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WHAT IS A UNIVERSITY?

BY PROF. C. A. EGGERT.

The question, What constitutes a university, may be fairly put, though every one knows that universities have been in existence for over five hundred years. In the United States, the name "University" is often applied to institutions that differ in name only from the regular college. Even our most prominent "Universities" do not differ in their collegiate departments from the colleges. The studies pursued in the one are also pursued in the other, the quality of the instruction being generally supposed to be the same. A distinction now commonly made, that a college is only one department while a university is an assemblage of several colleges, is practical enough to satisfy the legislator and dictionary maker, but will hardly recommend itself to the critic. Many colleges divide their courses so as virtually to constitute several schools, some add one or the other professional school or college, and it is not easy to see why they should be classed in a different category from that of the universities. Is Harvard College or Yale College a university? Is the "State University" of the young State of X a university? In France the name is applied to an organization that has scarcely anything in common with a German or an English university. In England, Oxford and Cambridge differ decidedly from The University of London, and all three differ materially from the German universities. The difficulty becomes still greater when we take in consideration such institutions as Cornell University, founded with the avowed purpose that in it anyone might pursue any study, including the practical arts. In Europe, and to a large extent in this country, a distinct and sharp line is drawn between the university and college on the one hand, and the scientific school, or "polytechnic school," on the other. Paris, Berlin,

Dresden, Aix-la-Chapelle, Boston, and New York, are famous for their polytechnic schools, or polytechnic universities. Again, there are distinct schools for the education of teachers and professors. The highest type of the latter, as a distinctly professional school, is the "Ecole Normale," of Paris. The branches there taught embrace everything that professors of the various branches in colleges and scientific schools must know in order to be specialists; hence the institution might well be called a university. However, it is not. With us, on the other hand, all these different schools might be classified as, or with, "Universities," and nearly all our universities claim to be prepared to cover the scope and ground of these different and distinct institutions.

In spite of the great diversity here pointed out, as regards the peculiar functions of a university, there is one feature that seems to be common to all universities. All universities, it would appear, are based on the principle that the highest attainable degree of instruction, and the greatest possible variety of the branches taught, should be made available for all such students as have received a proper preparatory training. In so far as a university gives up this principle, wholly or in part, it falls short of the test. The college may eventually do the work of a preparatory school for any of the distinctive departments of the university, but unless the university furnishes better and more extended teaching, it will be only a rival of the college, not its superior. In the United States the distinction between college and university generally assumes the following form: The college is a school originally intended to furnish teachers and ministers of the religious denominations by which the college was founded; while the university (as a rule a "State university") emphasizes the secular character of its teaching. It is for this reason that the State universities take the lead in educational reforms,

or, as some would say, innovations. Harvard and Yale, in so far as they are colleges, have in some respects followed the lead of such universities as that of Michigan, but they are essentially conservative, and, for instance, have even now only the B. A. course in their collegiate department. From all we can learn by a study of the various universities in the old world and the new, we are compelled to infer that an American university has no right to be regarded as anything better than an assemblage of schools, superior in no respect to the common college, unless the teaching is of the highest order and there is the greatest practicable variety of branches taught. A curriculum of four years spent under professors who are in nothing superior to the professors of the ordinary college, cannot be considered as constituting a feature peculiar to the university. But as the university is not bound to recruit its professors from any fixed denomination; as it is free to choose the best scholars wherever they can be found, and as it is under no obligation to foster one specialty at the expense of any or all others,—there is no possibility for the university to fulfill a mission that is sufficiently distinct to entitle its work to be ranked by itself.

The German university begins where the American college ends, and the preparatory training of the German college is so thorough that it can be matched only in our best colleges. Undoubtedly the German system is rational, and does away with all the difficulty of classification. But the German university is exclusive, and some of its features do not deserve to be imitated. Besides, all higher education is a product of slow growth, and it is well to remember that the proverb recommends us to make haste slowly. One thing should never be forgotten, viz., that a university exists for the purpose of promoting learning; that learning, thought, intellectual advancement, are the real objects for which it was founded, and that all the rest is merely the shell. When I hear college men utter in solemn tones the truism that a "character" is of more importance than learning, I am strongly tempted to believe that the speaker does not excel as a scholar. A learned institution will develop character if it insists on

honest work, but if it pretends to do the work of the preacher or the reform school it clearly wastes its energies and means on things that belong to other departments. A student who will not study, or who is no gentleman, has no business at an institution founded for the special purpose of advancing the cause of learning. To degrade the professors of such an institution to the work of a police constable, or a village schoolmaster, is to cheat the good student out of the best services the professors could render. Any ill-timed tenderness for the lazy and ill-mannered student is a gross injustice to the better class of students for whose benefit the whole costly arrangement was originally established.

I leave the subject here, conscious that I have not succeeded in answering the question, What constitutes a university, but believing that some of the ideas here imperfectly expressed may prove for others an incentive to give the subject a more adequate treatment.

THE POWER OF IDEAS.

BY A. J. CRAVEN.

Plato was right. Ideas are the only substantial realities. Use does not wear them away. The more constant and universal their acceptance, the brighter their luster. Neglect does not deface them, nor time corrode. The idea of home loses none of its charm in its universality. For twenty centuries the atomic theory of Leucippus slumbered in forgetfulness. Inductive philosophy found few friends between Aristotle and Bacon. Ideas have the elements of their own preservation. Intangible, they live in the minds of even their enemies. In the breast of the murderer is the evidence which in after years convicts him. They are a constituent part of character, for character is formed by the ideal above and beyond. Let them fasten themselves in the mind of the youth, and though years cast their shadows on the scenes of boyhood, his early ideas form the outlines of future life and determine the character and destiny of the man.

