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Hoadly, George.

Codification in the United States: an address delivered before the graduating classes at the sixtieth anniversary of the Yale law school on June 24<sup>th</sup>, 1884.  
New Haven, 1884.



Class LAW

Book \_\_\_\_\_

CODIFICATION IN THE UNITED STATES:

AN ADDRESS

DELIVERED BEFORE THE GRADUATING CLASSES

AT THE

SIXTIETH ANNIVERSARY

OF THE

YALE LAW SCHOOL,

ON

June 24th, 1884,

BY THE

HON. GEORGE HOADLY, LL.D.

NEW HAVEN:

PUBLISHED BY THE LAW DEPARTMENT OF YALE COLLEGE.

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## PREFATORY NOTE.

THE YALE LAW SCHOOL was organized, as a separate Department of Yale College, in 1824, but its system of instruction and administration has been essentially changed during the last fourteen years.

The course of study has been extended to four years; the first two years being devoted to the regular undergraduate course for the degree of LL.B., and the last two—the graduate course—being optional, and open to graduates of any law school on conditions indicated in the Annual Circular, which may be obtained on application to the Dean.

The Faculty consists of the President of the University and six Professors, as follows:

NOAH PORTER, D. D., LL.D., *President.*

FRANCIS WAYLAND, LL.D., *Dean, and Professor of Mercantile Law and Evidence.*

WILLIAM C. ROBINSON, LL.D., *Professor of Elementary Law, Criminal Law, and Real Property.*

SIMON E. BALDWIN, M. A., *Professor of Constitutional Law, Contracts, and Wills.*

JOHNSON T. PLATT, M. A., *Professor of Equity, Jurisprudence, and Torts.*

WILLIAM K. TOWNSEND, D. C. L., *Professor of Pleading.*

THEODORE S. WOOLSEY, LL. B., *Professor of International Law.*

There are also the following Special Lecturers and Instructors:

### IN THE UNDERGRADUATE COURSE.

HON. E. J. PHELPS, LL. D., *Evidence.*

HON. MORRIS W. SEYMOUR, *Corporations.*

MARK BAILEY, M. A., *Forensic Elocution.*

W. E. SIMONDS, Esq., *Patent Law.*

### IN THE GRADUATE COURSE.

PROF. ALBERT S. WHEELER, M. A., *Roman Law.*

PROF. WILLIAM H. BREWER, M. A., *Relations of Physical Geography to Political History.*

PROF. ARTHUR M. WHEELER, B. A., *English Constitutional History.*

PROF. WILLIAM G. SUMNER, B. A., *Political and Social Science.*

PROF. HENRY W. FARNAM, M. A., R. P. D., *Political Economy.*

To those pursuing successfully the studies of the third year, the degree of M. L. is given, and to those who complete the entire graduate course with honor, the degree of D. C. L.

The graduate course was first instituted in 1876. It has been attended by graduates of eight law schools; those of Harvard, Chicago, Columbia, St. Francis, University of Maryland, University of Virginia, University of the City of New York, and Yale. The *curriculum* for the first year is particularly designed to supplement that of the undergraduate course by affording further instruction in the branches there pursued; that of the second year is designed to meet the wants of those who aim at acquiring a thorough acquaintance with jurisprudence and its affiliated studies, as a means of completing their education, without confining themselves to such topics as are of the first necessity to the practicing lawyer.

The arrangement of the course is as follows:

FIRST YEAR (third of the whole course.)

ADMIRALTY LAW, AND PATENTS, Prof. Robinson.  
 PRACTICE IN THE U. S. COURTS, RAILROAD LAW, AND AMERICAN CONSTITUTIONAL HISTORY, Prof. Baldwin.  
 MUNICIPAL CORPORATIONS, AND PRACTICE IN STATES HAVING A CODE OF CIVIL PROCEDURE, Prof. Platt.  
 POLITICAL HISTORY AND SCIENCE, Prof. Sumner.  
 ENGLISH CONSTITUTIONAL HISTORY, Prof. A. M. Wheeler, (optional.)  
 INTERNATIONAL LAW, Prof. Woolsey.  
 POLITICAL ECONOMY, Prof. Farnam.

SECOND YEAR (fourth of the whole course.)

PARLIAMENTARY LAW, HISTORY OF THE LAW OF REAL PROPERTY, AND CANON LAW, Prof. Robinson.  
 COMPARATIVE JURISPRUDENCE, AND CONFLICT OF LAWS, Prof. Baldwin.  
 GENERAL JURISPRUDENCE, Prof. Platt.  
 ROMAN LAW, Prof. A. S. Wheeler.  
 RELATIONS OF PHYSICAL GEOGRAPHY TO POLITICAL HISTORY, Prof. Brewer.  
 POLITICAL AND SOCIAL SCIENCE, Prof. Sumner.

Among the principal text-books used are Parsons on Shipping and Admiralty, Curtis on Patents, Desty's Federal Procedure, Pierce on American Railroad Law, Austin on Jurisprudence, Dillon on Municipal Corporations, Pomeroy's Remedies and Remedial Rights, the Commentaries of Gaius, Institutes of Justinian, selected titles of the Pandects, the *Code Napoleon*, Cushing's Parliamentary Law, and Wharton on Private International Law.

The number of the daily exercises in the undergraduate course has also been greatly increased since 1875, and several new studies introduced. Among the latter are those of Private Corporations, Estates of Deceased Persons, Code Pleading, Elements of General Jurisprudence, Criminal Procedure and Statutory Crimes.

The library of the School contains all the American, English, Irish and Canadian reports, with a large collection of statutes, digests, treatises, and works of reference, constituting with a single exception the best library of any American Law School. The reading room connected with the library also contains the principal English and American Law Periodicals and Newspapers.

The apartments occupied by the school are under the same roof with the court rooms of New Haven County, in which are held the Courts of Common Pleas, the Superior Court, both civil and criminal, and the Supreme Court of Errors. As one or more of these Courts is in daily session during the entire academical year, the opportunity afforded to the students for observing practice is unrivalled, and constitutes a most important advantage of this School.

An alumni-record was published in 1882, giving the addresses of all the alumni of this department, with a brief description of their subsequent careers. Revisions of this record will be issued as occasion may require. All graduates of the School are therefore requested to communicate from time to time, to the Dean, or to the librarian, Dr. J. A. Robinson, New Haven, their addresses as well as the other particulars above specified.

