



LAW INSTITUTE.

UNION COLLEGE OF LAW, CHICAGO.

By JAMES E. BABB.

THROUGH the liberality of citizens of Chicago, and more especially of the Hon. Stephen A. Douglas, the University of Chicago was opened for instruction in the fall of 1858. The Union College of Law, conceived and liberally patronized by the Hon. Thomas Hoyne, was founded in 1859, as the Law Department of the University of Chicago. At Metropolitan Hall, on Sept. 21, 1859, the Hon. Thomas Drummond presided at the dedicatory exercises of this Law School, and the now venerable David Dudley Field delivered an address

which, indeed, dignifies the school's origin. The prophecy then made by the speaker, that "whatever light is here kindled will shine through township and village, from the Alleghany to the Rocky Mountains," is already reality.

There were but three Law Schools west of the Alleghany Mountains before this one, so far as the writer knows; namely, one at Cincinnati, Ohio, founded in 1833, one at Louisville, Ky., founded in October, 1846, and one at Lebanon, Tenn., founded in 1847. The Law Department of the University at Ann

Arbor, Mich., was established in the same year as the Law Department of Chicago University.

Oct. 6, 1873, the Law Department of the University of Chicago passed under the joint management and patronage of the University of Chicago and the Northwestern University, and assumed for the first time its present name, — Union College of Law. This Law School continued under such joint management until the suspension of the University of Chicago at the end of the school year 1885–1886. Since then it has continued in connection with the Northwestern University, — probably the largest University in the West, — of which the Rev. Joseph Cummings, D.D., LL.D., is President.

The Presidents of the different Boards of Trustees of the Union College of Law have been Judge Thomas Drummond, a graduate of Bowdoin College in 1826, and for thirty years a Judge of the United States Courts in Illinois; the late Hon. Thomas Hoynes, LL.D., a truly great citizen, a philanthropist, a publicist, a public servant, and an able lawyer; and Judge Oliver H. Horton, a worthy successor to his distinguished predecessors, having long been the law partner of Thomas Hoynes, and being now a Judge of the Circuit Court of Cook County, Ill., sitting as a Chancellor.

During its whole history the school has had but one Dean, — Judge Henry Booth, LL.D. He was born at Roxbury, Litchfield County, Conn., in 1818, and was graduated at Yale College in 1840, ranking among the first in a class of ninety-nine. In 1844 he was graduated at the Law School at New Haven, Conn. Thence, until 1856, he was occupied chiefly in the practice of law at Towanda, Bradford County, in Pennsylvania, where he held the office of Prosecuting Attorney. From 1856 till 1859 Henry Booth was a Professor in the State and National Law School at Poughkeepsie, N. Y., and in 1859 took charge of the Law Department of Chicago University. Since then, except while upon the bench, he has prac-

tised law continuously, so far as his duties as instructor would allow. For a long time he gave instruction in Public and International Law in the Collegiate Department of the University of Chicago. In 1870 he was elected Judge of the Circuit Court of Cook County, to which office he was re-elected in 1873 for a term of six years. During his whole life in Chicago he has been a laborer in various ways for social and educational improvement, having rendered services, in the founding and patronage of the Chicago Athenæum, which alone entitle him to the truly graceful crown of a social benefactor. In the performance of his various duties, he has ever been prompt, industrious, faithful, and efficient. No man has a higher sense of honor than has Judge Booth. During his nine years of service as a Judge, he would not accept compensation for the performance of his duties as an instructor. The writer cannot more fitly characterize him as an instructor than was done by the graduating class of 1861 in a resolution adopted by them, which reads as follows:—

“Resolved, That Professor Booth will always be held in grateful remembrance by us for his high moral teachings, his thorough and systematic instructions, his widely expanded views, and his learned and lucid exposition of the law, as well as for the untiring constancy and cheerful patience with which he has labored in our behalf.”