Let an idea be dominant in the colony, and it remains in the subsequent customs and institutions of the empire. In the early dawn of history, two sister colonies were planted along the shores of the Mediterranean. In the territories of both were combined the richness of the valley and the beauty of the mountain. Under the same genial sky, with the same sea dashing in their harbors, they

grew and flourished. Stronger became their power, wider their boundaries, until each successively had nations for armies and taxed the world for tribute. In one capitol they erected arches of triumph; in the other, temples and statuary. From one civilization comes law and politics; from the other, our highest conceptions of mythology and art. Why this difference in results? Variation of climate will not answer; difference in lineage will not suffice. It is in the fact that, centuries before Titus and his legions marched back to their city with standards of victory, centuries before the gold and marble statue of Athené was carved on the Acropolis for the wonder of the world, virtue, valor, endurance was the prevailing sentiment in one colony, and beauty was the passion of the other.

Wonderful is the power of a sovereign thought. Mysterious in origin, slow and halting through the labyrinthine windings of the ages, crushed by the tyranny of kings, locked by the keys of bigotry in the vaults of the cloister, rescued by revolutions, maintained on the field of battle; until, passing from language to language, across seas and over continents, it permeates the consciousness of all the human family, and changes the social and political condition of the world.

Ideas may be divided into two classes—the local and transient, the universal and immortal. Both have been powerful. The past, with all its progress and inspiration, and with all its retrogressions and failures, is but one broad empire over which they have held their sway. The local and transient arising at the call of circumstance. The universal and immortal embracing all emergencies,—founded on emotion, breathing in every yearning of the soul.

The history of these is the history of civilization. Into every age they have rushed like the famous Six Hundred. Fierce and doubtful was the conflict. Their paths were strewn with the dead. Where, to-day, is slavery? Where are the gallows for witches? Where the racks and thumbscrews of the inquisition? Where all the whips and fires and manacles and dungeons for men who dared to read and think? They are gone—buried with all their falseness. Such institutions of barbarism, loved and cherished by our fathers, guarded like some old baronial castle, adorned with the ornaments of religion, have mouldered away. The children have fled from their father's castle. Its walls were found to be stained with blood. From its darkened halls came shrieks of horror. They have fled from their haunted heritage; and, in fairer lands, in the brighter sunlight of reason, have built them homes which shall stand as the pride and glory of time.

Thousands of these local and transient ideas lie mouldering beneath the living issues of to-day. The false give luster to their opposites. The true, having fulfilled the mission for which they were created, give all their worth to a truth higher and more general. The present is but the blossom and fruitage of the past. As far as the geologist has dug into the surface of the earth, he has found evidences of previous organisms. Through all the successive layers, down to the granite foundations, he sees the fossils, successive worlds of life, which have passed away in time unknown and made their graves the support of the life which followed. Every leaf and flower that has ever quivered and decayed in the frosts of autumn has only gone to that vast storehouse from which comes all the beauty of the spring. Democracy has budded and blossomed from beneath the throne of monarchy. In far-off India, in the dark days of her tyranny, there were poets who sang of liberty. In Greece, polytheistic as she was, who placed a god in grove and sea and star, there came philosophers who declared there was but one God. In Athens, aristocratic, proud and haughty, there was one man who scorned her narrow walls and declared himself a citizen of the world.

Thus, liberty, religion, and philanthropy come down through the years from these distant shores, broadening like the Amazon, sweeping in their majestic course onward to eternity. Rising above the limitations of time and place, they have swayed the mind and passions of nations.

Stand by the burning stake of the martyr, and, in his dying song and prayer, learn the power of religion. Go back in history to the fields most bloody and there learn the power of liberty. Point me to the grandest heroism, where muscles were iron and men fought like demons, and it will be in front of their paternal city, with wife and child gazing down from the broken walls. Banish from literature its hearthstones, its forums, and its temples, and letters are dead. From the day old Homer first swept the chords of poesy, from the day the childless priest knelt on the sands of the sea and prayed for justice, we can hear these grand anthems of the soul filling all the past with melody.

In the fullest development of these broader ideas is the highest civilization. To these the present owes its grandeur. They have developed conscience. From enlightened conscience comes justice, law, and order. They have taken man from his chains and placed him in the light of freedom. They have called woman from her degradation and crowned her with honor. Upon their higher development rest the hopes of the future.

The local and transient will come and go. New systems will supplant the old. Institutions will perish. Creeds will go down. Governments will change. But, in the great world of to-morrow, in the farthest day of time, no eyes shall be so weary and no hearts so sad, but they will brighten and throb with new life at the softest whisper of religion, liberty, and home.

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EDITORIAL AND PERSONAL.

JUDSON L. WICKS, '81.

CALVIN FORNEY, '82.

LOCAL.

MORRIS BROWN, '83.

EXCHANGES.

HERMON CRAVEN, '84.

WE have received from many quarters commendations for the attitude we have assumed regarding the evil habits of students. It is our purpose to continue these articles until proper attention has been given to this subject by all those interested.

