Vic cap 63, is re-enacted by s. 22 of the latter It, as we have seen, prohibits an attorney from "being a *merchant* or *in anywise* concerned by partnership public or private, in the way of purchasing and vending of merchandize in the way of trade as a merchant." The word "merchant," strictly speaking, means a man who traffics or carries on trade with foreign countries, or who exports or imports goods and sells them by wholesale. (see Webster.) This cannot be the meaning intended by the Legislature, in the Act under consideration; for it falls short of guarding against the evil which the enactment is designed to prevent.

Many words describing particular avocations, have a popular as opposed to a strictly correct meaning. We speak of a man being a "watch-*maker*" who never made a watch in his life, and who never hopes to do so. If his knowledge enenables him to clean a watch, repair a balance wheel, adjust a hand, or insert a main spring, he does all that is expected of him by the public. If described strictly his name would be "watch repairer," and not "watch maker." So here we think the word "Merchant" must receive its popular meaning viz.: any person who deals in the purchase or sale of any goods, whether raw or manufactured; whether purchased in a raw or sold in a manufactured state; and whether purchased or sold by retail or wholesale. Such is the only *reasonable* interpretation to be placed upon the Act.

It is a maxim that *Ubi lex est specialis et ratio ejus generalis generaliter accipienda est.* Thus the Statute 5 Hen. 4, declaring that none be imprisoned by any *Justice of the Peace*, but in the common gaol to the end that they may have their trial at the next Gaol Delivery or Sessions of the peace, has been thought to extend to *all* other Judges and Justices; (Dwarris 567.) Here, it will be observed, there is a special provision, having a general reason with a general acceptation. So in the Act precluding attorneys from being "merchants," the reason is a general one which equally excludes retail traders and manufacturers, and must have a general acceptation so as to embrace them.

But not only is an attorney prohibited from being a merchant, but from being "*in any wise concerned*" in the purchasing and vending of "merchandize." Whatever is usually bought and sold in trade, whether of manufactured or raw material, is merchandize. Flannel, for example, is merchandize. A man therefore who buys wool, manfactures it into flannel, which he sells either by wholesale or retail, is "concerned in the sale of merchandize."

It is provided that a person contravening the Act "shall not be permitted to practise," which means that upon application he may be suspended or struck off the rolls in the discretion of the Court. This course we advise whenever or wherever the occasion arises. No case of the kind has *ever, that we can learn been before the Courts.* We are certain that there is no reported case. We hope that the day is far distant when there shall be occasion either to decide or report such a case.

LAW IN THE UNITED STATES.

In the United States, or at least in several States of the Union, legal polity is noted for two features detestable in our eyes—the one elective judiciary—the other the right to practice law without any previous professional test. Both of these are departures from the rules of "Old England," and if we are to judge from the subjoined, the departure is not for good.

We clip the articles from New York papers.

AMERICAN VIEW OF AN ELECTIVE JUDICIARY.

There seems to be a strange fatality about legislation in this State. Enactments which have no other object than to correct a particular evil, or to afford additional protection to the citizen—decisions which are apparently indisputable, and could be safely received as precedents—the dictates of common-sense and the intelligence of a practical lay public, are continually controverted, ridiculed, and rendered inoperative, by unexpected interference on the part of legal casuists.

Every-day instances of what we mean can be found in the law reports of the newspapers Injunctions are taken out to stay injunctions; orders are issued to shew cause for new trials; one Court condemns the legality of the contract which another Court affirms; while an incalculable amount of delay, expense, and labour is spent in enforcing even the simplest forms of law. Can it be matter of surprise that merchants and others should shrink from the employment of a lawyer to prosecute their claims, preferring an illegal or informal settlement, to the chances of a long protracted dispute, avoiding at the same time the certainty of a bullying cross-examination in a fetid Court, and the probability of appeal after appeal?

The fact is that New York has become the best lawyer-ridden city in the world. Sidney Smith has described the hereditary miseries of Englishmen in being taxed for the privileges of birth, marriage, sickness, and even death—our very cere clothes being charged with a duty of twenty per cent. But this was nothing to the bugbear that haunts us here, in the guise of an Attorney-at-law. No two cases, however similar, appear to be decided upon the same principles. The Democratic Judge reverses the decision of his Republican brother, and in his turn is over-ruled by an appeal to the Supreme Court, or compelled to modify his tone to the more pointed arguments of some fresh Counsel, or the outside pressure of a partizan newspaper.

Hence the dignity of the Court—the fitting respect for the person and voice of the Judge—is impaired, and his usefulness is destroyed. The culprit, if it be a criminal case, too often escapes unpunished, or is let off with a penalty altogether disproportioned to the offence and insufficient to deter other evil-doers:—while in equity, all that can be said is that arguments take the place of judgments, and the Counsel spend their time in wrangling, which the clients pay the piper. The old maxim "*Fiat justitia, ruat cælum,*" seems to be forgotten by the Bench, and political influence or a one-sided decision is likely enough to settle the question. The cause of this unfortunate state of things may be traced to the ill-advised system of appointing Judges in this State. That the expounders of the law should be elected by popular vote for a short term of years is an innovation, which fails in securing the services of the wisest or the most reputable of the learned profession. Moreover, the emolument and the dignity attached to the office not being sufficient to command the highest talent, the Judge is too frequently selected from the followers instead of from