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Trinity Term

Trinity Term 1822.

Monday 1st July 1822.

The Society met

The Journals were read.

The Bench reported the following Questions which were argued in the Legal Sittings -

Per -
vs
Grinder }

In the Legal Sitting of
The Advocate Society -
of the Term of Michaelmas in the year
of our Lord 1822. -

Pauvre a Merchant of Montreal paid
Defendant a Merchant of York £4374..11..6³/₄
amount of an unsettled account of several
years in which Defendant charged interest
on the whole amount of the account rendered
each year - Thus in the account rendered
January 1820. he charged £123..12..0 Interest
on £2060 the amount of the account rendered
in 1819 of which £2060 the sum of £60 was
interest of the previous year (1818) Defendant
was indicted for usury and found guilty -
after the Record was removed by certiorari
Defendant obtained a Rule Nisi for arresting
the Judgment, because the fact found does
not amount to usury -

W. Baldwin of Counsel for the Crown shewed
cause against the Rule -

W. Robison of Counsel for the Defendant moved
to make the Rule absolute -

After hearing Counsel - Held by the Bench
that the Rule be made absolute. -

Lee -
vs
Thimble }

Plaintiff a Banker sent cloth to
Defendant a Sailor to be made into a coat

2.
Advocate Society.

Defendant made the coat and sent it home to Plaintiff's house - Plaintiff in three days after lost through a hole in one of the pockets £5000 in Bank Notes the pocket having never been sewed but merely basted - Plaintiff brought a Special Action on the case for the recovery of the £5000 - After Judgment by default the Defendant obtained a Rule to shew cause why Judgment should not be arrested because the action does not lie - Mr. Baldwin of counsel for the Plaintiff shewed cause against the Rule - Mr. Richardson of counsel for the Defendant moved to make the Rule absolute. - After hearing counsel. Held by the Bench that the Rule be discharged -

(signed) A. Shewell
Bencher

The Commissioner appointed to preside in the common sitting, during the absence of the Vice-Bencher, reported the following -

To the Learned the Advocate Society of Upper Canada

The Report of David William Smith Commissioner appointed to preside in the common sitting during the absence of the Vice Bencher, for Easter Term 1822.

Shewell.

That there has been but one question debated in the said common sitting.

Trinity Term 1822.

That the said Question was moved by
Mr. Robison, in the following words, to-wit
"That the right of Inheritance by Primogeniture
is a civil and not a Natural right" and after
discussion had thereon, the opinion of the
Sitting was taken in favor of the Question,

All which is most respectfully submitted.

Common Sitting —
Advocate Society Room,
29th June 1822. —

Signed David W^m Smith
Commissioner.

Agreeably to the Order of the day the Society went
into Committee to ballot for the election of
a Benchman and Vice Benchman.

Mr. Richardson was called to the chair.

The Society resumed.

Mr. Richardson reported that the committee
had elected Mr. Alexander Chewett, Benchman
by a Majority of five; and Mr. David William
Smith, Vice-Benchman by a Majority of five.
Which report he submitted for the adoption
of the Society. —

Ordered that the Report be received, and
Messieurs Chewett and Smith were respectively
elected Benchman and Vice Benchman accordingly.
Mr. Smith seconded by Mr. Robison, moves that
it be Resolved that the Election of Mr. Smith
to the Office of Vice Benchman, does not release
him from the performance of the duty of
Treasurer till the last day of this term,
being the day on which the ordinance directs
the election of the last mentioned officer.

Advocate Society.

on the Question of passing the Resolution, the Society divided, and the yeas and nays being taken were as follows

yeas	Nays
Mess ^{rs} Smith	Mess ^{rs} Richardson. 1
Robison	
Baldwin	
Notman	
Bethune 5	
$\frac{1}{4}$	

W. Baldwin gives Notice that he will tomorrow move for leave to bring in a rule to alter the present mode of nominating the officers of the Society. —

The Advocate gives Notice that he will tomorrow move for a committee to arrange the papers of the preceeding term —

W. Richardson gives Notice that he will tomorrow move for a select committee on the debts due by the Society, and to devise the means of liquidating them —

W. Smith gives notice that he will on tomorrow move that he have leave to bring in a Rule to fine members for non-attendance without sufficient excuse —

The Society then adjourned till Wednesday Evening next at seven o'clock. —

Trinity Term 1822.