## ADDRESS.

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MR. PRESIDENT, MR. DEAN, LADIES AND GENTLEMEN :

Besides the Federal Congress and Judiciary, there now sit in the United States, (with few exceptions annually), thirty-eight State and eight Territorial Legislatures and as many Supreme Courts of last resort. These yearly produce in each State one or more volumes of statutes, and at least one, more often several volumes of reported decisions. The statutes are mandates for the government of the conduct of citizens; the decisions not only dispose of cases and thus affect the interests of parties litigant, but their further and more permanent office is to establish rules and principles, in their turn to control the decisions of other cases, and thus, not as directly but as effectually as any statutes, to become the law of the administration of individual life. Except during the summer, when, reversing the usual course of nature, these bodies are at rest, hardly a day passes without the adoption, by court or legislature, of some new rule of action, which, whether wise or foolish, carefully considered or hasty, drawn from the fountains of experience, studied with the glasses of exact observation, or emanating from presumptuous self-conceit and foolish meddling, is thus alike "prescribed by the supreme power in the State," under the pretext of "commanding what is right, and forbidding what is wrong." The normal condition of the law-making powers seems to have become unrest, activity, change. Nothing which courts or general assemblies can reach is allowed to stand still. The wheels of the train of social

progress are tested by tapping not merely at the points of rest, but even while *en route*. Perpetual motion seems to have been devised, "and let us have peace" is preached in vain to these effervescent bodies. They are in a chronic state of war with real or assumed ills of society. Each is a volcano of interference in active eruption. And all this is encouraged by the citizen; it is the response to a popular demand. No avocation is so prosperous that those who enjoy the perception of its profits are content to let well enough alone. They are clamorous for legal protection from intrusions, while the hungry, waiting without the gates, solicit legislation for admission to the feast, or division with the occupants. No lot is so contented but that it seeks legislative betterment. No manufacture has ever been protected to the point of standing alone. Industry smiles in happy but chronic infancy, and reaches out its arms to its nursing mother, Law. Many in whose special charge is thought to be the Gospel of grace, feel that the progress of Christianity is in danger unless a Constitutional amendment shall secure from usurpation the throne of the Divine Master, while the gamblers' lottery finds shelter in the hospitable archives of Creole legislation.

Neither spheres of labor nor precincts of idleness, no period of life, nor birth, nor infancy, youth, adolescence, age, nor death itself, is exempt from the intrusions of this restless demon of legislative and judicial change: this Briareus of the law. Ohio has more judges than England, and does not call a halt, but quietly adds to the number, and labels it Reform. Under this pressure, terms of court and periods of legislative action are protracted, biennial sessions become annual, and the innumerable teeth of the harrow of legal interference leave no clod unbroken, so that the maxim, "that country is best governed which is least governed," seems to be a stray echo from some far off Utopia, the legend inscribed on a palace of some Fata Morgana, instead of the best suggestion given by the wisest of American Statesmen for the guidance of genera-

tions, who might love to honor the name and live by the teachings of Thomas Jefferson.

In vain are Constitutional limitations arrayed to arrest legislative control. Of this, we have some amusing instances in the West. General laws are required for corporate organization and the grant of corporate power, and forthwith volumes of legislative acts are filled with definitions and distinctions, and subterfuges, devised to sustain special laws thinly disguised under general phrases. What is called classification is resorted to. John Stuart Mill says: "A class is the *indefinite* multitude of individuals denoted by a general name." The Western legislator fancies that the general name alone is sufficient, and that it necessarily denotes the indefinite multitude, at least so that the disguise cannot be penetrated by judicial scrutiny. Accordingly, in Ohio, the City of Cincinnati has been *classified!* under a Constitution which forbids special legislation relative to municipal corporations, as "any city of the first class, having a population at the last federal census of more than one hundred and fifty thousand inhabitants, and in which an avenue is projected and partly completed, known by the name of Gilbert Avenue," while the collegiate town of Delaware, in the same State, once posed in law under the title of "villages or cities containing a population of five thousand six hundred and forty-one, as enumerated according to the Federal Census of 1870, as published in the last volume of the Ohio statistical reports," and a general assembly, less confident of its law or arithmetic, in 1877, conferred the power to contract for the supply of illuminating gas for a period of not more than ten years upon "any city of the second class within this State, having at the last federal census a population of not more than 11,082 and not less than 11,080 persons." Meaning by this the City of Hamilton, of which it is recorded by the census-taker of 1870, that its population numbered 11,081 souls.

In Indiana, the little City of Lawrenceburgh has been submerged and well nigh destroyed in two successive

annual floods, but over its history and fate the waters of oblivion can never roll so as to obliterate from the memory of man the unique description once given it by law, as:

"A city in this State situate on a navigable stream, within two miles of the boundary lines of the two adjoining States."

This tendency to seek relief by Act of Assembly seems to me to be growing. It arises from discontent with existing conditions, and impatience at the slow progress of development through natural factors. Men cannot wait for results to come in the time of their heirs. "The rascals must go"—thus becomes a proposition of general application, and permanent action, and not a mere rallying cry for present political use.

This tendency thus becomes a factor itself. Like Banquo's ghost, it will not down. It is one of the conditions of modern society, man's best method of seeking social and political improvement, which will do its full work, and reach its natural end in the evolution of results. This work is not endless change;—that at least is certain, for endless change means failure, not success. "The rolling stone gathers no moss." Only the stable social fabric stands. Discontent or enterprise may build with boards, then tear down to improve with brick, and again to substitute stone, but will certainly stop when the structure has reached apparent or real perfection.

This tendency, however, if it cannot be arrested, must be wisely directed, and kept within bounds, or the result may be ruinous.

Whither then does this spirit of unrest tend, and where will its workings end?

As, in nature, boiling is a process of concentration and purification, throwing off refuse and waste, so in the department of jurisprudence, this ebullition of thought and legal interference prophesies the American Code. This restless energy of legislative and judicial benevolence is not all ill-directed and foolish. It seeks to improve the condition of mankind. Nor is it a mass of isolated and

disconnected attempts at reform: it is the development, in appearance disorderly, but in tendency and general direction intelligent, of a purpose to control society by legislation, and this, whatever menace it may be to the social fabric in other directions, is working towards a symmetrical and harmonious system of jurisprudence, evolved from the necessities of a great and forming people, and likely to present the appearance of system and order quite as soon as that people become homogeneous.

The United States of the future—the North America of the future—expressions at least potentially identical, will not be Puritan New England, nor Dutch and Irish New York, nor Scotch-Irish German Pennsylvania, nor Cavalier Virginia, nor the African South, nor the Teutonic and Scandinavian West, nor French Canada, nor Spanish and Indian Mexico. It will be all these and more, just as a language embraces local dialects, but it will be symmetrical and homogeneous as is a language itself.

We may see a like but far less easy process in the evolution of the languages of Modern Europe, especially our own. Out of the confusions and admixtures of peoples and tongues, of nobles and peasants, of warriors and monks, of the few who could imprint a seal, the fewer who could write, of the multitude ignorant, hardly more than rude barbarians, without trade, without roads, without easy interchange of thought and speech, without peace, out of the tumults of battle, and the whirlwinds of social and dynastic revolutions, not by guiding minds, not by kings or chancellors or clerks, not by the few but by the many, were begotten those miraculous vehicles of expression, without which modern life could not exist, the English, French, German and Spanish languages. Who, during this process and before its consummation, could have foreseen that Briton and Roman and Saxon and Norman, conquered and conquerers, each building wiser than he knew, and yet with as intelligent direction as if working upon a forecast plan, under the guidance of a directing mind, in apparent discord but in real accord, like the

players in some vast orchestra, were framing the English speech? And who, knowing the harmonious result, familiar with the language as it is in use to-day, but ignorant of its history, would ever conjecture the confusion of individual and apparently disconnected strife from which it emerged.

