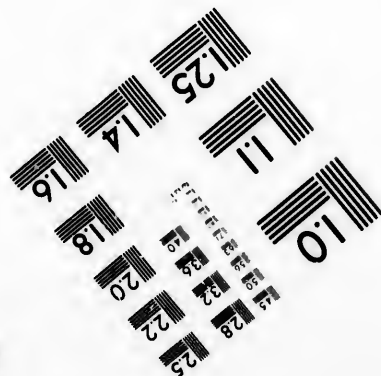
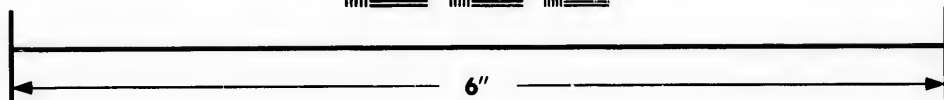
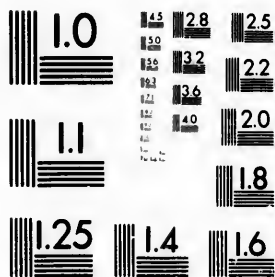


**IMAGE EVALUATION
TEST TARGET (MT-3)**



**Photographic
Sciences
Corporation**

23 WEST MAIN STREET
WEBSTER, N. Y. 14580
(716) 872-4503

**CIHM/ICMH
Microfiche
Series.**

**CIHM/ICMH
Collection de
microfiches.**



Canadian Institute for Historical Microreproductions / Institut canadien de microreproductions historiques

© 1981

Technical and Bibliographic Notes/Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming, are checked below.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- | | |
|--|--|
| <input type="checkbox"/> Coloured covers/
Couverture de couleur | <input type="checkbox"/> Coloured pages/
Pages de couleur |
| <input type="checkbox"/> Covers damaged/
Couverture endommagée | <input type="checkbox"/> Pages damaged/
Pages endommagées |
| <input type="checkbox"/> Covers restored and/or laminated/
Couverture restaurée et/ou pelliculée | <input type="checkbox"/> Pages restored and/or laminated/
Pages restaurées et/ou pelliculées |
| <input type="checkbox"/> Cover title missing/
Le titre de couverture manque | <input checked="" type="checkbox"/> Pages discoloured, stained or foxed/
Pages décolorées, tachetées ou piquées |
| <input type="checkbox"/> Coloured maps/
Cartes géographiques en couleur | <input type="checkbox"/> Pages detached/
Pages détachées |
| <input type="checkbox"/> Coloured ink (i.e. other than blue or black)/
Encre de couleur (i.e. autre que bleue ou noire) | <input checked="" type="checkbox"/> Showthrough/
Transparence |
| <input type="checkbox"/> Coloured plates and/or illustrations/
Planches et/ou illustrations en couleur | <input type="checkbox"/> Quality of print varies/
Qualité inégale de l'impression |
| <input type="checkbox"/> Bound with other material/
Relié avec d'autres documents | <input type="checkbox"/> Includes supplementary material/
Comprend du matériel supplémentaire |
| <input type="checkbox"/> Tight binding may cause shadows or distortion
along interior margin/
La reliure serrée peut causer de l'ombre ou de la
distortion le long de la marge intérieure | <input type="checkbox"/> Only edition available/
Seule édition disponible |
| <input type="checkbox"/> Blank leaves added during restoration may
appear within the text. Whenever possible, these
have been omitted from filming/
Il se peut que certaines pages blanches ajoutées
lors d'une restauration apparaissent dans le texte,
mais, lorsque cela était possible, ces pages n'ont
pas été filmées. | <input type="checkbox"/> Pages wholly or partially obscured by errata
slips, tissues, etc., have been refilmed to
ensure the best possible image/
Les pages totalement ou partiellement
obscurcies par un feuillet d'errata, une pelure,
etc., ont été filmées à nouveau de façon à
obtenir la meilleure image possible. |
| <input type="checkbox"/> Additional comments:/
Commentaires supplémentaires: | |

This item is filmed at the reduction ratio checked below/
Ce document est filmé au taux de réduction indiqué ci-dessous.