Wednesday 3rd July 1822.

The Society met

The Journals were read.

The Benchler delivered an Address.

Mr. Smith seconded by Mr. Richardson Moves that
Mess^{rs} Taylor and Baldwin be a committee
to wait on the Benchler, and request from him
a copy of his speech. —

Which was ordered.

Mr. Baldwin of the committee to wait on the
Benchler. for a copy of his speech reported the
following —

Gentlemen,

York 2 July 1822

We have now by way of trying the
effects of a new system very nearly changed
the whole of what was the constitution of our
association, it is hoped, and most of us, are
sanguine in our expectations, that this will,
from the care and consideration that has been
bestowed upon the framing of it in all its stages,
and from the jealous eye with which every
clause was watched, be far better than the other.

But all this trouble and care will be
thrown away if we ourselves do not give it
strength and solidity by conforming in every
particular to its injunctions, if once any innovation
is allowed without sufficient reason - if we are
continually changing from one system to another
and as quickly laying that aside, none can
ever gain a sufficient footing to make it useful -

Advocate Society.

Its ordinances will be disregarded as upstart doctrines broached but the other day and very few will be willing to pay them a voluntary obedience and respect - They must be in general very doubtful as to their meaning, and in consequence it will be always difficult to settle the practice respecting them - I do not mean to cast any reflection upon the late change made in the Society, or pretend to say that it was unnecessary - On the contrary so fully am I convinced of its urgency that I did believe then and do believe now that any thing would have been better than the way the business was then done - And being of that opinion, though a little prejudiced against innovations, I at once entered into the feeling and spirit of the new ordinance - And now gentlemen as it is fully in force it may not be altogether out of place to make some remarks and to point out some things that in my mind would eventually, if not immediately be of service if attended to - And though they have been frequently mentioned before and have become a little trite, yet I trust they will not on that account be overlooked -

During nearly the whole of last Term, whatever may have been the immediate cause of it the want of punctuality in attending the meetings of the Society has been sufficiently felt to make us all know the necessity of that virtue, it has without doubt in certain cases

Trinity Term 1822.

constrained the Society to reduce the number of members which we once considered necessary to form a quorum - that number was - certainly small enough before - and I must say that it appears but little in favour of those members who forced the Society to take a step which has in a measure lessened its dignity and what is worse than that made it less useful - which must be the case where quorums are small in a body instituted for the gaining of a knowledge of our profession the very nature of which while studied here requires that many should be engaged in it. -

It must be admitted on all sides that a thorough knowledge of the learning connected with the question is an indispensable acquirement in the person engaged in the discussion - I am not insinuating that it is always the case, that the members of our Learned Society come unprepared - but it has so happened in some instances formerly, and in consequence the questions were put off till the next evening, or else they were imperfectly argued and the whole discourse lost that earnestness on the part of the Speaker which should characterize the person who is supposed to be strenuously pleading and urging the cause of his client; when this chances to be the case the hearers feel at once that he does not utter the "*vere voces ab imo pectore*" which Blair so frequently

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Advocate Society.

recommends - of this on late occasions I am happy to say there was no cause to complain, and may it long continue so. -

The manner in which the Cases are to be for the future arranged will if entered into with a proper spirit be attended with happiest consequences, as each person may in all probability take that side which his reason tells him is the right one; this we know cannot always be the case with both counsel yet - frequently there is such a reasonable doubt on both sides of a question as will make each party fully believe his own side must be the best, and will at the same time give an earnest and animated character to the debate - There may be a doubt however whether Members on being applied to, to argue a question will at all times agree to it - This it is to be hoped will never be the case as it is much better if possible for gentlemen to choose their own side - for should the Bench be forced in the first instance to assign counsel, it will I am afraid do away with the intention and spirit of the Ordinance - A sense of your own interest will no doubt make you act otherwise, and I may be merely looking at the Darker side of the subject, and anticipating consequences which there is no reason to fear. -

As my duty obliged me I have candidly

Trinity Term 1822

stated what to me seemed for your good, I have laid before you fully my fears and my hopes - and may the former be as unfounded as I wish the latter to be realized -

Mr. Smith seconded by Mr. Richardson moves, that the thanks of the Society be presented to the Bench for his Speech this Evening - which was ordered unanimously.