PROMINENT among the active forces of society is the desire of popularity. The struggle to attain it we see on every hand. It pervades all ranks of society, and when confined within proper limits, it is as praiseworthy as it is universal. But there are cases where it becomes far from praiseworthy. He who mingles in society and is the least observing will soon notice who are the popular ones. If he will but study these, he will generally find one at least in every society, and it is generally the most popular one, who has become a slave to popularity. Connected with this desire of popularity is generally an ambition for social rank, and the most interesting feature of the whole study is the manner in which this slave of popularity forms his friendships. None are chosen for friends who cannot materially advance his ends. In colleges where a large body of

students are brought together in daily contact, this is especially noticeable. And, indeed, in this connection, it may be said that scarcely anywhere is there a better opportunity of studying human character than is offered by the body of students attending a college. Popularity here exerts its most magic charm. Ambition here assumes the form of a struggle for high places in the literary societies and in class. The "most popular man" becomes a study. But, as a rule, it is a sad study and one that tends to fill one with misanthropic thoughts, and to shake one's confidence in humanity. For the subject of study is destitute of the nobler impulses of humanity. Self is the only shrine at which he bows. The sacred relation of friendship he pollutes by obtruding therein his selfishness. He seeks friends, not in obedience to the nobler impulses of the human heart, but because he knows that a judicious choice of friends will serve his own ends. When the time comes in which a friend no longer attains to this object, he is cast aside with the least of remorse. When it is necessary to choose between two friends, as it sometimes is, in the case of an election for some high rank, he will set aside a friend of many years without compunction, and patronize a friend of perhaps more influence, preferring to "worship the rising sun rather than the setting." Such men are not without their satellites. They are surrounded by toad-eaters, who, like moths, are attracted by brilliancy. But for these let us entertain the feeling of pity, rather than that of disgust. Sycophancy marks a weakness in the person characterized by it. Yet extreme popularity is also an evidence of weakness. A man who thinks for himself and has mental stamina enough to assert his beliefs will never be most popular. He will have enemies, but he can afford to have enemies. Not so is it with him who is the creation of popular favor. He dresses, acts, talks, and thinks like everybody else. In fine, he has no individuality. We may be odd in our taste, but as for us, give us a friend, neither a toad-eater nor a "popular" man, but a man who honestly thinks and boldly gives expression to his thought.

A GOOD library is a treasure. It is useless to dwell upon the numerous advantages arising from the proper use of such a treasure. It is, however, a lamentable fact that many have access to fine libraries and do not know how to use them. This we feel to be somewhat true of our own institution. There is not a student, we think, who does not recognize the priceless value of our library, but we regret that there are many who do not know how to make it of use to themselves. In order that a library may accomplish the greatest good, it is necessary that it have a perfect classification. It should be well supplied with indexes and catalogues, which are the keys that unlock its treasures. Within the last few years much pains have been taken by libraries in compiling indexes and catalogues, and perhaps none of these works have been so fraught with good results. It is a work which benefits all seekers after knowledge in a very eminent degree. It teaches them how and where knowledge may be found. And let us emphasize this point. The knowledge of the use of a library is of incalculable value to every student. It is possible for him to acquire only a small part of all knowledge, but the ability to use a library properly is next in value the acquisition of knowledge itself. Instruction in acquiring this ability is something which the Faculty owe to every student. It is one of the most permanent acquisitions which he will make in his college course, for it will remain with him through life. It will create in him a love of reading which will not only be permanent, but is of immense value to him. We are sorry that such instruction is not at present offered to our students, but we are also happy to learn that steps will be taken in that direction next year. Our list of catalogues and indexes is complete enough for the use of every student. This list includes most of the best American catalogues. Among these must be mentioned the American catalogue, which is not yet complete, but when complete, will contain a very complete list of all authors, works, and topics. Next must be mentioned the Brooklyn library catalogue, which is excellent in its way, not only containing a list of authors, works, and topics, but also in

many cases a synopsis of the topic. The Quincy and Boston catalogues are both excellent. Indexes of the periodicals are also to be found in the reading room. But in many respects, the best catalogue of all is the Card catalogue. This owes its existence entirely to the pains and perseverance of Mrs. North. The amount of work required in its construction can only be appreciated by one acquainted with such duties. Its value can only be appreciated by those familiar with its use. We are sorry that these are apparently so few. It comprises a list of authors, works, and titles or topics. Take, for example, Carlyle. In the compartment will be found his name, with all his works and all the biographies of him. As a topic, take the Feudal System. We open the division F, and we find "Feudal System" on several cards, with notices of where information may be found on that subject. A peculiar beauty of this catalogue is that it is capable of indefinite expansion, whereas the book form is not. A fine index for all periodical literature will be published next year. Finally, we must not omit to mention the *index rerum*, which is an evidence of the devotedness of the various librarians which the University has had. It has been compiled with much pains and care, and is a very valuable aid to the student.

BILLIARDS.

The State University is justly proud of the general character of its students. Restrictions upon the conduct of college undergraduates, it has long been known, are productive of more harm than good. "Thou shalt," and "thou shalt not," is not well calculated to develop the spirit of a gentleman. Singularly free from iron-clad restrictions, the University, though lacking many distinctive features of typical college life, is better adapted for encouraging manly self-reliance than most institutions. It is true, however, that a boy at college, free from the moral restraints of home and parents, is liable to abuse his freedom by falling into vices.

One of the greatest temptations of the student is to become a billiard player. The game, it seems, has a strange fascination. In this fact lies its greatest evil. For in billiards

there is no such thing as moderation. Few things can be imagined more dissipating; like gambling, one game only increases the passion for further indulgence. Time which should be spent in study is squandered in manipulating the cue; and there is a tradition which says that the money spent by some students for billiards has exceeded their board bills. By a little observation it can be readily learned that the best students, those who are accustomed to think most logically and faithfully, are not devoted to the habit of playing billiards.