10X	14X	18X	22X	26X	30X
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12X	16X	20X	24X	28X	32X

The copy filmed here has been reproduced thanks to the generosity of:

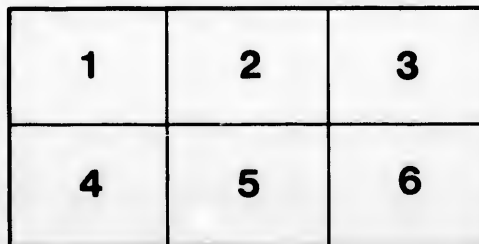
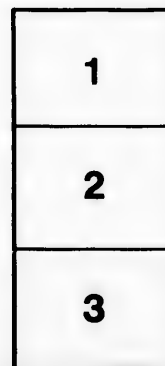
Library of the Public
Archives of Canada

The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

Original copies in printed paper covers are filmed beginning with the front cover and ending on the last page with a printed or illustrated impression, or the back cover when appropriate. All other original copies are filmed beginning on the first page with a printed or illustrated impression, and ending on the last page with a printed or illustrated impression.

The last recorded frame on each microfiche shall contain the symbol \rightarrow (meaning "CONTINUED"), or the symbol ∇ (meaning "END"), whichever applies.

Maps, plates, charts, etc., may be filmed at different reduction ratios. Those too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:



L'exemplaire filmé fut reproduit grâce à la générosité de:

La bibliothèque des Archives
publiques du Canada

Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Les exemplaires originaux dont la couverture en papier est imprimée sont filmés en commençant par le premier plat et en terminant soit par la dernière page qui comporte une empreinte d'impression ou d'illustration, soit par le second plat, selon le cas. Tous les autres exemplaires originaux sont filmés en commençant par la première page qui comporte une empreinte d'impression ou d'illustration et en terminant par la dernière page qui comporte une telle empreinte.

