

altogether from such considerations as these, and bearing in mind, not in how many respects we differ, but in how many also our circumstances resemble those of the other sections of this continent, and considering the immense strides which the trade and commerce of this country are making, and the increasing intercourse of the people with the various States of the American Union, as well as of other countries—it is wholly impossible to say of any of the reports of any of the American States, any more than it is possible to say (and no one does say) of those books which have been on our shelves for years without perhaps being once used—that no case can occur in practice to any of us in which they may not be found important or material. An enlarged view of even what affects objects not more extended than mere practical utility would thus demand a place for all. But to confine our only public collection of law books to those works which we can turn to immediate profit in advising clients or addressing arguments to the Courts, would, I think, be manifesting a narrow mercantile spirit, which I hope is far from any of us. There are not, I believe, 5000 volumes of Law books in the English language; and I hope that is not a number which it is beyond the means of the profession in Upper Canada very soon to accumulate. For my own part, whatever others may think, I must say upon the whole, that I know not any sound principle of selection, that could be adopted for the Library, which would exclude any of these, or would justify unnecessary delay in obtaining all of them, with the exception indeed of Digests, Abridgements, Indexes, Books of Form, and such like—of which classes of works a judicious selection would seem abundantly sufficient for every possible object—and, with the exception also of various editions of the same work by the same or different editors—which, in general, I see no reason whatever for obtaining.

But in looking amongst all these for authorities to cite in your own debates at the meetings of the Osgoode Club, or of similar associations, at the present stage of your career; and in preparing opinions for clients and arguments for the Courts, hereafter, you should enable yourselves to employ an intelligent discrimination. In a single lecture I may do something, but I cannot do much to help you. I have given you some cautions against an improper use of the Reports of the American Union; and I may add now that, subject to these cautions, and to others which your own reading and reflection will from time to time suggest to you, a judicious resort to American decisions in cases untouched by authority you cannot safely permit yourselves, through either indolence or prejudice, to refrain from.

Those principles of Jurisprudence to which England owes so much, and most of which our Legislature has transplanted to Upper Canada, have also, as that highly distinguished Judge, Lord Stowell, remarked in reference to the United States, “been adhered to in America; and have been built upon as occasion required with equal zeal, and with equal caution in all the deductions.” In other words, to use the language pronounced in the House of Lords by another learned Judge, who is just now the first on the English Common Law Bench, as well in station as in acknowledged learning and

ability, I mean Lord Campbell: “The Americans carried the “Common Law of England along with them; and Jurisprudence is the department of human knowledge to which, as “pointed out by Burke, they have chiefly devoted themselves, “and in which they have chiefly excelled.” Accordingly, you yourselves know that some American treatises on Law have been selected for the examination of Students by both the Law Society and the Provincial University, in preference to any of the English works on the same subjects. Indeed the best books on many titles of Law are unquestionably those of American authorship. No books, for example, are more used in England or here than Judge Story’s on almost every subject upon which he has written. Such is certainly the case with his works on Agency, Partnership, Bailments and Equity Jurisprudence. His able work on the Conflict of Laws has a world-wide reputation. It was the very first that appeared in the English language on the subject of which it treats, and it will probably have no rival for many years to come. The best books on Private Corporations Aggregate, on Waters and Water-courses, and on Limitations of Suits, have also an American authorship. So the work on “Covenants for Title,” by Mr. Rawle, of Philadelphia, was the first separate work on that subject; and its very great ability has been acknowledged in England, as distinctly as it has been recognised in his own country. Again, our best book on Evidence (Taylor’s) is little more, and professes to be little more than an Anglicised edition of a work by a Boston lawyer, the late Mr. Greenleaf, on the same subject. The same Mr. Greenleaf also made the only attempt which has yet been made to perform the very valuable service of collecting in one volume the many overruled and doubted cases which are scattered over the Law and Equity Reports. But a work of that kind, to be of much utility to the practical lawyer, should be revised, and a new edition published, every three or four years. No work on the important subject of Damages in an action at law had been given to the profession for eighty years before that which appeared lately from the pen of Mr. Sedgwick of New York; and the very great merit of that gentleman’s treatise was recognised in England almost as soon as in America. An English barrister, Mr. Mayne, has lately published a good book on Damages, but we are almost as much indebted for it to Mr. Sedgwick’s prior publication, as we are for Mr. Taylor’s work to Mr. Greenleaf’s, on Evidence. Again, a California lawyer’s, Mr. Marvin’s, Legal Bibliography, is by far the completest work of its kind we have had; and (what seems surpassingly curious) the fullest and best account yet written of the old English Reporters is by Mr. Wallace, a Master in Chancery in Philadelphia. To this list I might perhaps add some more of equal value to us: and though the number would even then fall short of the number of our English text writers on other subjects whose works have equal or superior ability, it is impossible not to perceive, even from the slight statement I have already given you, that legal science has made no contemptible progress among our Republican neighbours. Still, as Baron Gurney has remarked, “It makes England justly proud of her American sons to see them competing “on equal terms with her ablest writers.” And all the Ameri-