Next in length of service among the instructors of this school is the Hon. Harvey B. Hurd, whose connection therewith began in 1863. He has long been known as an able member of the Chicago Bar. His preparation and trial of causes has been characterized by a thoroughness which has given him a reputation for great strength in legal combat. He has been identified with many improvements in legislation. He revised the Statute Laws of the State after the adoption of the Constitution of 1870. His chief characteristic as an instructor is his searching questioning of the students. He treats the pupil as he would a witness upon cross-ex-

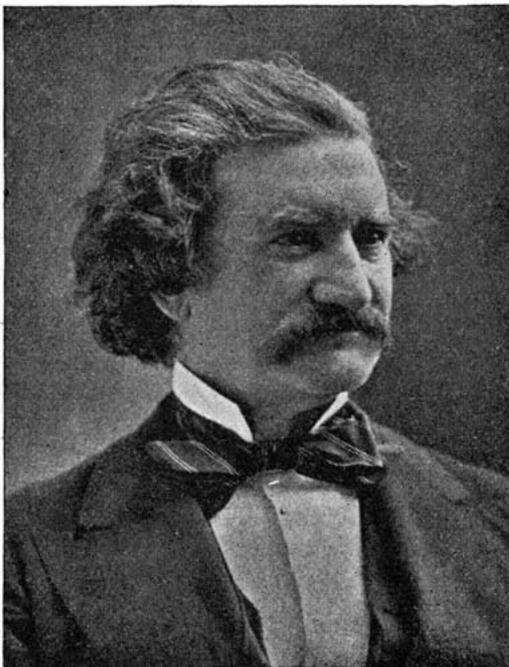
amination. He states practical cases which reveal every possible distinction concerning the subject matter in question, and asks the learner to apply the law and give the reasons. He enjoys his duties as an instructor, and to retain his connection with the school has made what most men of his wealth and professional and business duties would consider great sacrifices.

Nathan S. Davis, M.D., LL.D., has lectured in the school upon Medical Jurisprudence since 1873. He received the degree of M.D. when twenty years of age, and has contributed to medical journals all his life, having edited "The Annalist: A Surgical Journal;" "The Chicago Medical Examiner," and until recently was the editor of the "Journal of the American Medical Association." He has written a "History of the American Medical Association" and works entitled "Clinical Medicine" and "Davis's Practice of Medicine." Most of

the time since 1849 he has held a Professorship, and is now Dean of the Chicago Medical College. Dr. Davis was the founder and has been President of the American Medical Association, and is the only man in the United States who has had the honor of presiding at a meeting of the International Medical Congress. His gratuitous services to the health and morality of Chicago have been large. During all this time he has had a very extensive medical practice. Few lives have been more useful than his.

The next of the instructors in length of

service in this school is Marshall Davis Ewell, M.D., LL.D. who was born at Oxford, in Oakland County, Mich., on August 18, 1844. He was educated in the public schools of Michigan and at the Michigan State Normal School, from which institution he was graduated in 1864. In 1868 he received the degree of LL.B. from the Law Department of the University of



THOMAS HOYNE.

Michigan, and in the same year was admitted to the bar by the Supreme Court of Michigan at Detroit. He practised law in Memphis, Tenn., in 1868-1869, and at Ludington, Mich., from 1870 to 1875. In 1874 he was elected Judge of the Probate Court of Mason County, Mich., and in the following year removed to Chicago, where he has since been principally occupied in legal authorship and as an instructor in Union College of Law. He is now, in addition to his duties in this Law School, engaged in the general practice of law. In

1879 the University of Michigan conferred upon him the degree of LL.D., and in 1884 he received from the Chicago Medical College the degree of M.D. During the last few years Professor Ewell has given considerable attention to metrology and microscopy, and now gives instruction upon those subjects in the Northwestern University. He has been elected a Fellow of the Royal Microscopical Society, and is one of the distinguished corps of non-resident lecturers in the Law Department of Cornell University. He has written much for different law peri-

odicals. His work on "Fixtures" is the standard treatise upon that subject. His "Leading and Select Cases on the Disabilities incident to Infancy, Coverture, Idiocy, etc., with Notes," is the chief repository of the learning upon that branch of the law. He has edited "Evans on Principal and Agent" and "Lindley on Partnership." He re-reported and edited a number of the Illinois Reports, and co-operated in the preparation of a "Digested Index to the Minnesota Reports." He has edited "Blackwell on Tax Titles" and "Washburn on Criminal Law," and prepared a series of three volumes, entitled "Ewell's Essentials of the Law." Vol. I. contains the essentials of Blackstone, Vol. II. the essentials of Pleading, Contracts, and Equity; Vol. III. the essentials of Evidence, Torts, and Real Property. His most recent work is "Ewell's Medical Jurisprudence."