Let no one fear that Americans will not become a homogeneous people, with a language of their own, possibly not widely different to the eye, if not the ear, from the English of to-day. The last danger disappeared on the battle-field of Gettysburg, when those which might have been hostile provinces, divided by narrow friths or narrower lines, abhorring each other, with dialects hardly comprehensible, except within narrow ranges of territory, were finally welded together in the forge of battle. Given a highly cultivated and active race, with energies freed from the trammels of unnecessary legal interference; in other words, given a free and live people, the result will inevitably follow in the realms of jurisprudence and government. They will seek the ideal and if, where personal ambition and the greed of power cross the path of progress, they may fail, viz.: in constructing the best machinery of administration, they will assuredly produce a single, concise, systematic, comprehensive and harmonious code of jurisprudence. To this result is wanted but two factors, Freedom and Time. These are the conditions *sine qua non*, the essential elements, the necessary postulates of every good and durable work ever produced by man.

Let no one fear that any conflict between the Federal and State systems, or the multiplication of States, can retard or prevent the result. The analogy already employed applies. No one man, no committee, no academy created the ancient or the modern languages. These were not the results of arrangements, compromises, schemes or devices—no junto sat in council at their birth—no cabal intrigued to control their growth. They are not manufacturer's products made to order. No author

will make the American Code. No one man's contribution, however valuable, will be final. This code is growing, and will grow; will be evolved, not built. And there is not as much difficulty in understanding how a hundred States, working apart, can create a code—the same code—as how millions of men working separately, without newspapers, or railroads, or steamboats, each primarily bent on gaining daily bread, each hampered, cribbed, confined by law or circumstance, limited even in modes of speech and written expression by want of education could develop that complex structure we call a language. Nor is there as much difficulty in anticipating that a harmonious system of jurisprudence will at last flow from the exchange of thought of many legal scholars, each intent on bettering the law, as in understanding how a great city can be fed without waste by the disconnected but free exertions of many, perhaps hundreds of thousands of laborers, guided and restrained only by self interest. The clock does not move with more regularity and certainty than the provision, ample but not excessive, daily arrives for the sustenance of London. Its stimulus and its check alike are the freedom and self interest of those engaged in the commerce.

Law is the precipitate of history, the deposit made by life, the crystallization of action. And as we may count the ages of the earth in the strata where the actors have left their traces, so we may learn the history of conduct in the archives which contain the records of the application of the rules suggested by experience to man for the guidance of himself and his posterity.

Law springs from a two-fold source, courts and legislatures, the former applying analogies, the latter working by observation; courts in the spirit of faith that the tried methods will still prove sufficient, although applied to new exigencies, legislatures moved by hope that novel schemes of remedy will allay new disorders. The tendency of the former is always to stand by the recorded past. The main spring of judicial action is the rule *Stare decisis*. Hence

jurisprudence studied in this way has no centrifugal, no expansive force whatever. It has no provision for contingencies which lie beyond the line of experience. The world has trusted legislatures, not courts, with the power of experiment and the gift of prevision. "Thus far shalt thou go and no farther," is inscribed upon every judicial temple. Hence the timidity of judges, the disposition, so often manifested, to sacrifice the spirit to the letter, to call for cases and disregard the study of principles. It is the experience of every practising lawyer that he can much more easily advance his contention with the average judge by producing a case in point than by referring to a rule or controlling principle. It is so easy to follow, so hard to lead. No doubt this tendency of the judicial mind has its advantages. Not all judges are wise enough to discriminate safely. Few indeed have been those who, like Mansfield, might be trusted to lead. And he who swears in the words of a master, if only he has well chosen his master, though he may have done nothing to advance, at least he has not helped to retard. the world's progress.

What is the Common Law now, in this day and generation? A stimulus or a stumbling block,—a reservoir of wisdom whence to draw suggestions, rules, principles for the guidance and safe direction of human progress, or a congelation, hardening, stiffening, forbidding endeavor? Does it not move, if at all, only in the ruts of routine, face backwards, "pointing with pride" to past achievements only? Does the Common Law in fact furnish analogies applicable to new exigencies, adequate for the emergencies of human affairs? Does it test each step by experience, and thus slowly but safely advance on sure ground without mistakes? Surely not. Even from the very beginning the Common Law has been inflexible, incapable of expansion, or power to meet new issues. The statutes *De Donis*, *Quia Emptores*, of Uses, these were the work of legislators, not judges. Even the action of trespass on the case, and trespass on the case upon promises, in other words case and assumpsit, were provided by the Act of Westminster 2d, and were

not weapons drawn from any Common Law armory. Compare Bracton with Coke upon Littleton—do you see progress? Yet centuries elapsed between them, centuries of Common Law administration. Compare Fitzherbert's *Natura Brevium* with Gaius, or the more perfect system of procedure in force in Justinian's day, or the admiralty procedure in use in Fitzherbert's time. Did the world move, the legal, judicial world, during the thousand years which intervened between the writing of these studies of procedure, and if so, which way, forward or backward? Even in the days of my Lord Coke, was he not obliged to add a commentary upon statutes to his treatise on Common Law?

But we may well ask whether it is by reason of the Common Law that the jurisprudence of England has made progress, or if this be due to the innate genius of a great people? If the Common Law is a reservoir of principles for the guidance of generations, what shall we say of the *Corpus Juris Civilis*? The institutes and digest which Tribonian and his associates collated for Justinian have been the basis of European jurisprudence for fifteen hundred years. The Partidas of Alphonso the Wise have furnished to Spain its legal code for six hundred years. Has any jurist of those great nations shown a disposition to exchange their codes for the Common Law of England? Have not the continental nations enjoyed methods, rules, principles of law as flexible, of as easy and sufficient adaptation to new social exigencies and inventions, as the Commonwealth of England? Has the Common Law done more for England than the *Corpus juris civilis* for Scotland? Has Louisiana ever repented of the work of Livingston, and sought to exchange his codes for the books of the sages of the Common Law, and this in face of the influence which the vast influx of emigrants from her sister and Common Law loving States have exerted? Or do not rather the lawyers who emigrate to New Orleans abandon their wonted text books with relief, and joyfully begin again their legal studies in the symmetrical and harmonious

system which the founders of her jurisprudence borrowed from continental Europe. Edward Livingston was no born civilian; Francis Xavier Martin was no native of Louisiana; the one from New York, the other from North Carolina, passed to the Gulf, like Pilgrim there to drop his burden of Coke and Blackstone, and take up as his lifework, the former the preparation of a code of procedure and penal code, the other their administration and that of the civil law as the wisest and best of her judges. When Napoleon, the great eclectic, set on foot the work of revision, which resulted in the production of the civil and commercial codes of France, was it his hatred of perfidious Albion that blinded him to the merits of the insular jurisprudence? On the contrary, did not Mansfield borrow the law of insurance from the continent? These codes contain rules simple, definite, concise, certain, but ample for the progress of society. In which has the poverty of the system been made most apparent, and called loudest for the succor of legislative aid in times of emergency? Has not time corroded the Common Law, and constantly gnawed at its vitals? Have not the codes of the continent enjoyed perennial youth;—been constant handmaids of progress, its diligent servants, applying wise precepts to the daily changing affairs of men, so as to ensure just results in individual cases, harmonious therefore with social development.

