers and sailors share, as theirs almost to the last man shared, their devotion, their courage and their faith? Yes, on this one condition, that every American child learns from his cradle, as Farragut learned from his, that his first and last duty is to his country, that to live for her is honor, and to die for her is glory.

THE METROPOLITAN SANITARY FAIR

THE METROPOLITAN SANITARY FAIR

Address delivered at the opening of the Metropolitan Sanitary Fair in New York, April 5, 1864.

THE ladies of the Executive Committee, for themselves and for all the generous women who have given their time, their services and their hearts to this glorious enterprise, and in the sacred name of charity, which is the watchword of New York to-night, accept at your chairman's hands these bountiful treasures, which the wealth of this great metropolis and the universal loyalty of Americans at home and abroad, have poured out at their feet to-night—and they pledge themselves here anew to finish the good work which they have begun, and, with the aid of this generous public, to fulfil the high and holy trust on whose behalf they have solicited these lavish alms. Standing here for the moment to represent those whose hearts have prompted and whose hands have planned this wonderful Fair, and speaking as with their lips, I shall not presume to eulogize them. They are themselves their all-sufficient eulogy. Their own works do praise them; and he must indeed be gifted with a better eloquence than human lips have ever uttéred, who

can add to the lustre of that imperishable chaplet of praise, with which their own great labors of love and mercy in these three years have decked the brows of the women of America.

It is the women of a country, in whose hands its destiny reposes; and no cause that is not great enough to command their devotion, and pure enough to deserve their sympathy, can ever wholly triumph. But the wholeness of their devotion and the ardor of their sympathy are the tests, that the cause which has called us together to-night is one of the grandest and purest that ever appealed to the heart of man. It is the cause of our country, bleeding from the living veins of her brave sons. Thousands and tens of thousands of our sick and wounded heroes now languish in the hospitals of the Sanitary Commission, from the Potomac to the Mississippi, and thousands and tens of thousands more will be added to their number in the months of battle that are already impending over us. It was to save and succor these martyrs to our liberties that that noble institution was founded, and to hold up the drooping hands of the institution itself the women of all the cities of the North, with a spontaneous and contagious impulse, have devoted the entire winter to the work of these fairs.

You all know what great things have been done elsewhere—how the cities of the East and of the West have vied with each other in their efforts and achievements; and how at last even Brooklyn, jealous of her independence and fear-

ing to be swallowed up in spite of the broad waters of the East river, has taken time by the forelock, and, rousing herself to unknown vitality, has poured a flood of wealth into the treasury of the Commission. And now, with these bright examples before her, it remains to be seen what New York shall do.

The hopes of the managers may seem to some extravagant; but the highest figures that have yet been named must surely fall short of the true result. And why should not this great metropolis, rolling in wealth, plunged to the lips in luxury, not only surpass each one of her sister cities in this strife of love, but even do more than all the rest together? Why should she not wipe from her escutcheon the unhappy stains of the last summer* by the bright consummation of this glorious winter? Surely, if ever there was a time and a city which ought to respond to the sufferings of our gallant soldiers, it is New York to-day. Why, what have the men of New York been doing while these our brethren have been bleeding and dying? Let Wall street answer; let the bloated fortunes of her merchants and tradesmen answer; let the purple and fine linen in which her citizens go clothed tell; let the diamonds and jewels on the necks of her daughters speak—aye, let this bright and shining company itself reveal the story. Behind that living rampart of flesh, which the breasts of a million of our fellow-citizens in arms

* The bloody draft riots of 1863.

have formed, we have followed the giddy pursuit of wealth, and have bought and sold and gathered in our gains as quietly and serenely as if the peace of the nation had never been ruffled. Why, then, should we not give, and give largely, to this great cause? Yes, for us, the effeminate men of New York, who have shared with the women all the benefits and profits of the soldiers' toils and woes there is no escape from the stern calls of the hour. Our country has but two great needs in this day of her peril—men and money—as everybody knows. Take, then, your lives in your hands, and go forth to battle for the liberties which your brave fathers won. Or, if you shrink from that—if you love your lives too well to give them to your country—then there is but one alternative—you must pay down now and here a generous ransom. If, in the midst of war and carnage you will enjoy such luxuries as life and peace and plenty, you must pay roundly for them. You cannot keep all your life, and all your treasure, too. One thing or the other, "your money or your life," is what America and the ladies demand of every man of us to-night.

And now, if you will look around you at all the wonders of the Fair, you will see that the ladies have spared no pains to satisfy every taste, however fastidious, and to draw the money from every pocket, however reluctant. Is your soul glowing with the love of art? Go feast it in yonder gallery of pictures, the most magnificent which the American sun has ever lighted. Or, if dead to

the beauties of art, you would study nature, and, as Bryant hath it, "hold communion with her visible forms," go forth to the wigwam of Bierstadt, and visit the red men and women of the wilderness—sweet children of nature—arrayed in primitive simplicity, sounding the war-whoop on the peaceful pavement of Fourteenth Street, amusing themselves and their visitors with the innocent sports of the tomahawk and the scalping knife. Or, perhaps a love of the marvellous has seized possession of your soul. There is food even for you; for, lo! the old "Curiosity Shop" opens its portals, wherein you can see the seven hundred wonders of the world and the glory of them, and all without extra charge. Here, too, is food for the hungry in most ample stores. To-morrow the Knickerbocker Kitchen, on Union Square, will open its doors, and, if rumor is to be trusted, the good things there to be served up by ladies of the purest Dutch descent will have such magic virtues that a fortnight's board in that mushroom edifice will transform the most cadaverous and ill-conditioned exiles from New England into the sleek and unctuous image of those primeval Dutchmen to whose memory that establishment is dedicated.

But you must go and look for yourselves for these and all the other glories of the Fair. You can hardly go amiss in any direction, in the honest endeavor to empty your burdensome purses—and be sure that no less than this is expected of you. I do not know that

positive orders have been given to the police to arrest and detain every man who is found leaving the premises with money in his pockets; but, of course, those officials know their duty and will discharge it fearlessly.

But I should fail to do justice to the feelings of those for whom I speak if I did not express their heartfelt gratitude to all who have contributed in any manner to this auspicious opening—to the citizens at large, of every trade and calling—to the kindred sympathy of the people of New Jersey—to our gallant firemen—to the hundred distant cities and towns that have organized their charity into generous gifts—to the loyal Americans in foreign lands—and, above all, if I should fail to offer a special tribute of thanks and praise to the countless friends of the soldier among the poor, who, from every quarter and in every possible form, have poured in their little offerings of love, whose grateful incense must call down the blessings of Heaven upon them and us. And may I not venture, without the fear of suspicion or envy, to say that the ladies are indebted more than to any other class of our citizens to the generous artists of New York for their unrivalled zeal and devotion to the good work? Others have given of their money and their substance; but the artists have transferred their very life-blood to the canvas, and given each the child of his brain to the cause. They have placed the cap upon this beautiful column, which the ladies have raised, and given us that noble gallery,

which lends to the whole Fair a dignity and a beauty which no other Fair has shown. And now, what remains but that we should all, with all our might, second the glorious exertions of the managers? And when the Fair is ended and the grand result is known, as our gallant armies march out to strike that gigantic blow, which shall, as we hope, send this foul rebellion reeling to its last retreat, let it bear to them the glad tidings that they carry with them the hearts and the hopes and the prayers of twenty millions of loyal Americans; and that for as many as fall or faint by the way all the strong arms of the nation will be ready to save them, and all its fair hands to heal their wounds or soothe their dying hours.

THE TWEED RING

THE TWEED RING

Address delivered at the meeting of the Committee of Seventy at Cooper Institute, New York, November 3, 1871.

AT last, fellow-citizens, for the first time in many years, we can once more hold up our heads like men, and declare without any sense of shame that we are citizens of the great and glorious city of New York. Until within the last three months we exhibited to the world a truly humiliating and disgusting spectacle. A city of a million free inhabitants, the metropolis of the Continent in every sense of the word, the centre of its wealth, its intelligence and its influence; the seat of its commerce, and the starting point from which all its greatest enterprises proceed, had, nevertheless, become, by the apathy of its citizens and their absolute desertion of all their civic duties, the victim and the prey of a gang of political miscreants whose villainies were without a parallel. Every avenue and department of the municipal service fairly reeked with corruption. Robbers sat without disguise at the head of the Department of Public Works, in the City and County Treasury, in the administration of the Central Park, and their hirelings and dependents filled almost every office. From these points of power the band of conspirators exercised a gross

and brutal tyranny over the people of the city, more grinding than civilized men had before submitted to.

Far worse than " taxation without representation," which all history has declared to be sufficient cause for revolution, it was highway robbery under the pretense of taxation, with no pretense of representation whatever, and before we knew it we had been literally plundered of twenty millions of the public money. At last the press—true to its functions as the guardian of the public liberties—sounded the alarm. The people awoke from their long slumber, assembled in haste for mutual protection, and resolved, as the only remedy for the wrongs they had suffered, to take their own affairs into their own hands. And now two months of vigorous and united action have changed the whole aspect of affairs. The general scorn and contempt which rested upon us has, in all quarters, been changed to sympathy and fraternal encouragement, because we have shown a determination to take care of ourselves, and have resolved, at all hazards, and by whatever means may be necessary, peacefully if we can, but if not, then in some other way, to recover our mutilated liberties and vindicate our civil rights.

It is true that we still wear the shackles, and our necks still show a fearful galling from the collars they have borne so long. But we no longer wear our fetters meekly, and are prepared for the struggle, however desperate, that shall cast them off. We no longer kiss the rod of our oppressors,

but now have snatched it from their grasp, and mean henceforward to give blow for blow. We no longer lie still with the bedclothes over our heads, pretending to be asleep, while these burglars are rifling our pockets and our safes, but have raised the hue and cry, and joined in full pursuit, and mean not to let go the chase until we have hunted the scoundrels down.

Realizing at last the deadly peril into which the body politic had been plunged by your own shameful neglect, and convinced that it could only be rescued and restored by the removal of the cause of the mischief and the return of all good citizens to the performance of their public duties, you created the Executive Committee of Seventy to represent and to guide you in that great enterprise, to search out and ascertain the full extent of the mischief that had been done, to recover the moneys that had been stolen, to bring to justice the chief criminals, to summon to your aid the legislative and executive powers of the State, to obtain the repeal of the City Charter, to exterminate from office the Ring and all its minions, and finally, in the words of your resolution of September 4, " To assist, sustain and direct a united effort by the citizens of New York, without reference to party, to obtain a good government and honest officers to administer it."

It was the fulfilment of this latter duty, so far as it might be accomplished, that was intrusted to the Committee on Elections, whose proceedings your chairman has requested me to re-

port to you. It was obvious at the outset, in the conduct of this great movement of reform, that you had no idea of confiding your municipal affairs to either of the political parties to the exclusion of the other, and that both alike, so far as their past participation in those affairs was concerned, were the objects of your supreme distrust. You had no choice between a corrupt Democrat and a corrupt Republican, and were perfectly well aware that the Ring of malefactors who had usurped the powers of taxation and government, and were enriching themselves without labor at the public cost, was composed of political prostitutes from both the party organizations, and that they found the real secret of their power in the mutual betrayal of their trusts, and if better chance or greater cunning had given to the base men of one party the lion's share of the spoils, it was only the want of opportunity, and not of evil purpose, that had prevented their associates of the other party from perpetrating just as great iniquities, and carrying off just as much plunder.

With a view, therefore, to rally the good men of all parties, and of every creed, color and condition to a united effort for an honest government, your Committee on Elections was composed of equal numbers of Democrats and Republicans, and they were instructed to forget their politics, to confer with all organizations, parties, societies and individuals who might desire to co-operate for the common good, and to bring about as nearly as possible a complete union of all citizens upon

one reform ticket for all the city and county offices and for the Senate and Assembly. With the State tickets it was wisely concluded that we had nothing whatever to do, since the question of city reform united the support of the honest portion of both the great parties of the State. To these directions the Committee on Elections have faithfully adhered. They have preferred none because they were Republicans. They have rejected none because they were Democrats. They have counselled with all and closed their doors upon none.

They claim credit for some forbearance, for much patience and an unfailing purpose to unite the entire opposition to Tammany, and they are happy to announce to you that that purpose has been substantially accomplished, and that, with some few exceptions, of which I shall presently speak, a substantial union of the friends of reform will speak with one voice and cast a consolidated vote on election day. It was manifest from the first that the movement which you inaugurated at your first meeting had aroused a response as hearty as the call was loud, that all classes of society were profoundly agitated, and that a general determination pervaded the community to drive out the Ring, and put honest men in their places. But there was a total want of organization; there was a countless number of associations, each with a distinct head and under a different name. There were all kinds of Democrats, hailing from all sorts of halls, generally with harmonious and musical

names, but not very harmonious spirits. There were Apollo Hall Democrats and reform Democrats, German Democrats, independent Democrats and Union Democrats, lukewarm Democrats and Democrats fiery hot, but none, I believe, professedly cold-water Democrats. And even the Republicans were divided. We found that the Republican party of this city had what it was pleased to call "wings"; and although we Republicans, when gathered in family council, don't allow any criticism from outsiders, yet I in this Union meeting, as a Republican, from the beginning to the end, devoted to its general policy and proud of its record, may be permitted to say here that these two wings of the Republican party in this city are the strangest and most uncomfortable pair of pinions with which any political bird was ever encumbered. They will neither fold together, spread together nor flap together. Each goes in a different direction and on its own hook, and is more likely to hit the other and make the feathers fly from that than from any common enemy.

Besides, like the wings of an ostrich, they are very small compared with the general bulk of the bird, and seem designed for no better purpose than to make a great noise and flapping and frighten innocent persons and young political children; and, as to locomotion and progress, why, a bird with one wing would get along a great deal better. But, nevertheless, out of all this jarring discord and these many associations pulling in

different ways, and each having purposes of its own to serve, second only to the great object of reform, and sometimes, I am sorry to say, not quite second to that, substantial harmony has grown at last, and, especially in regard to the county ticket, there has been a perfect union. So that, for once, we can show you all the different kinds of Democrats of whom I have spoken feeding at the same trough; and as to the Republicans, the lions of the Custom House are actually lying in the same bed with Horace Greeley's lambs.

And here your Committee on Elections is bound to recognize and acknowledge with gratitude the very great service rendered to the cause of union and reform by a body of citizens assembled in a convention which was, I believe, without a precedent in our political history. The Council of Political Reform, an organization created some time ago for the general purposes indicated by its name, composed of respectable citizens of all parties and organized in every ward of the city, invited a representation of men of every party, creed, nationality, color and class to meet in convention and to nominate a complete list of officers for the ensuing election, and, having called them together, the Council of Reform left them to take their own counsels and action, uninfluenced by any policy or dictation of its own. The convention so assembled at Chickering Hall embraced every interest in the whole city. There were gathered in harmonious action, Democrats and Re-

publicans and men who had never voted with either, Christians and Israelites, Catholics and Protestants, Americans, Germans, Irishmen, Italians and Frenchmen, capitalists and workingmen, rich men and poor men—all under the one name of citizen, and all in the single interest of reform.

They selected, with infinite care and after a broad survey of the whole field, a ticket which, with some inconsiderable changes, not only received our approval and indorsement, but that also of the united councils of both branches of Republicans and the Democratic reform party, and that is the county ticket which we present for your suffrage. It consists of the nominees for Judges and for Register, and bears at its head the name of George C. Barrett for Justice of the Supreme Court. Of Judge Barrett, I need not speak to this company at length. An Irishman by birth, but a loyal American by education and growth, thoroughly identified in spirit with his adopted country—he is young, talented, well qualified by professional education and experience for the office—is the spontaneous choice of the great body of the reform party, and determined, if elected, to do honor to his high office. Of his only competitor for that high office, it is, perhaps, enough to say that his name is Thomas A. Ledwith. I desire to speak only in kindness of Judge Ledwith, especially as you, in your wisdom, selected him to act with us in the cause of reform. His most sanguine friends have not ventured to state that he has any qualifications for the station to which

he aspires, and so I will waste no time in proving that he has none; but this, I think, we may justly say, that his nomination by Tammany Hall was intended as a deadly blow at the cause of reform, and that he is supported by men inside of Tammany, who hope to gain his local support for their own candidates; and by men outside of Tammany, who, indeed, at first joined the standard of reform, and began to battle against the walls of that stronghold of corruption, intending, not to destroy it utterly, as we mean to do, but merely to make a breach and get inside themselves, and turn its guns against us. And so, as soon as the back door was open to them, they glided swiftly in, and, abandoning the advancing column, joined the ranks of our enemies. Clearly, then, it is our first duty to defeat Ledwith, and we shall do it. Of the rest of the judiciary ticket, which is approved and endorsed by everybody outside of Tammany, and of the gallant German who is our nominee for Register, I need not speak. In regard to the Aldermanic ticket, you will observe a discrepancy as to six out of fifteen names between the nominations approved by us and the names placed upon the combined tickets of Apollo Hall and the Republicans. We endeavored to make that union perfect, but the trouble lay with one wing of the Republicans, who offered us names, some of which we disapproved of and rejected, but offered on our part to accept an equal number of unexceptionable names in their stead, which was declined. But if our united forces

prevail, we shall have a working majority of the Board of Aldermen, and as that body will come into existence only to expire, we must be content with that.

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And now, not to weary you with any more details, we commend to your support the entire ticket of Assemblymen, from the First District to the Twenty-first, who have received our endorsement. We have studied the whole island, from Kingsbridge to the Battery. We have taken counsel from all sides in every district, and with no other object in view than to combine and concentrate the entire strength of the movement upon unexceptionable candidates—have made the selections which have been announced by the press. We could choose but one in each district, and have doubtless disappointed the others. But now that the choice has been made, if it shall be ratified by you a new aspect will be put upon the situation in each district. It will henceforth be certain that the Tammany candidates or your candidates must certainly be elected. There is no room in any district for any third man, and if any faction, party or organization in the name of reform shall insist on going to the polls with any other candidate than the one adopted by you, they can only do so in the interest of Tammany Hall. Honest motives will be no excuse—such votes must tell for Tammany and against the people—and we must all labor in our respective Assembly districts to concentrate the whole strength of the

movement upon these candidates. Here in the Assembly districts we fight the fatal battle of this war. If we fail to carry the Legislature, this city will not be a safe place for honest men to dwell in, the reign of the Ring will be perpetuated, and under the disguise of a city government, rapine and plunder will continue to destroy our rights and absorb our property, and life itself will be in peril.

There is but one subject more to which I am instructed by the Committee on Elections to invoke your attention, but that is so full of fearful peril and iniquity that I fairly shudder to enter upon it. Fellow citizens, you have thoroughly alarmed your wicked enemies in the very heart of their stronghold; they tremble before your righteous wrath; they see the fatal halters dangling very near their necks, and have resolved upon a desperate and wicked resistance. Satisfied that upon a fair vote they will be outnumbered and driven from the field, they have resorted to a most damnable and deadly plot to circumvent and defeat you. They have determined by a false canvass of the votes to count their candidates in, and so to murder your majorities. To this end, the Mayor, in whom the city charter has vested the sole power of appointment, has given to the Ring the whole list of inspectors and poll clerks throughout the city, and with them the exclusive power to count and declare the votes. And he has refused the formal request made to him by the opposition, for a recognition of their rights

under the law and their share of those appointments. Here, then, is a crime before which all the other villainies of the Ring pale and dwindle. The theft even of twenty millions of dollars is nothing when compared with this high-handed and atrocious blow at the very life of the State.

> "Who steals my purse steals trash; 'tis something, nothing;
> 'Twas mine, 'tis his, and has been slave to thousands."

But this wholesale filching and slaughter of the suffrage is a deadly thrust at the very source and fountain of our liberties. Let not him escape the responsibility of this matchless crime, who alone had the power to prevent it and refused to do so. On this one outrage, which involves all the rest, let us appeal to our brethren of the State and the Nation to come to the rescue of our liberties and their own, which it alike imperils.

But in the meantime what else can we do? Why, by attending to our duties on election day, we can watch for and detect the crime, and, perhaps, in a great measure, prevent it. It is with a view to this duty that our committee has appealed to you to close all your places of business and to devote the entire day to your duties as citizens. Do you think that these inspectors and poll clerks will dare to cheat you before your very eyes, if they see by the numerous presence of courageous citizens at the polls that you are determined to defend your rights? Depend upon it, they will not.

But you have everything at stake on that day, and I tell you that there is a great and crying need of the attendance and the services of just such men as compose this audience to aid our committee on election day, to man the polls, to defend the boxes and to watch the counting of the votes. Every substantial and courageous citizen who will volunteer is worth twenty hirelings in such a service. There are enough of you in this hall to-night to defend our rights in every election district and effectually to prevent this meditated massacre of your dearest rights. Will you do it? Will you for once sacrifice business, ease and comfort to save so great a stake? We are fearfully in earnest in demanding it, and we exhort you, if you would not have all your great efforts paralyzed and be defrauded of all your votes, to enlist as soldiers for this one day's battle, and to enroll your names to-morrow morning at the headquarters of the committee, to bear your part in this decisive contest.

LORD HOUGHTON

LORD HOUGHTON

Address delivered at the Reception given to Lord Houghton, by the Union League Club in New York, November 23, 1875.

IN seeking this opportunity to pay our respects to the distinguished gentleman who now honors us with his presence, we certainly could not hope by our modest reception to equal the bounteous hospitality which has been showered upon him at the hands of private citizens in every city that he has visited—or to add to the warmth of that cordial greeting which has attended his steps throughout his wanderings in the United States. The familiar maxim by which in the earlier years of his manhood our guest is believed to have trained his Muse, appears to have been practically applied in an altered sense to his lordship at every stage of his American pilgrimage—*Nulla dies sine linea.* No day without a line to come to dinner. Whatever pleasures and whatever perils belong to that peculiar institution of the Anglo-Saxon race, as Emerson calls it, he must have already fully experienced. We must congratulate ourselves and him that he has happily survived them all, with health and strength still unimpaired, for, having done so, he stands before us to-night a living argument to the robust and hardy vigor of the British constitution, of

which he is so worthy a representative. Neither can we offer him, at a meeting of the Club, the charms of the feminine presence with which, if he was not misreported on a recent occasion, he has been honored and delighted during his stay among us. It was only yesterday that I read in the newspapers of a high tribute paid by him to the wit and the beauty of the women of America. Had we known in season that his Lordship cherished that gentle enthusiasm, had we supposed it possible that a peer of England would be open to those tender influences—we might have put in practice the theory of natural selection as the occasion would have justified, and have surrounded him on this last night of his stay in America with such a glittering array of loveliness, as would have set his " poet's eye in a fine phrenzy rolling," and perhaps some future edition of " Palm Leaves " or of " Poems of Many Lands " would have contained some stanzas to the women of the West by Lord Houghton, that in delicacy and sweetness would have matched the lyric tributes which Monckton Milnes was wont to pay to the far-famed graces of the Orient.

No, we have sought this occasion not so much for his own pleasure as for ours, having little to offer him but the honest expression of that high consideration and regard which has long been felt for his lordship in the United States. We desired an opportunity to look upon one whose name has been associated for a whole generation with those things that tend to elevate

and improve the condition of mankind. Many of us from childhood have been accustomed to hear of him as one of the men of letters of England, who, by their devotion to good learning and polite literature, have been missionaries of knowledge and pleasure to all who speak and read the English tongue. Some of us have read his books.

> —And books, we know,
> Are a substantial world, both pure and good,
> Round these, with tendrils strong as flesh and blood
> Our pastime and our happiness will grow.

We have heard by tradition and report of his generous sympathy for humanity in all its suffering forms, that the cause of oppressed nationalities has found in him a constant advocate and friend—whether Poland, the bleeding victim of her rapacious neighbor—or Italy, suffering the accumulated miseries of centuries—or Greece, the classic heir of ancient woes. We have been told also that the promptings of a generous and manly heart have led him to support at home all measures for the reform and amelioration of the criminal classes, and to alleviate the distresses of the poor, and that he wears the well-earned title of a friend of humanity. We have not forgotten his stout assertions of the right of freedom in religion, and remember his statement made when it was not yet altogether popular—that "religious equality is the natural birthright of every Briton."

But, after all, the chief and immediate title of

Lord Houghton to our special regard and gratitude is in the manly stand he took with certain other liberal statesmen of England on the occasion of our late Civil War, by which they proved themselves the steadfast and effective friends alike of their own country and of ours. Not more from political considerations, I think, than from a natural, instinctive, Anglo-Saxon love of fair play—because they could not help it—they insisted—and none more emphatically than our guest of this evening—that England should observe a real and honest friendship to America. To borrow words of his own:

> Great thoughts, great feelings came to them,
> Like instincts, unawares.

He will pardon me, I know, for refreshing your recollection from the Debates with regard to one or two things which he said in his place in the House of Commons. When the seizure of the *Alexandra* was under discussion, in April, 1863, which you will remember as one of the very darkest periods we ever passed through—it was in that month that President Lincoln, in accordance with a resolution of the Senate, set apart a day of fasting and prayer for the whole people to humble themselves before Almighty God for the deadly scourgings of the war—it was then that, after hearing some violent words spoken in Parliament tending to measures which, if adopted, would force us in our crippled condition into the desperate extremity of war with England, he

said, after regretting the violent language to which he had listened:

> SIR: I trust that peace will continue for many reasons, but above all for this. For us to talk of war, for England, armed to the teeth—England, with all her wealth and power, to talk of war against a nation in the very agonies of her destinies, and torn to the vitals by a great civil commotion, is so utterly ungenerous, so repugnant to every manly feeling, that I cannot conceive it possible. Honorable gentlemen opposite talk of acting in a gallant spirit. Is it to act in a gallant spirit for a strong man to fight a man with his arms tied, with his eyes blinded? And that is what you propose to do—you, with the wealth and power of England—when you seek to promote war with the United States.

Happily for us such friendly and generous words and counsels prevailed, and we escaped that untold calamity. And again, a little earlier, when our blockade, the maintenance of which was so absolutely essential to the successful prosecution of the war, pressed so hard upon their own domestic prosperity as to provoke appeals to the British Government to disregard and ignore it, he scouted the idea, and after arguing that the blockade was as effective as in the nature of things it was possible to make it, he said:

> I have always regarded a disruption of the American Union as a great calamity for the world, believing with De Tocqueville that it would do more to destroy political liberty and arrest the progress of mankind than any other event that can possibly be imagined. * * * The

Americans are our fellow-countrymen. I shall always call them so. I see in them our own character reproduced with all its merits and all its defects. They are as vigorous, as industrious, as powerful, as honest and truthful as ourselves. And I can never for a moment disassociate the fortunes of Great Britain from the fortunes of the United States of America.

No wonder that Lord Houghton finds many friends in America. I need not assure him that we appreciate and reciprocate these generous sentiments, uttered in those dark hours of our sorest need, and that we join our prayers to his for perpetual peace and friendship between these two nations, that are of but one interest, one tongue, and one blood.

In the name, my lord, of this Club, which may modestly claim to represent a portion of the intelligence and the public spirit of New York, supported as it is to-night by the presence of her Chief Magistrate and of many other eminent citizens, who, without regard to politics or creed, have assembled with it in your honor, I bid you a most cordial and hearty welcome.

THE YOUNG LAWYER

THE YOUNG LAWYER

Address delivered at the Nineteenth Annual Commencement of the Columbia Law School, New York, May 16, 1878.

THE pleasant duty has been assigned to me of welcoming these graduates, all overflowing with youth and therefore with hope, to the ranks of an honorable profession which one of the greatest of its members has declared to be as ancient as magistracy, as noble as virtue, as necessary as justice. As an elder brother, with all my heart I bid them a most cordial and hearty welcome; and your cheering and applauding presence is sufficient to assure them what a vast company of clients awaits them, embracing the grave and the gay, the severe and the lively, the strong, the rich and the fair—so that it remains only for themselves by their lives and labors to determine whether they shall make of this arduous calling on which they are entering a noble and beneficent science or a low and degrading trade, for it must be the one or the other according to the spirit in which it is pursued.

When we read in the census that there are already 60,000 lawyers in the United States, it might seem at first blush that the addition of 200 more in a single group was altogether superfluous—and that there is danger of having too much even of

so good a thing. Have we not lawyers enough? asks the press daily. Have we not too many? echoes the heedless voice of society. I answer no; we have not honest lawyers enough—not healthy lawyers enough; not learned lawyers enough, and as the Columbia College Law School is expected to produce none but the best, we may safely hail the coming of all she chooses to send into the world.

That there is a considerable amount of idle and thoughtless prejudice in the world against lawyers cannot be denied, but that is because—and this it will be well for these young gentlemen to remember—the whole profession has to suffer for the faults and vices of its worst and lowest members. We are a band of brothers, and if a single brother turns out to be a rascal, as now and then unfortunately does happen, why the fair name of the whole family suffers with him, of course.

The Pilgrim Fathers of New England appear to have had a unique and intensified grudge against the craft, doubtless because the envious clergy ruled them with a rod of iron, and wished to maintain an undivided sway. So for the first fifty years of the colony they got along without any, and then with sparing hand the General Court admitted two attorneys to practice, but with the special proviso that they should do nothing to darken the cause or confuse the counsels of the Court—a rule which I fear might decimate the profession, if strictly applied to-day. So the

press, arrogant in its unbridled power, too often teems with unfriendly criticisms of our conduct. The stage, catering to the taste of the galleries—not filled as they are to-night—produces the typical lawyer in the role of an unscrupulous and vulgar pettifogger. And English fiction never tires of reproducing the same type of character at our expense, because no play and no novel is quite perfect without its villain, and we must confess that nobody can fill that part better than a wicked lawyer, who violates his oath and perverts to the destruction of mankind the talents, the learning and the skill which were designed only for its protection and to promote its happiness.

But however satire and fiction may find entertainment in the vices and frailties of our more weak and wicked brethren, the honest and unanswerable voice of history tells quite another story. It exhibits a learned, a fearless and an independent bar as the pride and ornament of every civilized country. It shows that many great triumphs of statesmanship have been achieved by its disciples; that wherever great blows have been struck for the rights of man, some brave lawyer has been in the thickest of the fight; that the champions of popular liberty have been recruited always from our ranks; that whenever the torrents of arbitrary power have threatened to overwhelm and engulf it, some Coke or some Erskine, scorning the wrath of kings and scouting the friendship of princes, has stood forth in its defense; and that, on the other hand, when popu-

lar fury rose in a tidal wave for the destruction of the innocent victims, some Otis was found standing in the breach. In short, if the personal liberty of all under the protection of equal laws is the end of government and the object of civilization, then lawyers can safely challenge the men of other professions to show a larger share in the whole work of human progress.

In view, then, of the possibilities of great and heroic service to mankind which the legal profession holds out to its ardent and able votaries, and of the high and useful duty of promoting justice, which its daily pursuit involves, I deem it no idle form of words to congratulate at all times those who stand upon its threshold, qualified and equipped to enter upon it. But never, as it seems to me, has there been a more fortunate and promising time in our country than this, for you who with earnest hearts and singleness of purpose propose to devote your lives to this useful and honorable calling. While you who now stand in the first flush of manhood were yet hardly out of your cradles, the land was deluged in the blood of civil carnage, and all the horrors of the greatest war of the century were devastating its fields and laying waste its homes. In the midst of arms the laws were silent and the administration of justice was practically suspended throughout half our borders. During all the years of your boyhood and youth the evil results of the war on the civil and social life of the people were being made manifest. Rioting for a few years in that wan-

ton extravagance, that drunken dream of imaginary wealth, which was begotten by the flood of worthless paper money made necessary by the war, our people long since awoke to their fatal error, and five long and miserable years of bankruptcy and financial ruin which followed that era of bloated fulness are but just drawing to a close.

I know it is a common delusion that lawyers flourish in the midst of all these miseries, and fatten like vultures by devouring the carrion of commerce and picking the bones of trade. But never was there a more false and hollow delusion. Lawyers flourish best when the whole community is prosperous, and suffer with all the rest when trade and commerce decline. And never I believe has the rank and file of the profession suffered so severely and been reduced so near to starvation as in these last miserable years of general failure and commercial disaster.

But even now a brighter day is dawning. These countless bankruptcies which are being daily recorded are but the wrecks and debris washed ashore by a storm that has already passed. We can thank God that the public credit at least is already restored; the skies are already clearing. Old fashioned economy and honest living have come again; and you, whose professional lives are all in the future, will see a new and grander era of prosperity than the past has witnessed. When all these idlers in turn have been driven back, as they will be, where they belong, to work upon the soil—the true source of all our Ameri-

can wealth—these fifty millions of people, all working for an honest living, will bring back again the golden age, whose wealth and prosperity shall be as real and solid as that of this paper one has been delusive and imaginary.

But I would not for a moment encourage the thought of holding out the law under any circumstances as a money-making profession. It loses its character as a liberal science as soon as money-making becomes the ruling motive. If that is your object I advise you to abandon all idea of becoming lawyers, and seek for some more congenial and profitable pursuit. You may be sure that every tallow chandler and pork merchant will outstrip you in the race for wealth. Mr. Webster's oft-quoted saying that "Lawyers work hard, live well and die poor" is true in nine cases out of ten, and always will be. The love of money is the root of all evil in the law as in the rest of life, and when it once becomes the fashion the degradation of the profession has already begun.

The lawyer who is inspired to promote litigation for the sake of profit to himself is not a whit better than the doctor who should scatter broadcast in the community the seeds of pestilence, for the fees which it might bring in—and the advocate or the counsellor who defends the public or the private plunderer for a share of his spoils is justly condemned as an accomplice in his crimes. On the other hand, honorable poverty has been in every generation the true cradle of professional character and success. No other motive but the

spur of necessity seems powerful enough to furnish the aspirant for forensic honors with the necessary grit, and to carry him through the toil, the drudgery and the self-sacrifice which alone will enable him to master the science and to raise his head above the dead level of mediocrity. Lord Eldon spoke from his own actual experience, and told a hard truth, when to the young barrister who asked him the way to eminence he answered: "If you've got any money spend it. If your wife's got any spend that, and then work like a dog till you are Lord Chancellor." And Erskine, that most consummate of modern advocates, when he made his début at the English bar just one hundred years ago in that splendid achievement in Westminster Hall, which dazzled the eyes of the British public, and raised him at one leap from obscurity and poverty to fame and competence, told the same story of himself, when amid the congratulations that poured in upon him, being asked how he had had the courage to stand up so boldly against Lord Mansfield, he answered that he thought his little children, whom he had left hungry at home that morning, were plucking his robe, and he heard their voices crying, "Now, father, is the time to get us bread."

