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VI.

THE UNITED STATES LAW JOURNAL OF 1822.

BY

SIMEON E. BALDWIN.

Among the things in which Connecticut has been a pioneer, one is the institution, in New Haven, nearly a hundred years ago, of the first legal periodical ever published in New England, and the only legal periodical in the world then published in the English language.¹

There had been an earlier one, edited by John E. Hall, of Baltimore, and afterwards of Philadelphia, the American Law Journal, of which the first volume dates from 1808, and the last appeared in 1817. During the same period, two volumes of the Carolina Law Repository had been published at Raleigh, North Carolina (1814-1816), and in 1821 Hall's Journal of Jurisprudence had appeared and died.

Next came, to occupy the field, the new Connecticut periodical, which was called the United States Law Journal and Civilian's Magazine. It was published by Gray & Hewitt of New Haven, and purported to be conducted by several members of the bar in different states, under the superintendence of Charles G. Haines, a lawyer of New York City, and Ralph Lockwood, a recent accession to the New Haven Bar. A long list was printed, on the front cover, of booksellers keeping the magazine for sale at different places, including New York, Boston, Charleston, Albany, Salem, Newburyport and Portland; and a much larger number in all parts of the United States were also named on the inside of the cover as "regular agents."

Originally it had been intended to make it a monthly or bimonthly. A publisher's note, however, announces that it has been

¹Jones, in his Index to Legal Periodicals, includes as such a Militia Reporter, published in Boston in 1810, and Griffith's Law Register, published in Burlington, N. J., in 1821 and 1822. I do not regard either as entitled to be so classified. Griffith's Register was essentially a collection of the local laws of each state, in the nature of a digest.
"found to be impracticable to issue a work of the kind oftener than once in three months, and at the same time render it worthy the high patronage it has already received." It therefore took the shape of a quarterly, the first number having 144 pages.

The Connecticut Journal of July 16, 1822, mentions its first appearance, with the cautious observation that "as to the merits of the work, we can hazard no comment, not being read in the law. We believe, however, that the utility of such a work to the profession, if well conducted, cannot be doubted."

In the issue of the same newspaper for the next week is an anonymous communication in regard to it, in which the author expresses the hope that the "editors may be encouraged to persevere in their laudable undertaking, and that they may succeed in furnishing what has long been a desideratum to the American Bar, a periodical view of the progress of jurisprudence in this country, and a repository for those important principles which are from time to time adjudicated in our courts, and which do not come within the scope of any of the numerous and voluminous reports with which we are inundated."

The first number contained three important opinions of the District Court of the Southern District of New York.

As at that time, and for many years afterwards, no regular reports of the proceedings in this court were published, the cases must have been of general interest.

A sharp attack on the newly adopted Constitution of New York followed, on the ground that it paved the way for fusing actions at law and actions in equity. The title of the paper was "Equity Jurisdiction in the State of New York." "The most powerful mind," said the reviewer, "with the greatest industry, is not more than competent to fill the seat of a judge of the common law or that of a chancellor. Either system branches out into such varieties, is involved in so many perplexing and subtle niceties, that it requires all the exertions of a life well bestowed to fulfil the duties of either department." To unite the duties of each and throw them on one man was therefore a reckless experiment.

The veto by President Monroe of the bill for the preservation of the Cumberland road, in May, 1822, was then discussed and the position ably defended that Congress can make roads and canals for the purpose of creating and encouraging commercial
intercourse between the states. This, of course, has since been established by decisions of the Supreme Court of the United States, and Monroe's views seem now strangely narrow.

Then followed a good translation of an historical sketch of Roman law, published the year before at Paris, by M. Dupin, an advocate of distinction.