It is to the Common Law, with its barbarous and unchristian doctrine of *caveat emptor*, that the United States, and especially Louisiana, owes the sharp contrast of opposite teachings, which has brought into clear light the inferior ethics of our law, miscalled Christian, to the pagan morality of Cicero. It was from Louisiana that the case of *Laidlaw vs. Organ*, 2 Wheaton, 178, came to the Supreme Court: from Louisiana, but not from the State Courts, dominated by the spirit of Pagan Rome. Diligence had brought the first news of the treaty of peace of 1815 to a dealer in tobacco in New Orleans, who trafficked upon this capital to the detriment of his neighbor.

"*Caveat Emptor*," said Chief Justice Marshall and his associates, or, as we might well paraphrase it, "each man for himself and the devil take the hindmost." And this after 1800 years of profession in the words of the Golden Rule. What taught Cicero under like circumstances? In the treatise *De officiis*, lib. 3, Sec. 12-17, he puts the case of a merchant of Alexandria, who arrives in Rhodes in a time of scarcity, with a cargo of corn, having passed other vessels with like lading on the way, and asks the question, "May he lawfully sell, concealing the fact of their expected arrival?" Cicero answered in the negative. Has the common law ever been administered by a judge who could have risen to this lofty height of legal ethics? Possibly there may have been three: Bacon, and Mansfield, and Brougham. But Brougham's mind was essentially destructive, not constructive, and therefore he need hardly be considered here. Of him also it was said, that had he known a little law, he would have known a little of everything. Mansfield both by the daring of his native genius and the bent of education was an innovator and a reformer. Lord Campbell, (*Lives of the Chief Justices*, vol. 3, p. 220), says, that he first studied ancient and modern history, next ethics, "which he mastered, and from his own experience he always strongly recommended the philosophical works of Cicero; \* \* \* the foundation of jurisprudence he maintained to be the Roman Civil Law." After studying international law and the feudal system, in which he preferred the Scotch author Craig to any English writer, next he attacked

"the English municipal law, and this he was obliged to search for in very crabbed and uncouth compositions, which often filled him with disgust and sometimes with despair; \* \* \* he never could be made to fall down and worship Lord Coke, whom we are taught to regard as the god of our idolatry. \* \* \* Indeed, instead of being, like Sir William Blackstone, a legal optimist, he did not sufficiently appreciate the merits of the old common law. \* \* \* Expecting to be employed in appeals from Scotland, which since the

Union were decided at the House of Lords, he paid much attention to the law of that country. \* \* \* But his true delight was to dip into the juridical writers of France, that he might see how the Roman and feudal laws had been blended in the different provinces of that kingdom; and above all to pore over the admirable commercial code recently promulgated there under the title of '*Ordonnance de la Marine*,' which he hoped one day to introduce by well considered judicial decisions—a bright vision which was afterwards realized."

And the greatest of these is Bacon, whose most conspicuous effort in the House of Commons was "a great speech," made in 1593, on Law Reform; who, nearly 300 years ago, proposed to King James that "those books, (the library of English law, then sixty volumes), should be purged and revised, whereby they may be reduced to fewer volumes and clearer resolutions."

What would the Common Law of England have been, but for the modifying power of Parliament? A stumbling block? No; it has been that—rather, a wall—an impassable barrier. Read Glanville, or even come down later and study, or as I did in the days of my pupilage, copy Littleton's tenures, then try to imagine a social and legal system of which these should be the text books. When I was admitted to the bar we were drilled in the first volume of Chitty on Pleading. Take it now, my brother, who has advanced and become familiar with the simplicity of Code Pleading. Gaze once more upon the features of the *absque hoc*, the general and special imparlance, the surrejoinder and the surrebutter, and you will see what a world has been interposed between the *formulae* you learned in youth, and those in which your maturer and happier manhood clothes the claims and responses of your clients. One advantage, indeed, this arbitrary, technical and most unscientific system had: its precedents of pleading were in print and could be copied. Of this, a pleader in North Western Ohio once took conspicuous benefit. With the volumes of Chitty on Pleading before him, he prepared and filed this p'ea:

"Now comes the defendant aforesaid and defends the wrong and injury when, &c., and says that the plaintiff aforesaid, his action aforesaid, ought not to have and maintain, because he says (down to the asterisk on page 533), and this he is ready to verify. Wherefore he prays judgment."

Tradition has it that this was his last plea, at least in Ohio. He fled the Court House, went west, and grew up with the country in some employment not open to copyists.

Select the agents of reform and legal growth; would you choose the great expounders of the Common Law, the judges of England? Would your instances be the long battle Coke made against the injunctive power in equity, or Hale's defence of witchcraft, or Holt's resistance to the freedom of commercial dealings? These and the Thurlows, Eldons, Kenyons, Ellenboroughs, Lyndhursts, Campbells, Sugdens, have been magistrates of vast erudition. The things they knew which were not worth knowing, which no man will ever take the trouble to learn again, would fill a library of wasted knowledge, fit only for the repository of the learning of the Grand Academy of Lagado in the Kingdom of Laputa. These were honest magistrates, whose palms no bribes have crossed, but are they to be enrolled among the reformers who have led the the Anglo Saxon people out of the Serbonian bogs of Common Law and other hindrances to progress?

We sometimes hear the absurd claim that the freedom of England is due to the spirit of Common law. As well might it be attributed to the bench of Bishops. The great muniments of Freedom on both sides of the Atlantic, Magna Charta, the Petition of Right, the habeas corpus, the Declaration of Independence, the Emancipation Proclamation, the thirteenth, fourteenth and fifteenth amendments to the Federal Coustitution were not products of Common Law; they were all the work of legislative assemblies, or the grant of the Executive. Had the Common Law remained in unbroken force, we should to-day

be paying ship money, trying cases by wager of law or battle, refusing counsel and the reasonable privileges of defense to some accused, while granting to others an easy avenue of escape by resort to the benefit of clergy, and the decision of Chief Justice Sharkey (*Hinds vs. Brazealle*, 2 How., 837), that to remove a slave beyond State borders for the purpose of emancipation is against public policy and illegal, would still be part of the glorious legacy inherited by the freemen of Mississippi in the Common Law of England. True, it may be that "Freedom slowly broadens down, from precedent to precedent," but with the single exception of Lord Mansfield's decision in Somerset's case, these are not precedents of decisions, but of laws. Surely he who relies on the claim of the Common Law as the peculiar system of free countries, must have forgotten Scotland and Switzerland, and the Dred Scott case.