And now, as you have asked me to address you, I suppose you expect me to give you a little advice; and whether you expect it or not, I will venture to do so, since advice is about all that lawyers ever have to give. I should say, then, that the sound practical lawyer is composed of three parts

—the physical, the moral and the mental, and it is hard to tell which of the three is the most important ingredient. I place the physical first, because without a sound and healthy body, a lawyer can no more reach the high places of the profession, than a spavined and broken-winded racer could win the Ascot Cup. Those ancient anatomists who located the seat of the mind in the stomach were not so far wrong, and I have known lawyers with that great organ iron-clad, who achieved a tolerable measure of apparent success with a very moderate allowance of brains. The bar, at any moment you choose to survey it, furnishes in a physical point of view the happiest illustration of Darwin's great theory of the survival of the fittest, that can be found in modern society. At the word "go" all start on the same line with equal hope and expectation; but one after another, the sick, the infirm, the fat, the lazy and the self-indulgent, drop out of the race, and a few gaunt champions maintain the contest for the foremost places in middle and later life. In these days of intense action and close competition there is no career which calls for more athletic training and more heroic regimen than that of the ambitious advocate in one of our great cities. I should say, then, as the first piece of advice to every young lawyer, look out for your body; don't go into the struggle unless certain that you can rely upon that, and then preserve and strengthen it by exercise, by temperance, and all the sleep that it will hold.

And next in the scale I place the moral element, as necessary to the composition of the sound practical lawyer. If you can't be honest, and must still live by your wits, why, in heaven's name, choose some other calling—any other rather than this, whose special province and duty it is to aid in dealing out exact and equal justice to all men. Turn peddler, turn anything you can lay your hand to, but don't try to turn a dishonest penny in the sacred temple of justice. I know there are sometimes dangerous examples of wicked lawyers who have grown rich by chicanery and plunder, and rare and exceptional cases of men reaching high places at the bar, who had thrown their conscience overboard, and exhibited the loathsome and disgusting spectacle of great talents and opportunities given them for the highest good of their fellowmen, perverted into instruments of fraud and crime. But you may be sure the scorn and contempt of mankind pursue them, and better were it for any one of you that a millstone were hung about his neck and be cast into the sea than to aspire to follow after such false lights. So, too, there are quacks at the bar as well as in the doctor's office, but generally their prosperity soon fails them; first the profession spots them and then the community, and by and by they lose their clients and go into politics, where their peculiar gifts and pretensions find more appropriate scope. The fact is that in every liberal profession whose privileges are undefined as ours are, it is only the conscience of the indi-

vidual practitioner that can save the whole craft from quackery, and so my second piece of advice to you is to keep in your sound bodies somewhere a conscience ever lively and quick and cultivated, if you would honor the calling to which you aspire.

And, thirdly, it must be admitted that, next in importance to sound health and clear conscience, brains are necessary to complete the qualifications for admission to the bar. Genius will do, of course, if you happen to have it, but as you probably have not, I wouldn't count on that. Genius is a century plant. One century may produce an Erskine and the next a Webster, but it isn't to be looked for in every graduating class, and so I would advise you to fall back on common sense. Common sense and common honesty combined with uncommon industry will make a successful lawyer, and give a man an honorable place in any generation at the bar. But let no man imagine that in our profession he can travel on his intellectual muscle alone, however good its fibre may be, without lifelong study and unremitting labor. Doubtless you feel more learned now—fresh from your lectures and text-books—than you will at any future period of your professional life. It takes several years for the faithful student of law to find out how little he knows and how much he has to learn. Of course Professor Dwight has taught you many things, but if his reputation does him justice, not more than a hundredth part of what he knows—

and it will take you many years yet to master the other ninety and nine. The bane of our profession of late has been the dangerous facility of admission to the bar after an infinitesimal term of study, and we owe the Court of Appeals a great debt of gratitude for its recent order by which even the graduates of the Columbia College Law School are required to add another year of practical study, before they can be admitted to practice as attorneys. Jerrold's advice to the young author may be taken to heart by every candidate for admission to the bar. "Don't take down the shutters until you've got something to show in the window."

And even with the present prolonged term, our preparation here in America is far short of what it ought to be, and far behind that which many foreign schools demand. Study, then, all the law you can and be ready for your opportunity, which sooner or later comes to every man. If it finds him ready it bears him on to honor and success. But the reason why the whole history of the bar is strewn with failures, is that the opportunity, when it does come, fails to find the lawyer ready to embrace and improve it. And while I am on the subject, let me urge every man of you, however much he may study the law, to study daily something else. Ours is not only a learned but a liberal profession, and no more stupid notion ever prevailed than that a good lawyer is hurt by the highest culture in some other direction. The daily practice of the law without some liberal

culture does narrow and benumb the faculties, and unfit them for anything outside the furrowed rut of practice. I know of few spectacles so pitiable as that of a successful lawyer, past middle life, satiated with the gains and even perhaps with the honors of a generous practice, who finds himself tired already of his profession, and yet unable to do anything else or enjoy anything else, because he has long since forgotten everything else that he ever knew, or perhaps never cared to know anything else.

And so I say, add some other subject or study to your legal studies, and don't let go of it when you get into busy life. Every lawyer should have a hobby for his mind to ride in the open air of knowledge, and ride it every day—history, science, politics, language, literature—anything rather than law alone. So only can you be wholly true in manhood to the dreams of your youth, and carry their freshness with you into maturer years.

SALEM

SALEM

Address delivered at the Fifth Half Century Anniversary of the Landing of John Endicott, at Salem, Massachusetts. Salem, September 18, 1878.

THE Salem people abroad for whom you bid me speak, take, I am sure, a lively interest in this two hundred and fiftieth anniversary of the landing of Governor Endicott. Not indeed that the blood of Endicott has ever wandered far or in copious streams beyond the borders of New England! The fact is that the Endicotts, the Winthrops and the Saltonstalls have flourished too well upon the parent stock, and have been too much prized at home to be driven, except on rare occasions, by inclination or by necessity, to seek their fortunes beyond the domains of New England, which they helped to plant and to establish. See how they present themselves before us to-day. Fair types of all the past! Endicott, the supreme judge, well representing the old colonial governor! Winthrop, bringing to the shrine of his honored ancestry a personal fame which is better, far better, than to have been the governor of any State, even of Massachusetts! Saltonstall, my respected teacher in the law, the most worthy son of a man whom all Salem has ever delighted to honor! But after all a great share of the glory

of Endicott and of Winthrop was in their following, in that band of devoted followers who came with them and after them, and helped them to make their great enterprise a success—those cultured gentlemen; those sturdy yeomen, all of the purest English stock, who established and extended the boundaries of this ancient city, who organized, under the guidance of Endicott, its first church, who built its first houses, who laid out its first streets, and whose descendants afterwards, in many generations, started its commerce and pressed it to the furthest confines of the globe, so as to make the name of Salem respected and honored on the shores of all the continents. It is from these men that we trace our proud lineage, and it is this that makes the sons of Salem proud of the place of their birth.

Of course, Mr. President, it requires great forecast for a man to select a birthplace of which he shall always be proud; but he must indeed be an unreasonable creature, who having America for a continent and Massachusetts for a State, Essex for a county and Salem for a native town, is not entirely satisfied. Of course a man born anywhere can get along somehow. I suppose that the native of Topsfield, or of Middleton, or of Beverly, if he repents promptly, and moves into Salem and does well there, may plead some excuse for his original sin, and if he be of a lively imagination may even begin to boast of it. Why, Cicero boasted of being born at Arpinum, and Rufus Choate on Hog Island; but it was after the

one had become the great orator of Rome, and the other of Boston, and so, by their own fame, as it were, had extended the boundaries of the cities of their adoption to embrace the humble, but, thanks to them, historic places of their birth.

But Salem, Mr. President, is so old, so queer, so unique, so different from all other places upon which the sun in his western journey looks down, so full of grand historical reminiscences, so typical of everything that has ever occurred in the annals of American life, that he who has had the good luck to be born here may really claim it as a peculiar distinction. You have heard all day, to the going down of the sun, of its historic glories, and I will not repeat them to your additional fatigue; but I want to remind you of one thing, and that is that the man who is born in Salem must pay the penalty of that distinction. And chiefly in being just a little older to the cubic inch than any other man born at exactly the same moment in any other part of North America. How, sir, could it possibly be otherwise, with human beings born and bred in these old houses, which have cradled so many of our race for upwards of two centuries, that humanity itself has got used to being started here, and finds itself an old story at the beginning? I wish to suggest it as an interesting and at the same time subtle inquiry for the scientists of the Essex Institute to compare the new-born Salem baby with an infant born at the same moment in Kansas, or Colorado, or Montana. I venture to say that the

microscope would disclose a physiological difference. The microscope would ascertain a slight, perhaps a very slight mould of antiquity, but which all the waters of Wenham could never wash off. How can a man born in Derby street or Norman street—Norman, who came over with Conant, who was here long before Endicott arrived—or Essex street—a highway for the Indians before even Conant thought of coming—how can such a man ever feel like a new and absolutely young creature? No, Mr. President, he can not do it. This stale flavor and tinge is bred in our bones. It is in the marrow, it is in the red corpuscles of the blood, it is in the roots of the tongue and of the hair, and you can no more rub it out than the farmers of Massachusetts can weed out the white weed and the woad-wax that Governor Endicott brought over as choice garden plants. Friction with the world doesn't destroy it in the least.

And so it is that you may know a Salem man wherever you meet him, the world over. He carries about him a little "Auld lang syne" that shows where he came from. Sometimes it is in the cut of his jib, and sometimes of his coat; sometimes it is the way in which he cuts across a street corner, always slanting, never at right angles; or from his style of shortening things, as the way he utters some familiar words. He never takes off his c-o-a-t but his cŏte; he never rides upon the road, but always on the rŏde; and if you should pick up a final g, in " ing," you may be

pretty sure that some of the Salem people are the unfortunate ones who have dropped it; but if you can hear him say " git," of course you will know his very origin and almost the street from which he came. Now in this family meeting, as an illustration of this subject, perhaps you will pardon me for telling a little personal anecdote. A short time ago I was arguing a case in our court of appeals at Albany with some earnestness, and there sat by me a gentleman bred and born in the South. He listened with attention, and when I got through he congratulated me, " but," said he, " I would have given a hundred dollars if you hadn't said ' git.' " Well, Mr. President, how could I help it? Governor Endicott said it, all my progenitors in this town have said it for two hundred and fifty years, and so, I believe it is more than half right.

Well, perhaps we ought not to allow a stranger to indulge in these free criticisms of ourselves, but I am not a stranger. Though not familiar in these streets for the last quarter of a century, I claim to be a Salemite of the Salemites. My maternal ancestors were here for untold generations. They must have been here. It is difficult to identify their names, because you know when you go back eight generations you have about 128 progenitors, in that degree, and some of them must have been here with Conant. They must have gone down on the end of Derby wharf with him to welcome Endicott. The orator of the day didn't mention the circumstance because he didn't know

it. You must not smile at that for an anachronism, because I challenge any antiquarian to go down upon that venerable pile and view its foundations and its structure, and give it anything short of an antiquity, long before Endicott thought of coming here. Well, they helped to raise, these maternal ancestors of mine, helped to raise the First Church which it has been the boast of the Essex Institute, after 200 years, to resurrect and restore. They were in that hooting and howling crowd that followed Cassandra Southwick, strapped to a cart's tail and whipped through the streets of this ancient city. And then later they were in that other procession, with death at the head and Cotton Mather at the rear, that marched from St. Peters street to Gallows Hill with the victims of the witchcraft delusion. They were at the North bridge when Colonel Leslie made his unceremonious retreat, and went whence he came. They listened to the Declaration of Independence, first read on Salem common; and on the quarter deck and before the mast, for many generations, they contributed to create, through all the periods of its progress and decline, the commerce of Salem. So I claim to be to the manor born and to have a right to speak of Salem and of Salem institutions as I think.

And, knowing this, I suppose, Mr. Chairman, it is that you have called on me of all this company to speak for the Salem people abroad. Well, I will say only a few words. We make up the great mass of the population of Salem. Almost

all Salem people go abroad and very few of them remain at home. I believe you number about 25,000 within these ancient walls. We, the Salem people abroad, count ourselves by hundreds of thousands. You may find us on all continents, in every country, in almost every city, on all oceans, and on all isles of the sea. We engage in all sorts of occupations, providing only they are honest—for you will bear me witness, Mr. Chairman, that honesty is a Salem trait. Not to dilate upon their virtues and their merits, I would say that they are all doing pretty well. I think I may say of them, as you have heard said so much to-day of their ancestors, that they live lives of honesty, of industry, and of economy, and that makes up the great staple of Salem character at home and abroad.

They remember with gratitude this ancient city, and above all the schools of Salem; and what they got in them they regard as her best legacy to her departing children. In those palmy days of Salem, Mr. Chairman, when I was a child, education was no joke. The business of life began with us in earnest as soon as we had learned to speak. There was no playing or dallying for the children till they were seven or eight years old, as is now too often the case. At three years old the great business of education must have been fairly started. Why, sir, I perfectly remember at the age of two and three-quarters being led by the distinguished judge of the district court of the southern district of New

York*—who had then attained the ripe age of four, and who I may say in passing, even then exhibited those marked judicial qualities of mind and character which have recently attracted the attention of the President of the United States—being led by him to that ancient seminary† for beginners in Sewall street adjoining the blacksmith's shop of Benjamin Cutts, which as far surpassed all modern kindergartens as these excel common infant schools.

Well, then, at the age of seven, the boys of Salem of this district were transferred to the central school in Court street, under the shadow of the old court house, to be thrashed for the period of three years under Abner Brooks, of blessed memory. Felt, in his "Annals of Salem," has made one curious and inexcusable blunder, which for the truth of history I wish to correct. He declares that the whipping post that used to stand in the rear of the old court house was not used after 1805. I know better. I can swear from personal knowledge that it was still in active use in 1839, and can show you the very spot. Well, then we were transferred to the High School under the gentle, the patient, the ever faithful Rufus Putnam, the best model of perfection in a teacher, I believe, that even Salem has ever seen.

And last, not least, came that glorious old establishment in Broad street, the public Latin school, the *schola publica prima,* which had stood

* The Hon. William G. Choate.

† Miss Lewis's infant school.

from the foundation of the colony, which sent George Downing, who proved to be one of its worst boys, to Harvard college to join its first class, and which had sent a long procession, two hundred years long, of the flower of Essex chosen from the homes of Salem, to graduate at Harvard college; and at last, after our time, was merged in the High School. I rejoice to have seen, within a few days, our old master, still living and walking these streets; and I hope he has been here to-day to enjoy the prosperity and gratitude of all his old pupils. I am sure they will join with me in saying that no living citizen of Salem can show a record of so much done for the welfare and good name of this city as he. He was harsh sometimes, we thought. He had a monogram. They were not much in fashion in those days, but he had one that he applied to the hands and legs and backs of refractory pupils. It was "O. K. O. K. O. K.," and anybody who went to the public Latin school could translate it as "an awful cut from Oliver Carlton's awful cowhide." Well, it was not as bad as it seemed. It was a most impartial institution, because it mattered nothing at all to the master hand that wielded it, whether it fell on the aristocratic back of an Endicott or a Saltonstall, or the more common cuticle of a Choate or a Brown. This we can say with literal truth of it, I think, namely, that it was more honored in the breach than in the observance.

And then, the finer arts which Salem added to

the education which she offered to her children. Who has forgotten Jacob Hood, who taught the boys pretty much all the music they ever knew? His fame as a composer and teacher may be more limited than that of Mendelssohn or Liszt, but they never had such hard subjects to deal with, and his success was wonderful because he taught some of us to sing who never had made the attempt before. And then the lighter and more fantastic art to which this temple* in which we sit was dedicated. I would like to have these tables swept away, and see whether we have forgotten all the painful teachings of those days. Why, this is the very spot; and when I look up and down these tables this afternoon and see so many of the fair forms we left behind us—we the Salem people who have gone away—how the thirty years that have intervened disappear and slip away! How young they all appear again, how slender, how fresh, how fair! Why, Mr. Chairman, let me tell it as an historical incident, that on the very spot where you now sit I have seen the daughters of Governor Endicott, in the seventh generation, take steps that would have won applause from their stern Puritan ancestor himself, if he had been permitted to look upon them.

But the day is passed; the sun has already set. I wanted to say something of some great names that have shed such lustre upon Salem. There is one that I will not omit, because, in my judgment, and I believe in that of many of the sons and

* Hamilton Hall, the Assembly Hall of Salem.

daughters of Salem abroad, it is the dearest and most precious jewel in the diadem of imperial Salem. I give you the memory of Nathaniel Hawthorne, a native of Salem, descended from her earliest settlers! So imbued was he with the genius of her sons, and so deeply has he enthroned it in his matchless works, that though its ancient buildings should crumble, though the forests should grow again between these historic rivers, and the place be forgotten where Salem was, her name, her traditions, and the spirit of her history, will still be familiar so long as men can read in the English tongue "The Twice Told Tales," and "The House of the Seven Gables."

HARVARD COMMENCEMENT
1883

HARVARD COMMENCEMENT 1883

Address delivered at the Harvard Alumni Dinner in Memorial Hall, on Commencement Day, Cambridge, 1883.

I HARDLY know how to begin. My head swims when I look down from the giddy and somewhat dangerous elevation to which you have unwittingly raised me. Here have I been seated for the last hour between the two horns of a veritable dilemma. On the one side the president of the university,* on the other His Excellency the Governor of Massachusetts,† whom to-day we welcome to the hospitalities of Harvard. As to our worthy president—you all know him—you know how he strikes—always from the shoulder—a true Harvard athlete, and how idle it is for any ordinary alumnus to contend with him. And as to His Excellency, a long professional observation and some experience of him have taught me that he, too, like the president, is a safe man to let alone.

Well, I assure you that I have found a most safe and comfortable seat. I have got along splendidly with both by agreeing exactly to everything that each of them has said. For you know the horns of a dilemna, however perilous they may be to their victims, never can come in conflict with each other. And so, seated right between

* President Eliot. † General Butler.

them, if you take care to hold on, as I have done, tight to each, you are sure to find safety and repose. "Medio tutissimus ibis." I accept it as a happy omen—prophetic, I hope, of that peace and harmony which shall govern this meeting to its close. And now, brethren, I am at a loss whether to thank you or not for the honor you have done me in calling me to preside on this occasion, for it was only when the alumni of Harvard had lost their head that they invited me to supply its place. I sincerely regret the absence from this chair to-day of that distinguished gentleman* who should have occupied it, in deference to your wishes, expressed by your ballots. His character, his eloquence and his life-long loyalty to Harvard would have graced and adorned the occasion and we all lament his absence. But, though the association of the alumni is for the moment without a head, Harvard College still lives, and to-day is younger and fresher, more vigorous and more powerful, than ever before.

With the pious devotion of elder children, we have come up here to-day to attend upon our venerable Alma Mater in the hour of her annual travail, and gather about her couch with patient reverence to witness the birth of the latest addition to the family—those 205 new pledges of her never-failing and ever-renewing creative power. We wish them Godspeed on that journey of life which they have to-day so auspiciously begun. The degree conferred upon them this morning is

* Senator George Frisbie Hoar.

an assurance to the world that they start in the race with more or less learning—some of them a good deal more and some of them a good deal less, but let us hope that every man of them has got and carries away with him what is far better than all their learning, and what it has been our boast to believe that the training of Harvard has always tended to cultivate—an honest and manly character, a hatred of all shams and humbugs, an earnest purpose to make the most of themselves, and to serve their times as men and their country as good citizens and patriots.

I think we may well congratulate each other upon the dignified and proud attitude which Harvard University now presents to the country and to the world, and that she has made more real and lasting progress in the last fifteen years than in any prior period of her history—a progress due in large measure to the hopeful wisdom and the tireless energy of President Eliot. He found here a local college whose administration, whose standard, whose system, had undergone no radical change for generations; and to-day he presents her to the world, a great and national university, and the national features and relations of Harvard are now its most striking and attractive ones. No State—not even Massachusetts—can any longer appropriate her. No city, not even Boston, can any longer claim her for its own. She belongs henceforth to the whole country, and is justly regarded at home and abroad as the one typical American university. Perhaps we of the

alumni who live in other and distant parts of the country can appreciate this change better than those of you whose lives are spent almost within the shadow of her elms. The tide is setting towards Harvard across the whole continent. Her examinations, carried first to New York and then to Cincinnati, and then to Chicago, and at last to the Pacific Coast, have raised the standard of education and the quality of the schools throughout the whole country; and this influence is yearly increasing. And the diplomas of her professional schools now carry into all the States an assurance of new and increased fitness for the commencement of professional life.

The best test of your success, Mr. President, is that other colleges are rapidly beginning to adopt and accept your systems and your reforms. Even the meagre little that Harvard has yet done for the education of women is beginning to bear fruit elsewhere. To-day, Columbia, forced by the pressure of public opinion, with tardy and reluctant hand, is beginning to dole out to women a few stale and paltry crumbs that fall from her bountiful table, in distant imitation of the Harvard Annex. Of course Harvard will, by and by, do a great deal more for them than she has done yet, and Madam Boylston, who alone of her sex has held her solitary place on these walls for nearly a century, among these shades of learned men, looks down upon me with smiling approval when I say that somehow or other, sooner or later, Harvard will yet give the women a better chance for

education, as Cambridge and Oxford have already done.

No enumeration, Mr. President, of the glories of Harvard would be quite complete which omitted to refer to the athletic development of these later days. Voltaire wrote to Helvetius—"The body of an athlete and the soul of a sage are what we require to be happy." How prophetic of to-day's curriculum at Harvard. To-morrow at New London will put our muscle and our mettle to the test. Let us pray for the pluck and the wind and the bottom of the Harvard crew.

I must not prolong these pleasing bits of eloquence, or else His Excellency will begin to suspect that we sons of Harvard think a little too much of ourselves. Nothing, nothing could be farther from the truth than that. Yet I need not assure him, because he knows it already, that it is our true boast that an overweening modesty is the leading Harvard attribute. But let me, before closing, refer to one or two special incidents of the day. It is now 245 years since John Harvard died in Charlestown, bequeathing his fair name, his library and the half of his estate to the infant college in the wilderness, then just struggling into existence and matriculating its first freshman class of nine. He surely moulded better than he knew; he died all unconscious of the immortality of glory that awaited him, for it was not till after his death that the General Court voted, in recognition of his generous gifts, to change the name of the little college at Newtown to Harvard College.

And now, after eight generations of graduates have been baptized in his name, a pious worshipper at his shrine, turning his face towards Mecca, has presented to the alumni a bronze statue of our prophetic founder, which is to be erected at the head of the Delta, and to stand for coming ages as the guardian genius of the college. Let me read the letter which precedes the gift; and I will say that the writer and the giver, a gentleman here present, from whom and of whom I hope we shall hear more by and by, is Mr. Samuel J. Bridge, of Boston. The letter is as follows:

To the President and Fellows of Harvard College:

Gentlemen—I have had the pleasure of offering you an ideal statue in bronze, representing your founder, the Rev. John Harvard, to be designed by Daniel C. French, of Concord, and to be placed in the west end of the enclosure, in which Memorial Hall stands. If you do me the honor to accept this offer, I propose to contract at once for the work, including an appropriate pedestal, and I am assured that the statue can be in place by June 1, 1884. I am, with much respect,

Samuel J. Bridge.

I am sure, gentlemen, that I can assure the generous donor in your name of the hearty thanks of all the alumni of the college, those who are here to-day and those who are scattered throughout the country and the world.

Other generous gifts commemorate this occasion—a marble bust of General William F. Bart-

lett, of the class of 1862—a hero if God ever made one, a martyr, who was fourteen years dying for his country of wounds that he bore for her—is placed in this hall to-day to stay as long as marble shall endure, in the fit company of heroes and martyrs to whom its walls are dedicated. Colonel Henry Lee, by and by, will formally present it to you, and also a bust of Ralph Waldo Emerson, sacred forever within these walls. Surely, if Harvard had never produced anything but Emerson, she would have been entitled to a front rank among the great universities.

But, brethren, I know you are all impatient to hear those you have *come to hear.* You cannot wait any longer, I am sure, to hear from our excellent president his annual message of comfort and distress. He will tell you all that the college in the last year has done for you, and all that you in return, in the years to come, are expected to do for the college. It will also be your privilege to hear from the people of Massachusetts, as represented in the person of His Excellency the Governor, who has come here to-day by the invitation of the president and fellows, which he accepted in deference to an ancient custom not easily to be broken. You all remember, gentlemen, that intimate and honorable alliance that has existed between the college and the State for now nearly two centuries, out of tender regard for which, tradition assures us that every Commencement, beginning with that of 1642, has been graced by the presence of the governor of the Common-

wealth. And, for one, I hope the day may be far, very far, distant when the governor of Massachusetts shall fail to be welcomed on Commencement day within the walls of Harvard. In the name of Massachusetts, we greet him, remembering, as we may fitly remember, in this place sacred to heroic deeds, that it was he who, at the call of Andrew, led the advanced guard of Massachusetts, in which certain sons of Harvard were a part, to the rescue and the relief of the besieged capital; that Lincoln set his seal upon that service by commissioning their commander, as a major general of the United States, and that it did not need that diploma to prove that he bore and they followed to the front the ancient standard of Massachusetts, in the spirit of Sidney's motto, which the State has made its own—*ense petit placidam, sub libertate quietem.*

HARVARD COMMENCEMENT
1885

HARVARD COMMENCEMENT 1885

Address delivered at Cambridge to the Alumni of Harvard, June 24, 1885, on the occasion of Mr. Lowell's return from England.

NOW that you have banqueted upon these more substantial dainties, which the Delmonico of Harvard has provided, I invite you to partake of the more delicate diet of tongues and sounds—the favorite dish at every Harvard dinner—where, of course, every alumnus expects to get his desert. We have assembled for the two hundred and forty-ninth time to pay our vows at the shrine of our alma mater, to revel in the delights of mutual admiration, and to welcome to the commencement of actual life one hundred and seventy-five new brethren that our mother has brought forth to-day. Gentlemen, it is your great misfortune, and not a little to my embarrassment, that I have been called upon on two occasions to stand here in the place of the president of your choice, and to fill the shoes of a better man, and if I shuffle awkwardly about in them, you will remember that they are several sizes too large for me, and with higher heels than I am accustomed to wear. On a former occasion, in view of the incompatibility of

sentiment among high authorities, I did what I might to stem the tide of a seemingly irrepressible conflict, and, by your counsel and aid, with apparent success. " Grim visaged war " did smooth " his wrinkled front," and peace and harmony prevailed where blood had threatened.

But how, gentlemen, can I hope to fill your expectations to-day, when you have justly counted upon the most popular of all your divines and the most fervent of all your orators, who should now be leading your counsels here? But Phillips Brooks, having long ago mastered all hearts at home, has gone abroad in search of new conquests. When last heard from he was doing well in very kindred company; for he was breakfasting with Gladstone, the statesman whose defeat is as mighty as victory, the scholar and the orator, who would exchange for no title in the royal gift, the lustre of his own great name. But I have no fears for the success of this occasion, notwithstanding the absence that we deplore, when I look around these tables and see who still are here.

In the first place, you are all here, and when the sons of Harvard are all together, basking in the sunshine of each other's countenances, what need is there for the sun to shine?

And then, President Eliot is here. I remember that, sixteen years ago, we gave him his first welcome to the seat which had previously been occupied by Quincy, Everett, Sparks, Felton and Walker, and to-day, in your names, I may thank him that he has more than redeemed the pride and

promise of his earlier days. While it cannot exactly be said that he found Harvard of brick and left it marble, it can truly be said that he found it a college and has already made it a university, and let us all hope that his faithful reign over us may continue as long as he has the strength and the courage to carry on the good work that he has in hand.

And then, the Governor of the Commonwealth is here, always a most honored guest among the alumni of Harvard. Governor Winthrop attended our first commencement, and I believe that all the Governors in unbroken succession have followed his example.

To-day, too, we are honored with the presence of the Vice-President of the United States, and now that Harvard has assumed national proportions, what can be more fitting than that we should welcome to our board one of the chief representatives of the national government? He comes to us fresh from Yale, and if we may believe the morning papers—a very large if, I admit—if we may believe those veracious journals, the eminent Vice-President yesterday at New Haven gave utterance to two brief and pithy sentiments, one of which we shall accept with absolute, unqualified applause, and the other of which we must receive, if at all, with a modification. "Yale," said he, in short and sententious words, which are the essence of great men, and which we are all so fond of hearing and reporting, "Yale," said he, "is everywhere." Gentlemen, I would

say with this modification, " Yes, Yale is everywhere, but she always finds Harvard there before her." Gentlemen, the rudeness of your manner broke off my sentence— " She always finds Harvard there before her, or close alongside or very closely in her rear; and let us hope that her boys at New London to-morrow will demonstrate the truth of that." The other sentiment that he uttered, and that which needs no qualification, is that public office is a public trust. Gentlemen, in saying that, he stole Harvard thunder. That has been her doctrine since the days of John Adams; and I am sure that you must be perfectly delighted to hear from this eminent man that old doctrine of ours reinforced.

But, gentlemen, better than all the rest, once more at home in his old place among us again is James Russell Lowell. Eight years ago he left us for the public service. Men who did not know him wondered how poetry and diplomacy would work together, poetry, the science of all truth, and diplomacy, that is sometimes thought to be not quite so true. Well, if you will allow me, I will explain his triumphs abroad by a wise saying of Goethe's, the fitness of which, I think, you will recognize. " Poetry," said he, " belongs not to the noble nor to the people, neither to the king nor to the peasant; it is the offspring of a true man." It is not because of the laurels that were heaped upon him abroad, not because he commanded new honor for the American scholar and the American people, and not because his name will henceforth

be a new bond of union between the two countries; but we learned to love him before he went away, because we knew that from the beginning he had been the fearless champion of truth and of freedom, and during every year of his absence, we have loved him the more. So, in your names, I bid him a cordial welcome home again.

You will also be pleased to hear that Dr. Holmes has been inspired by this interesting feature of the occasion to mount his Pegasus once more and ride out to Cambridge upon his back; and soon you will hear him strike his lyre again in praise of his younger brother. But these are not all the treasures that are in store for you. Dr. James Freeman Clarke, after twenty-five years of continuous service on the Board of Overseers, from which he now retires by the edict of the Constitution, will tell you frankly what he thinks about you and about them. And then, to the Class of 1835, on the fiftieth year of its graduation, the crowning honors of this day belong, and I am pleased to say that their chosen spokesman, although pretending to be for the moment an invalid—he wrote to me that he was no better than he should be—he is here to speak for them. For us who have been coming up to Cambridge for the last thirty years, I would like to know what Harvard commencement without Judge Hoar would be. Who can forget the quips and cranks and wanton wiles with which he has beguiled many an hour that promised to be dull; and how he has, I will not say sobered, but dimmed some of our

lighter moments by words of wisdom and power. So, in your name I say: " Long life and a green old age to Judge Hoar, and all the members of the class of 1835."

Then, gentlemen, all these new doctors of law—why, Harvard, returning to an ancient custom, has been selecting them from her own sons, and to-day it may truly be said that the University has been growing rich and strong *by degrees.* You will be glad to hear all of them speak for themselves. Of one of them, Dr. Carter, I will say from intimate knowledge, that he leads us gallantly at the bar of New York, and all his associates rejoice in his leadership. He has recently rendered a signal service to the jurisprudence of that great State by contributing more than any other man to the defeat of a code which threatened to involve all the settled law of that community in confusion and contempt.

And now, as I have told you who are to speak to you, I should sit down. I believe, however, it is usual for the presiding officer to recall any startling events in the history of the college. Gentlemen, there have been none. The petition of the undergraduates for what they call a fuller civil and religious liberty, in being relieved from compulsory attendance on morning prayers, was denied. The answer of the overseers was well conceived—that, in obedience to the settled rules and regulations of the college, of which that was one, they would find an all-sufficient liberty. That idea was not original with them; they borrowed it

from Mr. Lowell, when he said and sung in his sonnet upon the reformers—

> Who yet have not the one great lesson learned
> That grows in leaves,
> Tides in the mighty seas,
> And in the stars eternally hath burned,
> That only full obedience is free.

The only other incident in the history of the year is the successful effort that has been made in searching out the history of John Harvard, and about that the president of the college will tell you in good time, who he was, whence he came, and where he got the fortune and the library which he contributed along with his melodious name to the college. He gave half of all he had, gentlemen, and out of that modest fountain what vast results have flowed. May no red-handed vandal of an undergraduate ever desecrate his statue that stands at the head of the Delta.

And now, brethren, would you have your statue crowned? Would you, too, become immortal? Would you identify your names with the glory of the college? The way is open and easy. Follow exactly the example of the founder. Give one equal half of all you are worth to the college, and if you wish to enjoy your own immortality, do it to-morrow while you are yet alive. If you shrink from that, die at once and give it to them now. Other people possibly will rise up and call you blessed, whatever your own may do; so you will

relieve the president of more than half the labors of his office.

I did want to say a word about another matter —the elective system—but President Eliot tells me I had better not. He says that the Board of Overseers of the college are incubating on that question, and that there is no telling what they may hatch out. Now, don't let us disturb them, gentlemen, at any rate, while they are on the nest. We might crack the shell, and then the whole work would have to be done over again. But, as you now seem to be in good mood, let me say one single word about this elective system. I don't care how they settle it. I hope they will give us the means of sustaining and fortifying their decision when they make it. We alumni at a distance from the college are often stung to indignation by the attacks that are made upon us by the representatives of other colleges. One would think, by the way they talk down there at Princeton that Harvard was going to the everlasting bow-wows; that the fountains of learning were being undermined and broken up; that, as Mr. Lowell again said:

> The Anglo-Saxondom's idee's breakin' 'em to pieces,
> And thet idee's thet every mon doos jest wut he damn
> pleases.