Professor Ewell became connected with the school in 1877, and instructs almost wholly in the Junior Class. So far as the writer is able to judge, he does not believe that Professor Ewell has a superior in his sphere. He is persistent, exceedingly energetic, and absolutely relentless in his determination to impart to his students the capacity to define with entire accuracy the fundamental principles of the law. The writer cannot conceive that any one could accomplish such a task more nearly than does Professor Ewell. He is yet young, and the record of his deeds, though

ample for a whole life, argues well for his future.

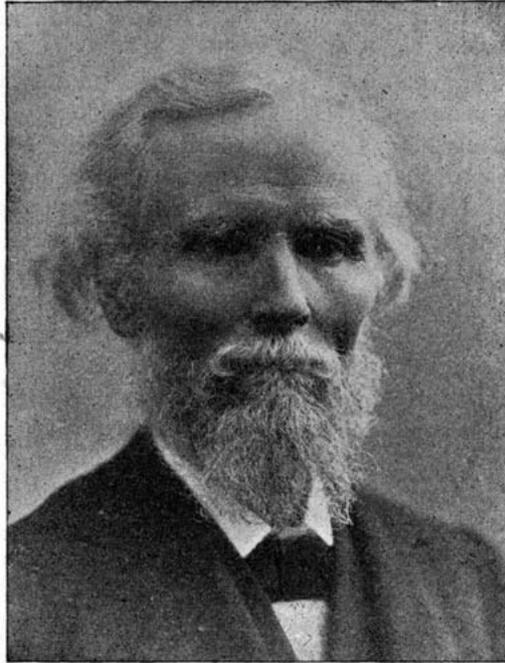
Hon. William W. Farwell, a graduate of Hamilton College in 1837, an ex-Chancellor in Cook County, Ill., has taught Equity Jurisprudence, Equity Pleading and Practice, since 1880. For many years before he became a Chancellor, he had been engaged in an extensive practice at the Chicago Bar.

His professional and judicial life qualified him in a very high degree for the discharge of his duties in the Law School. His general reading has been wide. Judge Farwell has secured from every class of students that respect which is due to one of large experience, high moral character, and ripe learning.

Van Buren Denslow, LL.D., was an instructor in this school from 1870 to 1877. He is a finished scholar, with philosophic tendencies. The New York "Nation," vol. xlvii. p. 236, reviewing his recent work entitled "Prin-

ciples of the Economic Philosophy of Society, Government, and Industry," says that "upon the whole we can sincerely commend this volume to our readers as containing the very best exposition of protectionism, its theory and its facts, its animus and its methods, that is now in existence or that is likely to be hereafter produced."

This school for some time had the services of the Hon. John A. Jameson, LL.D., who was born in 1824 in Vermont, and was graduated at Vermont University in 1846. He sat upon the bench of the Superior



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Court of Cook County about twenty years, and edited for some time the "Law Register." He is a master of several languages, possesses literary ability of a high order, and has written an enduring work, now in its fourth edition, entitled "The Constitutional Convention: Its History, Powers, and Modes of Proceeding."

From 1876 to 1879 this school had for one of its instructors James L. High, the author of the works on Receivers, Injunctions, Extraordinary Legal Remedies, all in their second edition, and the editor of the *Speeches of Erskine* in four volumes. He possesses the very highest elements of character. He has a finished style of English composition, and as a practitioner, as well as an author, he stands in the front rank of his profession.

Hon. Lyman Trumbull, LL.D., taught in this school from 1873 to 1876. All know his career as a member of the Legislature, Secretary of State, and Judge of the Supreme Court of Illinois, and afterwards as a member of the House of Representatives, a United States Senator for eighteen years, and a great constitutional lawyer.