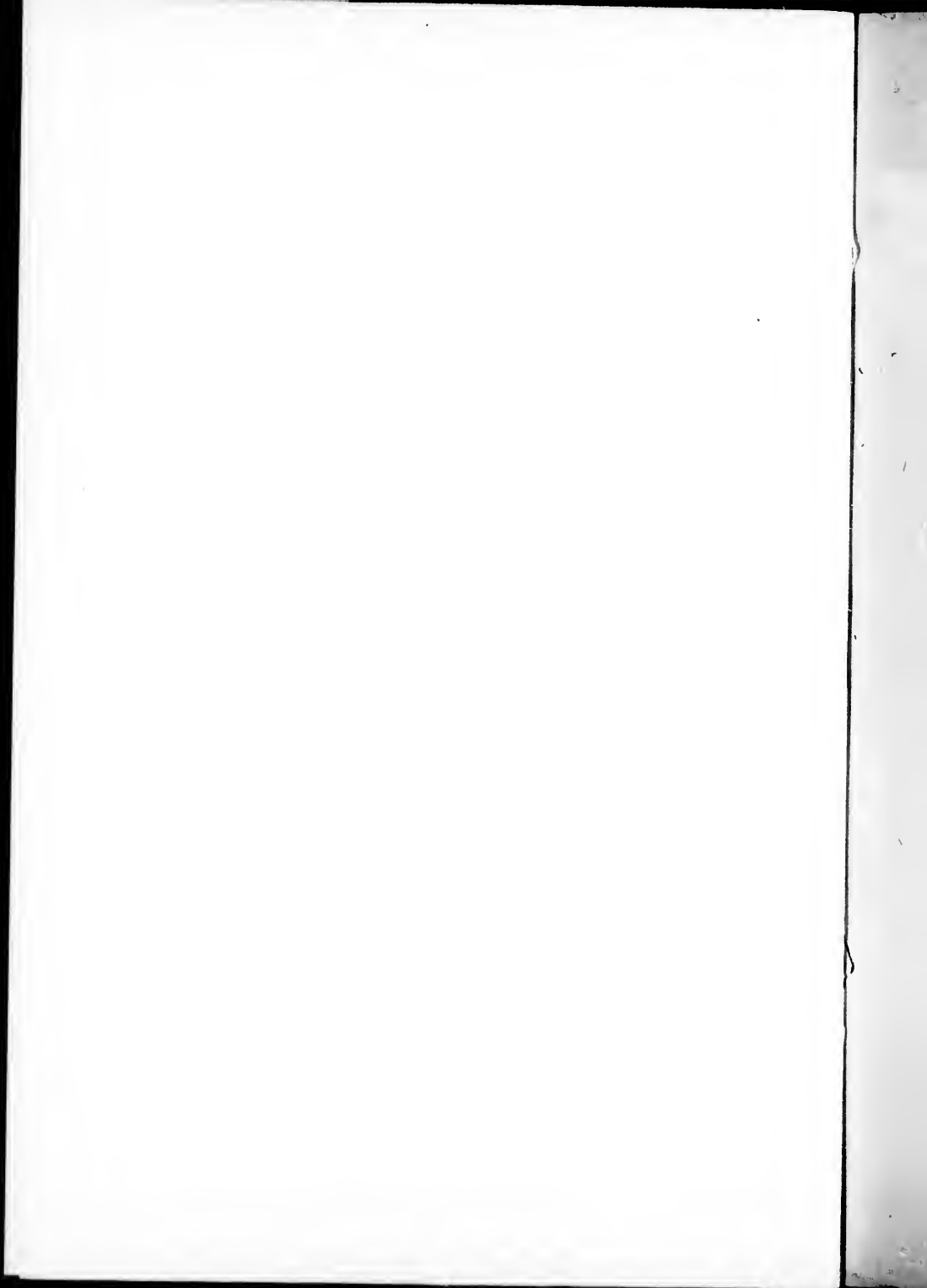
Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole \rightarrow signifie "A SUIVRE", le symbole ∇ signifie "FIN".

Les cartes, planches, tableaux, etc., peuvent être filmés à des taux de réduction différents. Lorsque le document est trop grand pour être reproduit en un seul cliché, il est filmé à partir de l'angle supérieur gauche, de gauche à droite, et de haut en bas, en prenant le nombre d'images nécessaire. Les diagrammes suivants illustrent la méthode.

errata
to

pelure,
n à





INAUGURAL ADDRESS

DELIVERED IN THE

CONVOCATION HALL, LENNOXVILLE,

AT THE

OPENING OF THE LAW FACULTY

ON THE 5TH OCTOBER, 1880.