I suppose the truth about the elective system is that the world moves on and colleges move with it. In Cotton Mather's time, when he said that

the sole object of the foundation of a college was to furnish a good supply of godly ministers for the churches, it was well enough to feed them on Latin and Greek only. Now that young men when they go out into the world have everything to do about taking part in all the activities of life, for one, I say let them have the chance to learn here anything that they can possibly wish to. And I hope that our president will persevere in one direction at least, until he can say truly that whatever is worth learning can be taught well at Harvard. This is well expressed again in an idea of Mr. Lowell's, who always has ideas enough, if divided, to go around even among us:

> New occasions teach new duties;
>   Time makes ancient good uncouth;
> They must upward still, and onward,
>   Who would keep abreast of truth.

I hope you will be very patient with all the other speakers. I advise them, as the hour is late and the afternoon is short and there are a great many of them in number, each to put a good deal of shortening in his cake, which I have omitted. That is a rule that never is applied to the presiding officer, and I am afraid it never will be.

PHILLIPS BROOKS

PHILLIPS BROOKS

Address delivered at Music Hall, New York, at a Memorial Service to Phillips Brooks, February 16, 1893.

MR. CHAIRMAN: This goodly array of honored clergymen of all sects, Catholic and Protestant, Christian and Hebrew, that have come here to-night to speak of the great preacher and the good bishop, is itself a noble tribute to his memory and his fame. His heart was large enough, his religion was broad enough, to embrace them all; and they honor themselves as well as him by joining hands around his grave, as the children and servants of one Father who has made of one blood all races of men.

Standing alone among them as a layman, and a Gentile, but as one who, from the time that we were college boys together, knew and honored and loved him, I may speak for a few moments of him personally by the great and dear name of Phillips Brooks—a name that he has made grander and nobler than any title which the world or the Church could bestow; of the man who was greater than the bishop; of the man whose heart went out to all his fellow-men.

Truly he was born great, and to a greatness wholly different from that which some achieve by their struggles and their triumphs, and some

have thrust upon them by accident or by chance. Nor was his birth and breeding, in Boston, fifty years ago, a happy accident. He was not a creature of one day or of one generation. All the generations, from the landing at Boston down, contributed to his grand qualities and his noble gifts. His first renowned ancestor, John Cotton, who landed in Boston in 1633, had electrified, by his eloquence in the churches of England, all the faithful disciples there, and when driven out by the accession and tyranny of Archbishop Laud, he came to America, the common refuge of the oppressed. From that day until his death he led, in sacred things, the people of Massachusetts. And it is truly wonderful in how many points this last glorious descendant of his resembled him of whom it is written, that beyond all things he had the genius for oratory, particularly for the oratory of the pulpit. Of him, too, as of his great descendant, the story is told, that, so majestic and impressive was his commanding appearance, that sin always stood rebuked in his presence; so that when he visited the tavern in the town of Derby, where he ministered in the church, the landlord begged him to depart, because he was never able to swear when that man was under his roof. And when John Cotton died, all New England mourned for him. The whole colony turned out as mourners, just as to-day the greater colony of States are mourning in a common sorrow for his most worthy descendant.

To this great progenitor, through six genera-

tions of worthy preachers and teachers and merchants, we trace his pedigree. And the saintly women, in many generations, who in the ever-expanding multiple of his ancestry carried his blood back to the foundation of the settlement—they gave their virtues to warm and enlarge and enrich his tender and womanly heart.

All the greatest and best qualities of Puritanism, purged of its dross, its follies, and its sins, were manifested in him. Its tolerance, evolved after two centuries of struggle with its own intolerance; its ever-living sense of duty as the guide and the object of life; its unfailing and untiring industry, recognizing the gospel of hard work as next after the Gospels of the evangelists; its aspiration always for a higher and a better state; its allegiance under all circumstances to the universal brotherhood of man; its enthusiasm under all circumstances for freedom—all these great qualities, and all that flowed from them, all these were centred in him. So that it might well be said that he was the last, the ripest, the best fruit of the New England discipline to which the world owes so much.

And then, what marvellous gifts he had! A mind of a power such as few men possess; eloquence, wit, magnetism; that wonderful gift of persuading and influencing other men. And yet the thought never entered his soul of using any one of these rich gifts for his own aggrandizement. He spent them all as freely as he received them, in the service of his fellow-men. He never

drew one selfish breath or spent a self-indulgent hour. When the report came, the day after his death, that he had left a considerable fortune, it seemed like an aspersion upon his character. We knew that it could not be so. And when the report was corrected and the truth came to be known, it turned out that he had gone out of the world as poor as he came into it, and that he had spent all and followed his Master.

Well do I remember, as if it were but yesterday, when my eyes first rested upon him, as he entered the chapel at Harvard College, in the freshman class, forty-four years ago—a tall and slender stripling, towering above all his companions, with that magnificent head, that majestic face, already grave and serious, but with those great brown eyes lighting it, beaming with brotherly love and tenderness. And from that hour to this he has been the boast, the delight, the glory of the college: and when I hear, as sometimes from thoughtless and ignorant lips I do hear, aspersions upon the good fame of Harvard, my answer always is, "Phillips Brooks. By their fruits ye shall know them."

And now let me cast one flower of love upon his still fresh grave. To the young men of Massachusetts, of New England, of America, he has been a living and a saving grace for two entire generations. As a boy, he showed them the example of an absolutely blameless life and conduct, and of utterly unsullied purity. As a man, he has been their guide, their counsellor, and their

friend. Ah, how well he understood their condition, their exposure, their frailties, their temptations, their lofty aspirations, and their infinite possibilities! By no barren precepts, by no solemn exhortations, but always with the sympathy of that warm and brotherly heart that was beating and palpitating for them in his breast, how easily he won their confidence, how completely he commanded their obedience, how nobly he led them always up to wiser and better things!

To give you one familiar and well-known illustration of how, by one gentle word, by one sympathetic thought, he could melt and subdue and rally them—the story is told that, when he was a college preacher, a group of his young friends, after a night of folly and debauchery, were found huddling together over the remains of an expiring fire, unfit for duty, hollow with shame for themselves and one another; and the great and good doctor came to make them a morning call. Not one word of rebuke, not one breath of censure, but a kindly morning greeting, a few minutes of pleasant chat, and then, as he rose to go, he laid his hand upon the head of the leader and said, as he left them, " Well, boys, it doesn't make you feel any better, does it? " That gentle treatment reached them, and they arose and followed him.

Well may the mothers of America—yes, and the fathers of America, too—weep for Phillips Brooks, when they think of their boys. For where, where will they find such another guide, such another refuge, such another friend?

THE HASTY PUDDING CLUB

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Address delivered at the club's Centennial, November 24, 1895.

BRETHREN.—We have come together to celebrate the foundation of the Hasty Pudding Club, a signal event in the history of Harvard, for it has certainly done a vast deal to mitigate the austerities of college life, and to alleviate its "most distressing occurrences"—perhaps as much as all its other institutions combined.

We call it our centennial, but the mists of tradition have thrown a halo of uncertainty about the origin of the club which probably can never be quite cleared up. If we can recall the words of Theodore Lyman's Pudding Song (and you will permit me to adopt it as part of my address to-night), its first conception was in the good Old Colony days soon after the landing of the Pilgrims on Plymouth Rock, and Miles Standish himself took part in its foundation in company with a famous Indian warrior. Some words in the song are a little archaic, but you will like it none the less for that.

This song had a great currency in the club in the old days, although it seems since to have fallen into " innocuous desuetude," but I am sure that it will set the keynote for this august occa-

sion, if we all join in singing it under the lead of Lyman's classmate, Reed, who knows its history well.

Long since, when our forefathers landed
  On barren rock bleak and forlorn
They left their little boat stranded,
  To search through the wild woods for corn.
Soon some hillocks of earth met their gaze,
  Like altars of mystical spell;
But within finding Indian maize,
  Amazement on all of them fell.

Quoth Standish: "Right hard have we toiled,
  A dinner we'll have before long;
A pudding shall quickly be boiled
  By help of the Lord and the corn."
At that moment the warwhoop resounded
  O'er mountain and valley and glen,
And a Choctaw chief savagely bounded
  To slaughter those corn-stealing men.

"Ha! vile Pagan!" the Captain quoth he.
  "'Tis true that we've taken a horn,
But though corned we all of us be,
  We ne'er will acknowledge the corn."
Then, a wooden spoon held in his hand,
  He seized his red foe by the nose,
And with pudding his belly he crammed
  In spite of his struggles and throes.

The victor triumphantly grasped
  The hair of his foe closely shorn,
While the savage he struggled and gasped,
  O'erpowered by heat and by corn.

"Be converted!" the good Standish said,
 "Or surely by fire you'll die,
Though on boiled thus far you have fed,
 We quickly will give you a fry."

Then straight was the savage baptized
 In pudding all smoking and warm,
While the Parson he him catechized
 Concerning the cooking of corn.
Then the Puritans chanted a psalm
 With a chorus of, "Hey—rub-a-dub,"
And amid gentle music's soft charm
 They founded the great Pudding Club.

And now that in this delightful harmony we have all mellowed together, from Dr. Wyman of the class of 1833, whom we joyfully greet here to-night as the patriarch of us all, to the latest neophyte of 1897, we can take our stand on the solid groundwork of history and locate the actual organization of the club in 1795 by Horace Binney, of Philadelphia, and Judge White, of Salem, who shared with him the first honors of the class of 1797, and Dr. John Collins Warren of the same class, all three of whom afterwards became very eminent citizens of the United States. These men certainly in their youth thus rendered a great service to the college for their own day, and for all coming time, by the promotion of sociability and by advancing good fellowship among the members of the club. From that day to this the club has been true to its original motto of "*Concordia discors*" and has well maintained the standard of

innocent and reasonable recreation amid the serious duties of life. The only wonder is that the students of a college in which the curriculum included Horace had not learned long before how "*dulce est desipere in loco.*" That is exactly what we have been doing in the last hundred years, and we mean to go on doing it forever.

Now, brethren, a word of explanation. When I came here this evening I found that no arrangement had been made as to who should sit at the central table, and I took the liberty of inviting these venerable men who sit around me, following the old rule of the college that the members should enter the banquet hall and take rank according to the years of their respective classes, much as Lowell laid down in his essay, that those should have the best chance to eat the dinner who had the poorest teeth to eat it with, and the poorest ears to hear the speeches.

My first duty is to tell you how deeply sensible I am of the honor that you have conferred upon me in asking me to preside over your deliberations this evening. It is an honor that can come only once in a hundred years. It came in a most opportune time for me, as testifying to the respect that the rising generation entertain for those of us who are passing beyond them in the march of years, for I had just read in a New York newspaper that some of the younger legal lights had spoken of Mr. Carter and Mr. Choate as "moss-grown old fogies" who must soon yield their places to the younger members of the bar.

It is not the first time that I have had a difficult honor thrust upon me by the Pudding. In 1851 I was classed among its lyric poets, and then, like Horace, I struck the stars with my head sublime. But the stars were not damaged. I had a big head for a few days or more, but nothing came of it. That was my first and last poetic utterance.

Doubtless the grim discipline of the Puritans held on too long at Harvard. But even in the grimmest of Puritan days we might have borrowed the chaste language of Milton, who invented the most excellent motto for the cardinal principle of the club:

> "Mirth, admit me of thy crew,
> To live with her and live with thee,
> In unreproved pleasures free."

Or what will you say to the words of our own American bard, Joel Barlow, who, as tradition tells us, first suggested the rich inspiration of Hasty Pudding:

> "I sing the joys I know, the charms I feel,
> My morning incense and my evening meal;
> The sweets of hasty pudding.
> Come, dear bowl, glide o'er my palate, and inspire
> my soul."

Never was there an association of men who had so good a right to celebrate their centennial as this club. A century looks down into the pot

and finds it bubbling and singing and gurgling with the same jovial note that it had when Horace Binney ladled it out to feed the men of 1795.

It was not their hungry palates, but their hungry souls that were aspiring for food. How busy our College had been in the process of gestation before the time we celebrate to-night in breeding heroes for the State in the coming days that were to try men's souls! You all remember how Harvard suffered, when those deadly days of peril came. There were men present at the foundation of the Club whose fathers had seen the college buildings converted into barracks for the colonial soldiers. There were buxom matrons, who, as maidens, had seen the handsome Virginia General flourish his sword under the shadow of the old elm as he took command of the New England troops, or, as Lowell put it, always putting the right word in the right place, "he had come to wield our homespun Saxon chivalry."

But better days had come. Those days of want and famine and pestilenee had passed away. Those trying days of hardship after the war, almost as perilous as the war itself, had been struggled through. Washington was president, and Jay's treaty, which caused so much strife and commotion, had just been ratified by the Senate. It was a time of far brighter days; it was the dawn of a new era for America, the time of a new departure.

I am always accused, at Harvard dinners in New York, of speaking by the catalogue. Well, let

the names upon the Pudding catalogue of this century tell their own story; let us see if, by the mingling of play with work, anybody has suffered. Let us see whether, by making out of duty itself the merriest play, we have failed in any instance. What say you to this? Did Channing and Buckminster and James Walker and Phillips Brooks, lead their followers into the verdant pastures with less of divinity itself, because they had disported themselves in former years in the club?

Did our historians, Bancroft and Prescott and the recently lamented Parkman contribute any less delightful lessons to their countrymen, because they had gathered around the crackling fire of the Pudding? Did our orators, such men as Wendell Phillips, Charles Sumner and Robert C. Winthrop, speak with less inspiration because, in their boyhood days, they had indulged in the ribald laugh and tried their first eloquence before their brethren of the Pudding? Were the lips of our two great poets, Holmes and Lowell, touched with less divine a fire because they had lisped their first numbers to their brethren of the club, in whose records they stand imperishably recorded?

Now I am not inclined to claim for the Hasty Pudding Club all the success that has come to Harvard College. But when I see its history outlined as we have to-night, when we see the cream of the college in successive generations enrolled in its ranks, and participating in all great deeds,

all great services, all great triumphs for the public good, it behooves us to keep this club pure and sweet and good as it always has been, and one of the great influences for education and truth and good morals at Harvard for all time.

EARL GREY AND FRANKLIN'S PORTRAIT

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Address delivered at the dinner of the Pilgrims of the United States to Earl Grey, Governor-General of Canada, New York, March 31, 1906.

THE pleasant duty has been assigned to me to propose the health of Earl Grey, Governor-General of the Dominion of Canada.

I regard it as a great privilege to be able to perform this service and a very great honor is conferred upon The Pilgrims by the presence of our distinguished guest. We welcome him not only on personal but on public grounds, and on both we give him the heartiest greetings.

Lord Grey is no stranger in the United States. Long before he was called to the exalted office which he now fills, he had been a frequent visitor among us. He had made the acquaintance of many of us in divers parts of the land, and as wherever he goes he is sure to make friends, he had found that he left behind him on his last voyage home, before he became Governor-General of Canada, a host of admiring friends. And then we welcome him, on public grounds, because he is the personal representative of his august sovereign the King of England, who ever since he came among us as a youth in 1859 or 1860 has been the

constant and steadfast friend of the United States. Since his accession to the throne he has lost no opportunity to manifest his good-will to our country, its government and its people. So that if we failed to welcome his personal representative with all the honors, we should indeed be guilty of great neglect and ingratitude.

And then he comes before us as the representative of a great nation—the Dominion of Canada, our nearest neighbor, whose boundaries march with ours for thirty-five hundred miles from the Atlantic to the Pacific.

In the presence of the Secretary of State I speak with bated breath. But as I no longer live under his instructions or by his will, I can, for the first time in many years, enjoy the great privilege of being without a master and of saying what I think and what I feel. And I do feel that this great Dominion of Canada is a nation with which we ought not only to be at perpetual peace, but that all possible questions remaining unadjusted between us should be setttled as soon as possible. She is not only our nearest neighbor, but our most spirited and ambitious rival, and her prosperity is advancing with leaps and bounds quite as vigorous as our own. It was well said by her distinguished Prime Minister in the eloquent fervor of the last campaign in Canada, that while by the concession of all mankind the nineteenth century belonged to the United States, the twentieth century so far belonged to Canada. And she is certainly showing it. The development of her vast re-

sources of every possible description, the opening of her wonderful agricultural lands—so rich, they say up there, that if you scatter grains of wheat in the morning a whole harvest is ready for gathering before night; all this is attracting thousands and tens of thousands of our own fellow citizens over the border in exchange for those whom our counter attractions draw away from her. I do not say which way the balance lies; I shall leave that for Lord Grey to determine, as no doubt he can.

But we have a neighbor there to reckon with, such as we never thought long years before the twentieth century began. She is likely to become very soon not only a formidable but very successful competitor, and if she goes on as she has been proceeding for the last five or ten years, we shall soon find her able to feed the mother country without any help from us, and we shall have to find new markets for our surplus products. One civilization, one law, one hope, one aspiration pervades the people of both countries, and they are so much alike that on my recent visit to Canada I found that when you crossed the border, you could only tell by the change of flag under which jurisdiction you still were.

I referred to the hope I entertain that, for the purpose of maintaining and making absolutely sure for all the future peace and harmony between us, every unsettled question should be brought to an early determination.

Nobody knows, nobody can ever tell how soon

an international question of trifling importance may become of serious consequence. It was my recent privilege, on a visit to Lord Grey at Ottawa, to come into personal contact not only with the distinguished Premier, that great orator and statesman, Sir Wilfrid Laurier, but also with most of the other members of his government; and I found, so far as I could judge from constant and repeated conversations, a tone not only of sympathy and of friendship, but of a great desire on their part that all questions that lie between us should be forever removed. I believe they all can be. I don't know that you can ever settle the fisheries question as long as fish swim, so that some new form of question as to bait or sinker may not afterwards arise. But with that exception I believe it is possible to place the relation of these two great rival friendly nations on a basis that will secure harmony without any fear of interruption for all the future. And it is on that ground that I particularly welcome the presence here of the distinguished Chief Magistrate, the Governor-General of Canada.

Lord Grey's ancestors, several of them, have been persons of great interest to the American people. When the second earl, his grandfather, achieved that wonderful performance in statesmanship of carrying the Reform Bill in '32, sweeping away the whole system of rotten boroughs that had existed from the days of the Plantagenets and the Tudors, and substituted in its place a more reasonable and equitable distribu-

tion between the different parts of the kingdom, he accomplished a work that, while it regenerated England, appealed directly and immediately to the sympathy and to the admiration of the American People.

But it is to a more remote ancestor of his that I wish particularly to call your attention to-night, I mean his great grandfather Major-General Sir Charles Grey, who was raised to the peerage and became the first Earl Grey; because his experience in America furnishes us with an incident which I believe will be the chief feature of this notable occasion, and will give complete pleasure and satisfaction not only to you but to all the American people.

When the British forces were in possession of Philadelphia in that dismal winter of 1777, this celebrated ancestor of Lord Grey, second in command under Lord Howe, or Sir Henry Clinton, I forget which it was, was in occupation of the City, and he and his Aide-de-Camp, Captain John André, were, I believe, in the actual possession of Franklin's house on Market street, in that city. They had for a while a very good time there, and in the dining-room, where they carried on their revels, there was a fine portrait of Benjamin Franklin himself, which he and his family regarded as one of the best that had been painted. Well, after a few months they had to leave Philadelphia a little more suddenly than they had entered it, what loose-tongued soldiers call "skeedaddling" they had to execute in a hurry; and

somehow or other in the confusion of their departure this fine portrait of Franklin disappeared from the walls of his dining-room, and was packed up with other miscellaneous baggage and was seen no more in Philadelphia.

Franklin could stand it very well, for he was over in Paris achieving that wonderful performance of his which secured the independence of America, in the form of the Treaty of Alliance with France. I suppose, that as they could not get hold of him, they regarded it as a very suitable mode of capture to make a prisoner of his portrait to show to their friends at home. Well, how it got to England exactly nobody can tell, it is so many years and ages ago. Richard Bache says, in a letter to Franklin, "Captain John André took excellent care of the house and everything in it, but when he went away he took your portrait that hangs in the dining-room." I suppose that André before his death gave it to General Grey. And since that time, for one hundred and thirty years, it has hung upon the walls of Lord Grey's ancestral mansion in Northumberland and has been as an heirloom, a cherished treasure, generation after generation in his family. And now Lord Grey, in full sympathy with that universal enthusiasm for the memory of Franklin which has animated all the world in commemoration of the two hundredth anniversary of his birth, in full recognition of the happy feeling that prevails now and ought always to prevail between the two peoples, and with the

purpose of doing all that he possibly can do to promote and advance the harmony of the English-speaking world as represented by these two nations, has concluded to restore to the United States as a free-will offering this portrait that has hung for so long upon his ancestral walls. About a month ago he wrote a letter to the President of the United States making formal presentation of this portrait, and it is now on its way to its original home, passing through the hands of our American Ambassador in London; and I hope that it will arrive in time to take part —as Franklin himself cannot except in spirit—in that great celebration of Franklin's 200th birthday in Philadelphia, that is to come off on the 20th of April.

Gentlemen, I envy Lord Grey this rare opportunity to perform such a signal act of grace and lofty purpose. I am sure that it will command the approval of his own people and will secure to our guest of this evening the lasting admiration and affection of all the people of the United States.

DR. STORRS'S JUBILEE

DR. STORRS'S JUBILEE

Address delivered at Dr. Storrs's Jubilee, Brooklyn, November 25, 1896.

TO a man who has never lived in Brooklyn, but at this moment wishes he always had, this night and this assemblage are a startling revelation. A whole city gathering for the sole purpose of doing honor to its foremost citizen, to recognize, to reward and applaud him. You may search the annals of American cities in vain for such a spectacle. You must go back to Athens, Venice or Florence, in their palmiest days, to find such an exhibition of civic spirit or of civic pride as Brooklyn shows to-night. I deem it a very great honor to have been invited here to-night to sum up for the people the case of Dr. Storrs. To be recognized as his life long lover, admirer and follower is a great compliment, and greater still to be a spokesman for this assembly, for I am absolutely certain that all that is just and honest and true, all that is pure and lovely and of good report in Brooklyn, if there be any virtue, if there be any praise, it is all represented and centered here to-night in honor of him. At the same time I do not wonder that after the ten days' exhausting services to which Brooklyn has devoted itself, you have had to send across the river

for a fresh supply. It is not for me to say that the Brooklyn supply of eulogy is not inexhaustible, or that Dr. Storrs has yet received all that he can stand, but I come as a New Yorker and an American to say that Brooklyn, great as she is, is not great enough to contain him; that the waters of the East river are not swift enough or deep enough to cut us off from our share in his fame, in his character and in his work; that they belong to all America and are a part of the solid gold in her territory which can never be reduced. My neighbor, Seth Low, has said that New York tried to get Dr. Storrs and failed. Well, that may have been so, but our motto in New York is, if at first you don't succeed, try again, and New York has got him at last in spite of himself. I do not know that in his presence I ought to venture to say anything about Greater New York, but I do not see him now, and so will take courage and say what I was going to say; that we are all one city in name and shall be one in fact as soon as Mr. DeWitt and Mr. Low have mastered the terrible problems that are racking their brains. Minerva sprang full panoplied from the brain of Jove, and it is said that even Jove himself, and one would hardly wonder at it, had a terrible headache, yet Greater New York is expected to spring, perfect as Venice in her prime, from the brains of Messrs. DeWitt, Low and Gleason and their companions.

I am glad that Mr. Low came here and delivered himself so well to-night, because you can

all realize, after he has accomplished that great work, how empty his head will be. It seems to be a rule to quote Dr. Storrs to-night. I want to quote a saying of his, if I rightly recollect it, in his admirable address upon the opening of the bridge. He said that "the isolation of New York would soon be absorbed and lost in the growing community of Brooklyn." Well, that seems to be coming to pass now, and our only consolation across the river for it is, that at any rate we shall be sure of him as a fellow citizen. The scientists tell us that no physical force is ever wasted, or lost or ended. We whisper into the telephone, and the vibration, even though it be less than one one-hundred thousandth part of an inch, affects a diaphragm one thousand miles away and our exact voice, just as it is uttered here in Brooklyn, exact in tone, loudness, pitch and quality is heard by the listening ear in Chicago and St. Louis. So they tell us (these things are very hard to believe)—that the light from the furthest fixed star has been traveling steadily undiminished for more than one hundred years to greet our eyes to-night, and to reassure us that the hand that made it is divine. If this is true of physical forces, how much more true is it of the spiritual and the moral and the intellectual forces! In these days, when steam and electricity have annihilated space and time, and the press on the wings of the morning carries to the uttermost part of the earth every word spoken that is worth while and every deed done that is worth know-

ing, it needs must be that a man who has lived as Dr. Storrs has lived, who has spoken, who has written as he has written, must be, as he is, the common property of the whole nation.

I want to correct another error which seems to have crept into some of the remarks made here to-night. I want to say that Brooklyn has not made Dr. Storrs all that he is to-day. Of course propinquity, environment, does a great deal, and I admit that no man can live in Brooklyn fifty years without showing the marks of it. You can do a great deal for a man. Your fresh and breezy atmosphere on the heights, where he lives—fresh every morning from bay or from the sound—your genial, social life, your great charities, your mental culture and your artistic development, your churches, your schools, and libraries, your early retiring habits, and your sound sleep, must tell in the end, long before fifty years have passed. But there are things in the makeup of a man that even such a city as Brooklyn cannot accomplish. A man owes something in that matter to his father and mother. The men who do the great deeds and think the great thoughts and live the grand lives, owe it in the main to the stuff that is born in them and not for what is put on from the outside. Let us see. In this very instance the powerful brain, whose effulgence lights and enamors a whole community of one million and a quarter people, the voice that lifts and carries a great audience upon its vibration, filling every ear with the thrill of harmony delighting

all, the personal presence which as it walks by the way attracts and delights, as by a magnetic power, and influences all who come within its reach, the vigor of constitution and the power of labor that ennoble the man and enable him to bear all the responsibilities, all the trials, all the achievements of three score years and ten, and the great heart that responds in sympathy to the sorrows of friends or lights up in joy at their joys, or kindles in fiery indignation at their sins, all these are the gift of God, of nature, of the father and the mother and who knows how many progenitors before them.

Dr. Holmes, who always had a ready answer for every question, is said to have replied to an anxious mother who put to him the question, "Doctor, at what age should the education of a child begin?" "Madam, at least 100 years before he is born." Now if Dr. Holmes had seen Dr. Storrs in his cradle—it seems rather odd to imagine Dr. Storrs in his cradle, but he was there once, and not very long ago either,—and let me tell you, dear young women, that he kicked as lustily and crowed as loud, if not a little louder, than your baby did when he was taken from his bath this morning—now, Dr. Holmes would have said this child's education began 200 or 300 years, instead of 100 years, before he was born. Let us see. When Spenser, the first great master of verbal music in the English tongue, lighting the age of Elizabeth with the sweet sunshine and poetic luxury of the "Faery Queen;"—when

Bacon taught men a new way of thinking and brought the human intellect back from the direst depths of superstition, in which it had long been groping, into the bright highway of reason and intelligence on which it has marched to triumph until now;—when Shakespeare, with that marvelous, poetic, creative insight unlocked the secrets of the human heart, and laid bare all its motives and movements, with a searchlight more keen than that with which the Roentgen rays now inspect the interior of our poor bodies;—when Milton, in lofty tone and noble spirit that lifted the English language among the tongues of men, produced his great book to justify the ways of God to man;—when Cromwell, by his Ironsides, smote the royal hosts with the sword of the spirit, and lighted an inextinguishable fire of liberty for the Anglo-Saxon race;—when the revisers of the English Bible gathered at Hampton Court at the summons of King James, and gave us that matchless book, the only book, the one book for readers, thinkers, scholars, speakers, men, women and children—if we can have but one book, O, save us that—when Burke, speaking to empty benches in the House of Commons all those magnificent orations, was teaching all the coming orators of England and America how to speak;—all these were laying the foundation of education for this child.

How well he has followed what they taught, how faithful a pupil he has been at their feet you all know; and I am certain, if you were to rob him now of the company of these kindred spirits,

with whom he has kept such glad communion for these fifty years, his heart would soon begin to fail. And then, too, we must remember, keeping our eyes outside of Brooklyn still, we must remember that this man was born in New England and that she claims her share in this great jubilee. Now no man can choose the place of his birth. If we could what a mess of it we should make, and how different our fates would be. But what a great piece of luck it was to be born in *Braintree* of all places in the world. Suppose this man had had the choice between Braintree and Deadwood, and had chosen the wrong place, where would he, where would Brooklyn, where would you have been to-night? The fruit of the *brain tree* must be reason, knowledge, wisdom, intelligence, invention, fancy, imagination, wit, humor, all those qualities that Cicero enumerates as going to make up the perfect orator. Now there are orators and orators. You need not try to tell a Brooklyn audience what a real orator is. They know the real thing by sight and by sound from the other kind, the other kind that we have heard a good deal of lately. In face and figure they are to all outward appearance very much alike, but for all other qualities they differ as much from each other as Apollo and Phaethon.

I would like to tell you a mythological story. I will awaken the tale in your mind where it has been slumbering in the gray matter. It is a theological tale, too. Apollo was the god of the light,

the day. Prophecy, poetry and music followed in his train. He drove the fiery steeds of the sun. He kept them well in hand, and as he traversed the lands and the skies he carried light and warmth and order and peace and universal harmony among gods and men. Phaethon was young, aspiring, scatter brained, and he thought that if he could only drive that fiery team for one day he, too, might sit in the great white palace, and might rule over gods and men. He started out in the morning on a chariot adventure. Hope elevated, joy lighted his crest. But soon he drove too near the serpent in the hopes of getting the apple from his grasp. The fiery steeds took fright. He lost his head and dropped the reins. His flashing wheels set the world on fire. People thought they could see the approaching dissolution of the world beginning to shape itself. They thought that everything was going to the dev—destruction—I meant to say destruction. They went home and told their wives and children they would have to give up everything; that all was lost if Phaethon was not captured. At last a mighty thunderbolt answered their prayer. It was the *vox populi vox dei,* dashing the mad charioteer from his place. Peace was restored and order, prosperity and everything good went on as before.

I do not like to go on after my time has come to go off. I wanted to say a word about New England influence. I shall say a serious word. All the generations from the *Mayflower* down

were busy in shaping the future of Dr. Storrs. It was not for nothing that for two centuries they shunned delight and lived laborious days. Their toil, their suffering, their sacrifices, their heroism, their zeal for education at any cost, their fidelity to God, their sense of duty overruling all senses, all appetites, all passions—all these were worked into the strain of descent that was the rich inheritance of their children. And so I say that when Dr. Storrs came here in the freshness of his manhood and gave himself to this church and to this city, Massachusetts from the landing of the Pilgrims, New England from the beginning came with him and has been represented in him incarnate here for the last fifty years.

And then the days that tried men's souls, the revolutionary days, were busy in training him. Why, there is not an event in all that war which was waged for our liberty, that is not as familiar to him as the objects in his study. On the 19th of April his waking dreams are of the lantern hung out from the tower of the old North church. He sees the ride of Paul Revere, the battle on the ground where his people saw the dawn of America and then, going on to Concord, he reads with Emerson how

> By the rude bridge that arched the flood,
> Their flag to April's breeze unfurled,
> Here once the embattled farmers stood,
> And fired the shot heard round the world.

On June 17 he stands in imagination on Bunker Hill, where it was first demonstrated that the

raw militia of America could withstand the trained veterans of Europe, and he witnesses that retreat more glorious than any victory, and so through all the periods of the war he is absolutely at home.

And then, too, the great civil triumphs he knows of as well. On the Fourth of July he stands under the old liberty bell with John Hancock and his associates as they put their names to the Declaration of Independence. On the 17th of September he stands again in the same spot with Washington, Franklin and Hancock, to sign the great Constitution under which America was to live and be free forever. On the 30th of April he is in fancy in front of the old Federal Hall in Wall Street, and sees the father of his country take his solemn oath ever to support that Constitution.

These things are woven in his brain. But I must keep you no longer from what you have come here to-night to hear, for I believe it was not to hear Mayor Low, nor anything that I could say, but that which attracted you here to-night was the certainty that there would be a response to the citizens of Brooklyn by him who is so dear to all your hearts. Length of days is in the right hand of God. May He pour it out in the fullest measure upon the head of his faithful servant, may he live longer than I have time to tell his years, ever beloved and respected, and as old time shall call him to his end may goodness and he fill up one monument.

OUR PROFESSION

OUR PROFESSION

An address delivered before the Chicago Bar Association, Friday, February 4, 1898.

NO language can express my gratitude for your cordial invitation to me—as unexpected as it was undeserved—or my appreciation of your truly overwhelming hospitality and your enthusiastic greeting. I recognize it as a spontaneous expression of that hearty sympathy and fraternal good will, which this great and learned and powerful bar of the centre of the continent feels for its brethren in the Atlantic states and in the nation at large. I am a life-long believer in the brotherhood of the American Bar, and so I could not find it in my heart to decline your invitation, although to accept it seemed almost to imply that some merit of my own had brought it upon me.

I had long heard of the unstinted hospitality of Chicago. I fully realized it on my arrival. No sooner had I reached the Auditorium than I was waited upon by the entire press of Chicago in a body. They tendered me the freedom of the city wrapped up in a newspaper. They opened their columns to me to address all mankind freely on every subject. They were very curious people. Their extreme youth demonstrated the truth of what I

had heard, that Chicago relies for its best work upon its young men. Each one of them seemed to carry a kodak in his eye, and they took views of me from every quarter of the world, New York, Washington, Hawaii, Cuba, China and St. Petersburg. They came within an ace of taking my life. They told me of a thousand incidents in my career which never happened, and put into my mouth a hundred jokes which I never uttered. They told me exactly how much I was worth, which my wife and children will be very glad to hear. At last one of them, more forward than the rest, declared, "Well, Mr. Choate, you must have attended at least a million dinners." As that, at one dinner a day would carry me back, according to Dr. Schliemann, almost to the Trojan war and make me the pot companion of Agamemnon and Ulysses or of Priam and Hector, I denied the soft impeachment; I told them that my life was altogether quiet and domestic, that I always avoided the scorching glare of publicity, when I could keep in the shade, and that I liked nothing so much as to be let alone. So they kindly took their departure, promising to be with me again to-night, and no doubt every child of them is among us taking notes, and "Faith, he'll print 'em."

