

YALE LAW JOURNAL

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WITH the present number the YALE LAW JOURNAL enters upon the second year of its existence. The faithful work of the retiring editors, the able literary contributions of alumni and friends, and the success with which the JOURNAL has met, render unnecessary the least apology for the past. The present editors assume their duties with a sense of the responsibility which rests upon them. Their aim will be, not only to maintain the standard of the JOURNAL, but if possible, to raise it. To this end they invite the coöperation of students, of faculty, of alumni and of all others who may be interested in the work of legal education. While it is intended that the magazine shall serve to stimulate thought upon all subjects pertaining to the law as a science and as a profession and to encourage discussion of those subjects, yet the primary object of its being is to represent the Yale Law School, to further the interests of that institution by all means within the power of the pen. To alumni and students the editors desire to say: The magazine is yours; it represents the institution of which you are proud and the growth and progress of which are, more than you think, within your keeping. In the name of that institution you are asked to give to the YALE LAW JOURNAL that generous support and encouragement without which the best efforts of the editors to make it truly representative of the school, can be of no avail.

Much is being said and written upon the subject of uniform legislation in this country. Such discussion is timely. Let us hope that it may lead to some definite action in the near future. If legislatures could but be induced to give less time to political wrangling and more to the business for which they are supposed to be chosen, the desired result might be in some measure attained. The legislature of the State of New York made a move in the right direction when it passed an act providing for the appointment of a commission for the promotion of uniform legislation in the United States. Other States have since followed the example. The good work is fairly begun. Agitation always precedes the adoption of great reforms. Let the bar agitate and then let legislatures act.

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THE decision of the New York Court of Appeals in the recent *apportionment* case, following so closely as it does the final ruling of the Connecticut supreme bench in the Phelan-Walsh *quo warranto* proceedings, cannot fail to elicit much interest and discussion, even among those to whom the dicta of the courts are usually matters of slight importance. Indeed the two cases bear a striking resemblance to each other, and when it is considered that both involve political issues of unusual import and were decided by divided benches, the Republican and Democratic judges, in each instance, arraying themselves on opposite sides, it is no wonder that charges of politics governing our courts and partisanship ruling our benches are circulated and believed. It is not surprising that persons unacquainted with the learning, rectitude and integrity of our judges, having no knowledge of the magnitude of their duties and the arduous difficulties of their positions—conscious of their existence only when touched in some sore spot, as now—are ready to carp, scold and cry aloud against any such shameful exhibition of bias and partiality. And even to those who believe most firmly in the uprightness of our courts, such a coincidence as is furnished by these decisions so nearly alike in manner, matter and significance is somewhat startling and difficult of explanation. We can only say that we are apt to forget that even justices of appellate courts are but human, and, being so, liable to all the prejudice, bias and error common to their kind. Coupled with this is the fact that almost every proposition coming up before them for decision has two sides, often so evenly balanced that, if there does exist between them any absolute determination of right and wrong, it is so delicate as to be perceptible only to the most perfect sense, by the most accurate balance or through the finest

glass. Who then shall blame a judge whose decree is dictated by the influence of a life's surroundings, whose mind has been steeped in party convictions, wheedled by the persuasive eloquence of lawyers, and oppressed with distorted newspaper presentations, if, in striving after a right determination of an almost perfectly balanced question, he unconsciously allows nature to assert itself and decides with his party? We cannot; and while deploring deeply any occurrence that can expose a court to criticism and reproach, must hold firmly to our belief in the wisdom and probity of our justices, regarding them as actuated only by the loftiest considerations and divorced as far as possible from all prejudice and partisanship.