During the years 1873 to 1876 Hon. James R. Doolittle, LL.D., was an instructor. He was graduated with first honors at Geneva College in 1835, won a reputation for judicial ability in Wisconsin before 1857, thereafter represented that State in the United States Senate with distinction for twelve years, since which time he has been a noted constitutional lawyer.

The names of the others who have instructed in this school are Judges John M. Wilson and Grant Goodrich, James B. Bradwell and Gen. R. Biddle Roberts, and John Alexander Hunter and Philip A. Myers.

During the whole history of the Union College of Law, its students have from time to time been favored with the learning and eloquence of the Chicago Bar, in lectures by Emory Storrs, Leonard Swett, the present Chief-Justice (Melville W. Fuller), and many others.

The law schools of this country, during their century of existence, have won for themselves precedence, as a means of legal education. This, though previously settled in fact, was in 1879 finally, formally, permanently determined by the recorded authorized voice of the American bar,—the American Bar Association, speaking through its Committee on Legal Education. Other questions, however, now confront law schools, which are being discussed with zeal: How is instruction to be imparted? Shall it be by lecture or by recitation? Shall the students be taught from the basis of text-books or decided cases? These are questions which will certainly be settled by the second centennial of law schools in this country, and the writer thinks before then. By lecture or by recitation? Has it or has it not been pretty well settled by the course of instruction in schools other than professional, that it is well for a student to learn from text and by recitation the terminology and elementary principles of a science before attempting to learn from lectures? Does or does not the experience of every man who has completed a collegiate and professional course teach him that such is the proper mode of instruction? Leading cases or text-books? What is to be taught? The law, undoubtedly. Where is it to be found? What are its sources and evidences? While decided cases are the chief sources and evidences of the Common Law, they are by no means exclusively so. No one thing is more fully interwoven among or established by the decided cases, ancient and modern, than that text-books are both sources and evidences of the Common Law. (Ram's *Legal Judgment*, Townshend's ed., pp. 150-173.) The authority of text-writers has actually overturned that of decided cases. (Ibid. p. 169.) The Common Law having been thus established, we cannot afford to disregard any of its declared sources of authority. To the extent we do so, we become one-sided. While decided cases clearly have precedence as authority,

it does not necessarily follow that they are, alone, the best means of instruction. The supporters of that method say that "no man ever learned chemistry, except by retort and crucible." (American Law Review, vol. xxii. p. 673.) This expression of a learned author is a fair touchstone of the question. All admit that the results of retort and crucible, properly used, are higher evidences of chemical laws than the statement of any text-book. Yet have the teachers of chemistry cast away the text-books, and confronted their beginners with retorts and crucibles? When the writer studied chemistry, they had not, nor have they yet, so far as he knows. True, along with the text-books pupils are taught to make experiments to test and elucidate the statements of the author.

It is submitted that if the analogy above quoted is a proper one,—and it probably is,—it argues in favor of the use of text-books as a basis in legal edu-

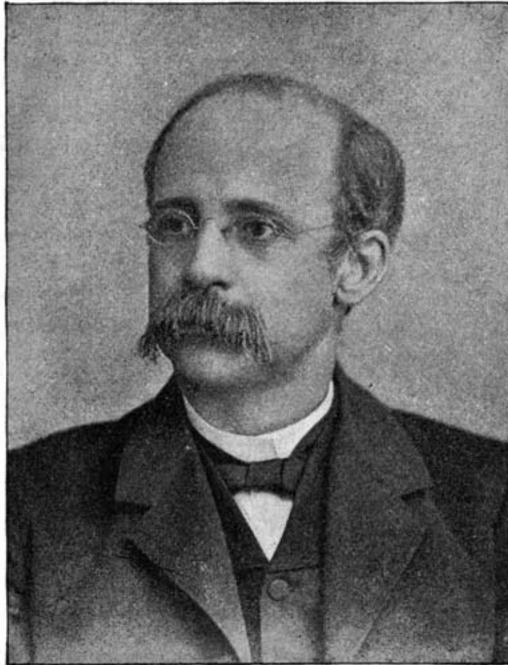
cation, with sufficient attention to cases to explain the text and teach students the science or theory of the system of precedent to such an extent that they may be able to analyze accurately a decision and judge of its authority according to Common Law criteria.