Errors once committed under the Common Law system are fortified and made impregnable by the rule "*Stare decisis*." It happens very rarely, and then only at the expense of popular respect, that a judicial tribunal can reverse its own decision. A bad precedent has been always regarded as better than the most hopeful speculation. This was well expressed by Sir James Mansfield, C. J., in *Barry vs. Robinson*, 1 New Rep., 4 B. & P., 294.

"The distinction between the actions of debt and assumpsit as applicable to the case of executors is not founded in good sense, but still that distinction has always been recognized in the law. Ill-founded as it is, we must nevertheless act upon it while it continues to be law, for it is not in our power to alter the law."

Lord Coke's maxim, "*Cessante ratione legis, cessat ipsa lex*," is not, as is sometimes supposed, a rule of abrogation or supersedure, but a rule of application, and would be better stated thus: "Where the reason is inapplicable, the rule does not prevail." It has no reference whatever to changes in the law. Wager of battle survived for centuries after mankind had outgrown the barbarous and

superstitious practice, and was only abolished by act of 59 Geo. 3d, Ch. 56, in 1819. Wager of law was actually resorted to with success in 1824 in *King vs. Williams*, 2 Barn. and Creswell, 538. The Court, it is true, refused to relieve the defendant from doubt as to the proper number of compurgators, and forced him to act on his own judgment, but he brought the necessary eleven to swear they believed his story, and the plaintiff was forced to abandon his case.

The civil law with far greater power of adaptation to new conditions, stated the rule thus: (Dig. 1, 3, 32, 1) "*Leges consensu omnium per desuetudinem abrogantur.*" There is, it is true, a case in which an act of Parliament was held to have been disused, and thus, by common consent, repealed; but the instance is single, the case stands alone. Besides, it has reference to a practice of Parliament itself, or at least of the House of Commons, in the matter of the qualifications of its own members, of which it had, at the time of the decision, become the sole judge, without appeal. (Case of *Dublin University*, 1 Peckwell's reports of contested elections, note D, p. 53. 3 Hallam's Middle Ages, 115.) The statute thus superseded required all members of the House to be residents of the shires or boroughs where elected. (3 Stubbs' Const. Hist., 424.)

But the most striking instance of the inflexibility of the Common Law, its inability to meet emergencies, its inadequacy as a system of jurisprudence for a growing people with expanding relations, is furnished in the career of Sir John Holt. No more wise, upright or enlightened magistrate ever presided in the Court of King's Bench. Surely of all judges of the last two centuries, Holt deserves to be remembered as one of the, if not the, very foremost. But he had learned the law of maintenance, that there had once been a time when England was a land of castles and feudal chieftains, and when to protect each man in his rights, unimpaired by the interference of power, the doctrine of the non-assignability of choses in action was invented. The

energies of Common Law seem always to have been concentrated in standing by the ancient landmarks. Accordingly Sir John Holt administered this law of maintenance with all the vigor of his intellect, "*totis viribus*," as the reporter puts it. The matter has such an immediate bearing upon this discussion, that I may be indulged in a full statement of his treatment of the most important question that has ever come before the Court of King's Bench in any era of its history. Then, if ever, the Common Law was on trial, the question being as to the negotiability of promissory notes, without which, it is safe to say, the extended commerce of to-day could not exist.

The cases are *Clerke vs. Martin*, 2 Lord Raymond, 757, and *Buller vs. Crips*, 6 Modern, 29.

*Clerke vs. Martin*, came on for hearing at the Easter term in the first year of the reign of Queen Anne. It was an action of *assumpsit* by the payee against the maker of a promissory note payable to the plaintiff, or order, in which there had been a verdict for plaintiff. It was objected, on motion in arrest of judgment, that the declaration which counted in *indebitatus assumpsit* for money lent, and upon the paper as an inland bill of exchange by the custom of merchants, was fatally defective.

*Sir Bartholomew Shower* argued that it was a bill of exchange because payable to order, that if payable to bearer it would not have been assignable or endorsable by the intent of the subscriber and consequently not negotiable, but "here this bill is negotiable, for if it had been indorsed payable to J. N., J. N. might have brought his action upon it as upon a bill of exchange, and might have declared upon the custom of merchants."

"*Holt, Chief Justice*, was *totis viribus* against the action, and said this note could not be a bill of exchange. That the maintaining of these actions upon such notes were innovations upon the rules of the Common Law; and that it amounted to the setting up of a new sort of specialty, unknown to the Common Law, and invented in Lombard street, which attempted in these matters of bills of exchange to give laws to Westminster Hall. That the continuing to declare upon these notes upon the custom of merchants

proceeded from obstinacy and opinionativeness, since he had always expressed his opinion against them, and since there was so easy a method as to declare upon a general *indebitatus assumpsit* for money lent, &c. As to the case of *Sarsfield vs. Witherly*, he said he was not satisfied with the judgment of the King's Bench, and that he advised the bringing of a writ of error,

*Gould, Justice*, said that he did not remember that it had ever been adjudged, that a note, in which the subscriber promised to pay, &c., to J. S., or bearer, was not a bill of exchange. That the bearer could not sue an action upon such a note in his own name, is without doubt; and so it was resolved between *Horton and Coggs*, now printed in 3 Lev. 299, but that it was never resolved that the party himself (to whom such note was payable,) could not have an action upon the custom of merchants upon such a bill. But *Holt, Chief Justice*, answered that it was held in the said case of *Horton vs. Coggs*, that such a note was not a bill of exchange within the customs of merchants. And afterwards in this Easter term it was moved again, and the Court continued to be of opinion against the action. And then *Mr. Branthwaite* for the plaintiff urged, that if this note was not a bill of exchange within the custom of merchants, the promise founded upon it was void; and then it could not be intended that any damage was given by the jury for the breach of it, but all the damages must be intended to have been given upon the general *indebitatus assumpsit*. *Holt, Chief Justice*, said that would be true if it had been void by reason of its being insensible; but this matter is sensible enough, though not sufficient in law to raise a promise; and therefore one cannot intend but that damages were given for it; and consequently that judgment must be arrested. And judgment was given *quod querens nil capiat per billam, &c.*, by the opinion of the whole Court."