As I flew hither on the wings of night, in that marvellous train which brings us in absolute comfort and luxury a thousand miles in twenty-four hours, through cities, towns and villages teeming with riches and plenty, which to the pioneers of

America would have been a journey of three months through the wilderness, I could not help thinking how time and space between New York and Chicago have utterly vanished; and how these two greatest cities of the Western Hemisphere are henceforth one in interest, in sympathy, in culture and in duty. The greater New York may not include Chicago within its growing boundaries, but Chicago, with its far-reaching influence and power, will touch and embrace New York. In one respect you have an immense advantage over us—if New York is our gateway to Europe —Chicago is the gateway, East and West and North and South, not of our nation only, but of the whole continent. As was said of Rome in imperial days, "all roads lead to Chicago." Here the great throbbing centre sends forth life to the whole body of America. These bands of steel which radiate from here in every direction are the arteries and veins which convey and reconvey the very life blood between the heart of the nation and its utmost extremities—these tiny threads of wire reaching from Chicago to every city and village and almost literally to every household in the land, constitute the nervous system which keeps the whole alive with thought and soul and brain.

One future, one hope, one destiny awaits us all alike—if one section suffers, all the rest will suffer with it—if one member perishes the whole body will perish at the same time. And if there is, which I do not believe, a growing jealousy and

strain between East and West, Chicago with her equal hold on both must be the mediator, and we of New York may well envy the share which the bar of Chicago will take in such a conciliation.

When I look around me on this great company of busy and successful lawyers, resting for a moment from their never-ending labors, when I study the lines which time has traced upon their features, I can easily see that success in our profession rests everywhere upon the same foundation. It is the same old story of the sound mind and the honest heart in the sound body. The sound body is at the bottom of it all. The stomach is indeed the key of all professional eminence. If that goes back on you, you might as well throw up the sponge. And sleep without worry must cherish and nourish it all the time.

> Sleep that knits up the ravelled sleeve of care,
> The death of each day's life,
> Sore labor's bath, balm of hurt minds.
> Great nature's second course
> Chief nourisher in life's feast.

Why should we worry over miseries and troubles which concern our clients only, and not us at all? Our entire responsibility ends when we have done our best, and the rest belongs to the judges and juries or the clients themselves, and if we fail the fault lies with the former for being so dull, or so inappreciative of our efforts and arguments, or with the latter for having such bad and

hopeless cases. Next comes that patient industry which never flinches and never falters.

And then the " unconquerable will with courage never to submit or yield," which is success itself. I have known all the leaders who have flourished at the eastern bar for forty years, and most of those from other parts of the country, and although no two of them were alike in physical or mental endowments, all agreed in this one moral quality—a grim tenacity of purpose to hang on and hold out through everything and against everything until the end was reached—Then sprinkle in the mental qualities each to suit his own taste, and according to what he happens to have on hand—But last and more than all what Mr. Emerson said of character is far more true in our profession than anywhere else, that character is a far higher power than intellect, and character and conscience in the long run are sure to come out ahead.

So, if I rightly read your lineaments, this great bar of Chicago is built up on health, industry, courage, brains, character and conscience, and must hold its own against the world.

When I recall some of the great names that have graced and ennobled the legal annals of this City and State, first and foremost always, the immortal Lincoln, who by sheer force of his intellect, in spite of every possible disadvantage, became eminent in his profession here, and then by genius in debate exposed to the listening nation the fatal question on which its destiny hung, and at last

by the matchless power of his sublime character carried it through blood and fire to the triumphant solution of that question—to a Union never again to be shaken, because founded on absolute and equal justice to men of every color, race and creed, and to that new birth of freedom which he proclaimed at Gettysburg. And again, when I recall the name of Lyman Trumbull, through a long life a great champion in the legal arena, and who once in the very prime of his life and the summit of his powers, had the good fortune to render a great service to his country, when, believing as he did that the great executive office of the nation itself was on trial, he cast a decisive vote to preserve it, although at the sacrifice of his political prospects and power,—When I remember the brilliant and accomplished Wirt Dexter, who transplanted from the old Bay State the prestige and tradition of a family of great lawyers and maintained it here with new and undiminished lustre—and then your own Goudy, so lately lost and so lamented, not here only, but wherever the capacity to solve great questions and handle great affairs, by skill, by tact, by wisdom and by learning, was appreciated and honored. When I recall the signal service to the nation and to human welfare which the courts of this region, both State and Federal, have rendered—how when anarchy seemed on the point of gaining the mastery they have mastered it—by courage, by reason, by the intrepid exercise of the judicial power, without regard to personal

danger or consequences, and how by the steady and wise labor of half a century they have built up your system of law and equity to a height which commands respect and authority in all places and in all courts—I feel that New York can look to Chicago and Illinois for light and leading, with the same faith and confidence that you in turn look back to her.

When I contemplate your wonderful city, and contrast it with what it was when I first saw it forty-three years ago, when it had but 80,000 inhabitants, and its streets were almost submerged beneath the waters of the lake—when I survey its commerce, its manufactures, its parks and museums and charities, its grand boulevards, its splendid architecture and towering edifices—above all when I see, to use the language of Burke, how population shoots in this quarter of the land, I can realize how it was that the people of New York City, alarmed at your progress and jealous of your mighty strides to power, hit upon the scheme of Greater New York in the vain hope of keeping ahead of Chicago. They heard that your population was doubling every ten years—that your area was expanding to an extent as boundless as the prairies that surround it—that you had more money than you knew what to do with, and were already becoming the bankers and money lenders of Europe, and they determined by the artificial scheme of annexation to circumvent you—vain hope and foolish expectation. You will go on as you have before and continued

until now. Here is to be the favorite home of the new American, that composite creature in whose veins the mingled strains of all the scattered branches of the Aryan race unite, with whose energy and daring and speed and wind and bottom, the tired cities of the East will strive in vain to keep an even pace.

We are all lawyers here to-night, and by courtesy we may for the occasion include even the judges as members of our craft. Although they have soared aloft on silken wings to a higher and nobler sphere, they are not unwilling to return to us on nights like this, as the retired tallow chandler was wont to return to the shop on melting days. How delightful it is to meet them on an even keel and at short range and speak our minds freely without any fear of being committed for contempt. There's a divinity that doth hedge a judge, I know, but to-night the hedge is down and they are very fair game indeed.

Let me speak of our noble profession and of some of the reasons we have for loving and honoring it—above all others.

In the first place, I maintain that in no other occupation to which men can devote their lives, is there a nobler intellectual pursuit, or a higher moral standard, than that which inspires and pervades the ranks of the legal profession. To establish justice, to maintain the rights of men, to defend the helpless and oppressed, to succor innocence and to punish guilt, to aid in the solution of those great questions, legal and constitutional,

which are constantly being evolved from the ever varying affairs and business of men—are duties that may well challenge the best powers of man's intellect and the noblest qualities of the human heart. I do not, of course, mean to say that among the ninety thousand lawyers whom the census counts in our seventy millions of people, there is not much base alloy—I speak of that great body of active and laborious practitioners upon whom rests the responsibility of substantial litigations and the conduct and guidance of important affairs; you will look in vain elsewhere for more spotless honor, more absolute devotion, more patient industry, more conscientious fidelity than among these.

I am not unmindful of that ever-mooted question, how we can, with the strictest honor, maintain the side that is wrong, and the suggestion that as only one side can be right in every lawsuit, we must half the time be struggling for injustice. But that vexed question has long been settled by the common sense of mankind. It is only out of the contest of facts and of brains that the right can ever be evolved—only on the anvil of discussion that the spark of truth can be struck out. Perfect justice, as Judge Story said, "Belongs to one judgment seat only—to that which is linked to the throne of God—but human tribunals can never do justice and decide for the right until both sides have been fully heard." When Jeremiah Evarts, the father of my great master in the law, and himself a truly great

and righteous man, had graduated from Yale and was considering the law as his profession, this same question disturbed his honest and conscientious mind, and he consulted Judge Ellsworth, afterwards Chief Justice of the United States, who solved his doubts by advising him that any cause that was fit for any court to hear was fit for any lawyer to present on either side, and that neither judge nor counsel had the right to prejudge the case until both sides had been heard, and he told him of Sir Matthew Hale, one of the most righteous lawyers and judges in English history, who began with the same misgivings, but modified his views when several causes that he had condemned and rejected proved finally to be good.

Nor is ours the only profession in which the same question has been agitated, for we read in the life of John Milton that when his good old father had lavished a good part of his fortune upon his education at Cambridge until he had taken his degree of master of arts, having no other thought than that his son should devote his great character, intellect and eloquence to the church—the youthful poet after a full study of the question decided for himself that he could not enter a profession which would require him to advocate what he did not believe to be true.

Again, we love the law because among all the learned professions, it is the one that involves the study and the pursuit of a stable and exact science. Theology, it is true, was once con-

sidered an immutable science—but how has it changed from age to age and even from year to year. We were bred to believe that everything and every word within the four corners of Holy Writ was absolutely inspired truth. But now upon what unhappy times have we fallen, in which the props of our faith are being knocked from under us, day by day. Only a month or so ago the pastor of Plymouth Church announced that the sacred story of Jonah and the whale was only a myth, that the whale did not swallow Jonah or hold him in his stomach for three days or vomit him up on the shore at all—and so that charming narrative, to which we had pinned our faith in youth and manhood as one inspired piece of history which we could and must believe, vanished forever from our mental vision.

Not to be outdone by Dr. Abbott, another of our metropolitan divines has declared that in the deluge the waters did not cover the whole earth, and so we must abandon the delightful and tragic drama which has fascinated the world for thousands of years, of Noah and the ark, and the destruction of the wicked, and the dove and the olive branch, and the only true theory of the invention of the rainbow. And last of all a distinguished bishop announces at a public dinner that nowadays nobody but printers believe in the existence of a personal devil. Why, without him, where shall we be? And who will foment the litigations for our successors to conduct or to settle? And now it only remains for

some great Chicago divine to discover that Nebuchadnezzar did not really eat grass—that his skin was not really wet with the dews of heaven, until his hair became as eagles' feathers, and his nails as birds' claws. So will the foundations of our faith be utterly destroyed, and we can no longer cherish that signal chapter of religious history, which has come to us straight from Babylon to Chicago, and which was at the same time one of the greatest political triumphs on record—and worthy of perpetual imitation, for how can we better dispose of our oppressors, of our unjust rulers, governors, judges, senators, than by turning them out to grass?

And then as to medicine, how its practice and its theories succeed each other in rapid revolution, so that what were good methods and healing doses, and saving prescriptions a generation ago, are now condemned as poisons and nostrums, and all the past is adjudged to be empirical.

Meanwhile, "the common law, like a nursing father, makes void the part where the fault is and preserves the rest," as it has been doing for centuries, and we are busy applying to each new case as it arises, the same principles, the same rules of right and justice, which have been established for many generations. We preserve the real fruit and throw away the rind. The technicalities which have too long encrusted the law have been stripped away, and now, like Lord Mansfield, our judges try to solve every case by common sense and the sense of justice, and the

sense of honor, which, in their highest manifestation, constitute the most eminent and valuable judicial qualities.

We hear sometimes that the American Bar has degenerated, that it does not equal its predecessors in power and character and influence, but this I utterly deny. To the demands which each generation makes upon it, it is always adequate. Times change and men change with them. The intense pressure of modern life and business leaves its mark upon our profession, as upon every other vocation. What once could be said in three days must now be said in two hours—what once could be done in a month must now be done in a day, and for one I do not hesitate to say that for skill, efficiency, utility and power, the service which our profession lends to the community to-day has not been surpassed in any former generation. It must be so. Take from the Bar of New York, as it stands, a hundred of its leading practitioners in court and in office, and fifty of equal rank from the Bar of Chicago, and they will do more and better work than any equal number in any past age.

So when these carpers who would laud the past at the expense of the present, ask me if the Bench of to-day is what it was in the olden time, I answer No, it is better qualified for the work it has to do than any of the old judges would have been. The Bench, like the Bar of every generation, is evolved from the character and condition of the age and the demands which it makes upon the

profession. Take the Supreme Court of the United States as the most striking and illustrious example. When John Jay, the first chief justice, presided, the court was almost always adjourned because there were no cases to be heard. All the time that Marshall presided the records were never printed—the original manuscript record was handed along the bench for the several judges to examine. Webster and Pinkney and their compeers would go in from the senate to the court, which sat three days in the week, and agree upon a day for argument two or three months ahead, and then appear and argue without limit of time—two or three days apiece, as the case might be. Arguments concluded, Marshall and Story could take the great cases to Richmond and to Salem, and have weeks or months to prepare those learned and elaborate opinions which really laid the foundations of our Federal law, and settled the Constitution upon an imperishable basis. Now, steam and electricity and the telegraph and telephone and the intense pressure of business which has grown out of these, have changed the whole order of things, and I prefer to adapt the question to the changed conditions and to turn it end for end and to ask: Could Marshall and Story and their associates, if now summoned to the task, do the work which Fuller and Harlan and their associates discharge so ably, so conscientiously and so well? The question answers itself: Let the dead past bury its dead. Gathering all the light it can from the past, and responsible to

the future for the results of its conduct, the living present suffices for its own work.

There is one respect, I admit, in which we have declined, and which for one I do greatly deplore —the cultivation of the fraternal and social spirit among ourselves has been almost abandoned, and it ought to be revived and transmitted. In thirty years we have had but two Bar dinners in New York, and our younger brethren only know by tradition how those who preceded us mitigated the austerity of the law by constant social festivities—how they went on circuit as a band of brothers—and however lustily they might contend in the court room, outside of it they were boon companions.

Our English brethren set us a most worthy example in this regard.

In Shakespeare's time, when he haunted the Mermaid Tavern in company with Ben Jonson, he saw the barristers come in from the courts, and from what he saw he puts into the mouth of Tranio in the *Taming of the Shrew:*

> Please ye we may contrive this afternoon,
> And quaff carouses to our Mistress' health,
> And do as adversaries do in law—
> Strive mightily, but eat and drink as friends.

The Inns of Court have been the scenes of constant daily intercourse, and not rarely of the most jovial festivities. From the times of Charles the First, when they contrived their great historic masque for the entertainment of the king and

queen at court, a jollification in which the greatest barristers of the day, such as Hyde, afterwards Earl of Clarendon, and John Selden, whose delightful table talk has come down to us through two centuries and a half, and Attorney General Noy and Bullstrode Whitlock, took an active part, down to the days of Lord Coleridge and Sir Charles Russell, and Sir Frank Lockwood, whose recent death, so untimely and so lamented, has been a serious loss to the profession, both here and there, the London barristers have been the lights of each succeeding age—the leaven that leavened the whole lump of English life and society.

Let us imitate a little more their bright and shining example—let us lead lives less dry—less sterile—less a matter of pure and unmitigated business—let us each ride not only a horse, but a hobby, also—above all, let us get all the entertainment we can out of our work as we go along, for we may rest assured that if we postpone the fun of life until the work is done it will never come, for it will find us as dry and dusty as so many remainder biscuits after a voyage. So I trust that we in New York shall imitate your example, and that this occasion may be only the beginning of a real interchange of a living brotherhood between the Bar Associations of our two great and noble cities.

But there is one respect in which the American Bar has far outshone not only its brethren in England, but in every other country of modern

times. I mean in its great share in the conduct and shaping of public affairs. In all our history, among the gallant champions of liberty, the wise founders of free states, the framers and defenders of free constitutions and of the rights of the people under them, the lawyers of America have ever been foremost. I refer not now to official life, though all the great civil offices, State and Federal, have always been, are now, and always must and will be, to a large degree filled from their ranks—but I speak of that lofty public and patriotic spirit for the people's good, which ought to animate the heart of every lawyer worthy of the name. When James Otis resigned his rich office as crown advocate, to maintain the cause of the merchants and the people of Boston against the oppression of general warrants, refusing all rewards, saying, "in such a cause I despise all fees," and delivered in the old State House that great plea for popular rights, so telling, so overwhelming, that John Adams, who was present, declared long afterwards that on that day and in that room "the child Independence was born," he set the pace for all the future lawyers of America. When John Adams and Josiah Quincy, Jr., braved the popular wrath in their successful defense of Captain Preston and his British soldiers for their part in the Boston massacre—and when Patrick Henry, in that little court-house in Virginia, argued the Parsons' cause, and displayed for the first time his transcendent power as the people's orator, they embodied that public

spirit which has animated the patriotism of the profession ever since.

I believe that with one consent the common judgment of mankind would point to Hamilton, Webster and Lincoln as the three American lawyers whose actual public services had most largely contributed to the formation and preservation of the Constitution, on whose continuance the hopes of civil liberty for all coming time depend. God made them greater than the rest, and the opportunities came to them for great achievements which found each in turn ready and able for the service demanded. Hamilton's creative genius was displayed in the part he took in framing the Constitution, and again in securing its adoption, and finally in launching the new government in practical and successful operation under it, which probably surpasses any political service ever rendered by one man in our national history. To Webster I ascribe a share second to that of no other man in the final triumph of the Constitution and the Union over all their foes. It has been the fashion of late years to belittle him because of the infirmities of his declining years, but for two entire generations he was at all times and in all places inculcating in the breasts of the youth of America that ardent patriotism which inspired his own—that devotion to the flag which would compel them to follow it wherever freedom led and to the Union one and inseparable. So that at last when the fatal summons from Sumter sounded, though dead, he yet spoke to them, his

heart, which had warmed, his brain, which had illuminated New England for them and their fathers seemed to live once more—and under his inspiration still they marched to death or to victory—but at all hazards as he had taught them to save the Union without which all else was lost.

Of Lincoln, why should I try to say more in this presence, or in this city or state? History has long since decided that to him under God the world owes it, that government of the people by the people and for the people has not perished from the earth. A thousand years from now his name will stand as bright as to-day as the synonym of freedom and free government. Opportunities such as these three great representatives enjoyed and improved may not come to every or to any generation of American lawyers. But at all times, and especially in this our day, great public duties await us. So long as the Supreme Court exists to be attacked and defended—that sheet anchor of our liberties and of our government—so long as the public credit and good faith of this great nation are in peril—so long as the right of property which lies at the root of all civil government is scouted, and the three inalienable rights to life, to liberty and the pursuit of happiness, which the Declaration of Independence proclaimed and the Constitution has guaranteed alike against the action of Congress and of the States, are in jeopardy, so long will great public service be demanded of the Bar.

Let us magnify our calling. Let us be true to

these great occasions, and respond with all our might to these great demands, so that when our work is done, of us at least it may be said that we transmitted our profession to our successors as great, as useful and as spotless as it came to our hands.

TRIAL BY JURY.

TRIAL BY JURY

Address delivered before the American Bar Association, Saratoga, August 18, 1898.

WE meet at a most auspicious moment. Since this Association last assembled for its annual conference the nation has been engaged in a war which has absorbed all thoughts, and necessarily distracted us from those peaceful purposes which annually bring us together. But now, with unexpected suddenness, at the cost of great treasure and much precious blood of our heroes, the truly noble object of the war has been accomplished, and peace is already in sight. It might perhaps be expected that in accepting the very great honor of delivering the annual address provided by your constitution, I should enter upon a discussion of some of those important questions which must arise out of the consequences and results of the war.

It is obvious that all such questions, as they arise, must naturally engage the best thought and the noblest and most patriotic exertions of our profession, which has always exercised a controlling influence upon controversies about Constitutional power and national policy, and to whose special keeping is entrusted the study of those principles of right and justice, which must

govern the conduct of nations, as well as of the individuals who compose them.

At all the great and critical points of our national progress the American Bar has found its appropriate spokesman for the public honor and the public safety. When Otis, against the malignant power of the British Crown, pleaded for the right of every citizen to be secure against tyranny in his person, his home and his papers, and set the ball of freedom rolling—when Henry led the friends of Colonial rights in Virginia and shook the Continent by the thunder of his eloquence—when Hamilton by the main strength of his arguments carried the Federal Constitution against a defiant majority in the New York Convention—when Webster by his majestic speech inculcated in the hearts of Americans that flaming spirit of nationality which saved the Union twice and will preserve it forever;—when Fessenden and Trumbull sacrificed their political fortunes to rescue the great office of the Federal Executive from destruction, they furnished examples for the lawyers of all times to stand at all hazards for public justice and for public honor.

But it seems to me that it would be out of place for us to-day to undertake to pronounce, as the organized representatives of the American Bar, upon the possible, but as yet unformulated, questions in diplomacy, in policy, and in public law, which will naturally follow upon such a momentous struggle and such overwhelming

victories by sea and land. In the meantime, I prefer, as I hope you prefer, to rely upon the wisdom and the patience, the courage and the firmness, of the President and his constitutional advisers, who have conducted the campaigns of our gallant army and navy to swift and sweeping victory.

You will remember that only two years ago in this very presence, the Lord Chief Justice of England, in his admirable discourse before you on arbitration, declared, with your unanimous approval, that there may be even greater calamities than war, and that national dishonor is one of them. Nothing can be more certain now, than that we should have incurred real national dishonor if we had any longer refrained from intervening for the rescue of our oppressed and downtrodden neighbors. In that intervention war was the last argument and the only really effective one. The God of Battles and the judgment of the Nations have completely vindicated that step, and I have no fear that ambition for dominion or lust of glory will bring upon us any calamity or dishonor whatever.

In truth, the generous, the magnanimous terms of peace offered to our fallen and prostrate foes have already demonstrated that. The Constitutional Power to declare war is in Congress, but the equally important power to make peace rests with the President, subject to the subsequent approval of the Senate as to the terms of the treaty. It rests safely with him, and

for one I am not in favor of intruding upon him too much outside advice and assistance. The war, of course, could not cease until every foot of American soil was purged of the last vestige of Spanish power; but in war, as in law, the beaten party must pay the costs, and in settling the terms of peace, we meet novel problems and serious and unexpected responsibilities, which the triumph of our arms has imposed upon us in both hemispheres. These responsibilities we cannot shirk if we would, and would not if we could, and in dealing with them the government must not be held too rigidly to purposes and expectations declared before the commencement of the war, and in utter ignorance of its possible results.

If that had been the rule, our fathers would never have been permitted to declare and maintain their independence, for it was only a month before the battle of Lexington, that Franklin declared to Lord Chatham that he had travelled far and wide in America and had found not one man, drunk or sober, who was in favor of independence. If that had been the rule, the proclamation of emancipation could never have been issued, and the shame of slavery would still blot the stars upon our flag; —for at the outset nothing was more distinctly declared by Lincoln and his advisers, than that slavery, where it existed, would not be interfered with. In war, events change the situation very rapidly, and only when the end crowns the work shall we truly comprehend the great questions

which await us. In the meantime, let us trust the President, who has our national honor most truly and wisely at heart.

Recurring, then, to the more strictly professional objects of our meeting, and selecting a topic pertaining to the science of jurisprudence, which this Association was organized to promote, I have thought that you would indulge me for a brief hour in considering a subject to which I could bring at least the results and convictions of a large experience, and which I have greatly at heart—a subject so trite, that perhaps nothing new can be said about it, which has been more discussed than any other, but which yet remains a subject of ever fresh and vital interest to every American lawyer and citizen—the trial by jury.

Since you last met, a thrilling event of prime importance in its relations to jurisprudence has occurred in France, which must have arrested the attention of every thoughtful observer, and have led especially those sagacious theorists, who have never tired of denouncing trial by jury, and those experimental philosophers and legislators who are always seeking to limit or to mutilate it, or tamper with it in some way or other, to reconsider the matter and to think once more whether we should not do better to let it alone, or only sustain and improve it so as to preserve it inviolate, as the Constitution of the United States and those of most of the States require.

You will readily recall the main incidents of the trial of Zola. An army officer belonging to a race

obnoxious to the hatred and jealousy of the French people, accused of an infamous crime, hounded by a licentious press, had been tried and convicted by a court martial, and after the most shameful degradation, had been condemned for life to solitary confinement upon a rock in the sea, eating out his heart with despair more biting than the talons of the vulture or the beak of the eagle. He protested his innocence, and scores of the best men in France declared their faith in it also, among them statesmen and officials of high rank and character, and before long it became apparent that, whether guilty or innocent, he had been condemned practically unheard, and the Government declared that " reasons of State " forbade that the truth should be known.

It was at this point that Zola, the most notorious at least, if not the most powerful, of French writers, with a courage and a chivalry never surpassed, took up the unhappy victim's cause, proclaimed his innocence, and challenged the authorities to bring himself to trial for his accusation against the court martial, which, as he declared, had covered the illegality of the conviction of Dreyfus by the judicial crime of consciously acquitting the real criminal.

The government took up the challenge, and then followed a trial, which, for reckless and cruel disregard of every principle of right and justice known to us, is surely without a precedent in modern history, and yet it purported to be a jury trial. A jury was sworn, but apparently its sole

function was to register the edict of the government, the army and the press, which demanded conviction. Of course, the defendant was presumed to be guilty until he should prove himself to be innocent, but every effort of himself and his counsel to elicit the truth was thwarted. A hostile audience, with which the court room was packed, was permitted to cover the accused with contumely. "Conspuez Zola!" greeted his entrance. Invective from Court, prosecutor and witnesses took the place of evidence and argument. There was no right of cross-examination, no law of evidence; witnesses who were summoned defiantly stayed away; those who came refused to testify further than they chose, and were suffered to harangue the jury for the prisoner and against the prisoner, and "retired amid irrepressible applause." Hearsay was the main staple of the proceedings. A perfect pandemonium prevailed throughout the trial, and at the end of two weeks, as everybody had known from the beginning, the heroic defendant was convicted and sentenced, and his principal witnesses were degraded or dismissed from the public services.*

However satisfactory such a method of administering criminal justice may be to the French people, who cling to it through all changes of government, it could not but excite horror and disgust throughout the Anglo-Saxon world. The proceedings were read wherever Zola's fascin-

*"Zola, Dreyfus, and the Republic," by F. W. Whitbridge: Political Science Quarterly, June, 1898, page 159.

ating romances had preceded them. Every safeguard of personal liberty enjoyed in England and America for two centuries had been violated. We could not read the account of the trial without contrasting it with our own trial by jury, or without the pious utterance from every lip, "Thank God! I am an American."

Heroic Zola! It is pleasant to think of him enjoying the free air of Switzerland after all, having taken French leave of his country, instead of rotting in the dungeon to which her despotism under a republican mask would have consigned him.

This signal event, so shocking to our sense of justice and right, has done more, I am happy to believe, than whole volumes of argument to strengthen and perpetuate our faith in our wholly different system of procedure for the ascertainment of facts on which life, liberty or property are to be brought in judgment. It will help to preserve in its integrity our precious trial by jury, by which no man can be deprived of life or liberty by the sentence of a court until his guilt has been proved beyond all reasonable doubt to the unanimous satisfaction of twelve of his fellow citizens, and no man can lose reputation or property by judgment of a court, until by a clear preponderance of evidence his right to it has been disproved before a similar tribunal.

I do not appeal to mere sentiment or popular prejudice in defence of this, which I believe to be the best method yet devised for the determination of disputed questions of fact in the administra-

tion of justice. There is no need of such appeals —and if I were weak enough to resort to them, they would be wasted upon an assemblage of lawyers like this.

The truth is, however, that the jury system is so fixed as an essential part of our political institutions; it has proved itself to be such an invaluable security for the enjoyment of life, liberty and property for so many centuries; it is so justly appreciated as the best and perhaps the only known means of admitting the people to a share, and maintaining their wholesome interest in the administration of justice; it is such an indispensable factor in educating them in their personal and civil rights; it affords such a school and training in the law to the profession itself; and is so imbedded in our Constitutions, which, as I have said, declare that it shall remain forever inviolate, requiring a convention or an amendment to alter it—that there can be no substantial ground for fear that any of us will live to see the people consent to give it up.

For the trial of persons charged with crimes, I do not believe that any material alteration of its character will ever be adopted. It is so much better that ten guilty men should escape than that one innocent man should suffer. In truth, in these days of multiplied statutory crimes and misdemeanors, a large majority of guilty men do escape by not being found out, by not being accused, by not being brought to trial after indictment, and largely, too, by setting aside the ver-

dict by Courts of Appeals, so that our established public policy seems to lean against any harsh or rigid or arbitrary application of the criminal laws.

But accepting, as we must, the rule that the defendant's guilt must be established beyond all reasonable doubt before he can be convicted, it is hard to see how, as long as three, or two, or one honest man on the jury has a reasonable doubt, the prisoner can justly be deprived of the benefit of it without destroying our cardinal rule. But the insuperable answer to any change so far as criminal trials are concerned, is the question what substitute will you provide—and none has ever been suggested that would command the approval of lawyers or of laymen.

Let me call your attention to two cases in the Court of Appeals in New York, which will illustrate the necessity of the absolute inviolability of the jury in criminal cases for which I contend, one of long standing, and one just announced, both of which resulted in the reversal of convictions for murder, and which must, as I believe, commend themselves to general approval. In the celebrated *Cancemi* case,* a juror being taken ill and unable to go on with the trial, the Government and the prisoner's counsel in his presence consented that the case should go on to a verdict with the remaining eleven jurors, and the defendant was convicted—but the Court reversed, upon the ground that a jury of eleven was a tribunal for

* People vs. Cancemi, 18 N. Y. 128.

the trial of felony unknown to the common law, and that it was too dangerous a precedent to establish. It held that the public had a vital and inalienable interest in the preservation intact of this constitutional tribunal, which it had created for the trial of crimes—that if the prisoner could waive one juror he could waive eleven, and create a tribunal of his own; and then, how could a man on trial for his life be competent to determine on the sudden as to the wisdom or safety of going on with a juror lost, and who else could be empowered to decide for him? The other was the *Sheldon* case,* decided but yesterday, where the trial judge kept the jury out eighty-four hours and so compelled a conviction, and the Court of Appeals reversed on the ground that the prisoner was convicted by force and not by reason or evidence; a result which all the world must approve.

There is one serious infirmity in trial by jury in criminal cases in times of great excitement, especially when the more boisterous portion of the press undertakes, as it generally does, to prejudge the case and to condemn the accused unheard. The jury, under such circumstances, find it hard to resist the impression of public sentiment so loudly proclaimed. The courage and firmness which stood as an effectual barrier against the wrath and tyranny of kings, and which won for the petit jury so much of its prestige and glory in English history, are certainly likely at times to fail, when confronting the outraged sen-

* People vs. Sheldon, 156 N. Y. 268.

timent of that more potent and dangerous despot, an enraged democracy.

Fortunately, such tempests of popular fury are very rarely directed against innocence, and other tribunals do not withstand their fury while the storm lasts, any better than the jury. Judges of the first instance, and even the local tribunals of appeal, have been found equally powerless to stem the tide. Study the reports of our own Court of Appeals in recent years, and you will find more than one instance of public wrath in our great metropolis, fanned into a devouring flame by some lawless newspapers and a somewhat lawless investigating committee, where the trial Court, unconsciously influenced and loudly sustained by public opinion, committed fatal errors against the prisoner, which were confirmed by the local tribunal of appeal, and it was only when the storm had passed and the atmosphere cooled, that the Court of last resort, sitting in the remote capital, corrected the error, and each time with the unfortunate result than an apparently guilty prisoner, who had been convicted upon illegal evidence or rulings, escaped altogether.

One other charge against trial by jury in criminal cases is the possibility of corruption and bribery of individual jurors. But in my judgment, the common estimate of the extent of this danger is greatly exaggerated. There are but a few well authenticated cases of such crimes in the jury box. I have had little to do with the trial of

criminal cases, but in an experience of more than forty years in the trial of civil cases before juries, I cannot recall one case where I had reason to believe that corruption or bribery had reached a single juror. And if you can show me a few authentic cases of such infamy in the jury box, I will undertake to match them with an equal number of similar crimes committed by judges who have been properly exposed and punished.

No! with all its defects and faults, which cannot be denied or disguised, there is no danger of trial by jury in criminal cases being supplanted in the confidence of the American people—nor has any possible substitute for it ever been seriously suggested.

It is for the integrity, efficiency and utility of trial by jury in civil causes that I am chiefly concerned, and would most earnestly plead to-day with my professional brethren, who are naturally responsible for public sentiment on such a subject. For I cherish, as the result of a life's work nearing its end, that the old-fashioned trial by a jury of twelve honest and intelligent citizens remains to-day, all suggested innovations and amendments to the contrary, the best and safest practical method for the determination of facts as the basis of judgment of courts, and that all attempts to tinker or tamper with it should be discouraged as disastrous to the public welfare.

You may say that I am contending for an ideal tribunal. On the contrary, I speak for what is not only possibly, but actually within the reach of

every State and every community—ideal only for the purpose designed, as when we say that a particular man would make an ideal judge, an ideal senator, or an ideal general.

Let me say what I understand by a jury trial; that picturesque, dramatic and very human transaction, that arena on which has been fought the great battle of liberty against tyranny, of right against wrong, of suitor against suitor;—that school which has always been open for the instruction and entertainment of the common people of England and America, that nursery, that common school of lawyers and judges, which has had five times more pupils than all the law schools and Inns of Court combined—for there are ninety thousand lawyers in America, of whom four-fifths probably never saw the inside of a law school.

Well, the first and most essential element in a jury trial is a wise, learned, impartial and competent judge—a judge qualified by his character, learning and experience, to preside over and control the proceedings, and to advise the jury as to the discharge of their duties. Add to the ordinary modicum of legal learning, courage, honesty and common sense, and you have the kind of a judge I mean. If we say that an adequate supply of such judges, possessed of these ordinary qualities of manhood cannot be found, we libel our own profession, we befoul our own nest wherein they are bred. Of course, they cannot be had, if we apply to judicial nominations our favorite democratic idea that one man is as good as another for

any office; of course they cannot be had if selected for partisan services; of course they cannot be had if appointed by a boss, or if they are required or allowed to pay for their nominations, directly or indirectly; but they can be had if selected on their merits from the gladiators in this same arena, as England has selected her judges since 1688, always with assured success. They must be had, if our institutions are to be preserved.

