

JUDGE ELEAZAR WAKELEY NESTOR OF NEBRASKA BAR

Life Work of a Man Who Has Devoted Unusual Talent to the Study of the Science of Law and Its Application at Bar and on Bench for More Than Three Score Years

A GENTLEMAN of the old school. In the 55th year of his age, dignified, but kind of heart, loving the simple virtues and scorning the modern scramble after wealth, intensely devoted to his profession, the law, his family and his church, Judge Eleazar Wakeley is perfectly described in the above words.

His taste for the law was largely hereditary, for his father and mother were highly gifted intellectually. During several generations his ancestors had lived in New England, which was at that time the center of all erudition. His father took an active part in the affairs of the country. He was a member of the first constitutional convention of Wisconsin and twice a representative in the legislature. He possessed strong powers of logic and was a noted debater. Judge Wakeley's mother was also a woman of remarkable mental qualities. She was related to Jonathan Edwards, the great colonial preacher.

Judge Wakeley was born at Homer, Courtland county, New York, June 15, 1822. He was the eldest of three sons and had two sisters. Soon after he was born his parents moved to Erie county, New York. There he received the foundation of his education, attending the little district school and working hard on the farm all the time he was not in school. He showed a taste and aptitude for study at an early age in spite of the hardships of securing an education. Arising long before daylight in the winter, he would do his farm work and then walk through the snow to the school house, where it was his duty to build the fire. Every spare moment was devoted to study, for, working under such hardships, the boy knew how to make the most of his few leisure moments and he stood at the head of his classes. He had a special liking for mathematics. In 1836 his parents moved to Elyria, O., where he completed his elementary education in the high school.

Began as a Printer

He worked in a printing house while living in Elyria. Even there he was not at the shrine of wisdom by arising at 4 o'clock in the morning and translating Latin authors three hours before beginning work for the day. Henry W. Tenney, afterward a prominent lawyer in Chicago, also worked at the printing office and kept young Wakeley company at this strenuous pursuit of learning. His choice of the law as his life work had been made when, as a boy, he had witnessed the trial of an important law suit in Buffalo, N. Y. He was so impressed and absorbed by this experience that he firmly made up his mind then that the law should be his profession. After completing his elementary education he read law under Joel Tiffany, later of New York, a strong trial lawyer and trained orator, and was admitted to the bar in 1844. He practiced for a short time in Ohio and in 1845 removed with his parents to Whitewater, Wis., where he at once took a leading part in affairs. He was a representative from Walworth county to the last territorial legislature of Wisconsin and represented the county in the state senate from 1851 to 1855. While in the territorial legislature he was chairman of the committee appointed to draft the act calling the convention of 1848, where the constitution was adopted under which Wisconsin was admitted to the union.

Shortly after he had reached the little frontier town of Whitewater he met his future wife and in 1854 he married Sarah Sabina Comstock, a grandniece of James Fenimore Cooper, the novelist, and a descendant of Lewis Morris, a signer of the Declaration of Independence. A wild tract of beautiful ground which Judge Wakeley purchased was the home of the young couple while they lived in Wisconsin. He planted trees and created a beautiful country estate, which is today known as "Esterly Place," and, except for the growth of fifty years, is as it was planned and laid out by Judge Wakeley. But the young couple were not to remain long in Wisconsin. President Pierce had heard of the qualities of the young lawyer, and in 1857, without solicitation on his part, he was appointed associate justice of the supreme court for the then newly organized territory of Nebraska. A long, tedious journey followed by train to the Mississippi, down the river to St. Louis by boat and up the Missouri to Omaha. The journey took three weeks.