There were several book reviews; one commending Swift's *Digest*, which had just been published in New Haven, although criticising sharply his observations (pp. 13, 14) on the effect of state insolvent laws, as laid down in *Sturges vs. Crowninshield*.* On this point the Chief Justice cited a later case (*Farmers & Mechanics Bank vs. Smith*, 6 Wheaton, 131) as establishing the position that a state statute authorizing a discharge of an insolvent debtor from all liability, if he made a surrender of his property, was void as impairing the obligation of a contract. He should have added that this was only true of debts contracted after the statute was enacted, but did not; being misled probably by the reporter's head note, which does not allude to the distinction. The criticism of the reviewer was therefore not unjust.*

Several cases were also printed at length from the current volume of Barnewall & Alderson's reports.

The second number of the *Journal* was published in September.

This contained two opinions by Judge Davis of the United States District Court for Massachusetts, filed in 1810 and 1811, and now furnished by Mr. Justice Story; and one of Mr. Justice Livingston's recent opinions in the Circuit Court, in which he held that it was not illegal for a citizen of one belligerent, in time of war, to draw a bill of exchange on a citizen of another.

A sharp criticism followed of the last (19th) volume of Johnson's New York reports. Several of the cases, it was said, were wrongly decided. One, especially, was pronounced to be (p. 202) "not only without the smallest shadow of law or precedent in their favour, but flatly against both." The doctrine thus attacked

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*4 Wheaton, 122.

*Sturges vs. Crowninshield did not decide whether there was a distinction between the right of a state to discharge a debt due to one of its own citizens, and its right to discharge a debt due to a non-resident. This was first settled in *Ogden vs. Saunders*, 12 Wheaton, 213.
was that a widow took a legal estate, as dowress, in an equity of redemption, as against a *bona fide* purchaser for value. "We really," said the reviewer, "see no reason why the law should be thus stretched in favor of women beyond its ancient limits, nor why the females of the present generation should be allowed privileges that were not conceded to their mothers and grandmothers; and although we well know how to appreciate that refinement in the manners of men, that gallant and courtly bearing toward the softer sex in the intercourse of private life, which is the source of so many elegant and innocent enjoyments, and constitutes the chief charm as well as the most striking characteristic of modern society; yet we think it ought not to interfere with public duties. However well it may become the fireside, the drawing-room, or the assembly, it does not befit the gravity of the bench. Nor do we think that anything in the present condition of the legal rights of women, requires that this complaisance should be carried so far."

No allusion is made to the fact that Connecticut, in 1816, had adopted the New York, in preference to the English, doctrine on this subject.4

"It has not been usual," he adds (p. 207) "as far as we know, to criticise judicial decisions in the manner we have now been doing; but we cannot imagine, as we have already observed, why it should not be done, and we are inclined to think that the unthankfulness and irksomeness of the task is the main reason that it has hitherto remained unattempted. A fair and candid discussion of the principles that are from time to time adjudged in our courts of justice, appears to us to be perfectly admissible, and we think it is calculated to do much good; for all courts must occasionally commit errors, and by pointing out these errors while they are recent, an opportunity is afforded of correcting them. But if they are suffered to pass unnoticed, the same false doctrines are reiterated again and again, until at length they become inveterate, and are past all possibility of being put right. The history of the common law contains many instances of this sort, of unintended perversion by judges, of some of its most important principles, through mistaken views and fallacious reasonings."

4 Fish *vs.* Fish, 1 Conn., 559.
Johnson was then (p. 210) accused of reporting too much. "We do not know," the reviewer observes, "that we have any sufficient reason to accuse him of direct book-making; we will not say that he has designedly swelled the bulk and number of his volumes merely for the sake of gain; but with all possible charity for his motives, and after making all due allowance for probable differences of opinion on such subjects, we think there is a very large proportion of the cases he has reported, that might just as well, and, in truth, much better, have been suppressed. The instances are frequent in which there is nothing new in the principle of the decision; and there are many other instances where the point determined is of an entirely local, private, or transitory nature, and in no way interesting or important to lawyers in general, either in the State of New York, or elsewhere. . . .