Mr. Baldwin seconded by Mr. Smith moves that he have leave to bring in a Rule to alter the present mode of nominating the officers of the Society and that the same be now read.

Which was ordered, and the Rule read a first time.

Mr. Baldwin seconded by Mr. Smith moves, that the officers appointment Rule be read a second time tomorrow -

Which was ordered.

Mr. Richardson seconded by Mr. Smith moves, that Mess^{rs} Baldwin and Notman be appointed a Committee to arrange the papers of Easter Term last -

Which was ordered.

Mr. Richardson seconded by Mr. Notman, moves That Mess^{rs} Smith, Baldwin and Robison be appointed a select committee on the debts due by the Society and to devise the means of liquidating them; and that they have leave to send for members and papers.

Which was ordered.

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Advocate Society

Mr. Smith seconded by Mr. Notman moves, That he have leave to bring in a Rule to fine Members for non-attendance in certain cases; and that the same be now read -

Which was ordered, and the Rule read a first time.

Mr. Smith seconded by Mr. Notman moves, That the Rule to fine members for non-attendance, in certain cases, be read a second time tomorrow. -

Which was ordered

The Society then adjourned till Saturday Evening the thirteenth July at seven o'clock.

Saturday 13th July 1822

The Society met

The Journals were read

Pursuant to the Ordinance in such case made and provided an information filed in the Office of the Prothonotary on the eighth day of July instant against John McDowal for default in payment of a Term Fee was read by the Prothonotary -

Mr. Smith seconded by Mr. Notman moves, that the following Gentlemen be respectively appointed to fulfil the duties of the situations opposite their names vizt

Treasurer Robert Baldwin

Advocate Charles Richardson

Prothonotary John Jennings Paylor

Which was ordered

Mr. Smith seconded by Mr. Baldwin moves, that the thanks

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Trinity Term 1822

of the Society are due to the late Prothonotary Mr Charles
Richardson for the proper and neat manner in which
he has kept the Journals of the Society for the last Term
Which was carried unanimously

The officers appointment ^{Rule} ~~was~~ read a second time

Mr Baldwin seconded by Mr Smith Moves, That the Society
do now go into a Committee of the whole on the officer's
appointment Rule

Which was ordered

Mr Richardson was called to the Chair

The Society resumed

Mr Richardson reported progress and obtained leave to sit
again to day

Mr Baldwin seconded by Mr Bethune Moves That the order
of the day for the second reading of the Rule to fine mem-
bers for non attendance be discharged and that the Rule
be read a second time on Sunday three weeks

Mr Smith seconded by Mr Notman Moves in amendment that
after the word "that" in the original motion the whole be re-
-punged and the following words inserted "the Rule to fine
Members in certain cases be now read a second time
and that the Society do go into Committee to take the same
into consideration

And the yeas and nays being taken were as follows

Yeas	Nays
<u>Messrs Smith</u>	<u>Messrs Baldwin</u>
<u>Notman</u>	<u>Taylor</u>
<u>Richardson</u>	<u>Bethune</u>

Advocate Society

The Society being divided the amendment ~~was~~ was negatived
by the casting vote of the Bench.

Mr Smith Seconded by Mr Notman moved in amendment
that after the word "that" in the original motion the whole
be expunged and the following words be inserted "the
Rule to fine Members in certain cases be read a second
time on tomorrow

And the yeas and nays being taken were as follows

Yeas	Nays
Mr Smith	Mr Baldwin
Notman	Taylor
Richardson	Bethune

The Society being divided the amendment was negatived
by the casting vote of the Bench.