Experiences in New Country

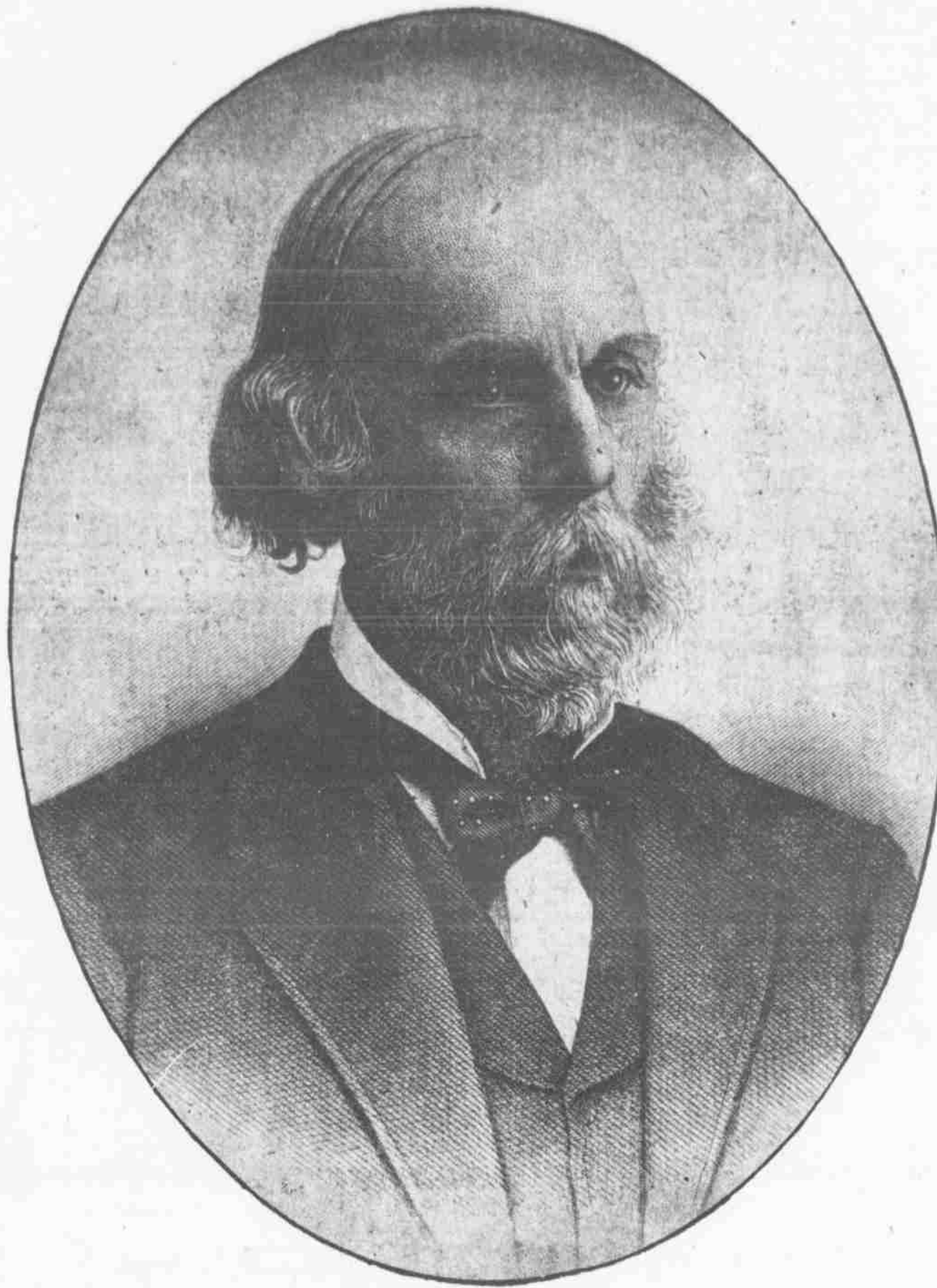
The first two years in the wilderness were spent at the little settlement of De Soto, which stood between Fort Calhoun and Blair, but every vestige of which has long ago been wiped out. The mosquitoes and the ague were the principal things which the young people found to be endured. The judge set to work at once to bring order out of the legal chaos which then existed. His territory comprised Washington, Burt, Dakota, Dixon and Cedar counties, with all the unorganized territory to the north and west. It was, altogether, more than 250,000 square miles. He was reapportioned to the position by President Buchanan, but in 1861 he returned to Wisconsin, locating at Madison, the capital, where his brother, C. T. Wakeley, was associated with him and also, for a time, William F. Vilas, who was later postmaster general under President Cleveland and United States senator from Wisconsin. There he wrestled with such legal giants as Matthew H. Carpenter, George B. Smith, S. U. Pines, E. G. Ryan, who was later a justice of the supreme court, and Judge Spooner, father of Senator John C. Spooner.