Anyone can readily satisfy himself that most of the billiard players, in the academical department at least, have learned the game since their entrance into the institution. The cue has become so fashionable that the ability to handle it skillfully is looked upon as a greater accomplishment than the knowledge of a science. Now, we do not make this an argument in favor of restrictions, but we do say that this temptation held out to students should in some way be counteracted. The Faculty have already taken a step in the right direction, but if we are to form a stronger sentiment against billiard playing, all of us should do our best to bring it into disrepute.

THE EVILS OF INTEMPERANCE.

Bacchus has had worshippers in all ages, and, alas! this age is by no means an exception. There are many to-day who do not look upon inebriety as a sin. There have been many poems written, and some very beautiful ones, too, be it confessed, the theme of which was the praise of the wine cup. But notwithstanding all this, we should take a decided stand, and brand intemperance as an evil. Burns wrote his "John Barley-corn," but the sad fate of Burns warns us to beware the sentiment of his song. We are aware that among the young it is considered a mark of spirit and of "blood" to get drunk occasionally. A true spirit and noble blood would disdain the idea of stooping to the level of the brutes. Among a certain class, and this is by no means of narrow limits, the ability to drink large portions of intoxicating beverages is esteemed a mark of superiority. Wagers are laid that one individual can drink more wine in a given length of time than an-

other, and the victor is greeted with applause. The prevalence of such a spirit in any society is a relic of the barbarous ages. We are amused to read in romance and legend of drinking bouts, but here we should stop. We should not betray our weakness in attempting to imitate those old heroes of Bacchanalian song. The question of temperance has become one of the most vital that now agitates the public, and in spite of the charming beauty which Bacchanalian songs lead to the coiled serpent of intemperance, we should resist its magic charm, and endeavor to create public sentiment against it.

PERSONAL.

Prof. —: Your lengthy essay is respectfully declined.

Mr. S: Your article on the "Evils of Smoking" is well written, but we can not use it.

Miss H.: We can give you no compensation for your verses on "Spring." We shall be happy to publish them, however, at an early date.

"Mr. —: You are not enjoying to the fullest extent the privileges of the University, if we can take as a criterion your attendance upon devotional and other exercises. Please call and give an excuse, if you have any, for your former non-attendance. Take as examples the members of the Faculty. Yours respectfully."

SHAKESPEARE ON BASE BALL.

Now let's have a catch.—*Merry Wives.*

And so I shall catch the fly.—*Henry V.*

I will run no base.—*Merry Wives.*

After he scores.—*All's Well.*

Have you scored me?—*Othello.*

The world is pitch and play.—*Henry V.*

These nine men in buckram.—*Henry IV.*

What works my countrymen?

Where go you with bats and clubs?—*Coriolanus.*

Let us see you in the field.—*Troilus and Cressida.*

I will fear to catch.—*Timon.*

More like to run the country base.—*Cymbeline.*

Parade is to be preferred to the "set 'em up" exercise.

Please pay up your subscriptions.

LOCALS.

Send in your subscriptions.

Boating on the river is a favorite sport with some.

Walking in the woods is "just too nice for anything."

Why can't it rain at least three days in the week, if only for an hour each, beginning at 4 o'clock P. M.?

J. H. Danskin is building up a reputation as a business man in a lumber yard at Keswick, Keokuk county, Iowa.

Baker is a salesman in his father's dry goods establishment. He expects to spend Commencement week with his friends in Iowa City.

Payne opened his mouth and spake unto the multitude gathered about him, saying: "My cup of joy is filled to overflowing. Follow me and partake of the cream of my joys."

Russell writes that he has joined a base ball club, a whist club, a boating club, a reading club, a private theatrical club; in short, he has joined everything in his town but the church.

The Junior Contest was an exciting one; but the aggravated excitement of four out of the honored six subsided into a remorseless apathy, while the still more honored two soared aloft into the realms of a just victory.

Quite a large crowd assembled on the on the Carleton grounds to witness the game of base ball between the University nine and the Haverly experts. The game resulted in a marked victory for our boys and a fruitful advertisement for the Minstrels.

Prof. Booth is busy giving instruction to the august Seniors who are to represent the the University at Commencement. (They need it.) He has another province not less responsible,—that of unfolding and meting out to the members of the lower classes, in agreeable(?) measures, the treasures of his art.

The Freshmen are becoming inactive; in fact they seem careless of their social improvement. Sociables are no longer thought of; conversational clubs are abandoned. Allow us, then, in consequence of their former

zeal and their present languor, to whisper one little word, one that contains volumes—*picnic*.

We are pleased to note the good feeling and genuine respect for the dead manifested by Haverly's Minstrels in playing a dead march at the funeral of a member of Phelps' troupe, Thursday, May 17. What more appropriate and worthy tribute could they have paid a fellow being, though personally unknown, yet recognized as one having an interest in common with them?

The following is a list of Bibles lately received by the Library, donated by Rev. A. Loughridge, a former student of the University: Eleven in various Indian dialects, one Persian, one Armenian, one Chinese, one Afghanistan, one Burmese, one Hindoostan, one Manx, one Javanese, one Sanscrit, one Arabic, one Ethiopic, one Turkish, one Greenlandish, one Russian, and portions of the Scriptures translated into various other dialects. The whole list includes about forty Bibles.