And then there are the twelve honest and intelligent jurors, drawn from the body of the community, sworn to pass upon the issue, and to return whence they came when their task is done. If we say that the average citizen is not equal to the duty, we belie our American manhood, we contradict the whole course of judicial history, and we fail of our duty to the communities of which we form a part, which rely upon us implicitly for the legislative machinery by which juries are to be secured.

And then you must have the earnest and loyal advocates, sworn to do their whole duty; which means to employ all their powers and attainments, and to use their utmost skill and eloquence, in exhibiting the merits each of his own side of the case. In doing so, as Mr. Justice Curtis well said, the advocate only does his duty, and if the adversary does his, the administration of justice is secured. I omit not the indispensable presence of the public, an ever essential feature in this great historic forum, for justice, though blind to the parties and to everything but the

merits of the case, must never be secret. It is the sacred possession of the people in whose name and by whose authority it is done.

Do you say again that this is an ideal picture? Who of you has not seen it? Who of you does not know that it is not only possible, but can be and ought to be the actual and every day scene in our Courts? I well remember witnessing such an administration of justice by Chief Justice Shaw and his associates in the Supreme Judicial Court of Massachusetts, aided uniformly by juries representing the best citizenship of that grand old State, and by a group of advocates whose superiors the world has never known, disposing of great causes in the presence of a bar instructed, and of a public educated, by the noble spectacle. I have witnessed the same scene in the city of New York, under the administration of Chief Justice Oakley and Judge Duer and their associates, and coming down from those early days to the present, I have seen it a hundred times since, down to the last term of our Federal Court, when I saw an important and intricate cause disposed of by as good a jury as ever sat, under the guidance of a faithful and competent judge.

Are we willing to admit that the Bench, the Bar, the intelligence of the community from which the average juror is drawn, have so degenerated in the last fifty years, or in our generation, that this great tribunal, which has commanded the confidence and approval of all English speaking people

for centuries, is no longer adequate for our public needs? For one, I refuse to believe that. I know that the Bar of to-day is adequate for the duties of to-day—that it can furnish material for the bench worthy of the great service of justice. And I feel quite sure that the average standard, not only of morals but of intelligence in our American communities which furnish our supply of jurors, has not receded, but has actually advanced in the last half century.

This trial by jury for which I stand, is not only ancient as magistracy, rich in the traditions of freedom and of justice, glorified by the prestige and the prowess of all the great advocates of our race, but it is the proudest and most delightful privilege of our whole professional life. It alone atones for and mitigates all the drudgery and painful labor of the rest of our professional work. Here alone we feel the real joy of the contest, that *gaudium certaminis,* which is the true inspiration of advocacy. Here alone occur those sudden and unexpected conflicts of reason, of wit, of nerve, with our adversaries, with the judge, with the witnesses; those constant surprises, equal to the most startling in comedy or tragedy. Here alone is our one entertainment, in the confinement for life to hard labor, to which our choice of profession has sentenced us, and here alone do the people enter into our labors and lend their countenance to our struggles and triumphs. Sorry, indeed, for our profession will be the day when this best and brightest and most delightful func-

tion, which calls into play the highest qualities of heart, of intellect, of will and of courage, shall cease to excite and to feed our ambition, our sympathy and our loyalty.

Let me now consider the principal evils and mischiefs incident to and perhaps inseparable from this much prized trial by jury, for which all sorts of nostrums and legislative innovations have been suggested as radical cures. The existence of some cannot be denied, but I am persuaded that the force and effect of each of them has been grossly exaggerated, and that they can all be remedied, not by any material alteration, but by a better administration of the system as it now exists in our Federal courts, and in the vast majority of States whose constitutions still require that it shall be preserved inviolate.

And first and most common is the complaint of the rule of unanimity, which requires the entire votes of the twelve to render a verdict. To listen to the impassioned arguments of those who seek to destroy this ancient and time-honored rule of unanimity, you would think that in almost every jury impanelled there is among the twelve one Judas ready to betray the cause of justice, or one crooked stick which by no amount of application can be made to fit in with the rest. But, in truth, the discharge of a jury because they are unable to come to an agreement, and the consequent necessity of a new trial is a comparatively infrequent event.

So far as the imperfect statistics which I have

been able to gather show, only about three or at most four per cent. of all jury trials end in a disagreement.

There is a certain percentage of cases so doubtful and so difficult, that the disagreement of the jury, instead of being a disaster, is a positive good, as leading the parties to such a compromise as they ought to have made before carrying the case into Court—or if that fails, in giving an opportunity for new light and re-consideration. Take, for instance, the *Sheldon* case, to which I have already alluded—to be sure it was a criminal case, but the same considerations will apply in this respect to a civil case—how much better it would have been for the cause of justice and the spirit of truth, if, instead of making the decision the result of a contest of physical endurance among the twelve, they had been discharged after a reasonable number of hours and a new jury entrusted with the case. A new jury can always be impanelled at the next term, and no great delay is involved.

Again, where very great amounts are involved and the contest is extremely close—and these are the cases, I think, in which the largest percentage of disagreements occur, a second trial is not an unmixed evil—a second trial is better than a wrong decision. The truth is discoverable, of course, in every case, but how often on the first trial in such cases is some evidence omitted or misunderstood, from lack of preparation or of knowledge—which, being cleared up on a second

trial, makes the truth more obvious and discernible.

So clearly is this recognized in the public policy of the State of New York, as embodied in its statutes, that in actions for the recovery of title to land, so apprehensive are the State and the law, of accident, or surprise, or negligence, or lack of knowledge of evidence, that even after one full trial and verdict rendered, either party may have the verdict vacated and a new trial, as matter of right, on payment of costs. So jealously is the right guarded, and so much better is it deemed, both for the parties and the public, that there should be a right decision than a quick decision.

Again, if I may rely upon my own experience and observation, the disagreement when it does happen is quite as likely to be the fault of the judge as of the jury. The failure of the judge to perform his most important duty, to explain to the jury the proper legal bearing of the evidence upon the issues of fact which it is their sole province to decide, is the most frequent cause of disagreement. It sends the jury in an intricate case to their consultation room without a proper understanding of the questions submitted to them. Some judges at *nisi prius* are lazy, and some dōn't care what the verdict is to be, and some care too much; and the least appearance of partiality in the judge is apt to awaken the jealousy and resentment of some more or less intelligent juryman. Juries are, as a rule, extremely

jealous of their province of deciding the facts, and anything like invasion of it by the judge very properly tends to excite their alarm. Perhaps I may cite an actual case in my own experience, which I tried twice. Each time the jury disagreed, necessitating a third trial. Both disagreements were directly traceable to the clear manifestation of pressure or bias on the part of the judge. It was a speculative case for damages. The tort was plain enough, and the question was how much damages. On the first trial the judge charged so strongly for the plaintiff, and on the second trial another judge charged so strongly for the defendant, that in both cases the jury, instead of taking an average verdict, as is the only way in such cases to reach a verdict at all, revolted and disagreed.

This leads me to say that the vast majority of cases brought to trial before juries are cases where the principal, if not the only question to be determined by them, is the amount of unliquidated damages; and for the decision of such a question there can be no reasonable doubt that the average of the estimates of twelve sensible laymen is far safer, and far more likely to approximate to the just estimate, than the assessment of one man, however learned and instructed in legal questions he may be. There is something in the technical training and habit of mind of the judge, that tends really to unfit him to pass alone upon such a question; and for his caprice, his prejudice, his error of judgment, there is no check or balance

and no cure; and so long as the power of the judge who tries the case to reduce the verdict for manifest excess, or to set it aside for manifest insufficiency, is reasonably exercised, any practical danger of injustice is eliminated.

So let me say, and again upon the same authority of personal experience and observation, that for the determination of the vast majority of questions of fact arising upon conflict of evidence, the united judgment of twelve honest and intelligent laymen, properly instructed by a wise and impartial judge, who expresses no opinion upon the fact, is far safer and more likely to be right than the sole judgment of the same judge would be. There is nothing in the scientific and technical training of such a judge that gives to his judgment upon such questions superior virtue or value, and we cannot be too frequently reminded of the valuable opinion on this point, of one of our clearest and broadest minded judges, Mr. Justice Miller, given as the deliberate result of a quarter of a century's experience in the chief court of the nation.*

"It is of the highest importance," he says, "that in a jury trial the judge should clearly and decisively state the law, which is his peculiar province, and point out to the jury with equal precision the disputed questions of fact arising upon the evidence, which it is the duty of that

* "The System of Trial by Jury," Samuel F. Miller; 21 Am. Law Rev. 859.

body to decide. Without this a jury trial is a farce.

"An experience of twenty-five years on the bench, and an observation during that time of cases which came from all the courts of the United States for review, as well as of cases tried before me at *nisi prius,* have satisfied me that when the principles above stated are faithfully applied by the Court in a jury trial, and the jury is a fair one; as a method of ascertaining the truth in regard to disputed questions of fact, a jury is in the main as valuable as an equal number of judges would be, or any less number. And I must say, that in my experience in the conference room of the Supreme Court of the United States, which consists of nine judges, I have been surprised to find how readily those judges came to an agreement on questions of law, and how often they disagreed upon questions of fact, which apparently were as clear as the law."

But the great objection to dispensing with the rule of unanimity, and requiring the decision of a majority or of two-thirds or three-quarters of the jury to control, is the certain danger of hasty and therefore of unjust or extravagant verdicts. It is not to be forgotten that with every verdict when carried into judgment property passes, or claims to money or property are determined. The rule so long insisted upon by the English and American people, that the right to the property or money in question shall not pass until the whole jury is satisfied, by the clear preponder-

ance of evidence, that it ought to pass, is not too great a security by which the sacred right of property ought to be held. The right of property, as Mr. Webster said at Plymouth in 1820, is the corner stone of civil society, and its sanctity cannot be safely invaded or impaired.

The secrets of the jury room generally leak out after they are discharged, and it very rarely happens that a majority, and seldom that two-thirds or even three-quarters, are not united on the first ballot, and if you make their vote decisive you will have a hasty verdict; while experience has often shown that intelligent discussion in the jury room is just as effective as it is anywhere else, and often results in converting the majority to the real truth. The prejudice of juries, so far as it affects their conduct, is always and naturally for the weak against the strong, for the poor against the rich, for the individual against the corporation, and it sometimes sways the whole to the very verge and even beyond the verge of injustice. And if you break down the barrier which lies in the rule of unanimity, and which has heretofore for ages been the only sufficient safeguard of property, you will be likely to cause a great deal more injustice than you will cure by such a change. Imagine a jury roused to even just indignation by the oppression, or misconduct of a rich individual or gigantic corporation against an unfortunate plaintiff, and not restrained by the cooler sense and judgment of the three or four most conservative or intelligent of

their number, and you can easily foresee what havoc they would make with the rights of property.

It takes no prophet to foretell that the great contests in the courts in the coming generation are to be against and in defence of the right of property, and I can conceive of no more destructive and fatal weapon, which its adversaries could secure in advance, than the abolition of this rule of unanimity, excluding practically the votes of the more conservative, the more deliberate, the more just members of the tribunal.

Coming down then to the isolated instances where juries disagree by the dissent of one from the decision of the eleven, whether the one be a crank or, as sometimes happens, the only man who is right, I submit that the cases of such disagreement are very rare indeed, not one per cent. of jury trials, and present no good reason for a change in the rule which, in the general, has worked well in the whole history of our litigation. I decline to discuss the question of bribery and corruption in this connection, for its occurrence is so nearly infinitesimal that I do not believe in its existence.

Nor do I overlook the fact that learned essayists and philosophers without number, who probably never sat upon a jury or participated in the trial of a cause, headed by Bentham, who failed as a lawyer and hated all form of litigation, and had a special aversion to Blackstone, have decried the rule of unanimity. On such a question better fifty years of experience than a whole

cycle of theories. And I treat with equal indifference that constant torrent of declamation from the periodical and the newspaper press, which declares that the effect of the rule of unanimity is to create popular discontent, and to bring the administration of justice into contempt. I believe that the great mass of the people, whose rights and interests are herein chiefly involved, are satisfied with the rule as it now stands, and cannot and ought not to be argued out of it.

But I do not forget that certain judges of the very highest repute, to whom we owe all deference and honor—Mr. Justice Miller among them—have declared themselves in favor of some departure from the ancient rule of unanimity—and that a report was once made to this Association, by a majority of its standing Committee on Judicial Administration and Remedial Procedure in favor of such a change—that by the constitutions of three or four states which include less than ten per cent. of our people, a verdict by nine of the jury has been directly provided for—and that by those of four or five other states, indirect provision in the same direction has been made, by authorizing the legislature, under prescribed limitations, to enact laws to the same effect—and that in Scotland, a verdict by three-quarters of the jury has long been permitted.

But it is fair, I think, to say, that the judges referred to, however eminent, represent but an infinitely small proportion of judicial opinion on the subject, that their suggestions on this point

were rather *obiter dicta,* without any statement of reasons, and that they had for the most part been long removed in appellate tribunals from direct touch with *nisi prius* affairs;—that the report of your committee referred to, after a very brief discussion, was consigned to an oblivion from which it has never emerged—that the few States which have by their constitutions made the direct change, adopted it under social conditions differing somewhat from those of the older states that maintain the old rule;—that although in those states the new method is said by some to work well, there is no evidence that anywhere it works on the whole any better than the old rule; —that the legislatures which have received constitutional permission to make such change have, as I understand, hitherto wisely refrained from making it;—and that as to Scotland, her whole system of judicial administration is peculiar, and that her course in this regard, however satisfactory to her own people, has never suggested to the English people or government the idea of following her example.

Upon the whole, the English people and ours maintain sound and wholesome views on this important subject, which ought not to be disturbed, especially in these times, when the aggressive ranks of socialism and populism are disposed to strike at the right of property, the foundation of civilized society, and would naturally seek to convert the jury box into a weapon of offense.

The next formidable charge against the com-

mon law trial by jury is to accuse it of a great share in the law's delay. But I deny the charge absolutely and altogether. There is nothing in the whole realm of litigation so short, sharp and decisive as the ordinary jury trial. From the first moment when the impanelling of the jury begins, down to the last when the verdict is recorded, there is no pause or interruption except such as the natural wants of those concerned, for food and rest and sleep require. It would not be possible to devise a mode of trial which in its actual operation would more absolutely preclude delay. As compared with the abominable system of references which is the practical substitute for it, a trial by jury is like the lightning's flash. These references hang on for months and generally for years; they wear out the life blood of the parties, and pile up an accumulated mass of expense for the fees of lawyers, referees and stenographers, fatal to the patience and endurance of clients. Why, I have one in my hands today which began in September, 1864, has survived both parties, all the witnesses, and a long succession of referees, and will still live on to be buried with the surviving counsel.

In these days too, when in trial by the judge without a jury, written and printed briefs are to be submitted after the oral argument, indefinite delays ensue.

No, the charge of delay against juries and jury trials is wholly without foundation.

But there are most grievous delays between

the joining of issue of fact and the opportunity to try the case before a jury, and further grievous delays between a just and righteous verdict and the realization of the money or property represented by it—delays at both ends, for which the jury are in no wise responsible, and which are the direct result of vicious legal machinery, capable in a large degree of alleviation and cure. It is to these that I bespeak your most careful attention; for here, as it seems to me, this association owes a duty to the profession and to the community the constant performance of which it ought not to shirk.

These codes of procedure, which have taken the place of a simple practice regulated by rules of court, have become so cumbrous and impossible; —they afford and create such opportunities for delay;—they provide for and contemplate such countless preliminary motions, each a litigation in itself;—that there seems no way out but to cut the Gordian knot and return to the ancient practice. Take our own New York Code alone, the degenerate mother of so many illegitimate offspring. It has grown to a monster of more than 3,600 sections, each section pregnant with some procedure —and while, unhappily, in our City, it takes nearly two years, except in preferred cases, to reach a jury case for trial, every intervening week from the day of its commencement may be filled with a distinct and separate motion. Surely this fruitful source of delay could be and ought to be cut up by the roots.

The long waiting for a jury case to be reached on the calendar is in many cases a denial of justice. If ten jury terms constantly at work, for instance in our City, are not enough to keep the calendar down, twenty ought to be assigned to sit until the docket is cleared.

The avoidable delays subsequent to appeal, waiting for years for the appeal from judgment on the jury's verdict to be heard and disposed of, ought also to be remedied and prevented for the future. Of course my experience is mostly confined to the New York courts, but there it does now take nearly three years from verdict to final judgment in the Court of Appeals, making five years from commencement of suit to the recovery of one's just dues by suit, and all this delay—not an hour of it chargeable to the jury—avoidable and therefore inexcusable.

It is very clear now that we made a great mistake in the Constitutional Convention of 1894 in revising the judiciary article, in not retaining the clause which provided for the appointment of a special commission when necessary for clearing off all arrears of appeals. No wonder that suitors tire and resort to settlements, arbitrations, and board committees for a prompt and speedy adjustment of their controversies. Such a result, however brought about, is a direct benefit, for litigation is a positive evil. But for the thousands upon thousands, the vast majority of suitors in every community who remain and claim their rights in the

courts, these intolerable grievances by delay ought to be remedied, so that the administration of justice may not be brought into contempt, and this unjust and wholly undeserved stigma, falsely imputed to trial by jury, be forever removed.

There is one other serious evil after verdict which the common sense and sound judgment of our judicial brethren might and should reduce, if they cannot altogether remove it without new legislation. I mean the granting of new trials for trivial and unsubstantial errors, in the charge of the trial judge, or in the admission or rejection of evidence. Where, for such errors which do not go to the root of the action or defence, a new trial is granted, I think that your universal experience will testify that a second jury, in at least twenty-nine cases out of thirty, finds the same verdict over again—making the whole procedure between the two verdicts a total loss of time, expense and labor. And so, as the judges should exercise a liberal discretion in reducing excessive verdicts in cases of unliquidated damages, they should exercise a like discretion in other cases, and never grant a new trial, even for manifest errors, where it is clear that no positive harm has resulted and substantial justice been done.

Review by appeal is only designed for parties really aggrieved, and in jurisdictions where full power to this extent does not already rest in the courts, it ought to be provided. Juries

are naturally jealous of any interference by the Courts with their exclusive domain, and their will must finally prevail upon the facts. In the celebrated case of Shaw vs. Boston & Worcester R. R. Co.,* the Supreme Court of Massachusetts set aside the first verdict of $10,000 for error. The second jury gave $18,000 and the Court set it aside on the same ground again. The third jury gave $22,500, and then the Court denied the motion to set it aside as excessive, but gave up the unequal contest and let it stand.

The only other important defect attributed to the trial by jury as conducted from time immemorial, is the too prevalent notion that it permits to the trial judge too great a power in conducting the trial and guiding the deliberations of the jury. And so jealous have the people in some of the States become of such imputed interference of the judges with the functions of the jury, that in several States, instead of taking measures to improve their breed of judges, statutory contrivances have been devised to curtail and impair what seems to me to be the necessary function of the court, as an inherent part of the tribunal, without which its duties cannot be well and properly performed, whereby frequent failure of justice must eventually result.

As an illustration of these devices the New York Legislature at its last session was asked to pass a bill, said to be a literal copy of recent enactments of other States providing not only

* Gray 45.

that the judge in charging the jury shall only instruct them as to the law of the case, but also that no judge shall instruct the jury in any case unless such instructions are reduced to writing, and that a charge once made shall not be modified —and various other similar devices for shortening the arm of the court in jury trials have been proposed and occasionally enacted.

I can conceive of nothing better adapted than all such devices for mutilating and emasculating trial by jury, marring its symmetry, and destroying its utility as the best means of ascertaining the truth of the facts for judgment. That they are an unconstitutional invasion of the rights of the court and the people, in a State whose constitution like that of New York provides that trial by jury, in all cases in which it has been heretofore used, shall remain inviolate forever, may be claimed with great force and probable success. They seem to be clear and palpable encroachments by the legislature upon the judiciary department, as was well explained by Mr. Justice Brown in the admirable paper read by him before this Association in 1889, and by Mr. Justice Field in the judicial opinion which he cited.

But aside from that, my objection is that they tend to disable and impair the jury itself, so far as they tend to deprive it of the rightful and necessary aid and assistance of the court. If the first provision merely means that the court shall not attempt to thrust upon the jury its opinion on the questions of fact, it was wholly unnecessary—

it always was the law—and no self-respecting judge ever would or did interfere with that exclusive province of the jury. But as I understand, as generally construed and applied in States where they have been enacted, these provisions operate to limit the court to the submission in writing to the jury of bald propositions of law on legal questions in the case, without any comments or advice upon the relevancy, or application, or relative force of the testimony on the issues of fact which they are to decide.

The proper functions of the judge in a jury trial were never better expressed than by Lord Bacon in his charge to Mr. Justice Hutton in handing him his commission to the Court of Common Pleas, "That you be a light to jurors to open their eyes and not a guide to lead them by their noses." And when those great judges to whom I have already referred as models in the conduct of jury cases, to whom we look for example as young painters look to the old masters, Chief Justice Shaw and Chief Justice Oakley, charged the jury, having kept in their hands all the threads of the evidence from beginning to end, whether the trial lasted a day, or a week, or a month, they stated clearly to the jury what the distinct questions of fact were upon which they were to pass. They then proceeded to go over the testimony and point out its application to those issues, and to instruct the jury by what rule and standard they were to measure the relative weight and credibility of conflicting pieces of tes-

timony, in applying them to the questions to be decided by them. And the result was that when the judge's charge was finished, the jury understood the case as they had never realized it till then, they understood what questions they had to decide, and what material they had for making up their decision. How they should decide those questions was their own business, and those great judges never presumed to suggest or interfere; and there is no doubt that that was jury trial, according to the uniform course of the common law both in England and America.

But you will say that all our judges are not Shaws or Oakleys. Neither were they in those days. Those were the great models. The others differed in degree rather than in kind, and so they do now. But if your judges don't suit you, get better ones. Don't remove the ancient land marks of the constitution and law, and turn trial by jury into a farce. There is no doubt that jurymen require such aid and assistance to enable them to perform their proper duty, and that whatever tends to deprive them of it, in whole or in part, to that extent weakens their capacity and impairs their usefulness.

It is impossible for twelve jurymen, laymen of average or even of superior intelligence, unaccustomed to the application of evidence to issues, called from their several vocations for the service of the court, however patient and attentive they may be,—without aid from the court to carry along all the evidence as it falls from the lips of

witnesses for a week or a month,—to apply each piece of testimony to the issues, and pack it away in their minds as they go along,—to measure the results of cross examination upon the direct testimony,—to weigh the evidence of the one side against that of the other. They are necessarily intent for the moment upon each word of testimony as it drops from the lips of the witnesses. In a long trial the general effect of the evidence upon their minds is vague and indefinite, their memory of details far from clear, the conflicting arguments of counsel confusing, and they naturally look to the judge to be the light, as Lord Bacon says, to open their eyes to see their way through the labyrinth, and find the clews that shall conduct them to the truth.

Take the Tichborne cases—the civil and the criminal trials both—those master-pieces of trial by jury, those colossal specimens of adjudication, full of great masses of conflicting evidence—the lost baronet's own mother had actually recognized the claimant as her son—the civil trial lasting 103 days and the criminal 188 days, where Counsel at the Bar summed up for weeks, and Lord Chief Justice Cockburn charged the Jury for 18 days, recalling to their minds the whole evidence on both sides, and instructing them how to apply it to the issues, with the result that the Jury, to whom the whole case, without that marvelous charge, would have been a perfect maze, were led to the light and the truth. What a farce, what an insult to judicial genius, what a re-

proach to law, what a hindrance to truth and justice, if Parliament had said to the jury at the close of the evidence and the summing up of counsel: " You can have no aid from the Court! all it can do is to hand you written statements of propositions of law, upon which you will retire and decide the case the best way you can! "

No, for common assault and battery cases these new devices may not stand in the way of Justice, but when great and complicated cases arise—as they are likely to arise any day, when men's passions are excited—when long and complicated trials ensue, on which great interests depend, they are intolerable stumbling blocks.

But you will justly ask, is there no defect, no drawback, no decadence in this much boasted trial by jury? and is there no improvement, no remedy which you can suggest as the result of forty years experience, as a participant in this mode of trial? and you will very properly expect from me an answer to these questions.

Well, I do admit the existence in some degree of the very faults which I have been considering, but the result of my experience and observation has been, that in the general estimate their extent is grossly exaggerated. And if you have followed me thus far and read between the lines of my address, you have seen that I have no faith in the legislative remedies which have been experimentally applied, because they tend generally to impair the integrity, the efficiency, and the utility of this great and time honored tribunal,

and because they do not propose—there has never yet been proposed—any adequate substitute to take its place.

But if you would have jury trial as it has been and ought still to be, if you would make it still worthy of the high encomiums which have been pronounced upon it by great jurists and great lawyers since 1688, and worthy of the confidence which it still enjoys with the great mass of the people, for whose security and safety all courts exist;—if you would transmit it to posterity as a heritage from the past improved and not impaired by your keeping; there is an obvious and an open way. If you would have trial by jury as it has been exhibited in those wholesome and impressive instances to which I have referred, you must lend your aid to make the component parts of the tribunal what they can be and should be, and to furnish better jurors, better judges and better advocates to conduct the proceeding.

That the general grade of jurors especially in our large cities can be raised to the ideal standard there can be no doubt, and generally the existing statutes are ample. It is neglect and abuse in executing and administering them, neglect and abuse for which I think the commissioners, the courts and the bar are largely responsible, that bring into the jury box too often too much of the refuse of our city directories, too much of ignorance and incapacity, and allows the men of business, of property and of character to escape the arduous and responsible duty.

What lawyer practising at the bar, what Bar Association in any state, has ever taken any pains to see to it, that the power of selection entrusted to official hands is so exercised as to bring fit men to this important service? Have our judges taken due care in exercising the power entrusted to them to compel the reluctant to serve? Take for instance the city of New York with its six or seven hundred thousand voters, and its annual need of ten or twenty thousand jurors, a list to be selected by a commissioner appointed for the purpose. Will anybody pretend to say, that if the duty of selection is properly performed, a body of men amply qualified can not be had for the service of the State, and ignorance, incapacity and low character in all respects excluded from the first approach to the jury box? Let me give you an illustration which shows what the faithful discharge of the duty of selection will accomplish. In the Circuit Court of the United States for the Southern District of New York, petit jurors are selected by the clerk and a designated commissioner under the supervision of judges who take pride in securing competent jurors. Instead of selecting from the vast list of voters men who are not known, as seems to be the too common method, they select only those who are known for character, for intelligence, for merit and fitness, and the result is that a panel of twelve for the trial of any case can always be had representing the general intelligence of the community and even better, and entirely worthy of the

palmiest days of jury trials. And competent men, having been thus selected, must be compelled to serve. Too great exemptions are allowed, too paltry excuses accepted, and the very men who by their weight and character would leaven the whole lump escape altogether.

Jury duty is a great political and public service, as much so as voting or military service, or the payment of taxes, and no fit men ought to be allowed to escape from the liability to perform it. I know how irksome it is—I know how thankless it too often appears to be;—but if our political institutions are worth saving, if this cardinal feature of free and popular government is to be preserved and transmitted entire, this peculiar form of public service must be performed by citizens fit for the duty; voluntarily if they will—but by force of compulsion if need be;—and it is very largely in the hands of the Bar and of the courts to see to it that this is done. But we mustn't wait till our case is called, and a battalion of incompetents lined up for our choice. If we strike at the fountain and insist upon the proper selection of the lists by the constituted authorities, we shall clear the whole stream from pollution, and any legislation necessary to that end we ought to devise.

And then I insist that the judge who presides in the Court is the keystone of the arch in the jury trial, that he must be permitted to have control of the proceedings from beginning to end, and be indeed a clear light to open the eyes of the

jurors. The selection of judges lies largely in the hands of the bar, whose members generally compose by a large majority the judiciary nominating conventions of both parties. All that can be done—all that ought to be done in each instance is to select with sole regard to merit and fitness, the best man that can be had for the judicial seat. I will not insist without regard to party—although I think so—but without regard to the dictation of any party machine or of any party despot.

You may be republicans or you may be democrats, but you are lawyers and citizens first, and you owe this duty at least to your profession and your country. By common consent, the American people, in all but four of the States, have long ago abandoned an appointed judiciary, as inconsistent with their theory of republican institutions, and have insisted upon the election by the people of every judicial officer. But under the system of boss rule, the only part the people are permitted to take in the selection of judges is simply to choose between two candidates, each selected by an irresponsible despot, who generally makes his choice for personal or party allegiance, with just as much and just as little regard to merit and fitness as his own partisan necessities require or dictate. How long will the bar submit to be the instruments of such a power?

There is one other abuse against which we can at least utter an indignant protest. I mean the toleration of judicial candidates who are willing

or permitted to pay for their nomination or to pay their party for their election. No matter what their personal or professional qualifications in other respects may be, such a means of reaching the office cannot but degrade the Bench. Imagine John Marshall, or James Kent, or John Jay contributing ten thousand dollars or any other sum to his party, as a condition precedent to taking office! Could it have been said of either of them that the judicial ermine touched nothing less spotless than itself when it fell upon his shoulders?

And finally the advocates, the third great factor and component of the trial by jury. They at least are in your hands, and they must rise or fall to the standard which you fix. They are not a class set apart, like the English Barristers, by special training and office for the work of the court room, but are necessarily eliminated by accident, by ambition, by personal faculties, for this peculiar service. In the long run the doctrine of selection operates. It is necessarily the survival of the fittest that groups them by themselves, but the fountain cannot rise higher than its source, and their courage, their honesty, their training and fitness will always be measured by the standard which the Bar at large exemplifies, imposes and demands.

Give us then competent jurors, able judges and honest, fearless and learned advocates, and trial by jury, which I am sure the people of America are determined to maintain, will still be the best

safeguard of their lives, their liberties and their property.

This Association necessarily looks to the future for the results of its annual conferences, and its earnest work. Our individual labors are nearly finished, but we can do much to clear the field for our sons, for the youth who as we hope will follow in our footsteps. The best hopes of our noble profession have always been, as they always will be, in its youngest ranks, and this was never so true as at this very moment. The standard of legal education has never before been advanced to its present height. The young men who come annually from the Law Schools to recruit our ranks, are better equipped and qualified—far more so than we ever were—to enter upon the arduous and responsible duties that await them. Let us preserve and restore and transmit to them in all its wonted vigor this ancient and noble tribunal—to arouse their ambition, to stimulate their ardor, to stir their eloquence, to seal their devotion, and if in turn they prove true to the dreams of their youth—which are always of lofty aims and high ideals—our jurisprudence will indeed have been advanced.

RETURN TO AMERICA

RETURN TO AMERICA

Address delivered at the banquet of the Pilgrims Society of New York, in honor of Mr. Choate's return to America, June 9, 1905.

IT is quite impossible for me to make an adequate reply to your most affectionate and flattering address of welcome.

Five weeks ago to-night, at the Mansion House, in London, I could not express half I felt of gratitude, of friendship, of pain at parting, when, in the presence of an assembly truly representative of all that is great and good in Great Britain, Mr. Balfour and Lord Lansdowne, in behalf of the English people, among whom I had lived so long, bade me godspeed and farewell. And now, in an equally representative assembly of all that I honor and love in America, made up, indeed, of the men with whom I have summered and wintered for more than forty years, with a sprinkling here and there of young men who have, as it were, grown up at my feet and who are very dear to me, you, in behalf of my countrymen, give me an equally affectionate welcome home.

If I could feel that I deserved half of the praise and benediction lavished upon me on either occasion I should be so vain that my head would strike the stars; but in truth and in deed I do not.

It was my unique privilege to serve as Ambassador in two centuries, in two reigns, and under two of the most celebrated Presidents of the United States, and all the time my duties in England were very easy, very simple, and extremely pleasant. Toward my own countrymen who visit England in such increasing number every year, there was, of course, but one cardinal rule to follow: That the Ambassador represented no party, no section, and no social class, but was the equal servant of all alike.

So that whether Mr. Bryan came, who fairly represented 6,000,000 of our countrymen, with whose political faith I was at variance, or a Republican ex-President whom I had heartily supported, I was at the service of both alike—to bring them in contact with the leading men of the nation, and to put the limited resources of the Embassy at their command. And I am bound to say that in these two instances they were objects of equal interest to British statesmen, although I confess a feeling of disappointment when I had taken Mr. Bryan to the Bank of England, and saw him handling gold bullion in its famous vaults with apparent zest, to find that it seemed to have no effect on his political faith.

Sometimes indeed the more exacting of my countrymen demanded a little more than I could do for them; as to breakfast with the King, or to stay at Windsor Castle, or to visit private establishments, to which I had myself no access, but on the whole, they were habitually reasonable, and

I found it a great pleasure to minister to the wants and convenience of my countrymen as far as possible. And the American Society in London, which plays a great part in that city in aiding distressed and stranded Americans, was always a great help to the embassy.

Then, as to the people of England, I had express instructions from President McKinley to do all that I could to maintain and promote the friendship and good-will that already existed between them and our people, and, following the example of my distinguished predecessors, I moved freely among them and studied their institutions, their customs, and their social life, and from the day that I landed until I left, I met with nothing but kindness, hospitality, and good-will extended freely and cordially to me as the representative of my countrymen.

And I feel sure that almost every man, woman, and child in Great Britain is friendly to us, and that, as a people, they are determined always to be on good terms with the United States. I did what I could to make them better acquainted with our institutions, our history, and our great men, being assured that better acquaintance is all that is needed to perfect and perpetuate our mutual friendship. They manifested great interest in our National heroes, in such men as Washington, Franklin, Hamilton, and Lincoln.

