tion of that body. The laws of evidence are neither many nor difficult. The questions which most frequently arise under them and are made the occasion for new trials are less commonly questions of law than of logic, in respect of which an educated person off the bench may be as good a judge as on it. For example, suppose that in a suit against a surgeon for an unskilful operation, the question were asked whether he had sent in a bill for the service, should not the question be admitted? Why not? The neglect of one who lives by his profession to claim compensation for his services is a circumstance which most men would regard as of some weight in judging of his own consciousness of having failed of his duty. And at all events a just inference from the neglect is as likely to be drawn by the jury as by the judge. But surely the admission of the question should not be a reason for ordering a new trial.

The verdict being rendered, and judgment pronounced, the preparation of appeal papers, if an appeal be taken, is, or should be, merely clerical. Nothing new should be put into the record; nothing important should be taken out of it. Whatever of delay there be after judgment once pronounced, is in the hearing and deciding of an appeal. Here, where there ought to be little or none, it is great and scandalous. Where does it occur? In the hearing more generally than in the decision, though often in both. In the Supreme Court of the United States the decision, except in very exceptional cases, follows rapidly on the heels of the argument. So it does in the Court of Appeals of New York, and so we suppose it does in the highest courts of the other States. What then is to be done to provide a speedy hearing? Fewer appeals and judges enough to hear them, that is all. When we say judges enough to hear them, we mean judges enough to hear them as soon as they arise.

The obligation of the State to all its people is plain; it is to provide a competent and honest judge to hear and decide every question of an infraction of the laws; this obligation is absolute; but when it is once fulfilled the obligation to give also an appeal is qualified by circumstances. First, the State ought not to provide for allowing an appeal if it cannot provide for the hearing of it. It might as well offer an empty cup to a man dying of thirst. So much is clear. Nor ought it to allow an appeal if the presumption is great that justice has already been done, as in the case of two concurrent courts, unless a certificate be given by a judge that the case ought further to be examined. When indeed a question of public importance has arisen in respect of which a uniform rule throughout the State or Nation is imperative, an opportunity for the establishment of such a rule must be given, and when it can only be given through the highest judiciary, as in case of a constitutional question, then an appeal to the highest judiciary should be allowed. These are the two conditions which qualify the right of appeal, and applying these rules will enable us to solve all or nearly all the problems which confront us as to the number of judges and the number of appeals.

The judges of all courts except those of last resort should be compelled to render their decisions within a fixed period. How they can hold back their opinion as they do is a marvel which we should not believe were we not used to it. It is hard to conceive how any one having a proper sense of responsibility can leave upon his table untouched, day after day, papers which might relieve painful anxiety, perchance save from discredit or bankruptcy. One thing is certain, that either the judges account it unimportant what they decide, or they think nothing of withholding that which they were specially appointed to give, and that which suitors have a right to demand. Many cases in the lower courts, most of them, indeed, could be decided immediately upon the argument. The subject is then fresh in the minds of the judges, and the conclusions they reach at the close of the argument, if they were obliged to announce them then, would in nine instances out of ten be as just and as satisfactory as if they were given a week or a month or a year afterward. We fear that the inclination to write an opinion may unconsciously influence the mind to keep the case under advisement. Maryland and California have put into their Constitutions a command upon the judges to decide within fixed and short periods. The example of these States in this respect is worthy to be followed.

We think that the following should be deemed fundamental maxims of government in respect of the judicial establishment:

1. The Constitution should provide for one permanent court of last resort in the State, to which appeals should be so limited as not to exceed the capacity of the court to hear and decide them as they arrive. And if it should ever become so overburdened as to be obliged to adjourn for a term without hearing all the cases in readiness, further appeals should thereupon be limited until the court can clear off the arrears together with the current business. Temporary commissions should not be resorted to in courts of last resort.

2. The Constitution should also provide not only for permanent inferior courts, equal to the business of ordinary times, but for temporary commissions, as occasion may arise, to clear off arrears in the courts of first instance.

3. The methods of procedure should be as