BY

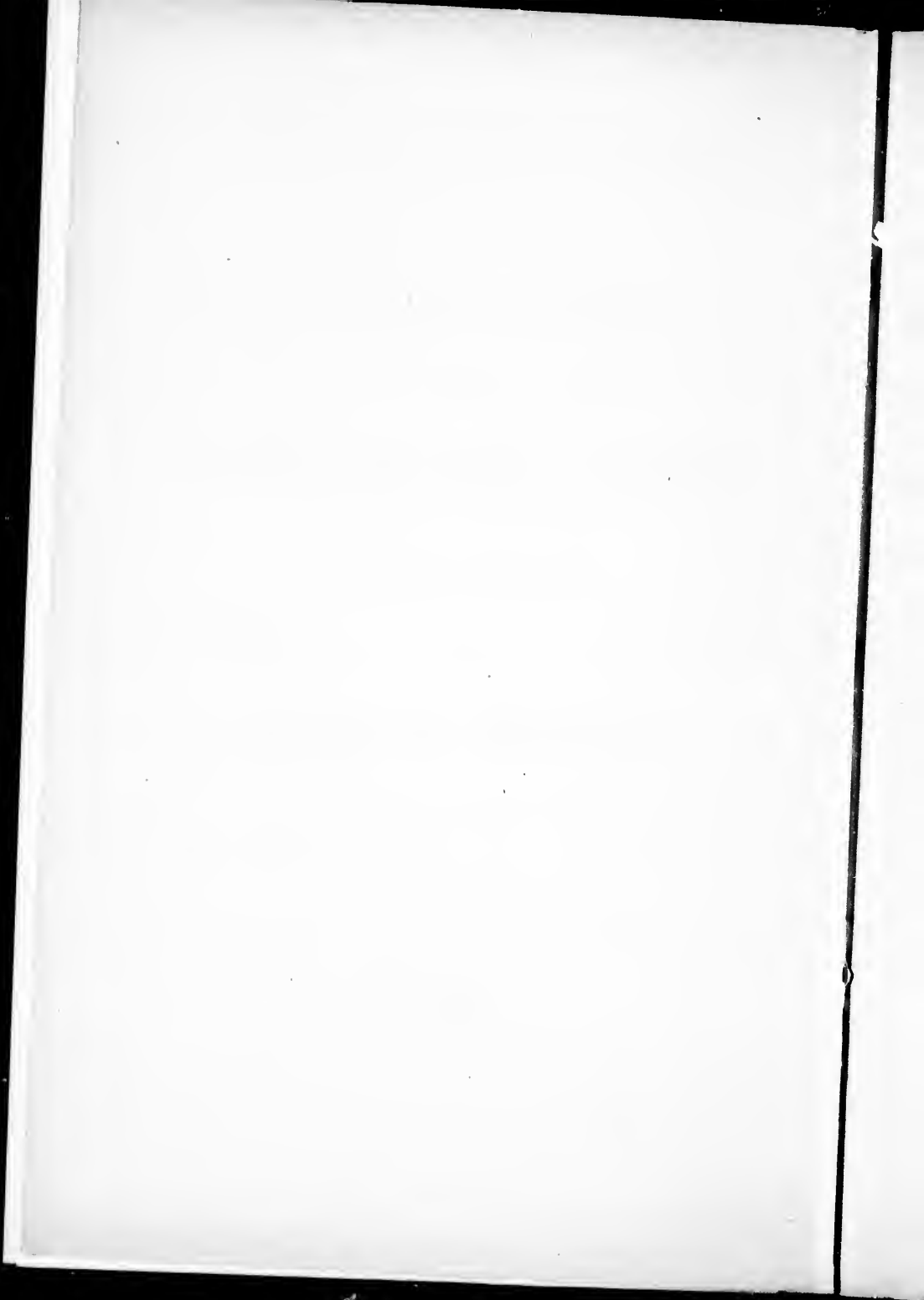
MR. JUSTICE RAMSAY, D.C.L.



Montreal :

GAZETTE PRINTING COMPANY.

1880



INAUGURAL ADDRESS
AT THE OPENING OF THE
LAW FACULTY, LENNOXVILLE,

5TH OCTOBER, 1880,

BY

MR. JUSTICE RAMSAY, D.C.L.

MR. CHANCELLOR, MEMBERS OF CONVOCATION, LADIES AND GENTLEMEN,—It would be out of place in an inaugural address to treat of any legal subject in a purely technical manner. I shall, therefore, confine myself to some general observations which, though bearing upon legal matters, are not of interest to those alone who are entering on a regular course of legal study. We have met to-day to take part in a very interesting ceremony—the inauguration of a Law Faculty in connection with the University of Lennoxville. It is only twenty-seven years ago that that great and good man, the late Bishop of Quebec, endowed the Eastern Townships with a university framed on the model of the great schools of England. Small the beginnings were, and perilous all such undertakings are. Their success depends mainly on the worth of those for whose advantage they are erected. It is with the progress of civilization as with the growth of the grain on which we live. The seed may be good, but every grain that is sown will not produce an ear. What falls on barren ground perishes. Rapidity of growth also depends on the fitness of the soil. Shakspeare has

chronicled the effort of the illustrious, though far from perfect English Cardinal, to extend the foundations of learning in England :

" Ever witness for him
Those twins of learning that he raised in you,
Ipswich and Oxford ! one of which fell with him,
Unwilling to outlive the good that did it ;
The other, though unfinish'd, yet so famous,
So excellent in art, and still so rising,
That Christendom shall ever speak his virtue."