Efficient preparations seem to have been made for the exercises on Decoration Day. The co-operation of citizens and students in this matter ought to result in a complete programme, and one well carried out. The artillery is to be moved by horses, four to each gun; the infantry, including the entire University Battalion, is to march under the direction of Lieut. Thurston. The speakers chosen for the occasion are Skinner from the Collegiate Department and Sweeney from the Law Department.

COMMENCEMENT EXERCISES.

June 17—Friday, 10 A. M., Meeting of the Board of Regents; 8 P. M., Anniversary of Literary Societies.

June 19—Sunday, 3 P. M., President's Baccalaureate Address.

June 20—Monday, 8 P. M., Law Oration by Chancellor Hammond.

June 21—Tuesday, 9 A. M., Graduation of Law Class; 3 P. M., Commencement Oration by Hon. John A. Kasson; 5 P. M., Class Day Exercises; 8 P. M., Alumni Meeting—*Orator*, J. A. Pickler; *Poet*, Mrs. Lida Fitch. President's Reception at close of exercises.

June 22—Wednesday, 10 A. M., Collegiate Commencement.

LAW DEPARTMENT.

MURATT W. HOPKINS, *Editor.*

'81. Sweeney is orator for Decoration Day.

Columbia College has sixteen secret societies.

Samuel Parker, a student of the class of '80, is doing nicely in the practice at Plymouth, Indiana.

Sir Henry Finch said: "The sparks of all sciences in the world are taken up in the ashes of the law."

Some member of the profession has said that judges have a great advantage over the lawyer, for they always have the last guests.

Judge.—"Have you anything to offer to the court before sentence is passed on you?" Prisoner.—"No, Judge. I had ten dollars, but my lawyers took that."

'78. C. D. Hine has written a neat introduction to the "History of England before the Norman Conquest." It is neat and spicy and well calculated to inspire one to much reading.

"Law and equity are two things which God hath joined, but which man hath put asunder."—*Colton*. If this has direct reference to husband and wife, we would like to know which is the law and which the equity.

'79. John A. Hall was accidentally killed in a railroad accident near Denver, Colorado, on Friday, April 29. Mr. Hall visited the present class only a few days before he started West, and while here won esteem by his genial and courteous manner.

We received the *Temperance Tribune*, a neat temperance paper, published and edited by George W. Corbin, and we must say that it is a spicy sheet of good "tone," and puts forward the principles which it advocates in a brilliant, neat, and chaste manner, which should bring the merited success.

Prof. Ross brought peace and rest to the hearts of "we Laws" when he assured us that at the opening of the "Great Book" we would find that our sins had been but few,

and that the balance sheet of the average Law would be as clear from blurs as even those possessed by "gentlemen of the cloth."

We find that it was at one of the regular district examinations for admission to the bar, in a certain district in the State of New York, that some of the applicants defined the benefit of clergy to be "the right of Christian burial," while others thought it to be "the privilege of being attended at the gallows by a priest."

"Liberty is the creature of law, essentially different from that authorized licentiousness that trespasses on right. It is a legal and a refined idea, the offspring of high civilization, which the savage never understood and never can understand. Liberty exists in proportion to wholesome restraint; the more restraint on others to keep off from us, the more liberty we have."—*Webster*.

'81. S. M. Ladd delivered the Alumni Address at Carthage College on the 31st inst. The *Carthaginian* speaks as follows:

"On Tuesday evening the college church was again thronged on the occasion of the Alumni Address. The speaker of the occasion was Scott M. Ladd, Esq., class of '79. * * * The address was well delivered, and the speaker ably sustained his reputation as an orator which he had acquired while at college."

CONSOLIDATED.—On Wednesday, April 20, 1881, Mr. Fremont Benjamin and Mrs. Josie V. Taylor, after traveling along life's rugged pathway for a score and a half of years, all alone and in the desolation of their own solitude, were hitched together for better or for worse, and will henceforth pull up the turbulent stream of time in double harness. We trust that the *good fruits* of this consolidation may be many and *even unto* super-abundance.

"Equity is that part of our civil jurisprudence which grew up outside of the limits originally fixed for the common law by its exact forms, actions and other technicalities, and which provided for the cases not embraced within those limits, remedies according to the nature of each case; but which by the gradual fixing of its procedure and not the accumulation of precedents, has now be-

come merely a collateral system of civil rights and remedies, accurately defined and systematically administered."—*Chancellor Hammond.*

"In all free governments the constitution or organic law is supreme over the government, and in our Federal Union this was most distinctly marked by limitations and prohibitions against all which was beyond the expressed grants of power to the General Government. In the foreground, therefore, I take the position that those who resisted violations of the compact, were the true friends, and those who maintained the usurpation of the undelegated powers were the real enemies, of the Constitutional Union."—*Jefferson Davis.*

One day as the Laws and Juniors were passing down the stairs, a sedate and much-bearded Junior, one of a theological turn of mind and who wouldn't throw a stone for a nickel, relieved himself of the remark that he supposed that he would have to go down with those insignificant Laws. We would suggest some means of escape for the poor Junior so that he will not become "totally depraved" by coming in such close contact with the "insignificant Laws," while passing down the winding stairs, and thereby the poor fellow become so thoroughly contaminated with the degrading influence that his gentle spirit would become disgusted and make an early transit up the "golden stair."

We have the pleasure to give below some extracts of a letter received by our much respected Chancellor, and written by Mounge Edwin, LL. B. of '79, who was a native of Bassein, Burmah. The letter was written from Konigsburg, Germany, dated on the 8th ult. The letter is truly eloquent. We make the following selections:

"I must leave many countries in Europe unvisited by me. I shall be obliged also to leave Palestine off unvisited. I shall only see it at a distance as I go through the Suez. I traveled enough in Germany to find out who are the Germans. The Germans are strange people. They seek the truth, but they find the shadow. They study philosophy, but they obtain infidelity.

