

I may say that the Judges here do not sympathize with the introduction of the system, their main argument being, I think, that in numerous cases before juries it would be impossible, on the same day as the trial, to have the transcribed notes ready from which the Judge might sum up to the jury. From what I can gather such even is not expected in the States, where you have very large staffs; but that probably the practice is that the Judge addresses the jury from his own occasional (material points) notes, the stenographer's notes being ready for reference in event of question.

Supreme Court
Reporting Bill,
1885.

Would you be good enough to favour me with your views on the subject, and especially on this and other practical phases of the system. I beg to enclose you a copy of the Bill introduced.

With apologies for troubling you,

S. C. RODGERS, Esq., Troy, New York.

I have, &c.,

JOS. A. TOLE.

No. 12.

S. C. RODGERS, Esq., to the Hon. the MINISTER of JUSTICE.

SIR,—

Albany, 23rd January, 1886.

Your favour of the 7th November, 1885, is and has been before me since the 7th December, and I regret that a reply has been so long delayed, but pressure of business and other matters have conspired to produce what seems like negligence. But I trust that the quality of my answer and its fulness may partially, at least, compensate for my not more speedily replying. I thank you for the honour you do me in addressing me for the information, especially in view of the fact that so many others in my profession could and would do the subject better justice. I have, within a few days, mailed you copies of our State Association Proceedings for 1884 and 1885, together with a slip containing the expressions of various Judges and lawyers, and a copy of "Browne's Monthly," setting forth the views of our United States' Court Judges, being a portion of a long series of letters of like nature. I think I shall send you more of our State reports, for the paper which I have had the honour to prepare for the Association, covering a period of seven or eight years, contains a pretty consecutive history of legislation effected and attempted. If, when you have done with them, you may think proper to deposit these copies in your public library, they may possibly serve to interest an occasional reader.

Judging from your letter you are only contending with the same prejudices which every State here has to meet in introducing a shorthand law. In some States it is only accomplished after repeated attempts, for the great majority of our rural legislators have no idea what the term "stenographer" means. They are as likely to assume it to be something to keep the door from slamming as anything else, and, when once they do receive a glimmer as to what it is, they at once regard it as some new-fangled arrangement to skin the poor farmer. Then, again, where Judges and lawyers have had no experience with the system, but have more or less industriously scratched down the testimony all day long as best they were able, it is difficult to convince them that a fellow can jot down all that is said instantaneously and accurately; they cannot conceive how it can be done, while they are left to do nothing but listen. I may say, on the other hand, that, where the system has once had a fair trial, at the hands of competent men, and the Bench and Bar have had ocular demonstration of how the thing can be done, and have noted its accuracy, its time-saving and labour-saving course, they have been, with few exceptions, won over to the system at once. True, in a few instances the law has been repealed, and the legal profession has "back-slid" to the old laborious custom. My own State is the pioneer and the bright shining star of all the States in regard to the official employment of stenographers. They are used everywhere, always, and upon every occasion where legal proceedings are conducted. I have repeatedly heard Judges of our Supreme Court say that they could not and would not think of returning to the old drudgery of twenty years ago in writing books of evidence—that they would seriously be tempted to resign their positions were stenography to be taken from their aid.

It is the common remark with the Bar, "How could we get along nowadays without the stenographer, and how were they able to get along and make up cases on appeal when each one took his own notes of testimony?" The legislator who could now have the hardihood to introduce a Bill repealing the system would be met by a storm of no mean cyclonic proportions.

You say your Judges argue that the stenographer would be unable to furnish the notes transcribed upon the day of trial, from which the Judge might sum up. In the States the Judges simply take an occasional minute as the case proceeds of some point they may desire to touch upon. Our Judges say they can remember the testimony given much better and with greater accuracy where they sit and listen to it, and see the manner of the witness, unhampered by the physical and mental effort to note down the testimony. Our Judges charge the jury off-hand, at the conclusion of the arguments, sometimes reviewing all the salient points of evidence, and at other times simply charging as to the legal points, and occupying from ten minutes to half an hour, as the importance of the case demands, or perhaps an hour or two in a murder case. They rarely appeal to the stenographer for any testimony, and he is seldom called upon to read evidence, unless the jury fail to remember it alike, or the counsel misstate it, which they rarely do, it being a dangerous experiment, for they know that the other side will at once appeal to the official record to refute any wrong statement. In murder cases, which are expected to be protracted through two or three weeks, counsel arrange to have daily copy furnished each side, and by the aid of rapid type-writer operators we are able in the afternoon to furnish the morning session, and in the evening the afternoon session, for which we receive, of course, adequate compensation.

Your supposition as to the course ordinarily pursued here is just about correct. What your Judges need is to give it a fair trial, and I have no fear but their conversion will follow. Be sure, however, that you fix the compensation at such a rate as will secure the highest and most skilled