I hope and trust that the foundations laid by Bishop Mountain at Lennoxville will be as imperishable as those of Cardinal Wolsey at Oxford. In opening a Faculty of Law, we are helping towards this consummation ; we are completing the regular course of tuition of the University. In modern times, university education has comprised the four Faculties : Arts, Divinity, Law and Medicine, for they comprise the most obvious classification of applied learning. The Faculty of Arts teaches generally of polite literature and philosophy ; Divinity, of our knowledge of God and morality ; Law, of the civil relations of men to each other ; while the Faculty of Medicine teaches the laws which govern the human body. These different branches of learning may be sub-divided to some extent, as the field of observation becomes wider ; it is difficult to suppose this classification will ever be entirely superseded.

We sometimes hear the utility of special schools called in question. It is argued, that as lectures are for the most part composed from books, and as books are now within the reach of all, a man may just as well read and make notes for himself. Gibbon said that the most wasted years of his life were the two he passed at Oxford. I do not underrate private reading, and I am ready to admit that it would not be an easy task to help a Gibbon or a Cujas to learn. The scheme of education is not arranged for men of unusual capabilities, but for ordinary people ; and experience has shown that knowledge of every subject is best acquired by the combination of the three modes of learning—private study, oral teaching, and practice. This appears to be equally true whether

you are preparing to manage a suit at law, to cut off a man's leg, or to make a pudding.

It is obvious that even to the most diligent man, profitable reading must be very limited if we compare it with the quantity written, and this disproportion is daily on the increase. Of the enormous number of books published every year there are many one would like to read, but even if we confine ourselves rigidly to a special subject it is very difficult to keep up with the current literature of the day. The elder Stevenson, a man of genius practical and profound, used to say that the book was a very bad one out of which you could not get five shillings' worth. This is a very true saying to guide one as to buying books, but I should be sorry to be led by it in the books I am to read. It may be exceptional, but there are bad books which do not contain five shillings' worth of knowledge, and there are very many indeed that are not worth reading for the five shillings' worth they contain. The direction of a young man's studies is thus ever becoming more difficult, and the necessity of systematic teaching more obvious. The choice of the books to be read by a law-student is therefore a matter of great moment, and it is probable that at some part of your course a few lectures will be given on legal bibliography. The subject is an entertaining one and readily attracts the attention. In my days of studentship, over thirty years ago, there was no regular teaching. Anything we learned was picked up by the practice we saw in an office and the books we chanced to read. I was dismayed at the endless rows of dingy books, then rarely enlivened by the gay morocco backs of the *nouveau droit*. I had, however, the advantage of being the pupil of the present learned Chief Justice of the Superior Court, and to him I applied for advice as to what I should read. He told me of "Pothier's Obligations." From the moment I opened it, the dread of the dryness of law disappeared as by enchantment, and starting from one word rolled forth a perfectly clear explanation of the whole scheme of legal rights and liabilities.

The word "obligation" is defined and limited to its legal sense—

it is of the *vinculum juris* the writer has to treat. I should be departing from what I promised in commencing were I to enter on the causes of obligations. Suffice it to say that legal relation arises by the will of two or more parties, by the will of one, against the will of the other, and without the will of either. The first lesson of law, then, is that the most prudent of us is constantly incurring obligations, often with a very indefinite idea of how he will meet them, and sometimes as ignorant of what he is incurring as the *Bourgeois gentilhomme* was of the fact that he spoke prose.

