

the sum of the squares of the perpendicular and base shall be and remain the square of the hypotenuse. Now, boys, remember that this is the rule for what are termed the braces in all buildings. It is understood that the wicked political party, to which we do not belong, propose to change this statute, and make the square of the perpendicular equal to the sum of the squares of the hypotenuse and base. That change, it has been ascertained, will overturn every building in the State, and it is uncertain whether people can protect themselves by digging holes in the ground and getting into them. The better opinion is that, in this event, all things on the surface of the earth will be precipitated into its internal fires. To avoid this, as soon as you are old enough to vote, go to the polls; and, under the pressure of dire necessity, you may be required to vote, not only early, but often."

It will be the same with all the rest of your code. You have slipped from reason, and settled on bare legislative command.

Law is the only profession which teaches the sort of reason that governs the State. The lawyers, as already said, are the judges, and they are the great majority also of the executive and legislative branches of the Government. Should the cry for codification, under the eternal aspiration for laziness, prevail, and the element of reason which the practice and administration of the common law have carried into Governmental affairs, be banished therefrom, the hitherto common-law nations will quickly cease to be the leaders of the civilized world.

I might close here, and leave the rest to your future reasonings; but I cannot forbear to ask your attention to a single specimen line of thought.

*Governmental precedents without common law.*

The proceeding in our common law courts held most in derision by the enemies of the system, consists of the comparison of old cases with the new one under examination, to determine which among the old is to control the new. I readily acknowledge that for myself, I do not quite like it in its more common form. Those judges who have seemed to work most easily, and most satisfactorily

both to themselves and to the lookers-on, have resorted to the old cases as aids in ascertaining the principle, then have applied the principle to the case in hand. But this is rather a matter of form than of substance. The common law is a system of authority as well as reason, and so equally do all governmental affairs proceed on precedent. There is not even a demagogue who, in haranguing the voters from a stump, does not cite to them precedents, with perfect confidence that they will yield to their force. In everything, we are all creatures of precedent; even the religion of the son is copied from the father's.

All governmental affairs, therefore, travel in the path of precedent. So that it becomes of the highest importance for the officers of Government to understand how to select and apply precedents. And there is no possible way in which this skill can be so well acquired as in the study and practice of the common law, or perhaps even acquired at all. Let me illustrate this by a case which fell within my own cognizance.

In a city large enough to require sewers, the statutes permitted the board of aldermen to assess a part of their cost upon abutters benefited thereby, and it was customary, or directed by ordinance, to make the assessment at a particular sum per foot. Thereupon, when a sewer had run but a little way on a tract of land of many acres, the assessing aldermen deemed that the owner would not pay enough for the benefit, if only the number of feet actually laid were assessed to him; so they measured on until they came to a fence; and being brought up by the fence, they there stopped, and charged the owner for the whole line the same as if the sewer had been built thereon. The reason was, that the owner of this large tract had never been required to pay any sewer assessment; and as I have intimated, he might, by expending money enough, drain all his land into the sewer as built. So a precedent was established. Afterward they ran a sewer along the entire line of another man's land, assessed him, and the assessment was paid. It was a narrow strip, reaching back from the street but a little over a hundred feet to an alley. We now come to the application of the precedent. Lying on the other side of the