"As I travel through this world, I find one general opinion concerning law and lawyers. People believe that law and lawyers are the worst things in the

world. When they find out that I have studied law, they believe that I have committed an unpardonable sin.

"Let me tell you what I found out in the civilized world, even in the United States. I took my collegiate course at Columbian University, Washington, D. C. I had only five classmates, but we had very little friendly feeling toward one another. I took my theological course in Crozer Theological Seminary; only twelve of us belonging to one class, but we had more unfriendly feelings toward one another than you could find in any school. I was ashamed of the spirit in such a school. I went to Iowa State University. There I had about one hundred and twenty-five classmates. There was remarkably friendly feelings among so many young lawyers. I never had more sympathetic classmates in all my life, and I never received better treatment from any professor than I received from the Law professors in Iowa State University. Law and lawyers are better than people take them to be.

"I hope, dear Chancellor, that God will spare you many years yet, to teach young men not only to become great lawyers, but to become good and useful citizens of the grand republic—to do honor to their profession and to live worthy of their generation."

We find in "Bench and Bar," a neat practical effusion of Judge Tuthill, at one time Judge of the Eighth Judicial District of this State, which we think worthy of a place here. The case was an appeal from the docket of a justice of the peace, and when the case was called, neither party responded, and a member of the bar suggested to the court the decease of the appellee and another member suggested that the appellant had started upon the same road. It is reported that the judge quietly remarked, "Mr. Clerk, you may pass the case, as it will probably be tried before another tribunal." After adjournment of court, the following report of the case was found on the judge's desk:

DILLON VS. CRANDALL.

"This appeal was brought to our Cedar District Court,
And passed over by the Judge's awardin'
That, as Death had claimed his right, it was fitting
that the fight
Should be *fit* on the other side of Jordan.

"If the counsel who were fee'd in the trial to proceed,
Had received enough pay for their boardin',
To finish up their task, they should *change of venue*
ask,
And take it to the other side of Jordan.

"When the beater and the beat, and their lawyers all
meet,
They can then try their action accordin'

To the 'higher law' in force, for better or for worse,
In the courts on the other side of Jordan.

"The proceedings had prior to the judgment of the
squire,

Which plaintiff was desirous of avoidin,'
If taken up *thar*, may be settled at the bar,
When they get it to the other side of Jordan."

THE VALUE OF THE CIVIL LAW.

BY WM. G. HAMMOND.

To arrive at a just and accurate estimate of the value of the civil law, as a study, to the modern English or American lawyer, we must distinguish between two different views which may be taken of the relation of that law to our own, leading to two different methods of study. We may regard the civil law as historically connected with our own: as being in fact an earlier stage of the same great development of jural ideas, which has attended the history of the European races from the earliest days to our own. Or we may simply contrast it with our own, as a distinct and independent body of law, as we might study Mohammedan or Chinese law, if we knew as much of them, making of the relations between the two a study merely in comparative jurisprudence. The latter, in fact, has been the commonest method of study, because it is only of late years that law has been regarded as peculiarly a historical science, or that our own law has been studied, in its sources and early forms, carefully enough to render possible any accurate statement of the historical connection between the law of ancient Rome and that of modern England or the United States. It is the only method apparently contemplated by Kent and Story, fond as they were of adorning their writings or their judgments with illustrations from specific doctrines of the civil law. Yet I think we shall find that it is in this latter view only that the advantage which a modern student can derive from the Roman law may be questioned or criticised with success. In the former view, as taken by the student who appreciates the historical method, and would understand the jural ideas of his own people and time, not only in their present shape, but in their first rise, and the whole course of their intermediate development, a knowledge of the Roman law is invaluable; it may indeed be termed simply indispensable to his end. It was, if not the first, yet by all odds the greatest and most widely-spread system of law known in the history of the Aryan races. It was also the system out of which most modern European law grows. No other system holds a place comparable in these respects, except the kindred Germanic law. It holds the same rank of prime importance in the law of Europe that the law of Europe holds among the jural systems of the world. It has been the law of the best part of the civilized world, from the time that municipal law may be said to have first had an existence, and now lies at the basis of the law of civilized mankind. One cannot study their history, nor that of humanity as a whole, nor even the history of

any one of the social sciences, without coming in contact with this. Its influence has been felt in all received systems, not only of law, but of government, of morals, of political economy, even of theology. In fine, it is by the study of the civil law that we can bring our own municipal law and our own political and social institutions into their proper place in the picture of that great march of the human intellect, which, commencing in an unknown antiquity, and first obtaining historic record under the walls of Troy or on the deck of the Argo, has come down to our own day with ever widening influence, and ever firmer and faster tread, and which has now placed Europe and America in the foremost place of the world.