At the Michaelmas term in the next year, 2d Anne, the question came again before the Court of King's Bench, in *Buller vs. Crips*, which was *assumpsit*, brought by indorsee of a promissory note against maker. A motion was made in arrest of judgment after verdict for the plaintiff, upon the authority of *Clerke vs. Martin*, and it was argued that the words "or order" imported an appointment to the indorsee and a promise to pay him, which might well warrant an action by him, although not by the payee. But *Lord Chief Justice Holt* said:

“I remember when actions upon inland bills of exchange did first begin; and there they laid a particular custom between London and Bristol; and it was an action against the acceptor; the defendant’s counsel would put them to prove the custom; at which *Hale, Chief Justice*, who tried it, laughed, and said, they had a hopeful case of it. And in my Lord North’s time it was said, that the custom in that case was part of the Common Law of England; and these actions since became frequent, as the trade of the nation did increase; and all the difference between foreign bills and inland bills is that foreign bills must be protested before a public notary before the drawer can be charged, but inland bills need no protest; and the notes in question are only an invention of the goldsmiths in Lombard street, who had a mind to make a law to bind all those that did deal with them; and sure, to allow such a note to carry any lien with it were to turn a piece of paper, which is, in law, but evidence of a parol contract into a specialty; and besides it would empower one to assign that to another which he could not have himself; for since he to whom this note was made could not have this action, how can his assignee have it? And these notes are not in the nature of bills of exchange, for the reason of the custom of bills of exchange is for the expedition of trade and its safety; and likewise it hinders the exportation of money out of the realm. \* \* \* At another day, *Holt, Chief Justice*, declared that he had desired to speak with two of the most famous merchants of London to be informed of the mighty ill consequences that it was pretended would ensue by obstructing this course; and that they had told him it was very frequent with them to make such notes, and that they looked upon them as bills of exchange, and that they had been used for a matter of thirty years, and that not only notes, but bonds for money, were transferred frequently and endorsed as bills of exchange. Indeed I agree a bill of exchange may be made between two persons without a third; and if there be such a necessity of dealing that way, why do not dealers use that way which is legal? And may be this, as if A has money to lodge in B’s hands, and would have a negotiable note for it, it is only saying thus: ‘Mr. B, pay me or order so much money value to yourself;’ and signing this, and B accepting it; or he may take the common note, and say thus: ‘for value to yourself, pay me (or indorse,) so much,’ and good.”

And this great step of legal advance, the negotiability of promissory notes, which the Common Law, by the judgment of one of its wisest expounders, thus refused to take, the politicians and fox-hunting squires who composed the legislature, the Parliament of Great Britain, a few months later, by the Statute of 3 and 4 Anne, ch. 9, unhesitatingly took. It is hard to tell how much injury the commercial interests of the English speaking world, the ease and facility of its business intercourse, would have suffered, had the spirit of the Common Law prevailed in this controversy. Fortunately, the goldsmiths won, and the lawyers went to the wall, and since 1702, the facile transfer of property by the negotiability of promissory notes has suffered no let or hindrance. The Common Law and its burden once thrown off, mankind have gone their way rejoicing, no more thinking of reversing the result, or taking up the oppressive load of its restraint, than Sinbad had after his deliverance from the old man who, Common Law like, had been riding him to death.

The same Common Law principle of hostility to maintenance, originally established to promote justice among barbarians, worked mischief in civilized Ohio as lately as 1848. By act of 32 Henry 8, ch. 34, it had been provided in England that actions upon the covenants in leases might be brought for and against the assignees of reversions. In 1848, it was held by the Supreme Court of Ohio in the case of *Crawford vs. Chapman*, 17 Ohio, 449, upon the ground that at Common Law choses in action were not assignable, and that the English Statutes, however ancient, form no part of that system, that "the grantee of the reversion cannot maintain an action of covenant in his own name against a lessee upon an express covenant contained in the lease, for the payment of rent." And this judgment stood as the part of the judicial polity of more than two millions of people until 1860, when an escape was found in the case of *Masury vs. Southworth*, 9 Ohio St., 340, by holding that the Code of Civil Procedure, passed in 1853, had the effect of the act of 32 Henry 8, by force of its re-

quiring all actions to be brought in the name of the party beneficially interested.

The truth is that, considered as a means of advancement, of national growth, of social progress, as a reservoir of rules promotive of development, the Common Law does not exist. It is as fabulous as the fountain of perpetual youth. Its office is to retard, not to advance. It is not in any sense a reformatory agency. The *formula* by which it tests each case is, "What is," not "what ought to be the law." It consists of the existing customs of England, those that are and have been, and is no fountain of new remedies for their defects, or of authority for new customs. Equity undertook this office, but presently stumbled over "*Stare decisis*," and was reduced thereby to a mere system of rules for cases, rules derived from the decisions of past cases. The Common Law is the mass of the undigested customs, not reduced to system, often clashing, not cast into form, not collected, scattered through myriads of volumes, often obsolete and outgrown, and possessing the element of uncertainty in very great measure. Mr. Pollock calls it "Chaos tempered by Fisher's Digest." A code cannot be less compact, simple, certain, easily comprehended, speaking without doubtful sound. The search for the fountains of analogy at Common Law is the search for a lost coin in the desert, a weary turning over the pages of innumerable reports, digests, text-books, commentaries. If this task were so burdensome in Lord Bacon's time that he clamored for a digest, what shall we say now when his sixty volumes have expanded into a library, and, in the State of New York alone, twenty volumes of reported decisions are annually issued from the press? The reduction of this vast mass within practicable compass is not impossible. Even if we admit that the wisdom of this generation is not sufficient to produce a Code flexible and capacious enough for the development of many generations, at least the results which have been reached can be digested, collected and stated in concise form, without occupying many volumes, to which the sanction of positive law can be added by enactment.

A "*consimili casu*" clause, such as our legal forefathers resorted to when they established the action on the case, and such as the modern codes of Civil Procedure contain, would give to this system all the flexibility, and adaptation to new exigencies, which the Common Law at present furnishes. There is no more difficulty in working by analogy from a digested than an undigested body of laws, no more difficulty in devising a new rule or making a novel application in this way by analogy from codified law than attempting to find the guide to right results in the mass which constitutes what is called the Common Law.

Nor is there any difficulty in framing rules in advance, except such as the limitations of human nature itself impose. The wisest men may not be wise enough to anticipate *every* exigency; this is the only difficulty. But the wisest men of our time, acting by legislative commission in the creation of a code, can do much; and it is better to do something than nothing—better to try and anticipate something than nothing; better to try to anticipate and thus prevent controversy, than to wait until the exigency may arrive, and then resort to a suit, with its paraphernalia of judges, opposing counsel, jurors, witnesses, depositions, continuances, judgments, orders interlocutory and final, nonsuits, and finally appeals to the judgment of Courts of last resort, too often, alas! answering the description once given of a certain Circuit Court of the United States, when sitting for the trial of criminals, as "an inferior Court which has no superior, and a Superior Court which has no inferior!"