Mr Smith Seconded by Mr Richardson moved in amend-
ment that after the word "on" in the original motion
the whole be expunged and the words "the Second night
of meeting" be inserted,

The yeas and nays being taken were as follows

Yeas	Nays
Mr Smith	Mr Baldwin
Richardson	Bethune
Notman	Taylor

The Society being divided the amendment was carried
in the Affirmative by the casting vote of the Bench.

The original motion was then put and carried

The Bench then made the following communication from
the Bench

Mr Smith from reasons which have occurred this evening

Trinity Term 1822

thinks proper to resign his situation as Vice Benchler
 Dated 13th July 1822 Signed

David W. Smith

Pursuant to the order of the day the Society went again into
 Committee on the officers Appointment Rule
Mr Richardson was again called to the Chair
The Society resumed

Mr Richardson reported the Rule as amended

On the Question for receiving the report the Society
 divided And the yeas and nays being taken were
 as follows

Yeas	Nays
<u>Messrs Bethune</u>	<u>Messrs Smith</u>
<u>Baldwin</u>	<u>Richardson</u>
<u>Saylor</u>	<u>Notman</u>

The Society being divided the Question was carried
 in the Affirmative by the casting vote of the Benchler

Mr Baldwin Seconded by Mr Bethune Moves that the
 Officers appointment Rule be engrossed and read
 a third time tomorrow

which was ordered

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Mr Baldwin gives notice that he will tomorrow move
 that it be resolved that it is necessary to appoint
 a Commissioner to perform the duty of the Vice
 Benchler in the Common Sitting in the present

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Advocate Society

emergency

The Society Then Adjourned

Tuesday 16th July 1822

The Society was unable to meet for want of a quorum

Thursday 18th July 1822

The Society met

The Journals were read

Agreeably to the order of the day the officers appointment rule
was read a third time

Mr Baldwin seconded by Mr Richardson moves That the
Rule to alter the appointment of officers do now pass and
that it be entitled "An Ordinance to alter the manner of no-
minating the officers of this Society"

On this question the yeas and nays being taken on a division
of the society were as follows.

Yeas		Nays	
<u>Messrs Bethune</u>		<u>Messrs Richardson</u>	
<u>Baldwin</u>			
<u>Taylor</u>	3		
	2		

The question was carried in the Affirmative by a majority of
two, and it was ordered accordingly

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Trinity Term 1822

Mr Baldwin seconded by Mr Richardson moved that the Rule of the House of Commons requiring a notice of motion be dispensed with so far as to enable him to move for leave to bring in a rule to authorize the election of a Vice Benchet for this Term

which was ordered

Mr Baldwin seconded by Mr Richardson moved, That he have leave to bring in a Rule to authorize the election of a Vice Benchet and that the same be now read

Which was ordered and the Rule read

Mr Baldwin seconded by Mr Richardson moved that the Vice Benchet's election rule be read a second time tomorrow

which was ordered

The Advocate moves that the Information filed against John McDowall be now referred to a Committee of the whole to try the truth of it

which was ordered

Mr Baldwin was called to the Chair of the Committee

The Society resumed

Mr Baldwin Reported the Information as true

Ordered that the Report be received

Mr Advocate moves that Mr John McDowall do pay into the Treasury the sum of five shillings

which was ordered

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Advocate Society

Mr Baldwin of the Committee to arrange the papers of last Term inform the Society that the Committee had agreed to a Report which he was ready to submit whenever the Society should please to receive the same.

Ordered that the Report be received and it was read as follows

To the learned the advocate Society

The Committee appointed to arrange the papers of last Term beg leave to Report that your Committee pursuant to the order of your Society have arranged and filed eighteen documents of the said Term being the only papers which can be of any consequence to your Society and that your Committee have destroyed all the other useless papers

All which is most Respectfully

Committee Room

Submitted

10th July 1822

Signed Robt Baldwin

Chairman

Mr Baldwin Seconded by Mr Richardson moves that he have leave to bring up the accounts of last Term and that a notice be in this case dispensed with which was ordered and the accounts brought up and read accordingly