But there is one living American who appeals very strongly to their imaginations and is the universal subject of interest, curiosity, and ap-

plause, and if his name were submitted to their suffrages it would command the same overwhelming support that it does among his own countryman. You will not require me to mention his name.

The history of our diplomatic relations with Great Britain in the last six years is familiar to you all. Two great and difficult questions which threatened to disturb, which did, in fact, disturb the perfect harmony which ought always to prevail, have been forever disposed of and set at rest, and there is nothing left of sufficient consequence to disturb the happy repose of Lord Lansdowne and Mr. Hay, who are the responsible authorities, and entitled to the credit of all that has been done.

Their conduct of our relations which are no longer regarded on either side as foreign relations, has been on both sides fair, square, and aboveboard, frank, honest, and sincere, and it will be happy for both countries if the same spirit shall continue to animate our official intercourse.

There is another potent factor at all times exercising strong influence for harmonious and cordial relations between the two countries. I mean the happy and earnest influence of his Majesty, the King, derived, I am quite certain, from both his father and mother, and greatly strengthened by his pleasant recollections of his early visit to America.

You will remember that at the time of the Trent affair, which brought such tremendous strain up-

on our peaceful relations, the Prince Consort, then I believe already overtaken by his mortal illness, acting of course for and with the Queen, rendered a great service to both countries and saved the situation, by modifying a hostile dispatch which had been prepared for transmission to America. And I desire to bear witness that on every occasion, of which I had knowledge, the late illustrious Queen and the present sovereign of Great Britain have been steadfast in the faith, that any trouble between England and America would be a calamity to be avoided by all honorable means, a belief in which both the Presidents under whom I have served have fully shared, and on which I have always acted.

So I may sincerely disavow the somewhat lavish praise which your Chairman has bestowed upon me, in giving me altogether too much credit for the happily almost perfect relations which now exist between the two nations. They have been drawn together by the force of political gravitation, their interests are largely the same, their principles are identical, their civilization is one and the same, and it will be strange indeed if, when in pursuit of the same object of common interest to both, while each moves in its own independent orbit, they do not confer, concur, and co-operate to bring about the same ends.

So if you ask me to tell you in a word the result of my present knowledge of both countries, I would say that each has a vast deal to learn from the other; that each has infinite reason to

be proud of its own institutions which it has worked out by itself by historical evolution, and that each can confer priceless benefits on the other and upon the world by constant intercourse and hearty coöperation.

The American Embassy and its successive incumbents have every reason to be grateful to the English Court, Government, and people for their constant friendship. There is but one drawback to its complete success and perfect prestige, and that is the want of a permanent home, the property of its own Government, where the residence of the Ambassador shall be fixed and all the business of the Embassy be conducted. While all of the other great powers who maintain embassies in London have such permanent homes, each its own property, the United States and Turkey alone lead a floating and nomadic existence; each successive Ambassador hunting for a house which shall suit the length of his own personal purse.

I believe that hardly two successive Ministers or Ambassadors of the United States in London have occupied the same house. They have wandered from Baker street to Portland place, from Cromwell road to Lowndes square, and from Eaton square to Carlton House Terrace, and I myself had to move from one house to another in the midst of my term, because the owner, naturally enough, wanted to live in his own house. At last, however, by the courtesy and sufferance of my landlords, the Viceroy of India and the Prime

Minister of Great Britain, I found places from which to float the Stars and Stripes. But what I maintain is that a great Nation like ours, rich, powerful, and ambitious, should have a house of its own on which to float the National flag on the Fourth of July and on all other great days, without leave or license from Viceroy or Premier or anybody else.

My own position in the matter was graphically depicted, after I had been house hunting for about a month, by a poem in a newspaper, which represented a forlorn and travel-stained stranger wandering about the streets of London, always hunting, hunting, hunting, but finding nothing. At last at midnight the police, having grown suspicious of him, touched him on the shoulder and said: "You must move on, Sir; you must go home." "Home," said he, "home? I have no home; I am the American Ambassador."

The present arrangement by which our country, almost alone among the nations represented at London by embassies, goes without a home of its own is undemocratic, unrepublican, and unbecoming to the dignity of a great nation. It is unfair to the President, because it limits his choice every time. He ought to be able to lay his hand upon the shoulder of whomever he considers the very best man among our eighty millions to represent the nation in each of the capitals of Europe, whether he has a dollar of his own or not.

What we ought to have is a permanent embassy, spacious in area and simple in character,

suitable for the representative of a republic, properly equipped and adequate for the purpose, in which each successive Ambassador would reside as a matter of course, the Nation alone being responsible for its dignity and fitness, and I hope that all of you who have any political influence will urge this modest reform.

THE NEW ENGLAND SOCIETY IN 1855

THE NEW ENGLAND SOCIETY IN 1855

Address delivered before the New England Society in the City of New York, December 22, 1905.

I THANK you for this cordial greeting. Nothing that I experienced in England gave me more pleasure than this welcome from my old friends and companions in this Society which is so dear to my heart. I am sorry to find myself for the first time before you so situated that I do not feel at liberty to play to the galleries—the most absorbing, the most fascinating, the most bewitching game that man can play. You have only to look into the galleries to see that neither bridge, nor golf, nor foot-ball with all its drawbacks and halfbacks and quarterbacks, furnishes any sport so delightful as that.

I listened very carefully to what your President in his eloquent and impressive opening address said, and I got one idea from him that bore directly upon this subject. He said—and he will correct me if I misunderstood him—that the whole object and result of the Puritan training was to fit us better for companionship with superior beings. I listened most faithfully to what our great President of Harvard said, and he told you how much we had improved under collectiv-

ism and under individualism, and he hardly knew under which the more, and yet, in this respect of training for companionship with these superior beings, it does not seem to me that we have made any progress at all in these two hundred and eighty-five years that have elapsed since the landing on Plymouth Rock. That is, if Longfellow rightly tells us the history of the relations of John Alden and Priscilla Mullen.

I am a little sceptical on this question of a steady and permanent improvement, upon which President Eliot and Mr. Crothers have lavished so much earnestness and enthusiasm. That last result of scientific culture in Massachusetts that Mr. Crothers has told us about—the gypsy moths imported first, their destructive work, and then the hostile insects that were imported afterwards to prey upon them—that was not a new idea at all. That is not an advance on New England science; it is merely a repetition in another form of the story of the triumphant scientific experiment of the New England farmer one hundred and fifty years ago, who crossed his bees with fireflies in order that they might work all night.

To-night I have been recalled here from a remote past, a veteran who lags superfluous on the stage—I believe the only survivor present of those who attended the festival of this Society fifty years ago. If there is any other gentleman who was present on that occasion let him now speak. None? Then none have I offended or overlooked. When I was in Egypt they showed

me the bodies of some prehistoric men who had been resting in the sand—not mummies, but people who had been resting in the sand for somewhere between five and ten thousand years; and they had been dug up and brought to the Medical Museum for the purpose of teaching the men of to-day lessons in anatomy, physiology, archæology, and human history. And so the President has summoned me—and he had a right to, he had a right to—because I was actually present and he has asked me seriously to tell you some of the incidents and details of the celebration of this Society fifty years ago—in 1855.

Well, the circumstances, and especially the political circumstances, that surrounded the Society and this city at that day must be recalled. It was half way between the passage of the compromise measures of 1850, fugitive slave law and all, which were believed to have settled the slavery question forever, and the election of Lincoln in 1860, which, as history proved, did settle it forever. The Kansas-Nebraska bill had just been passed, and had shown the utter futility of moral means (or immoral means) for putting an end to that evil which lay at the very root of the honor and the life of the nation. Men's minds were divided, distracted. Some clung to the traditions of the past and cried, "Peace, peace!" when there was no peace, or possibility of peace. Some looked to the inevitable and irrepressible conflict as the only cure for existing evils, and the great majority were still halting between the

two opinions, thinking one way one day and the other the next. And New York was the neutral ground on which it was easy and safe to express every form of opinion; but her commerce, her destiny as the one great port of the continent, pleaded always that there must be no disturbance of existing conditions, and, above all, that there must be no war. She was then a comparatively small city—only 500,000 inhabitants, all living below Forty-second street—as compared with her present expanded area of 330 square miles, I believe it is, and four millions of people. There were no great fortunes yet in those days. There were some rich men—I doubt if any as rich as the richest citizen of Cambridge to-day; but they were paltry in comparison with the colossal accumulations of to-day. Men came here in those days to make their fortunes, and not a single one had yet appeared of those millionaires, of every race and nationality from every part of the country, who, having made fortunes elsewhere, now come here to spend them, and who have thus changed the whole social life of the city. State rights were still largely asserted, and pride of State birth was strongly felt and strongly maintained. That great drift of power and authority to Washington, which began with the war and which has grown stronger and stronger ever since and is growing more rapidly to-day than ever, had not yet begun.

It was in such a situation that the members of this Society assembled in 1855 to celebrate the

day that is so dear to us. It took two days then to celebrate the memory of that little band of colonists who now are recognized as the most famous ever known in the world. The place selected for the celebration was Dr. Cheever's church on Union Square—on the very spot, I believe, where afterwards the golden house of Tiffany was erected—and there came to conduct the celebration two great citizens, two great New Englanders, Dr. Oliver Wendell Holmes, beloved by everybody, and that noble old champion of liberty, John Pierpont. There could not by any possibility have been selected two men who more fitly illustrate the contrast of ideas that then divided the nation.

We assembled to hear the orator and poet of the evening on the 21st of December. The orator, Dr. Holmes, was the best embodiment of New England culture and refinement. Tender-hearted and unwilling to offend anybody, he delivered the most eloquent discourse, in which he spoke for harmony between the threatening sections of the country, so soon to be divided. He pleaded for a closer union between New England and the rest of the country, and between the North and the South. He deprecated all extreme ideas, and one of the themes on which he laid most stress would have interested our President, General Hubbard, if he had been there; for he even denounced the Maine law which had recently gone into operation. He spoke for a continuance of compromise, and for the strict observance of

all constitutional obligations, and although he was then, as he always was afterwards, as I think, the most popular man in the country, his audience was so divided that distinct hisses were heard at many of his emphatic periods.

Dr. Holmes was one of the most loyal and patriotic of men, and no man was more devoted to his country, as the result soon proved; but he never could have dreamed, as he stood there pleading for harmony between Freedom and Slavery, that in less than seven years, immediately after the bloody battle of Antietam, a telegram would arouse him from his slumbers at midnight, telling him that his first-born son, whom he had given to the service of his country and the cause of liberty, had been shot through the neck, but that the wound was not thought to be mortal; that next morning he would have to start on that famous search for his captain, "The Hunt for my Captain;" and that after a week's journey over hundreds of miles, visiting hospitals and camps and railway stations, he should find him at last among the wounded in a baggage-car entering Hagerstown in Maryland, and should exchange those greetings so characteristic of the self-contained Bostonian, but which he has made so classical and historic. As they came together, the father and the son, their first words were: "How are you, boy?" "How are you, dad?"

When Dr. Holmes sat down, then up rose old John Pierpont and blew a mighty blast for freedom. Why, you would have thought that his

own withers had been wrung by slavery. At any rate, the iron of slavery seemed to have entered into his soul. I think he must have been in State street when Anthony Burns was hurried down on his way from the Court House in the hands of federal officers and federal troops, to be carried back to bondage in the South.

After Mr. Pierpont had most pathetically spoken of the sufferings and troubles of the Pilgrim mothers and the Pilgrim fathers, he broke out into a splendid apostrophe to the spirit of liberty, of which the Pilgrim fathers had been the finest exponents in history, and he concluded with that stanza which he made historic:

> Oh, thou Holy One, and just,
> Thou who wast the Pilgrims' trust,
> Thou who watchest o'er their dust
> By the moaning sea;
> By their conflicts, toils, and cares,
> By their perils and their prayers,
> By their ashes, make their heirs
> True to them and Thee.

Well, next day came the dinner at the Astor House, which compared with this banquet of yours to-night very much as that ancient and simple hostelry of that day compares with this glorious House of Mirth, the Waldorf-Astoria.

Harmony prevailed there, absolute harmony, in spite of all that had happened the night before. Dr. Holmes had improved the occasion over night to prepare some verses for the reunion and show

how little he had been disturbed by what had taken place the evening before. Let me read you two or three of his stanzas:

New England, we love thee; no time can erase
From the hearts of thy children the smile on thy face.
'Tis the mother's fond look of affection and pride
As she gives her fair son to the arms of his bride.

Come, let us be cheerful, we scolded last night,
And they cheered us and—never mind,—meant it all
right.
To-night we harm nothing, we love in the lump.
Here's a bumper to Maine in the juice of the pump!

Here's to all the good people, wherever they be,
That have grown in the shade of the liberty tree.
We all love its leaves and its blossoms and fruit,
But pray, have a care for the fence round the root.

We should like to talk big, 'tis a kind of a right,
When the tongue has got loose as the waistband grew
tight.
But as pretty Miss Prudence remarked to her beau,
"On its own heap of compost no biddie should crow."

Well, the night before Dr. Holmes had told his audience the story of Io, beloved of Jupiter and changed by him into a heifer, to protect her from the wrath of Juno, but Juno was too much for him, and for her, and sent the gadfly to torment Io and to drive her careering over seas and continents, until at last she brought up in the Valley of the Nile, resumed her original form,

became the mother of kings and the founder of a new dynasty, and was ever afterwards worshipped by the Egyptians as the goddess Isis. He had likened to the gadfly the edicts of Elizabeth and of James, which had driven the Pilgrims, and the Puritans, out of the English Church, and had sent them over the broad ocean to found a new empire. And when Mr. Pierpont found in what a delightful frame of mind Dr. Holmes had come there in spite of the discomfort of the night before, he responded to his verse with this:

> Our Brother Holmes's gadfly was a thing
> That Io knew by its tormenting sting.
> The noisome insect still is known by this,
> But geese and serpents by their harmless hiss.

And Dr. Holmes immediately jumped to his feet, and replied, impromptu:

> Well said, my trusty brother, bravely done;
> Sit down, good neighbor, now I O you one.

That is the way we celebrated the day fifty years ago, and we had as good a time as I have ever known the New England Society to have since.

But now I have another duty very briefly to perform, by right of seniority, as an ex-President of this Society; and that is to say a few words about the ex-Presidents. Considering that I was elected President of this Society thirty-eight years ago, and that all my predecessors and my

seven immediate successors have already crossed the Great Divide, I think perhaps I had better avail myself of my chance while I have it, to say a few words for the ex-Presidents. Not all. The living ex-Presidents—General Woodford and Mr. Bliss and Judge Howland needn't be afraid of that—they can speak for themselves. When we retire from the chair we pass into the ranks, and eat our Boston baked beans and pumpkin pie with that humility which is characteristic of all New Englanders. But of the departed ex-Presidents, and of three of them, who were very dear to me, I wish to say a few words. I think this can be said of all without any invidious distinction, without singling out any from the list, of all the ex-Presidents of the Society, that they were most typical New Englanders in New York, and because of the qualities which they showed in that way, they were elected your Presidents. What do I mean by typical New Englanders in New York? Let me see if I cannot state it in a very few words, in a way which will commend itself to many of you, from your own personal experience.

In an humble old homestead in New England, in town or country, presided over by God-fearing and man-loving parents, where both plain living, very plain living, and very high thinking prevailed, the whole object of the family life from the beginning to the end was to create a future for the sons and daughters. The whole of every year was dedi-

cated to that, and every sacrifice that was necessary was made to give the boys and the girls the finest education which their times afforded. I remember one such household where the struggle was strenuous and unceasing, and it was the proud boast of the parents that they did succeed, on a modest professional income, in keeping four sons, Mr. President, four sons at once, in one single year, in one annual catalogue of Harvard College.

How were such triumphs achieved? Of course, it was by absolute self-denial; by utter self-sacrifice; by subordinating always the present to the future; by really merging the entire lives of the parents in the success and future career of their children. All honor to such fathers and mothers, who are and always have been the great glory of New England! They are entitled to the chief part of the credit, rather than the children. A shame would it be to the children, if conscience, and duty, and enterprise, and public spirit, and patriotism were not quickened and nourished by such nurture and such discipline.

Thus bred and trained, the boy comes to man's estate and looks about him. The world is all before him where to choose, and if health be sufficient and courage dwell within him, and that stern tenacity of purpose, which is indispensable to success anywhere, as he looks out upon the world New York with its teeming life and its splendid prizes holds out to him an irresistible fascination. Leaving his home, followed by the blessings and

the hopes of those dear ones who have done so much for him, he comes to New York empty-handed; but with a courage all his own, and bearing perhaps one letter of introduction from some prominent person in his neighborhood to some New Englander of a preceding generation, whose success here has found an echo in his native region. The letter gives him all the credit it can, and commends him to this friend to smooth his first steps. By this, or by some means, getting his foot upon the lowest round of the ladder; he can do his own climbing after that. If he has good fortune—for after all " the race is not always to the swift nor the battle to the strong, nor riches to men of understanding, but time and chance happen to them all "—if he has good fortune, he can reasonably be certain of success here, and possibly may become President of the New England Society.

Such is my idea of the typical New Englander in New York. There were three of your ex-Presidents who were very near and dear to me. I grieved at their absence when I came home from abroad, and remembered the warm hand-grasp which each gave me when I went away. All were distinguished ex-Presidents of this Society. I refer to Mr. Evarts, Mr. Carter, and Mr. Beaman.

What a splendid example of New England culture and New England training was Mr. Evarts! I owe him more than words can tell. My connection with him was very close, from my arrival

here in 1855 until his death in 1901. I brought to him a letter of introduction, such as I have described, from Rufus Choate, who was then at the very zenith of his fame. A few years before he had delivered before this society his famous oration, of which the refrain was "A Church without a Bishop and a State without a King." He was most beloved and most honored by all New Englanders, as well as by the rest of the country. When I handed that letter to Mr. Evarts he took me by the hand and said: "Join the New England Society, and come into my office." And my fortune was made! My first steps were most effectively smoothed by him.

What a great professional career he enjoyed; how he leaped to the front almost at the beginning of his life here in 1840, and maintained his place to the end against all competitors, and with the entire confidence of the profession and the community! His career professionally was as fortunate as it was well deserved. It was most unique, for certainly never in this country before, and never since, did four great forensic causes occur in the short time while one and the same man was at that professional height which commended him as a leader in all of them. I refer to the impeachment of a President, the Electoral Commission, the Geneva Arbitration, and the trial of the Beecher case—all testing professional capacity in the very highest form and in every varied way, and in each case he was found fully equal to the occasion. Then what a

leader he was of public sentiment! Courageous, conservative, learned, he was always willing to give his service and his advice and guidance to his fellow citizens. Many of you remember his sparkling wit, how it lightened and enlivened all the meetings of this Society, of which he was the life and the soul for many years. He was, in truth, the quickest-witted man that I have ever met on either side of the water. Character is what tells. It was that grand, unfailing Puritan character, guided by conscience, devoted to duty, that gave him predominance among his fellow citizens and made him dear to their hearts. So that he, if any man, deserves some public monument in New York to transmit to future generations the knowledge of his great character and his invaluable public services.

What shall I say of Mr. Carter, another of your great ex-Presidents and another of the great products of New England soil and of Harvard culture? When I entered Harvard College in 1848 I found him there already a marked man, where he had been for two years, dominating the minds and affections of his fellows. When he came to New York at the time of his graduation it was the certain expectation and hope of all in his college that he would meet with great success here. Carter had a hard, up-hill fight from the beginning, but he reached the goal of his ambition, which was the leadership of the New York bar and the American bar. He was one of those pure lawyers, who owed noth-

ing to the adventitious aid of title or of office; one of that little group of great untitled advocates of whom America is so proud, like Mr. Horace Binney, and Mr. Sidney Bartlett, Mr. Daniel Lord, and Mr. Charles O'Conor. He was one of that famous galaxy and was equal to the best. On great public questions he was always at the service of the community, but he could never quite keep step with any party. He never narrowed his mind to give up to party what was meant for mankind—I mean his great personal character, and influence, and wisdom. It is but yesterday that he was taken from us, and it does seem to me that the New England Society and the City of New York have met with no greater loss in recent years, and that as long as manly character, great mental endowments, and sublime public spirit are to be rewarded with admiration he must be accounted among your truly great.

A word now about Mr. Beaman, another most typical New Englander in New York, trained under the very discipline that I have described to you and showing all its best merits and results. He was nearer to me than a brother, and I cannot sit down without saying a word or two about him. When Walter Scott was dying he said to Lockhart as his parting blessing, "Be a good man, my dear, be a good man;" and that is exactly what Beaman was in a preëminent degree—with the biggest of hearts and the warmest of sympathy, and the most far-reaching sense of the brotherhood of man. I think that he had

more friends in New York and more friends in the country than any man I have ever known. He had a singular and marked capacity, a genuine instinct, for friendship. He had a full, great-hearted sympathy, and he touched human relations at more points than any other man among us. All the people that he met were his friends, and, besides that, he had a nobility of character which gave his judgment and opinion vast and beneficent weight with all with whom he came in contact. I know that his intuitions of law were, nine times out of ten, better than the results of other men's study. He was a most delightful and beautiful character, and he was one of those men of whom this Society and this city can well cherish the memory. "He that would be greatest among you, let him be the servant of all," and that is what Beaman always was, and was always trying to be, and so I think I have a right to class him among your great Presidents.

JAMES COOLIDGE CARTER

JAMES COOLIDGE CARTER

Address delivered before the Bar Association of the City of New York, March 13, 1906.

JAMES COOLIDGE CARTER was born at Lancaster, in the State of Massachusetts, on October 14th, 1827, and died in New York City, February 14th, 1905—his life covering a period of seventy-seven years and four months, just two-thirds of the existence of the Government of the United States. He thus lived during the administration of twenty of our twenty-five Presidents. In this single lifetime our country grew from twenty-four States, with 12,000,000 of people, to forty-five, with 80,000,000 and 10,000,000 more in our conquered dependencies—made material progress such as no equal period of the world has witnessed in any country, and became a world power ready and able to take a just and leading part in international affairs. Mr. Carter, coming into life with no advantages whatever but his own natural gifts stimulated by poverty and the spur of necessity, grew with the growth of the country and by sheer force of brains and character, had become at the time of his death one of her best known and most valued citizens, the acknowledged leader of the great profession of the law, foremost among its 110,000 votaries—and exercising a wide and powerful influence for

good among the people of his time. Such a career is no accident, and it is interesting to recall, as briefly as possible, the steps by which he rose from obscurity to national and international distinction.

When I entered Harvard College in 1848, Mr. Carter, who had already been there for two years, was a very marked man among the three hundred students who then constituted the entire community of that little college. To very commanding abilities he added untiring industry, and to lofty character most pleasing manners, a combination which made him easily foremost. He was filled with an honorable ambition, and took all the prizes, and not content with perfection in the college curriculum, he took an interest in the public questions of the day, and cultivated the art of public speaking with discriminating assiduity. Like all the young men of that day he was a devoted admirer of Mr. Webster, who did more than any other man to kindle the patriotism and arouse the national spirit of the younger generation, and I always thought that he modelled himself upon that noble example in style, in expression and in the mode of treating every question that arose. Indeed in his last years I regarded him as the last survivor of the Websterian School. Dr. Storrs, who died some years before him, was another example of that noble school, and if he had followed the law as he began it, he would have been just such another lawyer as Carter, and his most formidable rival.

From lack of means, Mr. Carter found it a hard struggle to get through college, and even to enter it. For this reason he came two years late, having, I believe, engaged in some commercial employment to enable him to enter. He did not hesitate to avail himself of the generous aid of an admiring fellow townsman who recognized his great qualities, and meant that they should not be lost to the world. Just as Rufus Choate once told me, that it would be better to borrow the money for your college education at ten per cent. compound interest, than not to get the education at all.

Well, seeing his manifest ability, his spirited and attractive personality, and his sympathetic interest in all our college affairs, we all recognized him as our leader. He exercised a potent influence upon all his companions. He was made Class Orator at Commencement—and entered upon life with assured prospects of success. But still the lack of means was an obstacle to his immediate entrance upon the profession of the law, to which he looked forward as the only one possible for him. I believe that he never had a thought of any other occupation in life. So, upon graduating he betook himself to teaching as a necessary means to that great end.

It is interesting to read the letter which Judge Willard Phillips, a great jurist and author of the leading work on marine insurance gave him to the gentleman in New York, who had applied to him to recommend a teacher in his family. The

letter bears date June, 1850, just before he graduated. It says:

"The young gentleman who has been spoken with for instructor in your family is Mr. James C. Carter, of Lancaster, Mass., a member of the Senior Class. He can teach all the branches of English education and the classics, he is, as Professor Pierce assures me, a thoroughly educated, talented, accomplished, sensible and pleasing young gentleman, of good principles and high morals."

How many of us have had our first steps in life smoothed by just such letters!

At the same time that he took this engagement for a year's service as a teacher in the summer of 1850, he entered the office of Kent & Davies as a student, but his attendance there was only nominal. This firm was composed of Henry E. Davies, afterwards Chief Judge of the Court of Appeals, and William Kent, the son of the Chancellor, who had been at one time a Circuit Judge, before the adoption of the Constitution of 1846. He always spoke of Judge Davies with great respect and esteem, but he simply loved Judge Kent, of whom he always spoke to me in terms of unbounded affection and admiration.

He remained in New York teaching till the autumn of 1851, when he entered the Dane Law School at Harvard and remained there three terms till the spring of 1853—so that I was with

him there again for six months, and had full opportunity to observe that the same qualities which had made him so distinguished in college, to which was now added an unbounded enthusiasm for the law, made him still a leading and commanding spirit among his new associates.

What an impression he had left at the office in New York, in spite of his scanty attendance there, appears from the fact that in February, 1853, Mr. Davies visited the Law School and said that he had come on to see Mr. Carter—that his firm of Kent & Davies was about to dissolve—that he was going to take Henry J. Scudder as junior partner and wanted Mr. Carter to come to him as managing clerk. Mr. Carter accepted the position, and was soon after admitted to the Bar in New York. In 1854, Mr. Davies withdrew, to become Corporation Counsel, and the firm of Scudder & Carter was formed, with whom it was my good fortune to study the Code in the following year. This firm under its successive organizations of Scudder and Carter, Carter and Ledyard, Carter, Rollins and Ledyard, and Carter, Ledyard and Milburn has occupied a great place in the annals of the profession in New York.

But the firm of Scudder and Carter started in 1854 substantially as a new firm, and Mr. Carter, instead of deriving any special benefit from it at the outset in his career at the Bar, had to make his own way there. It served as a good personal introduction to the profession, by whom he was received in that cordial and hospitable

spirit which, when our Bar was smaller, was more characteristic of it.

He made no brilliant debut in the courts, as Mr. Evarts had done in the celebrated Monroe Edwards case. He was not plunged at once into a great volume of business as some of us were who joined as juniors, old and long established firms, the elder members of which were already over-worked. He had to paddle his own canoe and work his way up stream. But slowly and surely, on a solid basis of work well done, he advanced step by step, and soon came to be recognized by his seniors at the Bar, by such men as Daniel Lord and O'Conor and Cutting and William M. Evarts and William Curtis Noyes, as a young man who must be reckoned with, and as a foeman likely to be worthy to meet them in any cause.

From the first he aimed at nothing short of perfection in everything that he undertook, and as his ideals were high, and his conscience supreme, this involved an amount of labor and self absorption seldom if ever exceeded. In those days he had but few social duties or pleasures to distract him from minding the main chance, success on the forensic side of the profession, and to that he was able and eager to devote all his energies of mind and body. I know of no lawyer whose success was more fairly earned or more thoroughly deserved, or less derived from adventitious sources or external aid. By his own might he worked his way to the front. Let me try very briefly to trace the personal qualities

which were the weapons by which he won the victory. For I have known personally all the lawyers in New York who for the last fifty years have one after another been foremost among us —and no two of them were alike.

In the first place, he had a very sound mind in a very sound body. But those are the common and necessary requisites of any measure of success. His mental endowments were of a very superior and splendid quality, and he appreciated his own intellectual powers and revelled in the exercise of them. Thinking, which to most of us is a painful and tiresome process, he delighted in, and pursued it as a most fascinating game. His mind was of a decidedly philosophical turn, fond of considering and solving all the problems of human society and progress—and the reasoning powers which in most of us are dwarfed or twisted, in him were naturally and fully developed. Logic as a pastime was as acceptable to him as golf or bridge is to the average man to-day.

He was undoubtedly extremely ambitious—but his ambition was of a very high order and made of the sternest kind of stuff. He would not stoop to conquer and disdained to climb by unworthy means. His nature was robust and his disposition combative, so that he loved the contests of the forum, and its triumphs and trophies were a great joy to him. He eagerly seized the palm of victory, but with him it was always *palma non sine pulvere,* and always fairly won.

His conscience was clear as crystal, and never

went back on him, as it sometimes does on men whose mental vision is less clear than his.

Absolute independence was the controlling feature of Mr. Carter's mind and character. It marked and guided his whole conduct, professional, public and personal. He must act on his own carefully matured judgment, no matter with whom or with what it brought him in conflict—and he had the courage which naturally accompanies such independence of character.

He was not without a large share of self assertion, and yet was one of the most unselfish of men.

Imbued with a high sense of public duty, and most ardently patriotic, he studied with keen interest public questions as they arose from time to time, and was ever willing to give his fellow citizens the benefit of his opinion, but he never sought office and never allowed his interest in public affairs to distract him for a moment from the pursuit of his chosen profession, well knowing what a jealous mistress the law is.

His power of labor was prodigious, and as he had given no hostages to fortune in the shape of wife and children, he was always ready and able to serve his clients and the cause of justice with relentless devotion.

By nature warm hearted and magnanimous, he was one of the most loyal and persistent of friends, and in spite of his contentious life, I never heard of his having an enemy. He was too just and generous for that.

These excellent mental, moral and physical endowments, were the effective instruments by which he worked his way to fame and fortune.

His professional conduct and habits were just what you would have expected from such a character. He honored and magnified his profession, and fully recognized the debt which, as Lord Bacon says, we all owe to it. He scorned all mean and trifling arts, and relied solely on the merits of his cause and his own prowess in maintaining it.

He had a unique habit when he had embarked in a cause, of first convincing himself of its justice, before he undertook to convince court, or jury, or adversary. He was very far from limiting himself to causes that he thought he could win, or to such as were sound in law or right in fact. No genuine advocate that I know of has ever done that. He recognized and maintained the true relation of the advocate to the courts and the community, that it is a strictly professional relation, and that either side of any cause that a court may hear, the advocate may properly maintain. For him newspaper clamor had no terrors. He realized that the newspaper is accuser, judge and executioner, all in one, but for all that he could and did maintain the unpopular side of a controversy with the same zeal and fidelity, as if the whole press were backing his client's claims. As his fame increased he was called, like the leading physicians, into the most grave and critical cases—and I have no doubt that he lost in the

long run more cases than he won. But having once undertaken the conduct of a case he made a careful study of it to try to build upon the facts a theory consistent with his own sense of right and justice, which he might fairly and earnestly present to the favorable consideration of the court—and in this he generally succeeded—and having once convinced himself, he could apply all the clearness, force and earnestness of which he was master to convince the tribunal, whether court or jury.

He had such reliance on his own judgment, and confidence in his own opinion, that when he had once found the theory satisfactory to his own mind, on which he ought to present the cause, he never changed or departed from it, no matter what arguments the other side might present, or what decisions the court might make as the cause progressed; and even when the court of last resort had pronounced against him, he bowed to the law which the court by reason of its power had declared, but still maintained the theory which by the power of his reason he had evolved in the case. This forensic habit often gave to his weaker adversaries, who could tack and trim their sails as the judicial breezes changed, an apparent advantage. He would present his case on the first and second appeal, more strongly and more forcibly, of course, but it was always the same view of the same case, and we knew exactly where and how we should have to strike to meet it. This absolute reliance on his own judgment some-

times led him to underrate the force of his opponent's position. He affected in such cases to treat the propositions of his adversary as "notions," and to be surprised and indignant when they commanded the approval of the Court.

In another respect, also, he sometimes in the arena exposed to his adversary a vulnerable flank. So masterly was his independence of mind and character, that he was not always willing to admit or to recognize the binding force of precedents, however numerous, which failed to run the gauntlet of his own reasoning powers. One of his favorite maxims was, that nothing was finally decided until it was decided right, and so no amount of so-called authorities was sufficient to dissuade him from maintaining the contrary view.

So earnest and zealous and well sustained was his advocacy, that he sometimes presented the appearance of seeming to drive the court, which a weak judge would resent, and take refuge in his power to decide, while a strong judge would lock horns with him on the spot.

Mr. Carter's forensic character was a most interesting one to study, and it was always hard to say in the particular case whether those features, which seemed to give his adversary an advantage, were elements of strength or of weakness. But on the whole, he grew to be the most formidable advocate, in both the State and Federal courts, and was, I think, so recognized throughout the country.

My judgment of him in this respect is confirmed by a review of the cases in which he was constantly engaged. They were mostly leading cases of great difficulty, magnitude and danger, involving the severest responsibility, and challenging the best powers of the advocate. A mere list of their titles recalls their overwhelming importance, and the prodigious labor that must have been involved in their preparation and argument. In all the important branches of the law, he seemed to be equally at home. Great maritime and commercial causes, great railroad controversies and, above all, great constitutional cases were constantly engrossing his attention and taxing his powers. His sense of duty and justice to his clients was shown, not only by his exhaustless labors in their behalf, but by the extreme moderation of his fees and charges. We used sometimes to think that in his careful consideration for his clients, he hardly did justice to the profession; and in this respect, by the great weight of his reputation and example, rather lowered the standard which we, with a more realizing sense of the wants of life, desired always to see highly advanced. But as long as lofty character, commanding abilities, and loyalty to the profession and to the truth constitute just and abiding claims to the admiration of lawyers and of laymen, we shall always be proud of his leadership and grateful for his example. A nobler model, on which young advocates may mould their careers, cannot be found in legal annals.

