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THE FUNCTION OF THE LEGAL PROFESSION.

In an address delivered by the Hon. Stanley Matthews, Sept. 20, before the N. Y. State Bar Association, the function of the legal profession in the progress of civilization was considered. The essayist is evidently at one with Mr. Gladstone (see 3 L. N., p. 73) in believing that the age of law and lawyers is not likely soon to pass away. "It may be thought," says Mr. Matthews, "that the advancement of society, in cultivation, intelligence, virtue, and all that enters into civilization, would necessarily diminish the area of enforceable obligations, and lessen the number of occasions for the intervention of the law. The result might be supposed to follow from the increased knowledge on the part of the community of what duty required in particular circumstances; increased efficiency on the part of the extra-judicial forces of the community, in their influence over individuals, resulting in a more ready and voluntary compliance with obligations generally recognized by the public conscience. But new questions of law arise with new facts and new relations among men; and as society progresses in its development, its organization becomes more intricate, men are brought nearer and into novel situations, and with unprecedented relations, which will constantly furnish new studies for the jurist and the legislator, and the area of enforceable obligations will enlarge and not diminish. Indeed, it is quite likely that many cases now occur, in which no remedy exists, which a more highly organized state of society, and a more perfect justice, may not be willing to leave to the mere good will of private conscience." And in support of this conjecture, Mr. Matthews cites the opinion expressed by Mr. Charles O'Connor, in his argument in the case of the "General Armstrong," that jurisprudence, as administered by human tribunals, "deals only with the means of enforcing rights which are recognized as perfect; but like all moral sciences, it is capable of improvement. As the general mind of a nation advances in that

freedom which is the result of increased knowledge, the legislative authority will constantly enlarge the sphere assigned to jurisprudence, and increase its power of establishing justice." So, too, Sir Henry Maine, in his "Early History of Institutions," (p. 49), says, "The truth is that the facts of human nature, with which courts of justice have chiefly to deal, are far obscurer and more intricately involved than the facts of physical nature; and the difficulty of ascertaining them with precision constantly increases in our age through the progress of invention and enterprise, through the ever growing *miscellaneousness* of all modern communities, and through the ever-quickenning play of modern social movements. Possibly we may see English law take the form which Bentham hoped for and labored for: every successive year brings us in some slight degree nearer to this achievement: and consequently little as we may agree in his opinion that all questions of law are the effect of some judicial delusion or legal abuse, we may reasonably expect them to become less frequent and easier of solution. But neither facts, nor the modes of ascertaining them tend in the least to simplify themselves, and in no conceivable state of society will courts of justice enjoy perpetual vacation."

AMERICAN REPORTS.

The thirty-fifth volume of American Reports, edited by the conductor of our contemporary the *Albany Law Journal*, contains a number of cases of general interest. A peculiar form of burglary is disclosed in *Walker v. State*, in which it was held that one who, intending to steal shelled corn, bores a hole through the floor of a corn crib from the outside, and thus draws the corn into a sack below, is guilty of the above mentioned crime.

Continued strictness of Sabbath observance in New England is indicated by the Massachusetts case of *Davis v. Somerville*, in which the Court held that one who is injured by a defect in a highway, on his return from a funeral, on Sunday, having diverged from his ordinary route to make a social call, is without remedy. Under the head of common carrier may be noticed the decision in *Nashville and Chattanooga Railroad Co., v. Sprayberry*, that a passenger by railway, purchasing a ticket over the line of the seller and connecting lines, and