

The Legal News.

VOL. II. JULY 19, 1879. No. 29.

TRAINING FOR THE BAR AND BENCH.

As a considerable number of candidates have lately been presenting themselves for admission to the study and the practice of the law, it may not be inopportune, in this vacation season, to give some extracts from a recent address on the subject by a Judge of lengthened experience. Mr. Justice Miller has occupied a position on the bench of the Supreme Court of the United States for seventeen years, and if length of service has produced a slight tendency to gossip about himself, the reminiscences and hints of the learned Judge are none the less interesting on that account. Mr. Justice Miller belonged to the bar of Iowa, and it is from an address delivered before the bar association of that State, on the 13th of May last, that we quote.

After a compliment to the bar of Iowa on their professional zeal and energy, Justice Miller proceeds:

"There is, however, a disadvantage under which you labour in this comparison, which has forced itself upon my observation, and of which, as you are possibly unconscious, I may be able to do you a service by faithfully disclosing it.

"It is difficult to find a single word to express what I mean, but, if I must select a word, I should say your Eastern brethren, taken as a whole, are your superiors in *training*.

"They do not know more than you do, but they use what they do know with more skill. Their materials are better arranged. Their forces are better marshalled. Their resources are better culled and sifted, and the results presented to the court in a more methodical order, and, therefore, better and more readily apprehended.

"This is the result of careful discipline, as much so as the most effective use of an army is based on the perfect discipline of the soldier. As the most brilliant military genius cannot handle with assured success a raw and undisciplined army, so the most learned lawyer will be unable to avail himself of his treasury of

knowledge until he has trained himself to the skilful use of that knowledge in its practical application to the business of the courts.

"You will perhaps be surprised when I tell you that the ablest lawyer of this or any other bar, when he is for the first time appointed a judge, *has to learn his trade*, as much as the mechanic's apprentice. Of course I do not mean by this that he has to learn the law, for I am supposing him to be learned in the law. But what the apprenticed mechanic learns of his master is not the science of mechanical forces, at least not mainly that. What he does acquire in that apprenticeship is skill in the use of his tools. This is precisely what I am saying of a new judge. Let me illustrate this from my own experience, for it is closely related to training in a lawyer. It is in fact the same thing. I am very sure that it does not take me half the time now that it did at first to eliminate from a complex case presented to me for decision what is irrelevant or immaterial, and to ascertain the point of conflict necessary to be decided. And this is equally true whether the contest be one of law or of fact, or both. By practice and attention I can listen to a lawyer read a document offered in evidence, pass with him lightly over the formal parts of the instrument, and when he comes to the vital matter, the few words, perhaps, which alone touch the issue, I catch their precise meaning, and if I do not get that clearly I stop him there until I do. It is rare that I need go over that instrument again. So I have acquired, I hardly know how, except by practice—by training—the faculty of taking an immense record of 500 or 1000 pages, and turning at once to the material parts, whether of pleading, of evidence, or whatever it may be, and in one-third the time it took me when I first went on the bench, I gather the materials for my judgment without digesting a mass of useless chaff.

"So of briefs of counsel. A judge who for the first time has presented to him in an important case one of those things called by way of joke, I suppose, a *brief*, of 100 or 200 pages, with citations of authorities under twenty heads, taken indiscriminately from a digest, is appalled. But the practiced judge soon gets the ear-mark by which he recognizes the cases which are in point, and those which are not, and gives his earnest attention to the former.