Early in his professional career, Mr. Carter's splendid talents and faculties attracted the special attention of the great leaders of that day, and particularly of Mr. Charles O'Conor, who was preëminent among them, not merely for profound erudition, but also for an experience seldom equalled, in all branches of the law, for his keen and subtle learning, and for his supreme contempt of all shams and false pretences in the way of the profession. He saw in Mr. Carter a kindred spirit, and a junior upon whom he could rely for thoroughness equal to his own—for inexhaustible power of labor, and for absolute devotion to any cause which he undertook, and they soon became co-laborers in several causes of unique magnitude, importance and difficulty. Probably no lawyer then at the bar was so exacting of himself or of his juniors in the preparation and trial of a cause as Mr. O'Conor, and Mr. Carter fully satisfied his most strenuous demands. In the great cause of the City against Tweed, to establish the claims of the City for that long series of deep-laid frauds and peculations by which, through a period of many years, it had been robbed of millions—a trial which extended through several weeks and involved an examination of the most complicated system of thefts which had been exposed by the ingenious researches of Governor Tilden; the combined powers of Mr. Peckham, Mr. Carter, and Mr. O'Conor were drawn upon to their utmost to unravel the tangled skein.

Mr. Carter's intimate and constant association with Mr. O'Conor, and laboring with him through many years had a marked and lasting effect upon the younger man—as such associations generally do have. The modes of thought and study, the absolute thoroughness, the exhaustless research, the style of speech, and even the modes of utterance, and expression of feature and mode of gesticulation of the younger man carried always a suggestion of his great senior. Of course, it was only an unintended and unconscious resemblance—for Mr. Carter was a much broader and fuller man than Mr. O'Conor, much more highly and generally educated, and more full of sympathy and sentiment—a bigger hearted man and built on a larger scale. And yet, what he thus insensibly imbibed or absorbed from Mr. O'Conor did strongly characterize his forensic conduct and style, and lent much force and emphasis to his bearing in court—and always recalled an impression of the great Irish advocate.

Before the trial of the Tweed case, another tremendous cause, still more laborious, absorbing and exciting had arisen—The Jumel Will Case, and in this, in all its various forms from beginning to end, Mr. Carter and Mr. O'Conor were constantly associated, and bore between them the whole brunt and burden of the arduous contest. It involved not only the most difficult and diverse questions of law that called for great learning and study, but issues of fact of a highly dangerous and complicated character: questions of pedi-

gree, marriage, paternity and consanguinity—dependent for their solution upon old and doubtful documents and papers, upon the fading memory of aged witnesses, upon history and tradition, and upon gatherings from the border line of evidence—all appealing strongly to the imagination as well as to the reason of the advocate; and there is no doubt that to this whole range of study and preparation, and to the final success in the case, Mr. Carter contributed, at least, his full share.

But he paid a bitter penalty for these splendid achievements and triumphs, for, taken with his own regular practice, which was already large, this additional burden proved too much for even his marvellous power of labor, and it ended in a truly tragical catastrophe. The exciting trial of the Jumel case attracted great popular interest, and engaged the attention of Judge Shipman and a jury in the United States Circuit Court for many weeks. The long hours of every day in court were a constant nervous strain, and the longer hours of every night were protracted vigils of labor—with an utter disregard of the commonest laws of health, even of the universal rule that the only cure for fatigue is rest—so that the wonder was that mere flesh and blood could stand it as long as they did.

Mr. O'Conor was a rule unto himself, and reversed the usual custom, taking himself the opening of the case and throwing the summing up upon his junior, so that Mr. Carter, in the true spirit of the advocate, was in his own mind summing

up the case every minute from the first word of the first witness to the last word of the last, and all the while defying the demands of nature for regular food, sleep and repose. His part was splendidly performed, but when the fatal morning of the closing argument arrived, and Mr. Carter arose to address the jury, after a few halting words it was manifest that nature could go no further, and he collapsed upon the spot, so that Mr. O'Conor, whose physique seemed to be made of gutta-percha and steel springs, had to take his place and sum up the case himself. But with the true grit and pluck that characterized him, he persevered, after a temporary recovery, in the trial of the Tweed case, and conducted a vast mass of litigation for the City besides, which resulted in a more disastrous breakdown, and for a period of nearly three years he appeared no more at the Bar or in New York. All his unique power of labor had disappeared—he was incapable of the least exertion, and his friends who saw him in the interval hardly dared hope that he would reappear in the arena whose contests were so dear to him.

But his splendid constitution contained such reservoirs of strength and such living springs of vigor that in 1880, after three years of complete retirement, he came once more upon the scene, fully armed and equipped and ready for new contests. In truth, his long period of retirement and repose seemed to have renewed and invigorated all his powers. So that he entered upon another

twenty years of professional achievement of the very highest order and dignity, which he sustained with new and constant safeguards of repose and sport and exercise, the neglect of which had so nearly proved fatal to him before.

From 1880 to 1900 his employment in the courts, State and Federal, was constant in causes of the greatest magnitude and importance, a mere enumeration of which demonstrates that he was all the while a most potent factor in the development of the law and the settlement of momentous constitutional questions, and these involved an amount of labor and study that is almost appalling. But his vigor seemed rather to increase with his years, and he was more than adequate to all the demands upon him.

All these great and conspicuous cases conducted with exquisite professional skill, with unfailing courage and courtesy, and with all the eloquence that earnest conviction and ever youthful enthusiasm could arouse, established his fame as a lawyer throughout the country, on a basis as nearly imperishable as any lawyer's ever can be. But his employment in 1893, as one of the chief counsel of the United States before the Tribunal established by the Treaty with Great Britain for the settlement of the long vexed Behring Sea dispute in regard to the Seal Fisheries—and the characteristic manner in which he performed that great service, gave him an international reputation of the highest value. He was associated with Edward J. Phelps and Frederic R.

Coudert, and to oppose them Great Britain, as she always does on such occasions, selected her best, in the persons of Sir Charles Russell and Sir Richard Webster, both afterwards Lord Chief Justice of England, under the names of Lord Russell of Killowen and Lord Alverstone. Both of those gentlemen have often expressed to me their profound appreciation and admiration of Mr. Carter's ability and forensic faculties, as displayed in that great international cause, and their warm friendship for him, which grew out of their protracted and intimate acquaintance with him in the course of it—in which he showed himself as the great lawyer and gentleman. The contestants were admirably matched, but the balance of the cause was most unequal, for our counsel had to rest their case upon the claim of property right in the seals, accruing to the United States from their being bred upon the Pribiloff Islands, which we had acquired from Russia as part of the Alaska purchase, and our consequent right and duty to protect them wherever found on the high seas, to the extent that we might replevy them at the South Pole, and by force prevent any interference with them by vessels of other nations pursuing the business of pelagic sealing. The authority for the first proposition at common law was of the most meagre character, while there had certainly been no international agreement to the second proposition.

Great Britain relied upon the universally established doctrine of the freedom of the seas, and

upon the proposition that the right of fishing on the high seas could not be interfered with except by the common consent of nations restraining the right.

We certainly had the strongest moral grounds for claiming the protection of the herd of seals from destruction, on our own account and on account of the world at large—and if the case could have been decided upon what ought to have been international law, our contention would have been more hopeful—indeed irresistible.

It was just the case for the exercise of Mr. Carter's characteristic qualities and methods in their very finest and highest forms. It fell to his lot, in the division of labor between our counsel, to open the case, which he did in a most exhaustive and eloquent argument of seven days. The preparation which this involved was incredible—for his argument contained an exhaustive history of the controversy;—a complete narrative of Russian and American rule in Behring Sea for nearly a hundred years;—an exploration of the habits of seals and of seal fishing during the entire period; —a discussion of the principles of international law bearing nearly or remotely on the subject of dispute, the origin and growth of the right of property, particularly in animals, and the interpretation and effect of all treaties and regulations bearing upon the questions involved. It is needless to say that after months of toilsome preparation, Mr. Carter came to the argument with a theory of the case which, to his own mind,

was absolutely irresistible, and pressed it upon the tribunal with an eloquence, earnestness and force which even he had never equalled;—that his splendid gifts of imagination and illustration were brought into play with graphic power;—and that if we could have won the case by demonstrating what international law ought to have been, and what expediency, humanity and civilization demanded in the particular case, it was more than demonstrated.

His argument, like all his arguments at the Bar from the beginning, was extremely dignified, and pitched upon a very lofty plane of morals and right. But he was storming an impregnable citadel, when he sought to diminish the freedom of the seas without the warrant of an international agreement to that effect. It is greatly to be regretted that his labors could not have resulted in an effective agreement between the nations to that effect, so far as pelagic sealing was concerned, for the herds have already nearly vanished from the Islands, and the industry, most useful under proper limits, has been well nigh destroyed.

The time prescribed to me will hardly permit even an allusion to the great services rendered by Mr. Carter in maintaining by precept and example the dignity of the profession, and its protection from everything unworthy;—in preserving the common law in its integrity as the basis and method of our jurisprudence, and rescuing it from the destructive assaults of the wholesale

codifier;—in his constant and courageous warfare against everything that looked like corruption in the courts or in the profession;—in his active participation in the foundation of this Association, as the bulwark of a sound and pure administration of justice;—in his service again and again as its President, and in his persistent and successful efforts at all times to keep it up to the mark, and to achieve through its instrumentality the lofty objects of its founders.

It is melancholy to think how fast the memory of all this splendid service and achievement, of which I have given such a meagre and inadequate sketch, is fading away. He had for the last six or seven years of his life retired absolutely from the practice of his profession, so that to the younger members of the Bar his face and figure, which had once been so familiar in the courts, were almost unknown.

But in these years of retirement, rendered necessary by constant threats of a return of the malady which had once laid him so low, he was never idle. He enjoyed these years in the heartiest manner, spending a large part of each of them in outdoor life and sports which he had learned to love so well, and to value so highly, as the only safeguards of declining health. But all the while his heart and mind were intent upon a work, which he has left as a legacy to the profession, and which, if I am not mistaken, will long perpetuate his reputation as a jurist.

In a course of carefully prepared lectures on

the philosophy of the law, which I have had the privilege of reading, completed just before his death, and intended to be delivered at the Harvard Law School, he has embodied the rich fruits of his ripe experience and learning, of which it will be an enduring monument. He has explored and portrayed the whole history of human conduct, in support of his favorite theory that law instead of being a "command" as defined by Austen, and other distinguished writers upon the subject, is entirely the growth of custom and of public opinion;—that the common law as developed by English and American courts is the wisest and safest form of administering justice and best adapted to the ever changing needs and exigencies of human society;—and that all attempts to substitute in its place a rigid and crystallized codification in any form, must necessarily fail of their object. In this effort he has garnered up all the wealth of learning, of imagination, of common sense and of foresight, which in his long and busy life, devoted to his divine mistress, he had made his own. It is delightful to think that this masterpiece of legal literature, practically perfect as it came from his hand, will transmit some knowledge of the man to future generations, when all the great controversies in which he was engaged have lost their interest and been forgotten.

I have necessarily refrained from enlarging at all upon the spotless purity and manly independence of his public life and of its great and be-

neficent influence upon the thought of his time—and of those charming and endearing traits of personal character, which made him so beloved in life and so lamented in death by all who had the great privilege of knowing him.

CARL SCHURZ

CARL SCHURZ

Address delivered at the Schurz memorial meeting, New York, November 21, 1906.

THIS great and brilliant company has assembled for no funereal rites, for no obituary service. We are here to do honor to the memory of a great citizen, to exult in his exalted virtues, and to learn the lesson of patriotism from his long and honorable life. A noble friend of mine, dying, said that his life seemed like the flight of a bird through a church from window to window, and at best it is

> "Short as the watch that ends the night
> Before the rising sun."

And our sketches of Carl Schurz to-night must be short, indeed, if we are to do justice to this splendid program, and enjoy the music which he loved so much better than words, however weighty.

I heard Mr. Lincoln at the Cooper Institute in 1860 say: "Let us have faith that right makes might, and in that faith let us dare to do our duty as we understand it." Search all the books in our libraries, and you can find no better statement of Mr. Schurz's rule of life than this. Truth, right,

duty, freedom were the four corners of his chart of life, with which all his speech and conduct squared. And so it was from the beginning to the end. In the first freshness of youth he left the university and joined the Revolution of 1848, and fought to break oppression and maintain constitutional liberty. In that marvellous achievement of daring and devotion, by which, at the deadly peril of his own life, he rescued his old teacher and comrade from the fortress in which he had been condemned for life to pick oakum for the Prussian Government, he furnished to the world a heroic romance, worthy to be immortalized by a new Schiller, a miracle long since celebrated, and always to be celebrated in German poetry and song. A refugee from hopeless tyranny, he came here into exile and made America his home. He was himself the choicest example of that splendid host of Germans who have enriched and strengthened and fertilized our native stock, to produce that composite creature, the latest result of time, the blending of all the Caucasian races—the New American.

With intense devotion he applied himself to mastering the English language, that he might with free speech utter free thought to free men throughout the whole land of his adoption. The year before the arrival of Mr. Schurz, I had heard Kossuth himself, who in a few months had learned the English language in an Austrian dungeon, deliver to a Harvard audience an address in our own tongue. But Mr. Schurz as a

linguist surpassed even Kossuth, for he soon became one of our foremost orators, perhaps the most cogent and convincing debater of his time; and if his hearers shut their eyes and trusted only to their ears, they might well believe that he had never spoken any language but our own.

With an inherent instinct for freedom, he was at one with Lincoln, that "a house divided against itself must fall, and that this government could not permanently endure half slave and half free," and so he took part in German in that great debate with Douglas, and made the vast hosts of his countrymen in the West familiar with the vital issue in that irrepressible conflict. In the convention of 1860, that nominated Lincoln, he insisted successfully, with Curtis, upon incorporating in the platform the cardinal principles of the Declaration of Independence. When the war broke out, and it became manifest that the Gordian knot of slavery could be cut only by the sword, he resigned the lazy post of Minister to Spain, and on many a bloody field—at Manassas, Chancellorsville, Gettysburg, and Chattanooga—with dauntless skill and courage he fought for freedom here as he had fought for it at home.

As a Senator, I think he made the noblest record of his noble life. There his genius, his courage, his humanity, and his patriotism had full play. There politics, patronage, the chance of reelection were nothing to him. He was there not to serve his State only, but the whole country, in

the true spirit of Burke's letter to the electors of Bristol. With exhaustless energy, he mastered every important question, and led in a great debate, and regarded the foundations of the Constitution as of vastly greater importance than any ephemeral question of the day, however burning. He always stood by these great landmarks, that the executive should keep within its constitutional limits, and not invade by one hair's breadth the functions of the legislature or judiciary;—and that they should do the like by it;—and, above all, that the Federal power should not encroach upon the State power, nor this upon that, but each keep within its own limits;—that the delicate balance of our dual system, which has justly excited the wonder and admiration of the world, might not be disturbed. Oh, for such a Senator now! What would not this great Empire State give for one such man—for two such men, if happily they could be found!

As a Cabinet Minister, too, his record is a noble one. Politics and politicians he turned "neck and heels" out of his department, and made tenure of office there depend only upon merit and fitness. Frauds and plunderers found in him their most dangerous foe. He was a real father to the Indian tribes, and fought in defence of our vast forest domains that were then already falling victims to robbers. In short, it is sufficient to say of him that his administration of the department of the Interior is only equalled by that of his distinguished successor, Mr. Hitchcock, who

now, after six years of service, is retiring, carrying with him imperishable laurels.

Compelled by the exigencies of our political system to abstain from holding public office during the last twenty years of his life, his independence, his courage, his spotless character, and boundless knowledge of affairs have been of vast service to his country. Taking up the reins of the Civil Service Reform from the dying hands of one who in this city and in such company as this will ever be held in fond remembrance—George William Curtis—he carried it to its present advanced state, and has thereby done inestimable good. A fearless foe of every wrong, an independent champion of every wise reform, setting personal consequences always at defiance where public service was concerned, he has left to the young Americans of the present and the future an example of honesty, courage, and patriotism; a richer legacy than if he had been able to transmit to them, or to each of them, the combined wealth of all the millionaires of the land. Truly, to recall again the words of Lincoln, he had faith that right makes might, and he dared to the end to do his duty as he understood it.

THE ENGLISH BAR

THE ENGLISH BAR

Address delivered before the New York State Bar Association, at Albany, N. Y., January 16, 1907.

IT is certainly delightful to welcome so large a gathering of the active and prominent members of the Bar of the State as are assembled here to-day. I am sure that our meetings and discussions and our published reports are of great value to the profession.

I seize upon the first opportunity to thank you for the great honor done me in electing me as your President after a long absence from the country, during which I was wholly withdrawn from your ranks.

In selecting a subject for my address, it has occurred to me that some account of the English Bar, as it was my great privilege to meet its members under the pleasantest circumstances, might possibly be of interest and advantage on an occasion like the present.

You will, of course, understand that I make no reference to the other branch of the profession, which is so distinct—the Attorneys and Solicitors—upon whose learning, efficiency and skill, the whole of the social and business life of England very largely depends; but I speak only of the Bar proper, and of it especially as repre-

sented by its leading members, with whom I had much personal intercourse. These are really a group by themselves, generally University men of generous culture, not deficient in means to sustain them during the long and dreary waiting for briefs after their call to the Bar, and then working their way to the front by force of character, courage and ability, and universally recognized as the worthy representatives of the whole body of our great profession.

Let me say in the first place as to the English Bench and Bar both, that I always found them full of interest in, and sympathy with, their brethren in America. Their fraternity with us was always cordially acknowledged, as that of two great branches of the same stock. In view of our common history and language and our identical system of jurisprudence, which relies upon the same authorities, English and American—freely interchanged—for the establishment of the same principles of justice, I found no perceptible difference in what I may call the cardinal features of the profession between them and us. Their hospitality on all occasions was most cordial, alike in their private houses, in the Inns of Court, and in that great banquet which they gave to the Bench and Bar of the United States in 1900, which was promoted by that noble advocate and jurist, Lord Russell of Killowen, the Lord Chief Justice, and which took place on the very eve of his untimely death.

While I was made to feel entirely at home

among them, by the general resemblance and identity of our pursuits and surroundings, it was in the changes that time and circumstances have wrought in us rather than in them that I was most interested—and in the observation of which I think we have something to learn.

The English barrister's relation to the business of his clients is always strictly and absolutely professional, just as much so as that of the physician or the surgeon.

Whether he tries or argues a cause, or revises a pleading or a contract, or gives an opinion on the facts submitted, he acts without any possible interest in the matter, or any relation to it other than the purely professional one. The rigid rules of the profession by which he is bound absolutely forbid him to take a contingent interest or share in any controversy in which he acts professionally, and the slightest violation of this rule would compel his disbarment. And so the whole community knows, that in proportion to his skill and capacity and judgment, they may absolutely confide in his professional conduct, and that no private or personal interest in the subject of the controversy can bias him, to mislead or confuse the counsels of the Court. In the same way his compensation is not dependent upon the amount involved or upon the result of the controversy, but upon his own eminence and reputation. So that when I told some leading barristers that our Court of Appeals had decided that the amount involved and the result as to winning or losing,

were material factors in the measurement of the lawyer's compensation, they fairly scouted the idea.

There is no doubt that two important changes in our system have seriously detracted from this strictly professional attitude of the American Advocate, and laid him open to question. I mean the fact that we have not maintained the distinction between the two branches of the profession, but every one of us is a barrister, a solicitor and an attorney. But the chief cause of detraction from our absolute independence and disinterestedness as advocates, is that fatal and pernicious change made several generations ago by statute, by which lawyers and clients are permitted to make any agreements they please as to compensation—so that contingent fees, contracts for shares, even contracts for half the result of a litigation, are permissible, and I fear not unknown. How can we wonder, then, if the community implicates the lawyer who conducts a cause with the morale of the cause and of the client? If he has bargained for a share of the result, what answer can we make to such a criticism? And how can we blame the community when it suspects that such practices are frequent or common, and even sanctioned by eminent members of the profession, if they confound us all in one indistinguishable crowd, and refuse to accord to any of us that strictly professional relation to the cause which the English barrister enjoys? And how can the Courts put full

faith in the sincerity of our labors as aids to them in the administration of justice, if they have reason to suspect us of having bargained for a share of the result?

If you ask me whether there is no way out of this confusion of condemnation or suspicion for the individual lawyer, I say emphatically there is.

True, we cannot go back on the habits of generations, or repeal statutes which have imbedded such practices in the social habits of the people. But the individual advocate can persistently refuse to follow such practices, or to take a contingent fee or a share in the controversy, and I am old-fashioned enough to wish that every member of the profession who aspires to leadership, would take such a stand, and to believe that if he did so, it would promote his reputation and success in true professional distinction.

For a whole generation, yes, for two generations, we had before us a noble example of this moral distinction—alas, he is no longer with us—I refer to the late James C. Carter, who so long and so gloriously led us, and who I believe never touched a contingent fee or a share in a controversy of which he had the conduct, and was for all the world exactly like the best examples of the leaders of the English Bar.

In another respect the English barristers have a great advantage over us, and one that tends to promote and increase the reasonable enjoyment of life, and that is in more frequent recreation

and relaxation and more stated and prolonged holidays—holidays established by custom which has the force of law. In all the time of my busy practice in New York, we were steadily engaged in Court from the first Monday of October to the last Friday of June, with hardly an appreciable break—a few days at Thanksgiving, the week from Christmas to New Year's, and the legal holidays, very few in number. With these scanty exceptions, it was one perpetual grind of work for nine successive months, and the few lucky ones were those who had the temperament and the physique to stand the strain.

But in England the Courts come in with appropriate and appointed ceremonies on the twenty-fourth of October, and work for eight weeks, which brings them to Christmas and a two weeks' holiday—when every barrister drops his briefs absolutely and quits London for the country or for the Continent, which can be reached in a few hours. Then they return and work for eight or ten weeks more, which brings them to the Easter recess, another real holiday of ten or twelve days, with the same advantages—another eight or ten weeks of work and Whitsuntide arrives, a third intermediate holiday, of which we know nothing and which we ought to borrow at once, and then a fourth term of eight or ten weeks of work brings them up to the twelfth of August, when the law is off on grouse, and Courts and barristers, King, Lords and Commons disappear for the long vacation of ten or eleven weeks,

which brings them back new men for the beginning of the working year again.

Thus, with the same or only a little more vacation in the aggregate these frequently recurring holidays of substantial amount, which are thoroughly availed of, relieve both judges and barristers of that protracted and unremitting strain and pressure which I used to find it so hard to bear.

The amount of litigation in proportion to the population must, I think, be much less in England than in New York. Otherwise it would be quite impossible for the thirty-five judges of the High Court and the Lords Justices of Appeal, and the Judicial Committee of the House of Lords to dispose of the whole of the principal business of England without any serious accumulation of arrears, while in the State of New York, with its eight millions of people, we have ninety-seven Justices of the Supreme Court, seven Judges of the Court of Appeals and ten Federal Judges. Doubtless the County Courts in England dispose of more business and give greater relief to the High Court than is afforded by similar subordinate tribunals to our Supreme Court, but, for all that, the volume of business must be vastly greater here than there.

It is an essential part of our system to bring justice home to every man's door, and it is made very cheap here, especially for the losing party, while in England litigation for the party who unsuccessfully and without merits prosecutes or

defends a lawsuit, is a seriously expensive business, for in the exercise of the discretion vested in them, the judges in the adjustment of costs are inclined to charge the beaten party with the whole expense of the litigation, including the counsel fees paid by the other side.

Here again comes in another unfortunate result of our system of contingent fees which has resulted in blocking our calendars with thousands of experimental and speculative lawsuits, in arrears, in at least one of our departments for two or three years, which it is quite impossible for our judges to cope with.

Everything in the system of English judicature seems to be arranged with a view to the despatch rather than the accumulation of business. They have nothing like our dismal Code of Civil Procedure with its many thousand sections, which itself in the whole history of its growth and development has been, and is to-day, a prolific cause of litigation and delay, and affords, I should think, an opportunity for a distinct and separate motion every week, from the commencement of the cause till its trial. Instead of that they have a few simple rules of practice made by the High Court and always under its control, and these are very simply administered, usually before a Master, after the cause is at issue—and the barrister is generally relieved of any attention to that part of the practice which acts so thoroughly upon the nerves of any lawyer who is engaged in great affairs.

Our pernicious and dilatory habit of waiting for counsel, who are engaged elsewhere, when the cause is reached or called on the day assigned, is practically unknown, and the consequence is that in an important cause several counsel must be retained, so that if one is not ready, another shall be, and the cause proceed.

Of course the solicitors and attorneys prepare briefs, and relieve the barrister of a vast amount of that kind of work out of Court, for which counsel with us are largely responsible. I am sure, however, that every conscientious barrister, from the moment of receiving his retainer, is ready to hold consultations and advise on every important step, but as a rule they are not troubled with interviews with parties and witnesses in preparation for the trial. In fact, direct communication between the barrister who is to try the case and the witnesses is theoretically disallowed, and seldom happens.

But it is in the actual conduct of the case in Court that the barristers derive great assistance and support from the prompt and efficient system that prevails. The judges, being appointed by the Government, practically selected by the Lord Chancellor from barristers who have been long in active practice in the Courts, are already fully qualified for the performance of judicial duties from the moment they enter on their exalted office, and are not only presumed to know the law, but generally do actually know it. Such a thing as a judge having to be educated upon

the Bench, so expensive and so detrimental when it does happen, is utterly unknown there, and as a result the judge takes charge and holds control of the case from beginning to end. Questions of evidence and motions for nonsuit, which with us are often occasions of prolific argument, are promptly decided. The judge is presumed to know the law of evidence, and it rarely happens that such a question has to be more than stated in order to have it disposed of. Perhaps I was myself as great an offender as anybody in the consumption of time in the discussion of questions of evidence, having often argued them by the hour; and I well remember one case with Mr. Roscoe Conkling, where we spent an entire day in the argument of a motion to nonsuit, and even then the Court adjourned till the next morning to decide it.

In cases tried without a jury, including equity, probate and admiralty causes, when the judge has heard the evidence and the arguments, he is generally ready to decide it, and the pernicious habit which once prevailed, and I fear still prevails with us, of taking two weeks, often extended to four, to hand up briefs, when the judge will have largely forgotten the case, and will have to study them at his subsequent leisure, is practically unknown, and the proceedings upon appeal in cases reserved are greatly facilitated by the appeal being heard on the judges' minutes, and report of the points reserved.

If you ask me how the leaders find their way

to the front, I should say exactly as they do with us. They are eliminated by a process of natural selection, for merit and fitness, from the whole body of the Bar. I have known the leaders of the Bar on both sides of the Atlantic, and in this respect the same rule prevails. There is every variety among them of physical, mental and moral qualities. No two are ever alike in personal characteristics, except in one vital and essential quality, which is common to them all, I mean the power and the will to hold on and hold out, under all circumstances and against all counter inducements until the goal is reached. This indomitable tenacity of purpose, with brains, health and character, insures success and leadership there, as here.

A very striking story told me by one of the gentlemen named illustrates what I mean. Some forty years ago, on the Northern Circuit, three able and ambitious young men had tried hard for a few years, by assiduous attendance, for business in the Courts, and, almost hopeless of success, they met and seriously discussed the question whether they should not give it up, and seek some other service, in the Colonies, or in some of the many avenues of employment which are open there as here to barristers who despair of the future in the direct line of the profession—but they held on, for life or for death, and in thirty years or thereabouts from the time of their discussion, one had become Lord Chief Justice of England, as Lord Russell of Killowen, the second Lord

High Chancellor, as Lord Herschel, and the third Speaker of the House of Commons, who, after an arduous and honorable term of service in that high office, now lives in retirement as Viscount Selby.

The question of emoluments is always an interesting one to lawyers, and if things remain as they were when I went to England eight years ago, I should say that for professional leaders in the same relative position the earnings here and there were about the same. There is a well-worn story of Sir Roundell Palmer, who, as Attorney-General, contested against Mr. Evarts the Alabama claims before the Geneva Tribunal of Arbitration, that in one year he realized fifty thousand pounds, but that was adding his compensation as Attorney-General to his large and lucrative private practice, which is not permitted any longer to the Attorney-General or the Solicitor-General. But such earnings there or here represent a prodigious and killing amount of work; and the story is that an old friend, desiring an interview with Sir Roundell, called at his chambers one Thursday morning, and asked if he could see him. The clerk replied that if he must he could do so, but he would advise him not to, for he hadn't been in bed since Sunday night.

So I have heard of a great Chancery barrister many years later realizing in one year twenty-eight thousand pounds, and during my stay in London thirty thousand pounds a year was the highest sum I heard ascribed to the most success-

ful leaders of the day. Such earnings anywhere represent the absolute devotion of the highest professional qualities and the sacrifice of everything else to the largest interests of the commercial world. These figures compare very favorably with the best I ever knew or heard of, while I was actually engaged in steady practice. Since my return, I have heard of fabulous sums received by lawyers, either as shares agreed upon, or from great corporations or estates, as rewards for very moderate services. For the credit of the profession, I decline to believe such stories, for in the long run nothing is so damaging to us as a profession as the spirit of commercialism—the Wall street notion, that money is the only thing worth striving for, an idea which when it once gets hold of a man unfits him for true leadership, and when it once gets hold of the profession is sure to demoralize it.

I have no time to discuss here to-day the much-vexed question of the comparative merits of legal education here and in England—but from what I have seen of the leading English barristers, what splendid men they are physically, mentally and morally, how learned and broadly educated, accomplished and thoroughly equipped, I should say that the system which has produced such men, the combined results of education at the universities and the great Inns of Court, ought not hastily to be exchanged for another as a training for the English Bar.

Perhaps some day the Inns of Court will com-

bine their splendid resources to create and maintain a great University of Law, to which men of all nations, races and languages will resort for legal training, but although this was strongly urged upon them, I believe by Lord Russell and other prominent benchers, the time for such a serious change has not yet come.

Those splendid Inns of Court to which I have so often referred—for it is impossible to speak of English law or English lawyers without constant reference to them—afford to our brethren who belong to them and to whom they belong, a home around which their affections centre, and places and occasions of social and fraternal intercourse utterly unknown to us.

As the sole authority through which admission to the Bar can be obtained, as seats of study and learning in preparation for professional life, as the custodians and guardians of all the history and traditions of the law, they command the loyal affection and devotion of all their members. As the great nurseries of common law and of equity, and identified in their annals with the whole progress of justice and of civilization in England, established already for centuries, while we were yet a component part of the English nation, I regard them as the common property and the common pride of all lawyers the world over who speak the English tongue. There our predecessors in the Bar of England have been working out by patient industry, and with ever advancing knowledge those principles which underlie the liberties of

England and America alike, and the debt of gratitude we owe them for that long service cannot be overstated. What are those absolute principles which thus lie at the foundation of our common civilization? That there is no such thing as absolute power, that King, Lords and Commons, Presidents, Congress, Courts and people are alike subject to the law, that before its supreme majesty all men are equal; that no man can be punished or deprived of any of his rights except by the edict of the law, pronounced by independent tribunals which are themselves subject to the law; that every man's house is his castle, and though the winds and the storms may enter it, the King or the President cannot; that our government on both sides of the water is, in the sublime words of the great Sidney, " a government of laws and not of men."

You will not wonder, then, that in common with all other lawyers I felt an immediate and personal interest in those cradles of the law in which, before America was discovered, those ultimate principles of right and justice which our fathers brought over with Magna Charta and the Petition of Right were brought into being, and already in the way of final establishment.

Those graceful and magnificent halls, rich in beauty and teeming with great traditions, about which the memories of all that has been great and noble in our profession for five centuries still lingers, cannot but have an ennobling and inspiring influence upon all who frequent them. The

footsteps of American lawyers on arriving in England naturally turn first to them, and often as I haunted them I always met and heard of my countrymen there before me. Their unbounded hospitality often gladdened my long stay among them. On Grand Night in each term of Court when the Benchers of each Inn assemble within those noble walls to entertain their friends and their members and students, with the portraits of the great judges of the past whom they claim as their own, looking down upon them, and the shields and arms of their treasurers for centuries surrounding them, they seemed to me to represent and embody the living spirit of our law, holding now, for the time being, and for transmission to future generations, all the rich heritage of the past. And when as a tribute to the American Bar and in demonstration of their fraternal sympathy and affection they made me, too, a Bencher of the Middle Temple, to represent you all, and in the same spirit bade me farewell at Lincoln's and Gray's Inns, I felt that my professional life had not been wholly in vain.

My conclusion, from a fair knowledge of both countries, is that in the law, as in every other element of our common civilization, each nation has yet much to learn from the other, and that to that end we ought studiously on both sides to cultivate more frequent and constant intercourse and a better knowledge of each other, and no profes-

sion can do so much as ours to bring about this happy consummation.

I also became thoroughly convinced that for each country its own system of legal administration and of professional life, as it stands to-day, is better than any abrupt or violent effort at reform would be. That system for each nation has been slowly evolved out of social usage, and common law and statute in the course of centuries, and any sudden changes would be more likely to mar than to mend it. But we may hope on both sides, by the friendly interchange of ideas from time to time, to gain much in the way of progress and improvement.

CHARLES FOLLEN McKIM

CHARLES FOLLEN McKIM

Address delivered at the McKim memorial meeting, at The New Theatre, New York, November 23, 1909.

WE have assembled in this wonderful hall today, at the combined invitation of all the organizations for the promotion of art in New York, to pay a tribute of respect and affection to a great artist, a noble gentleman, a self-sacrificing and public-spirited citizen, and the recognized leader for many years of a powerful and brilliant profession. I deem it a signal privilege and honor, as a lifelong friend of Mr. McKim, to have been asked by this great body of his professional colleagues and disciples to address this interested and sympathetic company of his admirers. Interested and sympathetic, I know you must all be, for it was impossible to come into contact with Mr. McKim without loving and honoring him, or to be even the most casual observer of his work without some appreciation and admiration of that.

We have all known him in the zenith of his fame—long recognized at home and abroad as the foremost of American architects—creating in rapid succession building after building, public and private, of singular dignity, simplicity and beauty; surrounded by all the signs of affluence

and luxury, consulted as the leading authority on all matters of taste and art, with all sorts of honors and distinctions heaped upon him, and yet always as simple as a child, as modest and gentle as a woman—shunning publicity and shocked at all ostentation.