The writer, however, prefers to support the same conclusion by the universal experience of the practising bar. When the practitioner desires to investigate the law upon a subject with the general principles of which he is not familiar, he goes first, not to the cases, but to an approved author

to learn what reasonings and principles have been suggested as applicable. Then he searches digests and reports. Why should not other students do likewise? Or is the bar in the wrong, and a few instructors right?

Upon all these differences as to methods of instruction, it is believed that the Union College of Law has occupied wisely conser-

vative ground. It makes daily recitation from approved text-books the basis, supplemented by lectures from time to time as the students become sufficiently acquainted with the elementary principles to profit by an exposition of their relations and interdependence. All the while the students are accustomed to the exposition of particular cases, and are taught how to study, analyze, and judge them, also how to draught the papers used in the practice of law. No doubt, if the school could be sustained by the bar and the public in its desire to extend



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its course of instruction to three years, the third year would, to a very largely increasing extent, be taken up with lectures and original work in decided cases.

The author of the article upon the Boston University Law School in the February number of this publication is decidedly in error in his statement that that Law School was the leader in establishing the systems, in 1872 and 1877 respectively, of examinations for promotion and graduation, and of recitations from text-books. The catalogues of the Union College of Law and the news-

paper files in Chicago show conclusively that both those systems have been in vogue in the Union College of Law, as fully as they are at the Boston School, ever since the school was established, in 1859.

The catalogues of the Union College of Law have from the beginning announced the course of study as two years of nine months each, though, in fact, it is believed that for a while students were graduated in one year. On completion of the course the degree of LL.B. has been conferred, and the diploma of the school has admitted to the bar in Illinois since May 12, 1863.

Until the commencement of the school year 1873-1874, no definite course of study was announced. With a disclaimer of a fixed adherence thereto, many text-books were mentioned under the several heads or subjects of "Commentaries," "Law of Real Property," "Equity," "Personal Property, Personal Rights, and Contracts," "Commercial and Maritime Law," "Evidence, Pleadings, and Practice," "Criminal Law," "Constitutional Law and Law of Nations." Beginning with the school year 1873-1874, a fixed course of study was adopted, which in its general features is still in force. The course of study at present is as follows:—

JUNIOR YEAR.

FIRST TERM, — Five Days in a Week.

- 1st hour, 9 to 10 A. M.* — Kent's Commentaries. Professor HURD.
2d hour, 4 to 5 P. M. — Blackstone's Commentaries and Washburn's Criminal Law. Professor EWELL.

SECOND TERM.

- 1st hour, 9 to 10 A. M.* — Kent's Commentaries and Gould on Pleading. Professor HURD.
2d hour, 4 to 5 P. M. — Cooley on Torts, and Anson on Contracts. Professor EWELL.

THIRD TERM.

- 1st hour, 9 to 10 A. M.* — Greenleaf on Evidence. Professor HURD.
2d hour, 4 to 5 P. M. — Anson on Contracts, with the study of Leading Cases. Professor EWELL.

SENIOR YEAR.

FIRST TERM, — Five Days in a Week.

- 1st hour, 8 to 9 A. M.* — Chitty on Pleading. Judge BOOTH.
2d hour, 5 to 6 P. M. — [Except Fridays] Bispham's Equity. Judge FARWELL.
2d hour, 5 to 6 P. M. — [Every Friday] Lecture on Medical Jurisprudence. Dr. DAVIS.

SECOND TERM.

- 1st hour, 8 to 9 A. M.* — Washburn on Real Property. Judge BOOTH.
2d hour, 5 to 6 P. M. — [Except Fridays] Story's Equity Pleadings. Judge FARWELL.
2d hour, 5 to 6 P. M. — [Every Friday] Lecture on Medical Jurisprudence. Dr. DAVIS.

THIRD TERM.

