ed as conclusive. A practitioner, therefore, who uses a tool of this sort should be in a position to withstand a challenge of it by his adversary.

This is one point of view, out of several, from which we may approach the disputed question as to how fully the cases should be cited in such a book. There is a difference in the scope and aim of books of this general sort. If the design is merely to present leading doctrines for the instruction of students and the occasional reading of practitioners, and the book is not meant to be used as a working tool in the legal trade, and if its doctrines are merely the familiar and admitted ones—that is a case which I shall not pause to discuss, for I am considering the tools. Where the book is a tool, and its temper is to be tried in hard conflicts in court, plainly it would be defective should it cite only a single case out of a hundred on a disputed question. And, I submit, it would be dishonest if it cited the cases on one side of such a question and made no allusion to the other, or even to the fact that the question is disputed; though, I acknowledge, there are good books by excellent authors, who are personally honest, written on exactly this principle. I distinguish the author from the man; the one is honest, the other is not.

Again, the great number of states in our Union, and the fact that under the United States government questions may be decided in differing Circuit and District Courts with no appeal to the Supreme Court, create a want in our text-books such as could not be known or appreciated in England. Every practitioner desires to see, first of all, the authoritative decision of his own court on the question in hand. To enable him to do this—that is, to present to each reader the one case which he specially craves, and no more—may require the citation of nearly half a hundred in all to the one proposition. An excellent lawyer, practising in a large eastern city, said to the writer a few days ago: "Do you not think it a great mistake in authors of legal treatises to make in them any citations from the southern and western reports? They are of no authority." Now, this suggestion, hard as by implication it might seem on the court in which this lawyer practises, reveals the common truth. The practitioner wants, first of all, the cases which will most influence the decision of his own tribunal. He will never thank the author of the book which he uses as a tool for leaving *them* out, however he may grumble about the rest.

And why should not the author of a book, which is to be used as a tool, having looked, as he ought, into all the cases for his own guidance, refer his readers to such as they also may have occasion to consult? It is said, by some, that the referring to many cases is a thing very easily done. But suppose it is easy; so is the copying of words from a judicial opinion, or from another text-book — except that, with some authors, it is impossible to make the marks of quotation. Yet this does not prove that words should not be copied. It is also said that the reader can find for himself the cases in the digests. That is not true, as to all of them, if the text-writer has done his duty. But, if it were, still a tool is, in part, for labor saving. Why should not the treatise serve for the finding of the cases, like a digest, when it can be made to so easily? Moreover, this fulness of citation protects the lawyer who uses the book from the opposite party, who else might produce to the court a case apparently adverse to the doctrine, with the exclamation, "There is something which it should open the understanding of your careless author to read!"

Such appears to be the true method, expressed in general terms. With a judicious author it will have many exceptions. Thus, some branches of the law are so heavy with cases, and already so well settled in their leading principles, that this could not be done without making his book unprofitably large. Suppose, for example, this plan was adopted and strictly adhered to by the writer of a treatise on evidence! His book, unless greatly larger than heretofore deemed necessary for this subject, could contain little or nothing besides cases. And there are so many other exceptions as considerably to qualify the rule.

Again, there are lawyers who, seeing the citations of cases to be very numerous, draw the inference that, therefore, the author is a slave to them, and his book is a mere digest. The truth is that the number of cases has nothing to do with the character of a book in this respect. One who can truly master a hundred can master equally a hundred thousand. An