The practicability of codification has been established beyond successful dispute. The work done by Justinian, Alfonso the Wise, Napoleon, Livingston, Macaulay's Penal Code for India, the codes of California and Dakota, and Mr. Field's great work in New York prove this. Romans, Spaniards, Frenchmen have succeeded. Only among English-speaking lawyers is doubt entertained. I agree that codification, to be enduring must emanate

from a highly civilized people of great experience, of varied concerns, of successful administration for many generations. No uninspired law giver is wise enough to give birth at one throe to a code fitted for the government of a complex society. The Ten Tables might answer for the simple affairs of a warlike village and its rural suburbs, but it was not until after Rome had mastered the world, and Byzantium became the capital of the empire, until a vast body of customary rules had grown up and been tested by experience, until trained jurists had studied the wants of a numerous people of varying tongues and manners, a people busy in war and commerce; it was not until after the test of the adaptation of the system of jurisprudence in its various parts to the countless emergencies of life, until the Ten Tables had grown to twelve, and they expanded into Quiritian law, and this had been modified by laws, and imperial decrees and rescripts, and the *jus honorarium* had been created by the edicts of the prætors, and finally by the perpetual edict "*adjuvandi vel supplendi vel corrigendi juris civilis gratia*," and the Proculians and Sabinians had waged warfare over rules of construction and methods of expression, and the five great jurists, Gaius, Papinian, Paulus, Ulpian, and Modestinus had published their commentaries, and Gregorianus, Hermogianus, and the Emperor Theodosius had in part anticipated the final work by codification of the imperial constitutions, that Tribonian and his co-laborers achieved the great consummation, the masterpiece of jurisprudence, which to-day governs more than half the civilized world, and still enlists disciples and the devotion of scholars, even in England and America.

The Code Napoleon did not spring *ex machina* from the brain of the master or any of his disciples. It is the adaptation to French society and the modern life, of the *Corpus juris civilis* and the commentaries of Pothier, and other teachers and glossarists.

Codification is especially novel in its form. It is not the work of a rude and simple, but of a

complex social organism. It contains no element of arbitrary or original mandate. It is the revision and concentration of what has preceded; the stating not the making of law. Its merit is that it renders the whole body of the law, before vague, uncertain, dispersed, scattered, and almost beyond reach, simple, concise, clear, certain, compact, and easily accessible. No one mind or generation has ever been powerful enough to beget a code *de novo*, except one expressed in the simplest forms like the Ten Commandments or the Ten Tables.

For a warlike village and its rural suburbs, the Twelve Tables might be enough. For a community of shepherds and husbandmen, few rules, and they very simple suffice. The boundaries of their fields and pastures, the increase of their flocks and herds, the disposal of their conquests, their marriage and paternal relations must be provided for by law. Little more is needed. But when the village has become a city, the sword been exchanged for the tape-yard, and the plough-shares converted into molten iron, to emerge as tramway rails or car wheels, when one farm has been subdivided into building lots and occupied by paved streets and dwellings, when another is a forge or furnace, the third a tanyard, and the air is polluted by the smoke from countless chimneys, and railroads and canals take the place of the ancient bridle paths, and telegraphs and telephones convert the sky into net work, then the lines in which the fathers traced the rules to govern their few and simple controversies have been long outgrown and become obsolete, and step by step, perhaps painfully and very slowly, have been conned and studied, and at last adopted, the many words necessary to state the laws of complex social existence. Then at last, the road of justice "*curves round* the cornfield and the hill of vines, honoring the holy bounds of property."

Thus, as years pass, the sphere of the Common Law shrinks, and that of statutory government enlarges. This is as true of England as of America, and had begun long before the first settlers landed at Jamestown. Almost

coeval with its very origin, the Common Law began to show its incapacity to expand and adapt itself to changing circumstances. But without referring to the more ancient acts, which have been repealed as long since outgrown and obsolete, or to statutes like that of Elizabeth regulating charities, which might be described as merely the enactment, into written law, of rules which the Courts of law or equity would have administered as within their original jurisdiction without statutory sanction, how very large a space is now occupied in the study of English law by the Statute of Uses, the act of 32 Henry 8, chap. 34, regulating actions upon leases, the Statute of Frauds and Perjuries, the habeas corpus legislation, the act of Anne establishing the negotiability of bills and notes, and the bankruptcy laws. And when we come down to the legislation of this century, to Lord Tenterden's act validating pledges by factors of the chattels of their principals, to the abolition of imprisonment for debt, to the revolution in the law of evidence, to the new rules of pleading, to the laws of limited partnerships, and for the government of corporations, to the winding up acts and official liquidations, to the arbitration acts, and finally to the Judicature act of 1873, which adopted in substance the New York Code of Civil Procedure, and to the hundreds of other reforms introduced and made effectual since Bentham and Romilly and Brougham began their labors, and the long sleep was broken, and the renaissance of legal reform set in, the scope of active energy in shaping life occupied by the Common Law is seen steadily lessening, and that of statutory regulation widening, so that we may fairly hope that not many generations, perhaps not many years, will elapse before the book of the revised system, the complete code of the new jurisprudence will take the place of the antiquated and worn out Common Law. No doubt it will not be accomplished without friction, and grief will be felt in the hearts of many, and the air may once again be filled with the wailing cry, "Great Pan is dead." For he is dying, and the healing forces or those of resurrection

cannot help him. Does any one believe that in another generation any considerable fragment of the Common Law will be left in force in England or in New York, Ohio, Indiana, or any other of the Great States of the South or West, except as far as it may be preserved in statutory form by re-enactment? Or that having taken the new departure we shall ever return, or even be content to dwell in the tents of an unsystematic, unabridged, desultory, disorderly series of statutes. Procedure and pleading have already been codified in twenty-four states and territories, in England, and in India. The Code of Criminal Procedure originally prepared for New York has found favor in nineteen States and Territories, and in the East Indies.

Has any lawyer been heard of who wishes to go back to debt and detinue and trespass, to John Doe and Richard Roe, and to fictions, or lying made legal, or to Tidd and Chitty? The decrees of fate are irreversible. Over the pathway from formedon to ejectment, and from trespass to the civil action of the Code, is inscribed "*nulla vestigia retrorsum.*" Does any one now propose to exclude the testimony of parties and interested persons, or of the accused in criminal cases? Eighteen years ago Governor Cox proposed to the General Assembly of Ohio to withdraw this permission to testify in his own behalf from the accused, but no one seconded the motion. But for Constitutional inhibitions, we should soon, I think, take the next forward step of reform, proved by the experience of Continental Europe to be salutary and most efficient, both for the detection and conviction of the guilty, and the protection of the innocent, by requiring, except in cases of treason and political offences, the accused and the suspected to explain, as every man of sense has always done in his private affairs, recognizing that it is as important to society to punish the guilty as to shield the unoffending.