- 1st hour, 8 to 9 A. M.* — Washburn on Real Property. Judge BOOTH.
2d hour, 5 to 6 P. M. — Cooley's Constitutional Limitations. Judge FARWELL.

BOTH YEARS.

- Saturdays, 8 to 10 A. M.* — Senior Moot Court. Judge BOOTH.
Fridays, 2 to 4 P. M. — Junior Moot Court. Judge EWELL.

Besides these text-books the students are advised from time to time in regard to a parallel course of reading in other standard legal works.

From time to time, and more especially during the Senior Year, lectures are delivered by members of the Faculty and the Chicago Bar. The writer knows that appreciative students acquire from their Moot Court practice a complete mastery of all the means of thorough and exhaustive search for, and analysis of authorities.

Nor is the study of leading cases omitted. The student who receives what is taught him will be able to expound from memory many more of the leading cases of the law than are contained in Smith's volumes of leading cases. Practice is also given in drawing various legal papers.

From various statements in the different papers that have hitherto appeared in this

periodical upon different law schools, it seems to be considered in some cases that no examinations were required at all, and in others that none worthy the name were required as a condition to graduation in law in this country a quarter of a century ago. While that may have been true in their own history, it has not been true at the Union College of Law. The Chicago "Daily Tribune" of Monday, July 1, 1861, announced the following:—

"The commencement exercises in the Law School this week will be as follows:—

"An examination of students on Constitutional Law, the Law of Nations and Real Estate, Monday, 9 o'clock A. M.

"Oratorical exercises, Monday, 3 o'clock P. M.

"Examination in Pleadings and Evidence, Tuesday, 9 o'clock A. M.

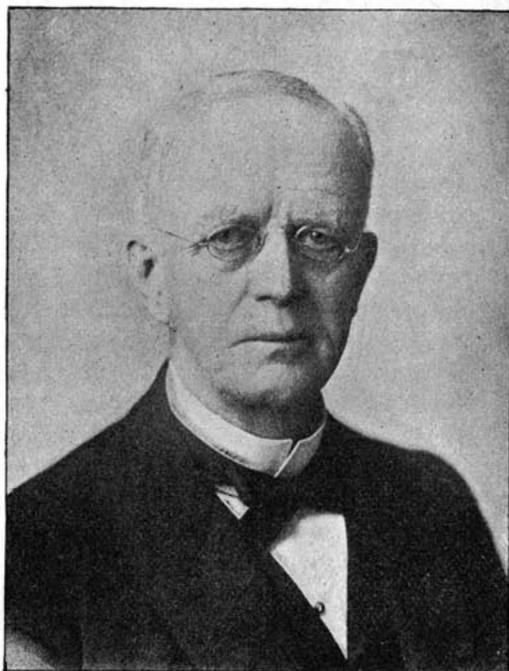
"Extemporaneous debate on the Constitution of the United States, Tuesday, 3 o'clock P. M.

"Examination in Contracts, Commercial Law, Equity, Criminal Law, Personal Rights, and Domestic Relations, Wednesday, 9 o'clock A. M."

Such a list of subjects and the times assigned to each would assure an examination which would be a very good test of competency. How rigid those examinations were, appears in the same paper, of date July 1, 1862, where it is said,—

"The questions submitted to the students during the morning session were only upon National and International Law and Real Estate. . . . The intricate questions as to real estate were extremely well handled. In connection therewith, the various modes of holding property, from feudal days down to our own times, were closely examined

and contrasted, and the peculiar relations of lessors, lessees, tenants for life, tenants at will, and the various modes of conveyancing, fully considered. The multitudinous questions arising out of wills, divorces, and the rights of husbands in the property of wives were next entered into. The subjects of dower and jointure were treated. . . . The afternoon session of the school was devoted to examination of the students on pleadings. Actions of assumpsit, replevin, covenant, trespass on the case, detinue, and tort were explained. In reference to trespass on the case, especially, there was a very lengthy questioning which resulted very satisfactorily, all the students seeming to be well posted in these matters. Actions of trover were then elucidated. Mortgages then came in for their share of attention. Their nature was explained, and the relative positions of mortgagor and mortgagee clearly defined. Redemption to be made and how effected by equity after the property had become irredeemable at Common Law. . . . Foreclosure, its nature and effects, and how sales of property were made under it, . . . were explained. . . . The exercises were exceed-



LYMAN TRUMBULL.

ingly interesting, and manifested an unusual degree of proficiency."

