

stated its force. Admitting its existence, the question which properly arises is whether it would be better for the craft to have the system abolished, or retained and gradually improved. The mere growth of the system would seem to imply that it has merits. Remedies are not apt to spring into favour which cure no disease. So far as the public is concerned the merits are tolerably obvious—the saving of time and money in the ratio of the increased efficiency of a Court, and the advantage of an impartial record. It is here that I think Mr. Driesslein falls into error. He intimates that the cost of reporting trifling cases—“cow cases,” as he calls them—could it be aggregated, would appall the taxpayers of New York and Pennsylvania. If it would, then the cost of trying them without reporters would appall them still more. The cow-case is sooner got off the track, where it would obstruct more important business. That consideration is without any bearing on the question whether official reporting laws are good or bad for stenographers at large, unless, indeed, he has in mind the notion conveyed by the amusing picture which represents two clients tugging away one at each end of a cow, and only succeeding in keeping the animal in position while the lawyer sits upon a stool between them serenely milking. Perhaps he means that the stenographer should sit alongside the lawyer “in the free exercise of his profession.” A more ancient image likens Courts of justice to the bush “whereunto while the sheep flies for defence in weather, he is sure to lose part of his fleece.” The truth is that the lawyer wants all that the client feels able to pay, and, as he gets the first hold, if the stenographer depends upon him he will fare but ill. It is better for him, perhaps, to form part of the Court. There is this great difference between him and the lawyer, that, whereas it is absolutely essential to the eliciting of facts and to the due presentation of a controversy that the opposing parties shall be represented by counsel acting in their interest, it is by no means essential that they shall be supported in their endeavours by opposing records also made up in their interest. Make the stenographer the paid employé of either party, and then, remembering how easy it is, by the mere effect of punctuation or by the change of a word or two, to alter the meaning of a sentence, it will be apparent that the value of his transcript may be materially lessened. A Court would hardly be justified in accommodating its proceedings to the increased rapidity attainable by shorthand-writers not under its own control, and should properly, if not provided with a stenographer for the purpose, take its own minutes. That was the practice once, and, before the great development of shorthand in recent years, even expert longhand-writers were occasionally appointed to aid the Court in keeping its memoranda. It is, therefore, one thing or the other—longhand or shorthand—until “the fairy tales of Science and the long result of Time” show us both superseded by the perfect phonograph!

Suppose it were decided to abolish the system of “official” stenography? Then, if a shorthand report is to possess any weight and authority, it must be conferred on it by legislation. Such legislation would have to be carefully guarded by provisions for examination as to competency. That the law might secure; but, in return for the privilege conferred, the law might reasonably assume to fix the rate of compensation, and it does not follow that stenographers would be any better off than at present. But I fail to see how such a law could secure impartiality, which is an element of value, as well as competency. For each side to employ its own stenographer would not supply that element, and, while it might increase work, it would not tend to increase emolument, because it implies a waste of labour, two men doing work which one in the most important feature of could do better. I believe the laws might be modified so as to secure a better distribution of the labour than at present, and so as to obviate the disposition to reduce compensation. That, however, I should prefer to speak of hereafter, and in the meantime I hope to have the pleasure of seeing a full expression of my brethren’s views on these matters, pro and con., in your publication.

Faternally yours,
T. BIGELOW.

Mr. Tim Bigelow, of Brooklyn, thinks that the substance of the “Alabama” law, as given below, comes nearer an equitable distribution of the expense of official reporting than any other law governing official stenographers’ fees. Mr. Bigelow’s idea, if we remember exactly his explanation of it made some years since, is to let the stenographer’s fees, made from charging the standard rates for work, together with a certain levy made on the plaintiff and the defendant in a cause, be turned into a fund from which the stenographer can draw a certain percentage, while the balance should go towards paying the expenses of the Court. If our recollection is at fault we shall be glad to be corrected. The clipping from the “Alabama” law is as follows: That the official reporter shall receive as compensation for his services in all proceedings the sum of \$10 per day for taking notes, and for the transcript of his official notes 15c. per folio of one hundred words for the first copy, and 7½c. per hundred words for each duplicate thereof. The shorthand notes so taken shall, immediately after the cause has been submitted, be filed with the Clerk; but for the purpose of writing out said notes the reporter may withdraw the same for a reasonable time. The reporter’s fees for taking notes in civil cases shall be paid by the party in whose favour the judgment was rendered, and shall be taxed up by the Clerk of the Court as costs against the party on whom judgment is rendered. In the case of a failure of a jury to agree the plaintiff must pay the reporter’s fee for per diem, and for transcription ordered by the plaintiff, which have accrued up to the time of the discharge of the jury. In cases where a transcript has been ordered by the Court the expenses thereof must be paid equally by the respective parties to the action, or either of them, in the discretion of the Court. In no case shall a transcription be paid for unless ordered in writing either by the plaintiff or defendant, or by the Court; nor shall the reporter be required, in any civil case, to transcribe his notes until the compensation therefor be tendered to him or deposited in Court for that purpose. The party ordering the reporter to transcribe any portion of the testimony or proceedings shall pay the fees of the reporter thereof. In criminal cases, when the testimony has been taken down upon order of the Court, the compensation of the reporter must be ascertained by the Court, and paid out of the Treasury of Mobile County in which the case is tried upon the certificate and order of the Court.