Mr Baldwin Seconded by Mr Richardson moves that

Trinity Term 1822

The Society do now resolve it self into a Committee of the whole on the accounts of last Term

which was ordered

Mr Bethune was called to the Chair of the Committee

The Society resumed

Mr Bethune reported progress and obtained leave to sit again on tomorrow

Mr Baldwin Seconded by Mr Tagloe moves that the Society do now resolve it self into a Committee of the whole to take into consideration the supplies of this Term and that a notice be in this case dispensed with

which was ordered

Mr Richardson was called to the Chair of the Committee

The Society resumed

Mr Richardson reported progress and obtained leave to sit again tomorrow

The Society then adjourned till Saturday Evening next at Seven O'clock

Advocate Society

Saturday 20th July 1822

The Society met only thirty ~~thirty~~ met

The Journals were read very ~~important~~

Mr Richardson Seconded by Mr Smith moves that it be resolved that when the Society has been unable to meet from the absence of both the Benchers and Vice Benchers the following ought to be the entry in the Journals -

The Benchers and Vice Benchers being absent the Society was unable to meet.

which was resolved unanimously

Agreeably to the order of the day The absentees fining Rule was read a second time

Mr Smith Seconded by Mr Richardson moves that the Society do now go into Committee on the absentees fining Rule

Which was Ordered

Mr Nottman was called to the chair of the Committee

The Society resumed

Mr Nottman reported the Rule as amended

Ordered that the Report be received ~~and~~

Mr Smith Seconded by Mr Baldwin moves that the absentees fining Rule be engrossed and read a

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Trinity Term 1822

third time tomorrow
which was ordered unanimously
Agreeably to the order of the day The Vice Benchers
Election Rule was read a second time
Mr Baldwin seconded by Mr Richardson moved that
the Society do now resolve itself into a Committee
of the whole on the Vice Benchers Rule
which was ordered
Mr Richardson was called to the Chair of the Committee
The Society Resumed
Mr Richardson reported the rule as amended the
The report was then received
Mr Baldwin seconded by Mr Richardson moved
that the Vice Benchers Election Rule be engrossed
and read a third time tomorrow
which was ordered
Mr Baldwin seconded by Mr Richardson moved that
the order of the day for the Committee on the
Accounts be postponed and that he have
leave to bring up the accounts of the Treasurer
and Advocate of last term
which was ordered and the accounts brought up
read and laid on the table -

Advocate Society

Mr Baldwin seconded by Mr Richardson moves that the accounts of the Treasurer and Advocate of last Term be referred to the Committee on accounts which was ordered

Agreeable to the order of the day the Society went into Committee on the accounts of last Term

Mr Bethune was called to the Chair of the Committee

The Society resumed

Mr Bethune reported to the Society that the Committee had agreed to certain resolutions which he was directed to submit for the adoption of the Society

Ordered that the Report be received

And it was

Resolved That the accounts of the Treasurer Advocate and Prothonotary of Easter Term last are correct and satisfactory

Resolved That the sum of Two shillings and six pence is due to the Prothonotary of last Term

Resolved That the receipt into the Treasury have amounted to four pounds seven shillings and seven pence

2

Trinity Term 1822

Resolved that the disbursements have amounted to One pound.

Resolved that the sum apparently in arrear to the Society is Three pounds two shillings and nine pence

Agreeably to the Order of the day the Society went into a Committee of the whole on the supplies for this Term

Mr. Richardson was called to the Chair of the Committee

The Society resumed

Mr. Richardson reported to the Society that the Committee had agreed to certain resolutions which he was directed to submit for the adoption of the Society

Ordered that the Report be received

And it was agreed

Resolved That the sum of Two pounds be granted to the Benchers to defray the expences of this Term

Resolved That the sum of Two Shillings and six pence be granted to the Benchers to reimburse Mr. Charles Richardson for the extra expences of last Term

Advocate Society

An Ordinance entitled "An Ordinance to alter the manner of nominating the officers of this Society" was read from the Bench and delivered.