"Perhaps, however, we shall be told that these opinions are drawn up and written out at length by the judges themselves, and handed to the reporter for publication, and that it is not for him to curtail them; but we do not see any reason why. Many things no doubt are said in these opinions, merely for the satisfaction of the parties in the cause, and their attorneys and counsel. These the court, of course, does not expect to be published; and it is one of the most essential parts of the reporter's business to sift them out, and separate them from the rest of the mass. It is his duty to see that we have nothing but what we really want, and cannot well do without. To give us more than this is not only putting the profession to an unreasonable and inconvenient expense, but what is quite as bad, and to men of large practice a great deal worse, it is a most provoking trespass on their time. With whatever care reporters may exclude from their books all superfluous matter, it will still be a difficult thing for the most industrious lawyer to keep pace with the progress of judicial decisions in all the various departments of the law. The practice of that profession, especially as it is conducted in this country, where all its branches, instead of being kept distinct as they are in Europe, are blended and confounded together, and where what is properly the duty of four or five persons is frequently thrown upon a single individual, is one of the most arduous and exhausting occupations that men follow; and to discharge all the trusts
of an extensive business as they ought to be discharged, requires, in addition to a robust and vigorous frame, a degree of indefatigable perseverance, of inflexible resolution, and immovable patience, which few men possess. Now, when this is considered, and when it is considered, moreover, how much lawyers have to read in order to retain what they have learned in their youth, and how much more to enable themselves to hold way with passing current of legal doctrines and opinions, which, without constant application, will very soon leave them far behind; and when, beside all this, it is further remembered, how very necessary it is, that an advocate should devote some portion of his time to the pursuit of literature and to general reading, it must be acknowledged that any useless addition to his hard task is absolutely cruel; it is making the burthen too grievous to be borne. Yet such an addition is each superfluous page and each superfluous sentence in a book of reports. . . . Undoubtedly we might point out in English books of reports, a considerable number of needless cases; and in most of the volumes of Mr. Johnson’s American brethren, the list is still greater than in his. But the rage for reporting is really getting to be a mania, especially in this country, and threatens to inundate us with books. It will by and by be the work of a life time to learn even the names of all the reporters; and unless these gentlemen hold their hands, the paths of the law will be completely blocked up with the constant accumulation of these enormous masses of type and paper and binding, which they are so busily employed in placing before us to direct our steps, and to which we think it full likely some future generation, in the height of their vexation and despair, may be tempted to apply the torch of Omar, and burn their way through it.

“"We have thought a long time that something ought to be said or done on this subject, and we have long wished for an opportunity to admonish this prolific class of writers, whose fecundity exceeds even that of the great wonder of our age, the unknown author of the Waverley Novels, that they are pursuing their vocation with rather too much eagerness; and to let them know that a very large proportion of their readers begin to think their patience is abused, their time wantonly trespassed on, and their pockets, if not exactly picked, at any rate most unwarrantably taxed. Such an opportunity this Journal has afforded us; and as it was neets-
sary to begin somewhere, and as Mr. Johnson stands first among our American reporters, we thought we might as well commence with him."

Next came a lengthy and able argument against the proposition then pending in Congress, to repeal the supervisory power of the Supreme Court of the United States over state courts, as to constitutional questions.

The cases of the Jeune Eugenie, as reported by Mason, that year, was then commented on. Here Story had decided that the slave trade was "an offense against the universal law of society," and the Journal expressed the hope that such would soon be the doctrine of all civilized nations, and the belief that all that was necessary to accomplish this would be a firm adherence by their courts to the principles of social justice. "In the glorious cause of abolition," it was added, (p. 258) "the United States and Great Britain now stand, and have always stood, foremost among nations. Let them adhere to the principles promulgated by Sir William Grant, in the case of the Amedie, and by Judge Story, in the case of the Eugenie; and the great work of philanthropy, which for the last forty years has called into powerful and constant effort the greatest talent of that enlightened period, will be accomplished at once. There is not, indeed, so much of splendor and éclat in a judicial decision, as in parliamentary enactments, on a subject of this nature: there is not the same pomp and circumstance preceding or accompanying it; but there is something admirable in the simplicity and directness and force with which it accomplishes its object."