It would be interesting to know from what beginnings all this greatness, this gentleness, this instinct for beauty, came. Some day I hope his life will be written by some competent hand.

Recently there were placed in my hands some letters of his to his father, written in his twentieth year—probably before any person present here to-day had any knowledge of him—which seemed to me to shed much light on the formation of his manly and beautiful character.

We know something of the father and the mother, too—a sturdy abolitionist and a famous Quaker beauty. It was from her, no doubt, that he got his striking grace and delicacy of feature. They were both as brave and fearless as they were plain and simple in life and manner. To show their faith by their works, they accompanied the widow of John Brown to Virginia to bring home his mangled body, which was to lie moldering in the ground while his soul went marching on.

The letters are from Cambridge in the summer and fall of 1866, where the boy was searching in vain in the vacation for a teacher to coach him in chemistry and mathematics to enable him to enter the Lawrence Scientific School in the Min-

ing Department. Mining engineering was what he was bent upon, with no more idea of becoming an architect than of studying divinity.

The Quaker discipline and spirit is stamped upon every line of his letters. They are addressed to "Dear Home," and they reveal on every page the simplicity, the earnestness, the narrow means and self-denial of that home and of the writer. Simplicity, quietness, self-restraint —were not these his guiding motives all through life? Are they not the very things that the name of McKim, Mead & White stands for still? Truly the boy was father of the man. He uses the Quaker style and vernacular: "Father, does thee think I had better come home to Thanksgiving, or will it be spending too much? I can wait till January if thee thinks it best," but "Do send mother to see me" is his constant refrain. "Dear mother, thee must come!" His prevailing thought seems to have been how best to ease the burden of his education on the lightly furnished family purse. What he seems to have intended was one year in the Scientific School and then two years in Paris—not at all at the Beaux Arts, but in the School of Mines, where the education for his life's calling would be cheaper and better. The spur of necessity was the goad to his ambition, as it always has been to most Americans who succeed. Evidently he had no love for mathematics or mining, but he could toil terribly, even at that. What it was in that one short year at Cambridge that roused in his soul the dormant

love of art and passion for beauty, we cannot tell. But kindled they were, and at the end of the year he went straight to Paris and to the Beaux Arts to study architecture, and then to travel as long as he could and feast his soul on all the wonderful and beautiful buildings which abound in France and Italy. And at last he came home, fully equipped for the arduous and fascinating labors that were to fill and crown the thirty years of his successful and brilliant career. In architecture, as in every other profession, opportunity counts for much, and he found a golden opportunity awaiting him.

When Lincoln at Gettysburg, in the middle of the war, said: "This nation under God shall have a new birth of freedom," even he perhaps little dreamed of the marvellous growth and development which that new birth should usher in. Not only was slavery to be abolished and the Union to be rebuilt upon imperishable foundations, but upon these was to arise a wholly new America, of a power and grandeur unknown before, and pregnant with a progress and prosperity never approached by any nation in the same period of time. The national energy and enterprise were to expand and spring forward by leaps and bounds. A really new people, fired by the stimulus of success in a great war on which the salvation of the nation was at stake, were to grapple with the overwhelming problem of national expansion. New cities and States were to be founded and the old ones rebuilt, and art and archi-

tecture especially were to contribute to this development as they had never done before.

Some of you are old enough to remember how New York looked at the close of the Civil War. From the Battery to Forty-second Street it was covered with buildings in the construction of which stability and utility had been consulted, but very rarely beauty at all. Architecture was at a very low ebb, and architects were at a decided discount. Scattered through the city were many good churches and some good public buildings, and there were two actual gems which still exist to challenge admiration—St. Paul's Chapel and our delightful old City Hall, which has, I believe, but one blemish, that while all the rest of the building is of beautiful marble, the rear wall was of brown stone, it being thought a hundred years ago that nobody would get so far uptown as to see it. But these two noble examples had been so far forgotten and overlooked that our new Court-House, hideous in its composition as in its history, and the new Post-Office, another horror, were built right over against them to hide them from view; and at the other end of the city the grim Croton reservoir frowned upon us, on the very spot where the New Library now lights up the whole surrounding region.

But for the great fire of London, which laid waste a whole city for him to rebuild, Sir Christopher Wren would probably never have been heard of except as the worthy but obscure professor of astronomy at Oxford. No other architect

in modern history had such an opportunity as that. But McKim and his contemporaries, disciples, and followers had their opportunity, too, when it fell to their hands to reconstruct our somewhat ugly and obstinately commonplace city, with its long rows of plain and uniform brownstone fronts, and adorn it with so many dignified and beautiful structures which we now take pleasure in showing to strangers.

The architects of the last thirty years have not only built for us a noble city, but have raised their own profession into a brotherhood which almost outranks all the others in efficiency and utility.

When McKim came home in 1872 to offer his services to his countrymen as an architect of recognized qualifications, only a very few of the many societies which have been united in inviting you here to-day to do honor to his memory had come into existence. The Metropolitan Museum of Art, which heads the list, had but just been founded, and was leading a precarious existence, with no idea of the possibility of its ever attaining its present splendid position.

I shall not in this presence undertake to draw any comparison between him and any other of his brethren, or to measure or analyze his merits. I shall leave all that to his professional brethren. I only know that, by common consent of them all, he was for years recognized, admired, and honored as their leader and master; that many of the chief ornaments of this and other cities are

his personal work, or that of the firm of which he was the head and moving spirit; and that not only in his own country, but in England and in Italy, the highest authorities in art have selected him to receive their special honors. And how modestly and meekly he bore all those accumulating honors! I remember when he came to London in 1903, when at the very top of his profession, to receive the Royal Gold Medal for services to architecture the world over, how modestly and timidly he bore himself. He was really all of a tremble, and nothing would do but that Mr. Henry White and I, who had been his friends for many years, must stand by him through what he regarded as a terrible ordeal, and so we held up his arms. And when it was all over, and he began to receive the congratulations of his friends from home, he cabled back: "Thanks! many thanks! but I still wear the same hat!" And that was the beauty of it and of him. No matter what happened, no matter what he achieved in the way of success and fame, he always wore the same hat—his head never swelled; he carried it all off with absolute Quaker simplicity. It required all his early training to bear meekly the flood of applause and adulation which, with many men, would have called for a hat of colossal proportions.

When he took into his hands the British Gold Medal, he said that he accepted it as an honor due, not to himself, but to his profession in America, whose representative he was proud to be, and I

am sure that he would not be content to-day if we failed to recognize the encouragement which he received from those who went before him, and the constant aid and support of those who shared his labors and his triumphs. It is impossible to-day to forget his indebtedness to Richardson and Hunt, those two brilliant masters and examples to whom he was proud to declare his allegiance and loyalty. It was in Richardson's office that he began his professional life, and although few traces of the influence of that distinguished forerunner are visible in his work, he never ceased to be grateful to him for smoothing his first steps. And working side by side in the same city with Hunt, that ardent and intrepid spirit whom he cheerfully recognized so long as leader and chief, it was impossible but that each should give much to the other—much aid, much encouragement, and much inspiration. Let us not forget that Richardson and Hunt led and blazed the way in which McKim so modestly and triumphantly followed.

Another important factor in McKim's lifework was the founding and maintenance of the professional firm in which the names and labors of Mr. White and Mr. Mead were indissolubly linked with his own. For more than twenty-five years they were like brothers, brain to brain and heart to heart, sharing each other's labors and designs and triumphs. It was impossible often to tell where McKim's work ended and the others' began, or how much of any given piece of work was

done by the one or the other, or which contributed the more important part. At a great banquet, when Burnham, who was presiding, attributed to McKim the great merit of Madison Square Garden, McKim is said to have interjected, "*White,*" and that was the only word he uttered on that occasion. McKim always imputed to his partners a full and equal share of the credit and merit of what was done in their joint names, and during the whole existence of the firm no single piece of work was undertaken except in their joint names, but upon almost every piece of their joint work the impress of McKim's peculiar personality and fine genius is indelibly stamped. The truth is that the three stood together at the head of the profession, and the city and the nation owe to their joint labors an everlasting debt of gratitude. Each relied upon the other, and their mutual devotion and admiration knew no limits.

And there was another personal association and ever-abiding influence which McKim enjoyed in all his later years—in the friendship of Saint-Gaudens. I do not suppose there ever was a closer union, or a more active sympathy, between three great artists of kindred tastes and the same exalted aims, as that which bound together McKim, Saint-Gaudens, and White—working together, helping each other, criticizing each other, and all intent together upon the same end—to elevate the artistic standard which it was the great object of their lives to promote and advance. All three have passed away together in

three short years. As they were united in life, they were not far divided in death, a triple calamity and loss to the city and the country.

The secret of McKim's professional eminence was not far to seek. There was nothing strange or providential about it.

Emerson attributes to the greatest architects a sort of special divine inspiration:

> The hand that rounded Peter's dome
> And groined the aisles of Christian Rome
> Wrought in a sad sincerity.
> Himself from God he could not free.
> He molded wiser than he knew;
> *The conscious stone* to beauty grew.

And another poet, two hundred years before Emerson, had explained the first miracle in a similar figure of speech:

> *The conscious water* saw its God and blushed.

But, in the sober prose of modern life, conscious stone is as rare as conscious water, and architects must work out their own salvation. McKim did this by the hardest of hard work, by concentrating his whole mind and heart and feeling upon his work as an architect, never turning to the right or the left, or trying his hand at any other art.

Evelyn, writing from Rome, says: "Bernini, the Florentine sculptor, architect, painter, and poet, a little before my coming to Rome, gave a

public opera wherein he painted the scenes, cut the statues, invented the engines, composed the music, writ the comedy, and built the theatre." And it has been happily said of Michelangelo that he wore the four crowns of architecture, sculpture, painting, and poetry.

McKim was satisfied with the crown of architecture only, and to win and wear it he gave his life's blood.

I asked Mr. Mead what he thought was McKim's chief motive and object in life, and he said: "Perfection in whatever he undertook to do."

To this single lofty aim he devoted all his powers—his fertile imagination, a memory richly stored with treasures, a patient study of all the best examples of ancient and foreign art, a self-control which enabled him to persuade and control others, an insatiable love of beauty, and that sweet reasonableness which was an essential part of his nature. And with all this, in spite of occasional moods and apparent lapses, he had that unyielding tenacity of purpose which kept the end in view always from the beginning, and which is the invariable trait of leadership in all professions.

But, besides being a great artist, McKim was a great educator. The influence which his work and the work of his firm exercised upon the public taste and judgment was of incalculable value. Scattered through many cities, each building they designed was an object-lesson to the public in dignity, harmony and beauty. How can even

the casual observer stop to gaze at such buildings as the Boston Library, the Rhode Island State House, or the Columbia or Morgan Library without being deeply impressed? I am sure these are creating an enthusiasm for beautiful buildings, which is sure to grow and never to die out among us. And yet I fear that not one in five of this company of his admirers has gone out of his or her way as far as Seventh Avenue to study the last and perhaps most marvellous of all their works, the new Pennsylvania Station.

I must leave it to others to tell you how much he has done to elevate the standard and the dignity and the value of his own profession—how large a proportion of the younger architects of to-day have graduted from his office, and have carried with them into actual work throughout the country the impress and the influence of his large imagination and his abiding inspiration. You will hear from them, I doubt not, of his ever-living sense of public duty and responsibility; how freely he gave of his time, his thought, and his influence to the great work of the improvement of the Capitol and the laying out of the city of Washington; and, more than all the rest, how, remembering the difficulties that beset his own career at the outset, he labored in season and out of season in the founding of the American Academy at Rome, which in life and in death was the darling of his hopes. Who knows but that those hopes may be speedily and finally realized and completed by some timely helping hand?

The name of an architect is generally lost in his works. Of all the great buildings and structures that survive from a remote past, only a very few have brought with them the names of the great geniuses who must have designed them. " Here lies one," wrote Keats in his own epitaph, " whose name is writ in water." But those whose names are writ in stone are hardly as lasting. I doubt whether one in fifty of this audience can give the name of the truly eminent architect who designed our City Hall at about the time that Keats, whose fame has ever since been growing, was born. Now and then there is a signal exception. The name of Agrippa, on the portico of the Pantheon, has kept his fame alive as a great builder for centuries after his military achievements are forgotten. The ashes of Wren, happy in death as in life, enshrined in the great cathedral that he restored, surrounded by what remains of the beautiful churches that he rebuilt, are marked with that matchless inscription: " *Si monumentum quaeris, circumspice.*" " If you seek for his monument, look around you." Hunt's statue upon the roof of Mr. Vanderbilt's house—his masterpiece—so unique and characteristic, will keep his features in view as long as that beautiful house shall stand; but his monogram " R. M. H." must be stamped upon it to tell future generations who he was. Indeed, there is no sign manual for architects as there is always for painters. But McKim's spirit and memory will survive, not only in the masterly and beautiful

works of his hands, but in the new life that he inspired in his great profession, in the valued services that he rendered to his country, in the ever-growing idealism which he fostered and encouraged in the American people.

Perhaps this is hardly the occasion to dwell upon those innate traits and qualities that made him so dear and precious to his friends, and his loss so deeply and widely lamented. But in truth he was one of the most charming personalities that America has ever known. Wherever he came, he always brought light and warmth and sympathy, which seemed to flow from him, whether he spoke or kept silent. It was impossible to know him and not to love him, and, to borrow the language of St. Paul, it may truly be said of him:

"Whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report; if there be any virtue and if there be any praise," we think of these things as all embodied and transfigured in the life and character of Charles Follen McKim.

FLORENCE NIGHTINGALE

FLORENCE NIGHTINGALE

Address delivered at the fiftieth anniversary of the founding of the First Training School for Nurses, New York, May 18, 1910.

I CONSIDER it a very great privilege to be permitted to stand here for a few minutes to speak about Florence Nightingale. How could this great convention of the nurses of America, gathered from all parts of the country, representing a thousand schools of trained nurses; representing more than fifty thousand graduates of those schools, and more than twenty-five thousand pupils of those schools to-day—how could they better close their conference than by coming here to-night, to celebrate the foundation, by that great woman, of the one first great training school for nurses, which was the model of them all? And how could she, that venerable woman, be more highly honored than by this gathering, in a distant land, of these representatives of the profession which she really founded and created, to do her homage? I hope that before we close our proceedings this evening, we shall authorize our presiding officer to send her a cable of affection and gratitude for all the great work she has done, not only from all the nurses of America, but to testify the admiration of the entire American people for her great record, and her noble life.

One word as to the place and date of her birth. She was born in the beautiful city of Florence, where the steps of Americans always love to linger, in the very first year of the reign of George the Fourth. She lived in honor and triumph through the succeeding reigns of William the Fourth, of Victoria, and of Edward the Seventh, and at last united with the rest of her countrymen to hail the accession of George the Fifth who, I am sure, values her among his subjects quite as highly as he does the most renowned statesmen and greatest soldiers among them.

She was born in the first administration of James Monroe, the fifth president of the United States—before the Monroe doctrine had ever yet been thought of. She has lived through the entire terms of the twenty succeeding presidents, and is now cherished in the hearts of the American people as one of the great heroines of the race.

As there were great heroes before Agamemnon, so she would be the last to wish us to deny or ignore the fact that there were splendid nurses engaged in the work, even before she was born. Not trained nurses, nursing according to the modern school of the Nightingale system, but women, ladies, refined, delicate, accomplished, giving themselves to the service of the sick and suffering. And I believe we ought always to acknowledge the debt of gratitude that the world owes to the great Roman Catholic Church for the Sisters of Mercy whom for centuries it was sending out

for the relief and succor of the sick and suffering in all parts of the world. It has been truly said that for centuries the Roman Catholic community was training and setting apart holy women to minister to the sick and poor in their own homes, and had hospitals supplied with the same type of nurses. A large number of these women were ladies of birth and breeding, who worked for the good of their souls and the welfare of their church; while all received proper education and training, and abjured the world for the religious life. Now all you have to add to that character is the discipline and special training and organization which Florence Nightingale contributed to this great profession, to bring into view the trained nurse as she is to-day.

This woman of great brains, of large heart, of wonderfully comprehensive faculties, appears to have been born a nurse. If the stories we hear of her in the nursery are true, that was literally so; because they tell us that her dolls were always in very delicate health, and had to be daily put to bed and nursed and petted, with all possible care; and that the next morning they were restored to health, only to become ill again for her service the next night. And her sister's dolls—she was less careful of them—suffered all kinds of broken limbs, and were subjected to amputation and splinting and decapitation; and Florence was on hand always to restore those broken fragments to their original integrity.

She had every possible advantage to make her

what she afterwards came to be. She was born in that most interesting phase of English society —in English country life—where for centuries it has been the rule that the lord of the manor, the squire in his mansion, the leading person of the region and his family, have the responsibility always upon them to take care of the sick and suffering among all their neighbors. She was trained in that school; and one of her first experiences was to visit with her mother the poor and the sick of all the neighboring region.

And she had a magnificent education. She was not averse to the pleasures of society; but she fortunately had a father who believed in discipline, and he gave her the finest education known to that day. Not only was she thoroughly trained in Greek and Latin and mathematics, but in French and German and Italian, and I do not suppose there was any young woman of her time who was better or more brilliantly educated than this woman, who was to become the leading nurse of the world.

She was brought up to believe in work and training. And would you know the secret of her success; would you realize the rule of her life? Let me give it to you in her own words. "I would say," she says, "I would say to all young ladies who are called to any particular vocation, qualify yourself for it, as a man does for his work. Don't think you can undertake it otherwise. Submit yourself to the rules of business, as men do, by which alone you can make God's

business succeed.'' And again she says: ''Three-fourths of the whole mischief in women's lives arises from their excepting themselves from the rules of training considered needful for men.''

Besides this, she had every possible advantage in the way of association. Early in life, as a very young girl, or young woman, she made the intimate acquaintance of Elizabeth Frye, who had already for many years been visiting the sick in the prisons and had established, under her old-fashioned Quaker garb, such an immense reputation as a reformer of prison life. And through Elizabeth Frye, she fell in, fortunately, with the Fliedners, Theodore and Fredericka Fliedner, who had established at Kaiserwerth in Germany a real training school for nurses; and it was the delight of her life, that she, an accomplished lady, went to that training school of the Fliedners, on the banks of the Rhine, and labored hard, adopting the garb, following the habits, and associating on terms of absolute equality with the nurses who were there being trained, all of whom, but herself, I believe, were of the peasant class; and came out of it, after a few months, knowing as much about nursing as it was possible for any woman then to know.

Then she visited the hospitals of all the great countries of Europe, and among others, she spent some weeks, or months, with the Sisters of St. Vincent De Paul, that splendid Catholic institution where some of those nurses, such as I have

described to you, were already gathered, and there she added to her wealth of knowledge and richness of experience.

She recognized no religious differences. Catholic and Protestant were both alike to her. The real object of her life; the real object that she had in view in influencing other women was how best she might help them to benefit mankind.

The English hospitals of that day could not, by any chance, be compared with those upon the continent which she had visited. The character of the nurses was absolutely beneath contempt. Let me read you from a very authoritative statement what was the truth about them: "The nursing in our hospitals was largely in the hands of the coarsest type of women; not only in training, but coarse in feeling, and even coarser morally. There was little to counteract their baneful influence, and the atmosphere of the institutions, which as the abode of the sick and dying had special need of spiritual and elevating influences, was of a degrading character. The habitual drunkenness of these women was then proverbial, while the dirt and disorder rampant in the ward were calculated to breed disease. The profession—if the nursing of that day can claim a title so dignified—had such a stigma attached to it, no decent woman cared to enter it; and if she did, it was more than likely she would lose her character."

Now, she had to contrast with this the splendid discipline and training that was maintained at

Kaiserwerth, and the very fine character of the nurses whom she had seen in these Catholic institutions abroad. She had acquired a thorough training and was ready to become a true pioneer in the profession to which she was to give her life. She wrote a book about her experiences at Kaiserwerth. It shows that she was a woman in every sense of the word, full of sensibility. She never married; but although she never married herself, she approved of it. Let me read you a few words from her own book. In her description and reminiscences of Kaiserwerth, she says: "It has become the fashion of late to cry up old maids, and inveigh against marriage as the vocation of all women; to declare that a single life is as happy as a married one, if people would but think so; so is the air as good a medium for fish as water, if they did but know how to live in it. So she could be single and well content. But hitherto we have not found that young English women have been convinced, and we must confess that in the present state of things their horror of being old maids seems justified."

So you see, it was not without a full appreciation of all that goes to make home life tender and happy that she turned her back upon matrimony, and gave it up to nursing and caring for the sick and suffering.

She was fortunate at every step of her career. She was the immediate neighbor, down there on the borders of Wiltshire, of the famous Sydney Herbert, who afterwards became the war minister

of the day, at the time of the Crimean war, and at his splendid ancestral home, Wilton House, she was a frequent visitor; she was well liked by that household and by all who knew her. Her training told; her education told; her character told. Let me read you a wonderful prophecy that was made about her, long before the Crimean war broke out, long before she had shown the world what was in her, and what she could do. This verse is by Ada, Countess of Lovelace, the daughter of Byron; and I call it a wonderful prophecy:

> In future years, in distant climes,
>   Should war's dread strife its victims claim;
> Should pestilence unchecked, betimes,
>   Strike more than swords, than cannon maim;
> Then readers of these truthful rhymes
>   Will trace her progress through undying fame.

It is not often that you will find in history such a prophecy as that, so absolutely realized within a few short years.

Then came the breaking out of the Crimean war. As Colonel Hoff told you, twenty-five thousand English soldiers landed at Scutari. And such a state of things, I won't say never has been heard of, because it is often heard of in the outbreak of many a war. War often finds a nation utterly unprepared to engage in it. There were no ambulances, no nurses, no means provided for caring for the wounded and suffering soldiers as they were brought in from the fields of battle.

Fortunately we had a great war correspondent at the Crimea in those days—we afterwards knew him here, when he wrote the dispatches about our battle of Bull Run—Mr. William Howard Russell, as he was then called, who spoke in clarion notes to the men, and especially to the women of England, making an appeal which reached the ears of this wonderful woman, and made her the heroine of her age. Let me read you one sentence of Russell's appeal. After describing the horrible state of things that existed at the Crimea, and the shameful want of preparation for the care of the soldiers, he says: "Are there no devoted women amongst our people, willing to go forth to minister to the sick and suffering soldiers of the east, in the hospitals of Scutari? Are there none of the daughters of England, at this stormy hour of night, ready for such a work? France has sent forth her Sisters of Mercy unsparingly, and they are even now by the bedsides of the wounded and dying, giving what woman's hand alone can give of comfort and relief. Must we fall far below the French in self-sacrifice and devotedness in a work which Christ so signally blessed, as done to Himself, 'I was sick and ye visited me'?"

And a lady, the wife of an officer, wrote from the seat of war: "Could you see the scenes that we are daily witnessing, you would indeed be distressed. Every corner is filled with the sick and wounded. If I am able to do some little good I hope I shall not be obliged to leave. Just now my time is occupied in cooking for the wounded.

Three doors from me is an officer's wife who devotes herself to cooking for the sick. There are no female nurses here, which decidedly there should be. The French have sent fifty Sisters of Mercy, who, I need hardly say, are devoted to the work. We are glad to hear that some efforts are being made at home."

Miss Nightingale was one of the first to respond to that appeal. And yet there was hostile objection from many quarters: from official quarters, where it was thought that the present regimen, the present organization, was good enough, and could do all the work; from social sources, for whom Mrs. Grundy spoke, " Why, certainly it cannot be proper for young women—young ladies—to go as nurses in a soldiers' hospital, of all things in the world! Too horrible to think of! "

There was a great deal of that sort of opposition; and there was religious opposition, too. When she made up the band of thirty-seven nurses, which Colonel Hoff has spoken of as her first contingent with whom she went to the Crimea, there were ten Catholic Sisters of Mercy, twelve Church of England Sisters, I believe, and then there were some who belonged to neither organization; and the religious people took it up, and they said, " She is evidently going to the Crimea to convert the soldiers to the Roman Catholic Church; " and others said, " No, that isn't so; don't you see she is taking some that are neither Catholic nor Episcopalian? We really believe

that she belongs to that horrible sect, the Unitarians!"

Even *Punch,* who always represents the current feeling of the day, made a little light of her, with mingled admiration and raillery. Let me read you two of his verses, in honor of "The Lady Birds," as they were called in London, before they started for the seat of war.

THE NIGHTINGALE'S SONG TO A SICK SOLDIER

Listen, soldier, to the tale of the tender nightingale;
  It is a charm that soon will ease your wounds so cruel.
Singing my song for your pain, in a sympathetic strain,
  With a jug of lemonade and gruel,
Singing succor to the brave, and a rescue from the
    grave;
  Hear the Nightingale sing that goes to the Crimea.
'Tis a Nightingale as tender in her heart as in her song,
  To carry out her golden idea.

When this terrible state of things was disclosed by the letters of Russell and other news that came from the seat of war, the government was as horror-stricken as the people, and so were Mr. Sydney Herbert, the life-long friend of Florence Nightingale, and Mrs. Herbert, who was also one of her friends. Mr. Herbert, who was responsible for the administration of military affairs, said to his wife, "We must send for Florence!" And then a most singular coincidence happened. He wrote her a most serious and dignified letter, pointing out the necessity of sending a band of

nurses, composed of capable and courageous women; and he said to her, "It all depends upon you; if our plan is to succeed, you must lead it." And without pressing her unduly, he put it before her as a matter of conscience and duty. I believe that letter was written on the fifteenth of October, 1854, when the first horrible news came from the front. What I call the remarkable coincidence was that on the same day, without knowing anything about the writing of that letter, Florence Nightingale was writing unsolicited, to Sydney Herbert, the Secretary of War, offering her services to lead a band of nurses to the front.

Time would fail me if I undertook to tell you the frightful condition of things she found when she got there. Doubtless you have all read of it. The great Barracks Hospital of Scutari was filled with thousands and thousands of sick and wounded men who had been brought from the seat of war, without nurses, without suitable food, without a laundry, without the possibility of a change of clothes, without a kitchen for the preparation of proper food, with no possible conveniences or appliances for the care of the sick and the wounded. The descriptions are too horrible to realize or to repeat. She found these three or four thousand men in this great hospital, which had been a barracks and had been converted, off-hand, into a hospital—a place for the deposit of these poor bodies of the sick and wounded; and that was about all that had been done for them before Miss Nightingale arrived. They had had no medi-

cal attendance from the time they left the front, many days before; they had had no change of clothing, nor the possibility of a bath or a clean shirt.

And this woman, with her thirty-seven nurses, came among them. It was chaos! confusion, worse confounded! She put to use her wonderful powers of organization, and in two months she had that hospital in absolute control. A kitchen was established and a laundry, and she provided ten thousand clean shirts for these sufferers, and had taken absolute command of the whole establishment, as the government had given her authority to do. In six months, great resources being sent to her from home, great numbers of recruits to her nurses arriving, every soldier, to the number of six thousand in the Barracks Hospital and in the General Hospital at Scutari, was being well and comfortably taken care of and provided for.

Then came all the other horrors that attend war. Fever broke out, and the frost-bitten men who had lain in the trenches before Sebastopol were brought in, after spending five days out of seven in those horrible trenches, exposed to the Crimean frost, with nothing but the linen clothes that they had worn in Malta. All these ghastly things she had to take care of and provide for, but her genius was equal to the emergency. Her powers of organization, her powers of endurance seem to me to surpass those of any other woman on record. They tell us that for twenty hours at

a time she would stand when the ships arrived—twenty hours at a time—receiving those broken fragments of men that came from the front, seeing that they were properly handled and cared for. And when all the work of the day was done and others rested she made her rounds, visiting the worst cases, the most frightful cases. They weren't safe, she thought, unless she personally visited them. She, the Lady in Chief, as she was ordinarily called, and "The Lady of the Lamp," as she became known in poetry and history, visited the bedsides of the suffering, soothed the wounded and dying. She wrote letters to their friends at home, and did everything that one woman could do to restore life and light to the suffering. Let me read you Longfellow's tribute to her:

> On England's annals, through the long
> Hereafter of her speech and song,
> That light its rays shall cast
> From the portals of the past.
>
> A lady with a lamp shall stand
> In the great history of the land,
> A noble type of good,
> Heroic Womanhood.

Then she went on from Scutari to the Crimea. She went so far as to visit Sebastopol itself, going to the very front, and not only looked into the trenches, but entered the great crater of that

vast volcano of war; and on her way back she was stricken with the Crimean fever and very nearly lost her life. They carried her to the hospital—one of those improvised hospitals on the heights of Balaklava, five hundred feet above the sea. She was nursed for weeks and weeks, and finally brought back to life. They tell us of the Six Hundred at Balaklava: that " into the jaws of death rode the six hundred! " Why, this woman was in the jaws of death from the time she landed at Scutari until she was stricken down, eight months afterwards.

Then they said, " You must go home to England; that is the only way for you to get well." " I will not go home," she replied, " I will not leave these soldiers ; " and she continued her heroic duties of nursing and supervising. She was a great genius in every sense of the word. She would not go home, and did not go, until not only the war had closed, but until long after; until every soldier had been shipped home to England, and every hospital was cleared.

And then, how do you think she went home? she, the foremost woman in the world now! to whom all mankind and womankind looked with reverence and honor. How do you think she went home? Did she go with a flare of trumpets? Did she expect or wait for a grand demonstration on her return? Did she notify everybody or anybody that she was coming? Not at all. She had such a horror of publicity, she was so modest, so meek—one of those that are going to inherit the

earth—that she went home incognito. She arrived in England without letting anybody know it. She managed somehow or other to get into the back door of her father's house in Derbyshire, and the first that was known of her having returned to England was when the neighbors heard that Miss Florence was really sleeping in her father's house. *Punch,* always quick to respond to public feeling, reflected the sentiment of the hour with respect to her return. *Punch* says this:

> Then leave her to the guide she has chosen;
> She demands no greeting from our brazen throats and vulgar clapping hands.
> Leave her to the sole comfort the saints know that have striven;
> What are our earthly honors: her honors are in heaven!

Earthly honors awaited her. In truth the whole nation was up in arms to do her honor, to pay homage to her, and to make some reward for her wonderful sacrifice and services. Subscriptions were opened, not only in all parts of England, but in all the English dominions, extending all around the British Empire. Subscriptions were actually opened among the English residents at Hong Kong, and fifty thousand pounds was poured out by the English people into her lap. England is full of generosity to her heroes and heroines. She rewards her great generals with munificent sums; and so her people in this case

wanted in like manner to honor this heroine of their own.

What did she say? She said, "Not for me; not one penny for me. I will not take a penny. But it has been the ambition of my life to establish a training school for nurses—the first of its kind to be conducted on high and broad and pure methods and principles. Let it all be devoted to that, and I accept the gift. Otherwise, not." And so it came about that the first great nurse's training school was established at St. Thomas's Hospital, which bears her name. It is still supported by "The Nightingale Fund," and is a model and example for all the training schools of the world.

Colonel Hoff has told you of her subsequent life. Practically her health was ruined. She has been fifty-five years an invalid, often confined to her bed, and yet always working for the good of humanity, always for the relief of the sick and wounded, the sanitation of camps and the relief and succor of the soldiers.

But she has had her reward; through all ranks of mankind, wherever there is a heart to beat in response to such noble deed as hers, there has been a glorious answer.

I will only speak for a few minutes of those things in which we are especially interested and first of the Red Cross. The convention that met in Geneva, in 1863, founded it, and it has from time to time since been the subject of subsequent amendment. Our Hague Conference, in 1907, had representatives from forty-four nations, and

there for the first time all the nations of the world became parties to the Red Cross movement, which meant the saving of the sick and wounded, and hospital and ambulance corps to rescue them from all the perils of war and of battle; which meant preparation for war while yet there is peace, so that these horrible sufferings that have been witnessed at the outbreak of almost every war may not be repeated. At the meeting of the Congress of Red Cross Societies, held in London two years later, in June, 1909, unanimous resolutions were passed, honoring Miss Nightingale and declaring that her work was the beginning of the Red Cross activities.

Then look at her influence in America! When our terrible Civil War broke out we were almost as unprepared in this matter of sanitation and nursing as the British had been at Scutari. Fortunately there were some women who lent their aid at once, and these were inspired by the example of Miss Nightingale. They were women of the same type. Let me read you the names of some of them. One, at least, is present here tonight, and I do not know but there are more. Dr. Elizabeth Blackwell, the intimate friend of Miss Nightingale is, I believe, still living in England, one year younger than Miss Nightingale herself; Miss Louisa Lee Schuyler, Miss Dorothea L. Dix, Miss Collins, and Mrs. Griffin. What did they do? Why they were responsible, really, for our great sanitary commission, and they formed the woman's branch of that great humanitarian enter-

prise, which did so much to save our sick and wounded in that protracted and terrible war. They acknowledged their allegiance to Miss Nightingale, and were in constant correspondence with her. Dr. Blackwell had known absolutely all her methods, her principles, and her whole plan of nursing, and it was on those principles and those lines that our noble women worked.

Then, ten years afterwards, there came the foundation of this work in America, I might almost say, the foundation of the training school for nurses—at Bellevue Hospital. And there you find several of the same women again: Miss Schuyler, Miss Collins, Mrs. William Preston Griffin, and leading them was Mrs. Joseph Hobson, afterwards president of one of the committees; and there was the mother of our present chairman, that woman of sainted memory, Mrs. William H. Osborn, who led their activities in the creation of that great school. It is a splendid thing that he should be here to-night to represent one who gave so much of her heart, her soul, her life and her treasure, to the building up of that school. Miss Nightingale was immediately approached by the founders of that school, and gave them full written instructions as to how they ought to proceed.

Her letter ought to be read by everybody; it is full, explicit, and detailed, and she is as much entitled to the credit of the creation of this school in America as even those ladies of whom I have spoken.

Now, I close as I began. Do not let us separate to-night without authorizing our chairman to send, on behalf of all the nurses and all the people of America, a word of greeting and of gratitude to this noble woman.

THE END.