I once read that Pothier's style was not considered good. The name of the critic has passed from my memory. It is one of the small vanities of these days to praise and condemn the style of writers of pretentious trash. We often hear that they write wonderfully good English. When one enquires what the canon of good style is, we are met with curious reticence. I do not undervalue elegance in style—reserve, pregnant with meaning—and, above all, rhythmic measure; but, if called upon to state, in a few words, what are the essentials of good style, my answer would be, “clearness and simplicity.” These are the chief characteristics of the writing of Voltaire and Rousseau, of Sterne and Addison, all admitted masters of style. I think these qualities are to be found in Pothier. It seems to me that his title “Of Obligations” might be read with advantage by every educated person. His other treatises are not of merit equal to the “Obligations”; but they are clear expositions of their different subjects. It is said that the great Lord Mansfield, who gave system and certainty to English mercantile law, was a devoted student of Pothier's works.

If, passing from the works of this eminent jurist, we come to the preparation which enabled him to write them, Pothier may be regarded as a great teacher by his example. During twelve years he studied the Roman law assiduously. The result of his labours fills three folios. The principal part of this great work consists of a re-arrangement of the digest. Our acrimonious friends the critics don't think this work well done. I regret that I am not in a better

position to give a broad contradiction to the assertion ; but so far as my study of it permits me to judge, I have arrived at a different opinion. It is not easy to understand that the course of study which produced the greatest of French jurists could be very imperfect.

The Bench has lately been favoured with a good deal of advice as to the mode of conducting the business of the Courts. You can hardly take up a newspaper without seeing the most sweeping condemnation of this or that practice. One is sometimes inclined to think that no one knows so little what a judge ought to say or do as the judges themselves. Unfortunately, their advisers are not quite unanimous in their counsel. The other day I saw an extract from an English paper finding great fault with the judges in appeal there for interrupting counsel. "What would our grandfathers say, if * *," cries the critic. Were we to read carefully the reports, I think we would find that interruptions are not of yesterday. Another class of censors complain that counsel are permitted to dilate when they should be restrained ; and yet another maintain that their arguments are inconveniently curtailed. It is quite possible that in all these criticisms there is more or less truth, and I hope we shall not fail, in time, to profit by them ; but what I should like to remark, without any disposition to recrimination is, that the style of pleading at our Bar is not at all perfect. In fact, it does not generally give a fair idea of the capacity of the members of the Bar, and it seems to me to be of some importance to direct the attention, both of teachers and pupils, to the matter. The most captivating address will not render a bad argument good ; but it gives a good argument the best chance. Archbishop Whately observes, in his "Introduction to Rhetoric," that the unsound argument is often more easily represented than the true—that fallacies have to be exposed and prejudices to be overcome—and, therefore, he thinks it in the interest of truth that men should be acquainted with the rules of the persuasive art. How often do we see, in and out of court, a sharp fellow, with some skill in debate,

making his shallow reasoning tell, while his superior in every other respect, finds himself a helpless champion of the true cause? Were these only occasional instances, one might be inclined almost to applaud the quick-witted sophist and leave the clumsy disputant to his fate, without regret ; but, unfortunately, in all ages of the world, whole communities have been lured to their destruction by glib falsehood. The French revolution, with all its abominations, was in great part due to the successful advocacy of two compendious, so-called, principles—namely, that men are born equal, and that society is based on a social contract—both of which are now recognized by all thinking men to be utterly unsound. These compendious doctrines, nevertheless, cling with tenacity to the minds of most people, for they seem at once to accord with certain generous impulses, and to get over some social difficulties. It is, however, manifest, when attention is specially directed to the fact, that inequality, and not equality, is the law of nature ; and that if there is, as I have no doubt there is, equality in a higher sense, it has nothing to do with our social condition here. It must be eminently apparent that society must have existed before any contract was possible ; and, great as our respect for the law may be, we cannot fail to admit that the law grew out of society, and not society out of the law. I would, therefore, recommend students to pay serious attention to the form of their arguments, written as well as oral. Don't leave it to chance, whether the judge shall understand you or not, but so put your case that whatever difficulties may beset him in coming to a conclusion, he can have none as to what your pretensions are.