Edward Livingston's report on a penal code for Louisiana had been published in 1822 at New Orleans, and the Journal warmly commended (p. 263) his draft project. "He commenced his labors," it said, "under auspices peculiarly favorable. No patchwork was demanded at his hands. He was not called on to mend up an old system: as a law-framer, he was to commence at the foundation. His genius was unshackled; his mind was permitted to range in freedom over one vast and uncultivated field, wide and grand as the fair and luxuriant regions of the wilderness, over which the influence of his code will yet be diffused, when filled with generations of industrious, enterprising, and intelligent freemen."
Several recent opinions were next given touching matters of corporation law, with this observation (p. 294): "The law of corporations has not been much studied in the United States. The great number of our corporate bodies, and the rapid manner in which they are increased by the state legislatures, will yet render this branch of jurisprudence of great importance, and open a wide and fertile region of research."

In one of them, written by Richard H. Bayard, it is maintained that under a special charter for a Roman Catholic church corporation, providing that it should consist of three clergymen and eight laymen, the clergy were not such an "integral" part of the body that their presence was vital to the transaction of business. If so, he argued, the Pope, by refusing to appoint these clerics, could disfranchise the lay incorporators, and thus deprive the pewholders of their property. Their pews were their property. Almost all those in the cathedral at Baltimore had sold at auction for from $400 to $1500, and pews in the Catholic churches in Philadelphia had brought from $200 to $800 (p. 301).

The third number of the Journal gave reports of another decision of Judge Livingston in the Circuit Court for the Second Circuit; a statement of the powers of surrogates in New York; a translation of the commercial code of Cuba; and an attack on the decisions of the Supreme Court of the United States by which our courts of admiralty are accorded greater powers than belong to those of England, and jury trials are therefore correspondingly reduced in number.

An instance of the practical working of this doctrine is thus stated (p. 392):

"A quantity of tea had been entered at the custom-house as Bohea. The custom-house officers, suspecting the entry to be false, seized it. One-half had been landed, and was on the dock, and the remaining half was still on board the vessel lying at the dock. The tea seized on board the vessel, was libelled, tried by the district judge sitting on the admiralty side of his court, and condemned; and the other parcel was prosecuted by information at common law in the same court, tried by a jury before the same judge, upon the same testimony, and acquitted!

"Suppose this had been a whole Indian cargo, worth perhaps half a million, and all of it had been seized upon the water. The
whole of it would no doubt have shared the fate of the first parcel of tea: the district judge would have condemned it, as he did that; and thus twenty merchants might have been ruined, whom the verdict of a jury would have saved."

The attitude of the Supreme Court in this respect was criticised as due to one of Marshall's few blunders. "With the opinions of Chief Justice Marshall, in particular, we are on one account most especially pleased; which is, that they are free from all that paltry and pedantic parade of learning which is sometimes so offensive. He does not, in deciding a case, travel a mile out of his way to introduce Latin quotations; his opinions are not loaded down with authorities sprinkled as thickly through them, as plums in a pudding, or strung together at the bottom of the page, like bunches of onions—authors which a man may hunt for a week, in all the booksellers' shops, and all the libraries in a whole metropolis, and not be able to find one-half the books from whence they are cited. To be fond of ostentatiously displaying a man's knowledge, is no absolute proof of a want of talents; for we know that men of very respectable talents have been prone to it; but it is a weakness not incident to minds of the highest and strongest cast; for these are too conscious and secure of their own strength, too certain of their title to the admiration of mankind, and too sure of commanding it, to be solicitous to attract it."