Besides Penal Codes and Codes of Civil and Criminal Procedure, large progress has been made towards a Political Code, or Code of Administration, and the Code of Rights in every American State. The duties of public

officers, the laws of testamentary succession, conveyancing, of arbitration and award, of interest and usury, of insanity, divorce, dower, and the relations of persons are now almost wholly statutory.

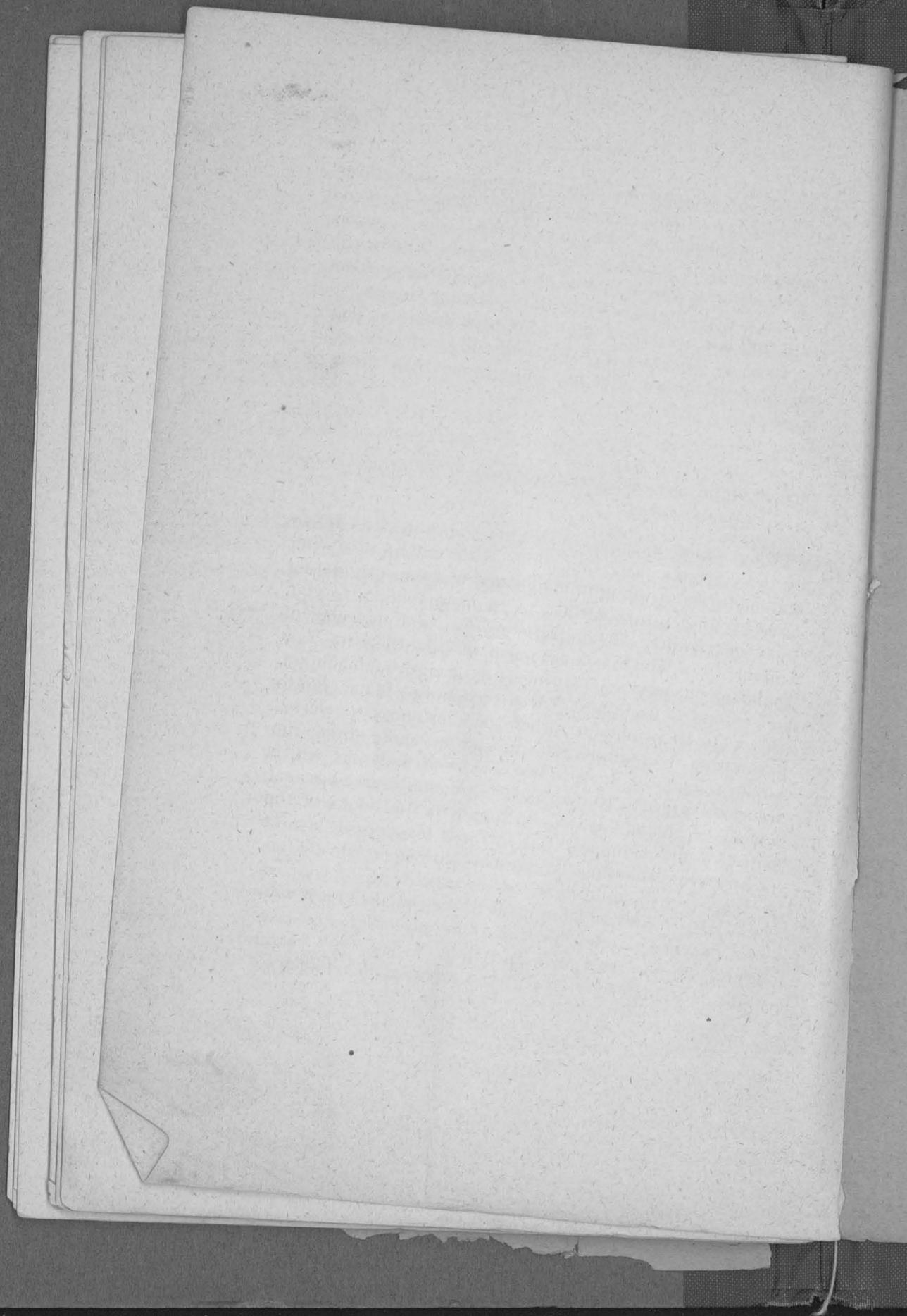
The experiment of complete codification has been twelve years on trial in California. This code is also in force in Dakota. And this trial has been attended with the same consequences that have resulted from partial or Procedure and Penal Codification elsewhere. If the testimony of Judge Sawyer of the Federal Circuit Court, Chief Justice Sanderson and other experts, can be relied on, the experiment is a success. Twice has this great work, with which the honored name of David Dudley Field is indissolubly associated, and which will preserve him in everlasting remembrance, if not as the Tribonian of this age, at least his precursor, been adopted by the General Assembly of New York. And when the veto power is no longer used to check its progress, and New York has given it a fair trial, not many years can elapse before its adoption in substantially the same form may be looked for in at least the majority of the States.

I do not claim finality for Mr. Field's code, or any other form of words. To adopt the perfect code at the first or second movement is to expect impossibilities. Moreover it is not certain that the absolutely perfect code can be framed until the book of the experience of society has been closed, and our civilization entered upon its decadence. It was so in Rome, and may be so with us. For as new emergencies arise, and new wants appear, any code of human origin will require repairs, amendment, enlargement. The codes of civil procedure, though in force in some of the States for a fourth of a century, have not yet had their final touches. What I hope and claim is, that before many years a code of rights as well as remedies, the same in substance, though very likely differing in detail, will be in force in every American State, and within the limits of its powers, be adopted by federal legislation. Then, but not till then, do I believe the effervescing energies

of legislation, which I described in beginning this address, will heed the mandate, "Peace be still." While such code may not be eternal, it will be durable, and, with occasional re-adaptations to meet the progress of society, will furnish a precise, definite, simple, and comprehensible jurisprudence for many generations. That, by removing doubts, and rendering law accessible, it will diminish litigation, ought not to be an objection, at least with those who consider the interests of law of more consequence than those of lawyers.

*Mr. President, Mr. Dean, and gentlemen of the faculty of the Yale Law School :*

I congratulate you upon the results of your work, as shown by the exercises of the day. The wide extent of reading and maturity of thought manifested by your graduating class promise future success to them, and honor to you, their instructors. I congratulate you, and this ancient University of which you are no small part, that the Law Department shows such strong signs of vigorous manhood, and extended usefulness. Your teachings, I am glad to see, relate to principles rather than instances, to eternal laws rather than temporary applications, and embrace the whole science of jurisprudence, as well that part which traces its origin to Roman and Continental sources, as that whose beginnings are to be found in the books of the sages of the Common Law. As a teacher of law of twenty years standing, I can testify, with some knowledge, to the virtue of your methods, and the value of your results. As a lawyer, I bid you Godspeed, and trust that your benches may be filled, that the career of your usefulness may be unbroken, and that the success of your pupils at the bar may crown your labors with rejoicing.









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