direct and simple as possible, without an unnecessary distinction or an unnecessary proceeding.

4. The number and distribution of the judges, the frequency of the courts and the simplicity of the procedure should be such, that when the witnesses are in the State, the most strongly-defended lawsuit may be terminated in the court of first instance within a few months, and even should the case go to the utmost limit of appeal within the State, it may be terminated within a year at most from its beginning in the court of first instance to its ending in the court of last resort.

The conclusions at which we have arrived are that the present delay and uncertainty in judicial administration can be lessened, and by means as follows:

1. Summary judgment should be allowed upon a negotiable instrument or other obligation to pay a definite sum of money at a definite time, unless an order of a judge be obtained, upon positive affidavit and reasonable notice to the opposite party, allowing the defendant on terms to interpose a defence.

2. In an ordinary lawsuit the methods of procedure should be simple and direct, without a single unnecessary distinction or detail; and whatever can be done out of court, such as the statement of claim and defence, should be in writing, and delivered between the parties or their attorneys, without waiting for the sitting of a judge.

3. Trials before courts, whether with or without juries, should be shortened by stricter discipline, closer adherence to the precise issue, less irrelevant and redundant testimony, fewer debates, and without personal altercation.

4. Trials before referees should be limited in duration by order made at the time of the appointment.

5. The postponement of a trial should not be allowed because of the engagement of counsel elsewhere, nor ever, except in strict conformity to rules previously made by the judges, and for reasons of fact known to the court or proved by positive affidavit.

6. The record of a trial should contain shorthand notes of all oral testimony, written out in longhand and filed with the clerk; but only such parts should be copied and sent to an appellate court as are relevant to the point to be discussed on the appeal, and if more be sent the party sending it should be made to pay into court a sum fixed by the appellate court by way of penalty.

7. A motion for or against a provisional remedy should be decided within a fixed number of days, and if not so decided the remedy should fail. A week is time enough for a judge to hold such a motion under advisement. If he cannot within it make up his mind that a provisional remedy should be maintained it ought to fail. In all other cases a decision within a fixed period should be required of every judge and every court, except a court of last resort.

8. The ordering of new trials should be restricted to cases where it is apparent that injustice has been done.

9. Whenever a court of first instance adjourns for a term, leaving unfinished business, the executive should be not only authorized, but required, to commission one or more persons, so many as may be necessary, to act as judges for the time being, and finish the business. Such temporary judges should be commissioned in all courts except the court of last resort.

10. Whenever a court of last resort adjourns for a term, leaving unfinished business, further appeals to it should be so limited as to bring the cases before it speedily down to the limit of its ability.

11. The time allowed for appealing should be much shortened. One month, or at most two, should seem to be enough in all cases.

12. Greater attention must be paid to the selection of judges; without which no other reform, however good in itself, can succeed.

13. The law itself should be reduced so far as possible to the form of a statute.

14. Statistics of the litigation in the courts of the United States and of each State should be collected and published yearly, that the people may know what business has been done and what is waiting to be done.

In conclusion, we are obliged to admit that most of the blame for the delay and uncertainty which we have been discussing rests upon the profession of which we are members, in both its branches, whether on the bench or at the bar. We are a host in numbers; we have influence, direct and indirect, greater than that of any other profession or class of men in the country; we are part and parcel of the judicial establishment; we know best the laws of the land as they are, and we should know best what they ought to be; we can make ourselves heard and heeded in every legislative hall, in every executive chamber, and on every bench of justice; and we have given pledges, not less binding because not expressed in words, that the functions with which the State has endowed us shall be used to promote justice, not alone by assisting suitors in their private controversies as they arise, but by doing our best to make the occasions of such controversies as few as possible, and the issue thereof as speedy and as near the right as we can make them. That we have failed so long to redeem these pledges is no reason for failing longer. Let us redeem them now.

All of which is respectfully submitted.

August 19, 1885.

DAVID DUDLEY FIELD.
JOHN F. DILLON.