The Litchfield Law School was made the subject of a laudatory article. "We do not hesitate," say the editors (p. 400) "to say that the system of instruction which has been adopted in this school is the most perfect of its kind of any that has ever yet been established; and that it enables the law student to acquire more in one year than is gained in three years, if not in five, in the ordinary method of securing an acquaintance with legal principles. We recommend it to the American Union; and we do this with a full conviction, that if our approbation can give it additional claims to patronage, we are contributing to the respectability of the American Bar."

The system was then set forth as described in a letter from the head of the school, Judge Gould, to the editors, dated November 17, 1822.

Our common law treatises, he wrote, "are conversant too exclusively about doctrines, to the neglect of principles. They deal
much in rules, and little in reasons. In other words, they teach us what the rule is; but seldom why it is." The same thing he thought measurably true of judicial reports. "I am by no means undervaluing our books of authority: no one, I hope, holds them in higher estimation than I do. I mean, simply, that the manner in which they present the doctrines of the law, is not, in general, that which is best adapted to the instruction of youth. Judges who pronounce, and writers who explain, the law, speak and write, not as school-masters to novices, but as instructors to the profession. It is, therefore, one of my primary objects, to show the reason of the law, by tracing its rules, so far as I am able, to their proper principles. By this mode of investigation, one not previously much habituated to it, will be surprised to find how great a proportion of those rules, which, upon the first impression, appear arbitrary and unreasonable, or, at least, to rest on no other foundation than ita lex scripta est, may be referred to principles which commend themselves to the understanding and approbation of every man." Reports, he thought the student should read, "generally speaking, only by way of reference, as a test to the lectures, or for the purpose of studying particular questions given out to them for discussion, in their forensic exercises. I always dissuade them from reading reports, in course, until they have acquired a pretty thorough knowledge of the outline of the science, by studying each principal title separately; being fully convinced, that reading in the former mode, is of little comparative profit, in an early stage of legal studies."

A translation follows of the French Constitution of 1814, and of the first part of the penal code of Napoleon. The rest was to appear in the following number, but did not.

An article came next on the exclusiveness of federal jurisdiction in bankruptcy, and then a rhyming account of conveyances at common law and under the statute of uses, written by a former Chief Justice of New York.

As samples of the jingle, I give these lines:

Next uses were invented, when the land was given in trust,
That the feoffee or the grantee would do whatsoever was just;
But formerly, if they proved false, there could be no redress—
Till subpoenas out of chancery brought them to confess;
And, for purging of their consciences, to execute the trust,
Account, dispose, convey, defend, or whatever else was just.
Such use was not annexed to, nor issuing from the land,
But collateral to possession, if I rightly understand.

Lands were formerly transferable by livery alone,
And where there was a termor, as this could not be done,
The reversion then was first in all due form granted;
Then the tenant attorned, and nothing more was wanted;
And it was but advancing them one single step more,
To make a lease for years, where there had been none before;
And the tenant might surrender, or the grantor might release,
And the one or the other, ever after hold the fee in peace.
Thus the fee was transferred by the making of a deed;
And of livery of seisin, there was no longer need.
But the entry of the lessee was necessary still,
Till the statute of uses came, that object to fulfill.
They made their lease a bargain and sale, and then they quickly saw,
That, as an entry, would avail, as when made at common law;
And the release of the fee simple to the bargainee,
Was quite enough, at common law, to vest in him the fee:
But if another is to have the use in this reversion,
The statute must come in again, and transfer the possession.
What if the grantor of this term should be a corporation?
Some think the whole conveyance would fail of operation;
And, as 'tis said, a corporation can't be seis'd to use,
The bargain and sale of such a term, could no effect produce;
And as, in every doubtful thing, it is not wise to venture,
In such case let a lease be made, and let the lessee enter.