Or, if we descend into detail, we shall find the historic connection between the civil and common laws to be far closer and more unbroken than it has been the fashion to admit, until very lately. Many of our most familiar doctrines can only be clearly understood by starting from the civil law doctrine, which was familiar to the minds of the early English lawyers, and then tracing the steps by which, from that point of departure, the common law has reached its present form. Take, for example, the doctrine of the assignment of personal actions or rights of action. The whole tendency of our law on this subject has been in one direction. At least, from the reign of Edward III. to the present day, there has been an uninterrupted series of changes in favor of survival and assignability. I believe there is not a single instance in which an action, that before admitted of transferral, was made non-assignable, either by the legislature or the courts; but beginning with a rule according to which no personal action survived the party originally entitled to bring it, or could by him be transferred to another, we have, by a long course of innovations, reached a rule, under which almost every action can be so treated. To every thoughtful student the question at once occurs, "Whence came a rule that the nation has from the beginning, now five hundred years ago, struggled so persistently to get rid of?" Various answers have been devised. I will not take up time in showing their forced and unsatisfactory character. The true answer no one can mistake who looks into the Roman law—*i. e.*, into that law which was the only *great body of scientific jurisprudence known to the sages that first enunciated the rule in question; and which was regarded by them as a system of universal, or as we should now say, of natural, law.

The English lawyer or judge of the Plantagenet reign took his notion of an action, or right of action, directly from the civil law.† But in the civil law actions were not assignable, nor as a rule inheritable. The civil law, indeed, knew no other way of transferring a right of action *ex contractu* than by novation, or, in effect, destroying it and creating a new one in

* Of course I do not forget the *canon law*, nor do I underrate its importance in the shaping of our own; but for the present purpose it is not worth while to distinguish between what came from the *civil* law direct and what through the canonists.

† Inst. IV. 6, pr., quoted by Bracton, 98 b., and by every English writer since, and usually mistranslated.

its place,* and consequently it no doubt seemed to the English lawyer of that day a mere provision of natural law, a rule inherent in the very nature of the case, that actions and obligations could not be transferred from one party to another, like land, or slaves, or oxen. (Cf. Gaius, II. 38.) Perhaps if he had looked at the matter critically and philosophically, he would have seen that his own conception of an action was already departing from that of Gaius and Justinian, and that, in the course of time, it must become something very different, requiring different rules. But we can hardly blame the fourteenth century lawyer for not being a critic or a philosopher, when such a character is hardly yet regarded as "professional" by his brethren of the nineteenth.

Of course all the considerations which make the Roman law indispensable to our student by the historical method, must, so far at least as they bear upon the character and contents of that law, have a bearing upon the estimate to be formed of it, when viewed in the other method, or as a mere topic of comparative jurisprudence. When we select any foreign law for comparison with our own, we must be influenced largely in the selection by its absolute value and importance. Even in this view, then, the civil law is one of the most important for comparison. But a lawyer need not necessarily be a comparative jurist. He can dispense with the civil law, in this view, just as he does dispense with the Mohammedan or the Chinese or the Hebrew law. And even when weighed against other systems, as a means for the study of comparative jurisprudence, there are many things to be said against the Roman law. For many purposes, the civil law in one of its modern forms, French, Spanish, Dutch law, will serve better, because the conditions under which these are formed are more nearly analogous with our own. Possibly, if it were not for its historical position with respect to all modern European and American law, that of ancient Rome could be neglected. Nearly all of its public law, and much of the private, is so neglected now, because in the great change of circumstances it has ceased to have any lessons for us. All of it requires to be used with discrimination, or it will confuse rather than instruct the student. The experience of most who have been over Kent or Story's pages with a class of students will prove this. They are in the habit of illustrating the separate doctrines of our own law, by pointing out how far in each instance the civil law agrees with them. To the practicing lawyer this may occasionally furnish a useful argument; to the accomplished jurist it may suggest valuable reflections; but to the tyro it is confusion only. And it may be remarked, that such references are usually superfluous to one who has studied the civil law as a whole, and useless or worse than useless to one who has not. The comparison of two particular rules, on any given subject, taken from distinct systems of law, is, in truth, one of the highest and most difficult problems in comparative jurisprudence. To commence instruction in the civil law, by stating such isolated parallelisms, is to begin at the wrong end.

* Gaius, II. 38., III. 176. Bracton, 101 b. — 104; in Guterbock, p. 152.

To tell the student that the civil law does or does not agree with ours, is a mere piece of curious and useless information, unless he already knows enough of that law to guess at the causes which have produced the resemblance or the difference.

After all, it must be a wonder that men so fond of legal study, and gifted with so much intellectual activity, as the better class of English and American lawyers, should have so long neglected the admirable means of culture, the great storehouse of illustrations and arguments, to be found in the civil law. I fear that part of the blame must be thrown on the unhappy tone in which some of the most zealous admirers of that law have presented its claims. There would almost seem to be a necessary connection, in recent times, between a knowledge of the civil law (in an Englishman) and a bilious or an atrabilious temperament; at least it is difficult to find a writer who has advocated its claims to the attention of his brethren, without seeking to commend them by the most violent and sweeping denunciation of the common law, with all its methods, rules, and process. It does not satisfy them to depreciate the latter relatively, by the most extravagant praises of its rival; but they must attack it even when no comparison is called for, and exhaust their powers of sarcasm and ridicule — happily not unlimited — in sneering at any common law peculiarity they have occasion to refer to, and finding only absurdity and nonsense in what the judges and lawyers of two great nations have for centuries been accustomed to regard as very good and useful practical doctrine.