Mr Baldwin Seconded by Mr Richardson moves that the select Committee on the debts of the society be discharged

which was ordered

Mr Baldwin Seconded by Mr Richardson moves ^{that whereas the word} that whereas the word "first" in the twenty third line from the top of the twenty seventh page of the Ordinance Book is a manifest error and that the same was originally intended and ought to be the word "Second" it be ordered that the Prothonotary do forthwith amend the same accordingly by erasing the said word "first" and inserting the word "second" in its place

which was carried

Mr Baldwin gives notice that he will tomorrow

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Trinity Term 1822

move for a Committee of the whole on the
Public Debts of the Society

At half past nine of the Clock the Society adjourned
till Tuesday Evening next at Seven O'clock -

Tuesday 23^d July 1822

Present

The Benchers

Messrs Baldwin

Richardson

Taylor

Adjourned for want of a Quorum Thurs!

Thursday 25th July 1822

The Society met

The Journals were read

Pursuant to the Order of the day the Absentee's fining
rule was read a third time

Mr Richardson seconded by Mr Baldwin moved
that the Absentee's fining Rule do now pass
and that it be intituled "An Ordinance to

Advocate Society

impose a fine on any member of the Society who shall absent himself without a sufficient excuse.

Which was ordered

Pursuant to the order of the day the Vice Bencher's election Rule was read a third time.

Mr. Baldwin seconded by Mr. Richardson moved that the Vice Bencher's election Rule do now pass and that it be entitled "An Ordinance to authorise the election of a Vice Bencher for this Term."

Which was ordered

An Ordinance entitled "An Ordinance to authorise the election of a Vice Bencher for this Term" was read from the Bench and delivered.

Pursuant to an Ordinance passed in this present Term entitled "An Ordinance to authorise the election of a Vice Bencher for this Term" the Society resolved itself into a Committee of the whole to elect a Vice Bencher.

Mr. Notman was called to the Chair of the Committee.

The Society resumed

Mr. Notman reported that the Committee had elected

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Trinity Term 1822

Mr Donald Bethune Vice Benchet by a majority
of one which Report he submitted for the adop-
-tion of the Society

Ordered that the Report be received and Mr Bethune
was elected Vice Benchet accordingly

Mr Bethune took the Vice Benchet's Chair

Mr Baldwin Seconded by Mr Taylor moved that
this Society do now resolve itself into a
Committee of the whole on the public debts
of the Society

Which was ordered

Mr Richardson was called to the Chair of the
Committee

The Society resumed

Mr Richardson reported to the Society that the
Committee had agreed to certain resolutions
which he was directed to submit for their a-
-doption

Ordered that the Report be received
and it was

Resolved that the Treasurer may issue any number
of Treasury Bills receivable at the Treasury

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Advocate Society

for any Term fees or other dues hereafter to become payable to the Society

Resolved that each of such Bills shall be receivable for the sum of five shillings

Resolved that such Treasury Bills be not issued unless the number of Subscribers are sufficient to purchase sixteen

Resolved that a Committee be appointed to pay to the Public Creditors such sum as may be ordered

Resolved that the select Committee for the payment of the debts be empowered to draw on the Treasury to any Amount not exceeding Seven pounds Ten shillings and Seven pence half penny provided that every draft on the Treasury be countersigned by the Treasurer before it is issued by such Committee

Mr Baldwin Seconded by Mr Bethune moved that Messrs Saylor and Notman be a select Committee to discharge the debts pursuant to a Resolution of the Society and that they do report on or before the first day of next Term

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Trinity Term 1822

Which was Ordered

Mr Baldwin seconded by Mr Richardson moved
that it be ordered that the Treasury do pay to
the Benecker's drafts to the amount of Two
pounds Two Shillings and Six pence and
that a notice be in this case dispensed with

Which was carried

An Ordinance entitled "An Ordinance to impose a
fine on any Member of the Society who shall
absent himself without a sufficient excuse"
was read from the Bench and delivered
The Society then adjourned Sine die

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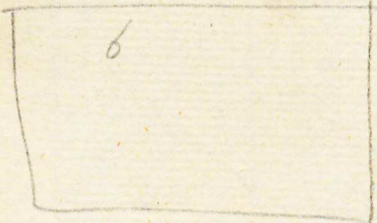
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Paul
Hackett

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W. J. ...

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