Probably, my young friends who are about to begin their studies are in haste to have the three years of probation over, so I shall assume for the moment that they are all "in gown and band to entitle them to make fuss." And now comes the serious part of our career. The pleasant student days have given place to the grave responsibilities of life. The young man of spirit, who has made a good use of his time, is ready and eager for the struggle.

This is as it should be ; the enthusiasm of youth is necessary to induce us to enter advantageously upon any great undertaking,—

" If nature put not forth her power
About the opening of the flower,
Who is it that could live an hour?"

This wholesome enthusiasm will be supported by the consciousness of the dignity and importance of the profession to which they belong. Burke describes the law as " one of the first and noblest of human sciences ;" and in one of his essays, Lord Bacon says : " The greatest trust between man and man is the trust of giving counsel." This great trust devolves on the lawyer daily. We are therefore called upon to keep two great qualities constantly before the mind—discretion and fidelity.

You will sometimes hear people say that the profession of the law is immoral, for a lawyer defends what he knows to be wrong for money. If this view of the matter be correct, it is difficult to conceive any calling more infamous than that of the lawyer. As there is enough of seeming reason in the reproach to have misled some excellent persons of no mean ability, it is well we should enquire whether it be founded or not. The enquiry will not be without its use, even if we fail to convince others, for self-respect is almost essential to virtue. Let us ask, then, whether the position of the lawyer is that of the hired apologist of wrong. In the first place, it should be observed that the fee, or hire, as it may be called, has really nothing to do with the question. The advocate of wrong, for wrong's sake, is no less vile than he who sells his advocacy for a fee. In the next place, the advocate in a court of law is not in the position of a counsellor of the court or of his adversary. His duty is to offer the arguments fairly and honestly which may be urged on the part of his client. These arguments may not convince his own mind, but they may be very sound for all that. We frequently see in practice that men are mistaken as to their rights. In every suit there is at least one party who has fallen into error, and we often see that both are mistaken. But, it is said, this may be true in civil

cases, but counsel defend criminals whom they know to be guilty by their own confession. As a matter of fact, guilty men very seldom confess to their counsel; but this would really be no answer to the reproach, if founded. But the fact is, that the whole reproach is based on a fallacy. It is a result of experience that the administration of justice must be carried on upon exact principles, consequently with great technicality. To do this, skilled persons, to represent the parties, are required. The advocate, therefore, becomes a part of the organization for the discovery of truth, and if he were to take upon himself to refuse his assistance to the accused, because he believed him to be guilty, he would be depriving him of the protection the law accords, without authority. For the chance of doing what he thought was substantial justice in a particular case, he would aid in the destruction of a useful system. It is not, however, to be supposed that the lawyer is justified in every act that might perchance be beneficial to his client. He must not transgress the limits of truth. While he may fairly put on facts proved the interpretation most favourable to his client, honour forbids him to misstate. One of the most objectionable forms of misstatement, and one into which pleaders, carried away by the impulse of the moment, most readily fall, is slandering witnesses. It should be avoided by young men with the greatest care. It is dishonourable and bad tactics. You have no more right to slander your neighbour when he is in the witness-box than when he is out of it, and the slanderer is the most obnoxious of liars. The merits of this moral question are very well treated in an interesting book, Pearce's "Inns of Court."

I have allowed myself to indulge in various digressions, and in doing so I hope I have not lost sight of the main object of these remarks—to encourage those about to enter on the study of the law not to lose an instant of the valuable time now at their disposal, but from the first diligently to turn to account the great advantages now offered to them.

lty
ery
no
ble
he
es,
ns,
re,
nd
he
v-
or
a
n.
in
st
ts
ur
of
ne
s.
is
er
nt
ts
s,
n
e
w
l,
n