The concluding number of the Journal, with which ends the first and only complete volume, opens with a full digest of all the cases contained in the 19th volume of Johnson's New York reports; and a sharp criticism of one. In commenting on the latter, the editors have this to say about the civil jurisdiction of justices of the peace (p. 498):

"The civil jurisdiction of the justices of the peace, in that state, is, in our opinion, one of the worst features in its jurisprudence; the whole plan and principles of the system, appear to us to be radically wrong. Its first object is to make litigation cheap, and there is no surer way to make men litigious—especially the lower order of people, who, in some parts of that state, are forever worrying each other, and disturbing the peace of their respective neighborhoods with petty law-suits which are attended with a
great loss of time, not only to the parties themselves, but to jurors and witnesses.

"Another avowed object of the system is to 'bring home justice to every man's own door'; and this means nothing more than bringing it to the next tavern; where the losing party may seek consolation for his loss, in the virtues of whiskey, and the winner may testify his joy, to use an expression of Dr. Darwin, by liberally 'ingurgitating' the same generous potation. To make a bar-room the sanctuary of justice, is degrading the dignity of the law, and leaves men to associate its name with scenes of riot and confusion."

The plan of committing so much power to justices of the peace, they continue, "has certainly failed in one of its ends, viz., that of cheapening litigation in petty causes. It has furnished what is undoubtedly a great desideratum in every system of laws—a cheap and expeditious mode of collecting small debts, which are not disputed, and to this object it ought to have been confined; but in controverted cases, instead of diminishing the expenses of legal proceedings and rendering them less dilatory, it has made them both more tedious and more expensive."

Adams's volume of New Hampshire reports published in 1819 (1 N. H.) is then reviewed (p. 510). It gives on the average, say the editors, nearly four pages to a case, and this is too much. One case actually covers eighteen pages, "and though the question involved in it was one of great local importance, viz., whether the legislature of the State of New Hampshire, can, constitutionally, grant a new trial in a court of law; yet we think eighteen pages too much space to be given to any case whatever; especially in an age when law books are so rapidly multiplying, as they are in this."

Another case they pronounce all wrong. A deed, delivered but unrecorded, had been destroyed by the agreement of both parties. The court held that by ancient practice in New Hampshire, the title thereupon was to be considered as revested in the grantor. "Ancient practice, forsooth!" cries the Journal. "It was a vulgar error, into which the courts and lawyers of New Hampshire had fallen, at a time when neither the courts nor the lawyers of New Hampshire, or of any other part of the country, knew much more of law than other people. It was a mistake that ought to have been corrected as soon as it was discovered. The court says,
indeed, that 'many titles to real estate depend on this construc-
tion, and it would be of great public inconvenience to unsettle the
question.' As for this, an act of the legislature, confirming all
such titles, would have obviated the danger, and such an act, in
our opinion, ought to have been passed; we think it a great deal
better to be legislated out of a difficulty of this sort, than to be
decided out of it."

Another case mentioned with disapproval is one allowing com-
pound interest in computing damages. This, says the Journal, is
usury. Usury is oppression. And then it proceeds to treat in
quite the twentieth-century tone the question of what is the real
measure of values. "Although the money price of labor, which
is merely the nominal rate of wages, may have risen, and certainly
has risen in many countries, if not in all, yet this has been occa-
sioned by the depreciation of the precious metals. The price of
real labor is to be estimated by considering what quantity of the
necessaries, conveniences, and comforts of life, the wages of a
laborer enable him to purchase, and that is much less now, both
in Europe and America, than it was one hundred years since.
There was a time, when all the peasantry of Europe, subsisted
chiefly upon animal food, as they do in this country; but at present
they scarcely taste it from one week's end to another, and the time
is fast coming when that will be the case here too. The consump-
tion of animal food among the lower classes of people in the thickly
settled parts of this country, has rapidly diminished within our
own recollection, and we know by tradition, that it was much
greater a century since than it is now. Meat three times a day
was a common thing sixty years ago, among laboring men, in that
part of the country with which we have been chiefly acquainted,
and where they now get it but twice, and in some places, but once.