Nor are these gentlemen always careful to understand what they abuse so furiously — which perhaps would be asking too much, considering their contempt for it, but which would certainly be an advantage to them, in their professed object of reforming English law. Thus the doctrine which Mr. Phillimore attributes to "the barbarians who created our law of real property," and which he states as "a rule that every person having possession of land was considered to be in seizin of the fee" (p. 91, note z), seems in fact to be the well-known principle* that a disseisor has a quasi-fee, as Wharton expresses it, or, in other words, that a wrong-doer, in possession of land with no right to it at all, must be regarded as having a fee-simple if he has, and so far as he has anything. Now, paradoxical as this may seem, at first statement, it needs but a little reflection to show that it is based on the very nature of things, and sustained by impregnable logic. We have only to ask ourselves what the nature of his estate would be if the true owner should never interfere with his possession; or, where are we to seek the limitations required to give his estate any other character, to be convinced that Mr. P. is ridiculing what he does not comprehend.

Again, the civil law is made needlessly difficult, if not repulsive, to a beginner, by the parade of a very peculiar and extensive vocabulary, which, however excellent in itself, is certainly not the feature best adapted to be put forward, to strike the eye and ear of a novice. They are very severe on the barbarous

* The disseisor, so long as he holds, has in law a fee-simple estate. Washburn, R. P., I. 66.

phraseology of English law, and might remember that all technical vocabularies are nearly on a level in this respect to one unacquainted with them, and that however superior their own may be to ours, they cannot expect that superiority to be perceived, before the meaning of the words is understood. We cannot help thinking that this has really been one of the greatest obstacles to the growth of the civil law in professional favor. Nothing strikes the mature mind so unpleasantly as a long list of unwonted and (at first) meaningless terms, in mastering which it must renew the task of early childhood, before being admitted to the science they contain; and probably many a middle-aged lawyer has thrown aside in disgust a modern work on the civil law, stuffed with a needless number of "civilianisms," when he could have been both interested and instructed, if the same doctrine had been presented to him in language the exact meaning of which he understood.

We do not forget the difficulties that may be started here. No doubt it is simply impossible to present civil law doctrines in terms of the common law; no doubt it is even desirable that a considerable number of the more useful and exact terms of the former dialect should be introduced into our own. We even think that such an introduction would be one of the first benefits to be expected from its wider study. The American bar, at least, has not shown itself inhospitable to such guests, and not a few words (like subrogation, novation, etc.) have already been most usefully borrowed from the civilians. We are more than willing to see the process continue; for, in fact, although the 'lay gents' have a very different impression, it is one of the defects of our law that it has so few "terms of art" for all the higher classes and nicer distinctions with which it has to deal. It has really no scientific language. But this is a very different thing from the needless clothing of even the plainest doctrines, common to both systems, in the uncouth, (at least apparently so,) terms affected by English civilians.

EXCHANGES.

The *Varsity* is a pleasant exchange. It has fewer essays than most papers, but its locals are spicy and pleasant.

The Oskaloosa College *Vidette* is one of the smallest, but by no means the poorest, on our exchange list. In a lengthy editorial it discusses the removal of the college from Oskaloosa to Des Moines. The articles, "William Cullen Bryant" and "Tennyson," are very praiseworthy.

We would acknowledge the receipt of the *Central Ray* for May. It is the first number for this year, but we are glad to receive it hope we will be remembered in the future. They have enlarged and improved it, and ask the hearty co-operation of the Alumni and

and friends of the college in increasing its subscription list. We extend to them our best wishes for their success.

The exchange editor of the *Niagara Index*, in the last issue, raves at the local department of college papers. He thinks: "The weakest department in most college papers is that devoted to the chronicling of local happenings. In some journals the taste is simply abominable. A great many college editors seem to consider it their bounden duty to indulge in cheap and vulgar wit at every turn, and to satisfy this desire they stoop to anything, however low. This is especially true of co-ed. places." He quotes from several papers and draws the astonishing conclusion that co-ed. is the "great mump producer, and the most generous customer of the measles. Mumps and measles, girls and dashes, make up the cut of every paper issued from a co-educational establishment." We would ask the *Index* to improve its own local department. We object to billiards as much as they object to mumps and measles.

"Dennis Keiley, a graduate of Trinity College, Dublin, has been appointed a street sweeper in New York at ninety cents a day." And yet with facts like these before them, many are still ready to deny the practical value of a University training.—'Varsity.

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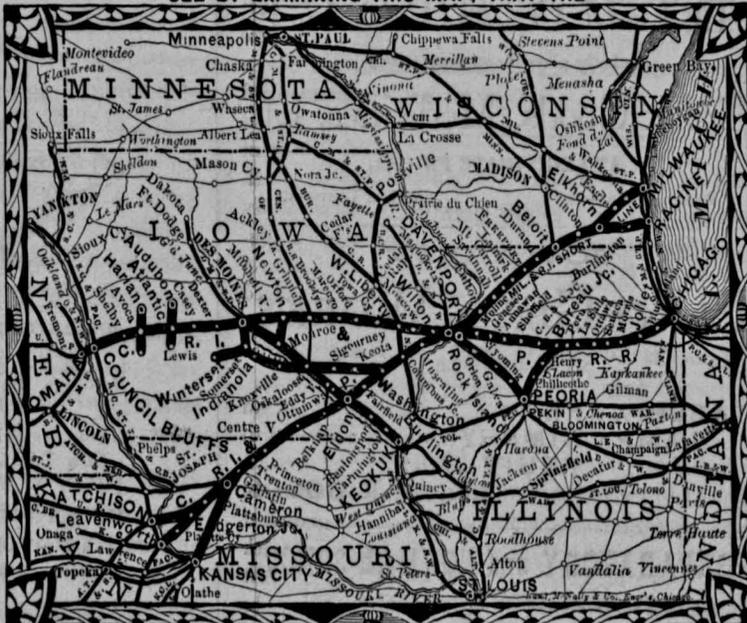
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