Examinations upon other subjects were described with the same minuteness. From the quotations above, it appears that this school at that early day conducted examinations as a condition of graduation as thoroughly as is usual at the present time.

The students have access to the Law Library of the Law Institute, by permission of its managers. They have no need of any more library than they find there. Although

this Library was completely destroyed in the great fire in Chicago in 1871, it has since then grown to the number of about twenty-two thousand bound volumes,—doubtless one of the largest Law Libraries in this country. It increases by its ordinary purchases at the rate of about one thousand volumes annually. Through Julius Rosenthal of the Chicago Bar, the librarian of the Law Institute, we received the picture which appears at the beginning of this article.

Five prizes are offered to students at this school as rewards of merit. The Horton annual prize of fifty dollars is awarded to the member of the graduating class, who is adjudged to have prepared the best thesis or brief on some legal question. For the thesis second in excellence produced by a member of the graduating class, the Faculty offer a prize of twenty-five dollars. For the best general proficiency in the Senior Class, the Faculty offer a prize of fifty dollars. Also for the best general proficiency in the Junior Class the Faculty offer a prize of twenty-five dollars. The Faculty also offer a prize of fifty dollars for the best oration delivered at Commencement, to be awarded by a committee sitting in the audience.

April 14, 1888, an Alumni Association was formed, which has since issued a catalogue of the Alumni, Officers, and Instructors of Union College of Law.

About eight hundred and seventy-six students had been graduated at this school up

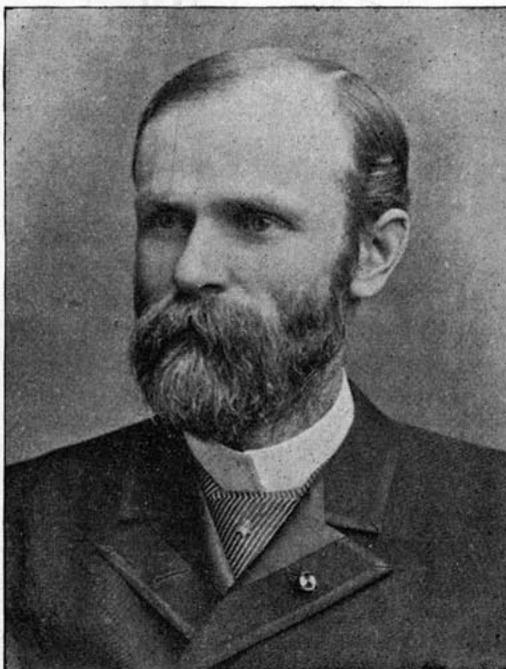
to and inclusive of the graduating class of 1888. The class of 1889 will bring the number of graduates almost up to one thousand. Three hundred and ninety-five of those graduates are here in Chicago. Four of those in Chicago are now upon the bench, one of them, Gwynn Garnett, being Chief-Justice of the Appellate Court. Several of them are Masters in Chancery, and one is the City Attorney. Others stand in the front rank of the Chicago Bar, and others still are among Chicago's representative business men.

As in Chicago, so throughout the Central, Southern, Western, and Northwestern States, the graduates of this school have laid its foundations deep in the social fabric. The Law School already feels the strong pulse of this great power.

Chicago is pre-eminently a fit place for a Law School. There are here twenty Judges sitting in State Courts of record (not including Justices

of the Peace), and two and sometimes three Judges holding Federal Courts; and even with this great judicial force all cases cannot be tried in a year from the time they are begun.

As certainly as Chicago shall become the heart of the commerce of this continent, so surely will it be the place of great litigations, great lawyers, great judges, great law-writers, great law-libraries, and, in consequence, the place of a great law school,—the Union College of Law.



JAMES L. HIGH.