"It would be no great task, if we had time and room, and this
were a suitable occasion, to go on to show that as land rises, the
price of raw produce must necessarily advance; and that the price
of manufactured commodities must equally decline, in conse-
quence of the fall of wages, the diminution of the profits of stock,
and the decline of the interest of money; a conclusion which also
harmonizes with the existing state of things, throughout the
world, and is confirmed by the whole history of mankind; but we
have already wandered far enough from our original subject, the New Hampshire Reports, and we must hasten to return to it."

Several opinions of Judge Van Ness of the District Court in New York are then given at length; and a translation follows of the Louisiana laws of intestate succession.

Chipman on *Contracts for the Payment of Specific Articles*, which appeared in 1822, is reviewed, and the author censured for publishing "a full-grown volume, on a subject of so limited a nature as that of the treatise now before us. It is really taxing our patience and our purses most unreasonably; especially, when we know that much of what we are to find in such a volume is already in our libraries, and that if any new light is to be shed upon the subject, it might be much more cheaply communicated in the form of a pamphlet, or (shall we say it?) in the more agreeable form of a moderate-sized essay, in some journal like our own. We should have felt ourselves honored had this respectable author selected our work as his medium of communication with the public; but we assure him that his omission to do so is by no means considered an unpardonable offence, and it shall have no sinister effect upon the account which we now propose to give of his book to our readers."

An opinion in Carr *vs.* Green, a complicated will case in South Carolina, and the *Journal’s* estimate of its merits, concludes the volume. The reasoning of the court, says the editor, appears, "if we may take the liberty of so saying, to proceed upon a total misconception of the subject; it is, throughout the whole case, not only upon this, but upon all the points in the cause, very unsatisfactory and inconclusive. The judges do not seem to be at home in the law of executory devises; it is evident that they are not familiar with it. We have seldom met with a decision that we have thought so entirely wrong from beginning to end. There is, in our opinion, but one point rightly determined in the cause; and that is the question of cross-remainders, which it was impossible to mistake. As to the opinion of Mr. Justice Gaillard, which is printed separately, it is evident that he did not understand the matter any better than his companions, if he does as well. His reasoning does not, in our minds, add anything to the strength of theirs; but rather weakens it. But to conclude, we must beg leave to say that we think Mr. Green’s case has been a very hard one;
though we attach no blame to the court, who, no doubt, did what they thought was right; and we hope, for the sake of that gentleman, that there is yet some tribunal left to which he can appeal. How this is we know not; for we have very little acquaintance with the legal world of South Carolina. Mr. Green has certainly lost an estate, of which, as far as we can judge from this case, he was the just and lawful owner. Such is the glorious uncertainty of the law. If there be any one thing more certain than another, in this world, it is that the law is the most uncertain of all human things."

The success of a magazine is quite as uncertain as is the law.  Here, save for the addition of a good index, closed the history of the United States Law Journal and Civilian's Magazine.

It had been conducted by two men of considerable ability. The name of the New Haven editor, Ralph Lockwood, first appears in the Connecticut Register for 1823 as one of the New Haven Bar, the last but one in the list. It is also included in that of 1823, but not in that of 1824.

The name does not appear in the catalogue of the alumni of any of the colleges which have come under my eye, and I have been unable to learn anything positively of his history while in New Haven, except that he joined the New Haven Grays, a local military company, in 1821 and left it the same year. It may be inferred from these circumstances that he was quite a young man, when he undertook the editorship of the Journal.

The Genealogy of the Lockwood Family (1630-1888), which is apparently quite complete, describes him, under the name of Ralph Ingersoll Lockwood, as born in Greenwich in 1798 and dying in New York City in 1858. It states that he was a leading Chancery lawyer in New York, and author of Lockwood's Revised Cases and two novels, Rosine Naval, and The Insurgents, the latter of which he dedicated to Chateaubriand. He had a good acquaintance with French literature, visited France twice and had something of a French clientage. He was also one of the early members of the New York Law Library, and of the American Institute in New York.

The tone of the more important reviews from which I have quoted is that of a lawyer of some experience, and who was par-

* Pp. 314, 702.
ticularly familiar with practice in New York. Two of them, at least (those on Equity Jurisprudence in New York, and Livingston's Penal Code*), came from Mr. Haines's pen; and others, no doubt, from coadjutors in other states. Mr. Lockwood, it may be presumed, made his contribution to the Journal by seeing it through the press, conducting the necessary correspondence, translating from the French, and perhaps being its financial backer; for his fellow editor was a poor man's son and could hardly have accumulated much from his short practice at the bar.

Mr. Haines's father was a New Hampshire farmer, and he was sent through Middlebury College by aid from others, who had remarked his talents. Graduated there in 1816, he went two years later to New York, where he was soon appointed private secretary to Governor Clinton, and in 1821 was admitted to the bar.

He was one of the counsel in Ogden vs. Saunders, and argued the cause with Clay and Ogden, at the first hearing in the Supreme Court of the United States, in 1824.

In January, 1835, he was appointed adjutant-general of the state, but he had been attacked by consumption in the previous fall, and died in July, at the age of 32.

The triennial catalogue of Middlebury College, issued in 1890, refers to him (erroneously, of course,) as the editor of the first law journal published in the United States, and quotes Daniel Webster as having said that he was "the most brilliant man in the country."

In 1818, before his admission to the bar, he had published Considerations on the Great Western Canal, etc. and he later prepared for the use of some of the South American States, at the instance of Daniel Webster, a monograph styled A Complete System of Republican Government. A posthumous work appeared in 1829, a Memoir of Thomas Addis Emmet, with whom he had been professionally associated.

Mr. Haines was an ardent Clintonian in politics, and had the sympathy with France and French institutions which had marked the New York Democracy towards the close of the eighteenth and beginning of the nineteenth century, and still survived in the persons of many of its leaders. This was found by Kent, when he went upon the bench, to serve him well in introducing, as he

*See the sketch of Mr. Haines's life prefixed to his Life of Thomas Addis Emmet.
did, from time to time, principles of the civil law into the American law merchant."

It was probably this leaning of Mr. Haines towards modern Roman law that led to the sub-title for the periodical now under review of the Civilian's Magazine.

It is not unlikely that New Haven rather than New York was selected as the seat of the publication, in order to give a better opportunity to move against what Mr. Haines deemed the weak points in the political structure of his state as respects its judicial institutions. It could be criticised with more freedom and a greater appearance of impartiality from the outside.

The relative importance of New Haven and New York as publishing centers was not, however, then so totally unequal as now. The population of New York, by the census of 1820, was but 123,700, while that of New Haven was 8327. The bar of New York in 1821 numbered 1391; that of Connecticut, 273. In the whole United States there were but about 6000 lawyers, distributed, according to a census taken by the editors of Griffith's Law Register, thus:

New York .................. 1391  Kentucky .................. 307
Massachusetts ................ 521  Connecticut ................ 273
Virginia ..................... 483  Maine ..................... 217
Pennsylvania .................. 417  Ohio ..................... 204

The balance were scattered through the other states, no one having as many as 200.

The publication of Silliman's Journal of Science was begun in New Haven in 1818, and has ever since been maintained. It had from the first a national circulation. The United States Law Journal and Civilian's Magazine had some right to hope for equal success.

The probability is that the increasing clientage of Mr. Haines and declining health prevented him from continuing his active interest in its affairs after the summer of 1822, and that Mr. Lockwood did not feel able to carry the burden of the enterprise alone. He did, however (no doubt, after his removal to New York), make an effort to continue it, and two numbers of a second volume entitled the United States Law Journal, (Quarterly), were published in that city in 1826. It then passed out of existence, and this time finally.

*Life of James Kent by William Kent, 119,