But the atmosphere of the west had taken hold of him while he was here and he returned to Nebraska again in 1867 with his family. He began the practice of law and soon built up a large practice in the new and growing town. He confined his efforts as much as possible to the civil side of his beloved profession, always having an aversion for any cases of a criminal nature. He has, as much as possible, declined to be a candidate for political office, with the exception of his membership of the constitutional convention of Nebraska, to which he was elected without opposition in 1871. In 1879 he was a candidate for judge of the supreme court, but the political majority of the opposite party was too much for even his popularity to overcome. Judge Wakeley has always been a democrat. He took a leading place at the bar of the state in the early days when the commonwealth was being moulded and strong men were needed. He was considered one of the foremost lawyers of the state and was connected with many important cases. For seven years he was assistant attorney for the Union Pacific railroad with General Attorney Andrew J. Poppleton. Among the important law suits with which he has been connected is the libel suit brought in 1873 by Governor David A. Butler against the Omaha Herald. Judge Wakeley defended in this suit with consummate tact and his cross-examination of Governor Butler has been celebrated as a model of that line of legal work. The jury disagreed, but the governor dismissed his suit a few days after the trial. He was counsel for the state in the famous case against the bondsmen of Treasurer Hill, being appointed by Governor Crouse, a republican. As attorney for the Union Pacific he was entrusted with many suits of large dimensions, involving large amounts.

On the District Bench

In 1883 Governor Dawes, a republican, appointed Judge Wakeley to the district bench on the recommendation of leading citizens of all parties. In speaking of the appointment, a newspaper said: "We thank Governor Dawes in the name of the people of all parties for an appointment which is an honor to the state and to us all." In the fall of the same year he was unanimously re-elected to the district bench with Judge Neville, a republican, and in 1887 was re-elected in a contest on a non-partisan ticket by a 4,700 majority in a republican district.

The snows of seventy winters had whitened his hairs when he again retired to private life in 1891, but the attainment of the three score and ten years allotted as man's time for activity was no excuse for the well preserved, firm-lipped old gentleman to retire upon his homestead and live the remainder of his life in leisure. He still possessed a sound mind in a sound body and again began active practice. During the fifteen years since that time he has maintained



ELEAZAR WAKELEY.

an office in the New York Life building, where he is busy during the working hours of the day and during many hours when younger lawyers are enjoying themselves elsewhere.

regarded the law as a study rather than a business; a science rather than a trade; a vocation rather than an avocation. All through life it has been his first love after his family and his religion. Early

and late he has pored over his volumes with the absorbing interest more common to the scientist or the inventor than to the follower of the more or less "cut and dried" law.

Foremost in his mental equipment as a lawyer is his wonderful faculty of analyzing and reducing to elemental simplicity the legal propositions lying at the bottom of a case, to eliminate all unimportant facts or legal cobwebs and then to present his points with the greatest clearness of statement and cogency of reason. Having selected his battleground after a careful study of his case, he is most tenacious of his proposition and fights to the end. On this proposition, a newspaper of thirty years ago said: "He is a clear-headed, 'meat-ax' lawyer, ready at all points to meet his adversary, thorough, well read." His power of concentration and ability to fix his whole mind and thought on the case in hand is one of his remarkable characteristics. So, also, is the ceaseless and indefatigable energy which has marked his sixty years of work at the bar and on the bench. Never has he undervalued the ability or the vigilance of his opponent; never has he taken anything for granted.

With these attainments he has carried with him to the bench and bar a silent but powerful factor, namely, the impress of an unimpeachable character and integrity, recognized by all men of all classes. He is absolutely honest. He is generous hearted and has ever been ready to do anything in his power to help a friend.

Thoroughness His Characteristic

His extreme deliberation and thoroughness in examining a problem from all sides are proverbial at the bar. When on the bench he delivered his decisions at length, but with a thoroughness that gave them weight. Sometimes this deliberation afforded foundation for good-humored joking. At one time, it is related, a young man applied to the district court for admission to the bar. He had passed his examinations with credit and his references were of the best. But he lacked a few days of being the required 21 years of age. Judge Wakeley announced his decision in regard to the matter with his usual deliberation and read a number of cases as precedent. Several lawyers were present. After a time one of them drew a sigh and whispered to the young applicant that he should not have any fear, because he would have attained the legal age by the time the judge had announced his decision.

A living refutation of the Osler theory is Judge Wakeley. He has remained perennially young and is today a vigorous and healthful man, in his office from 9 or 10 o'clock each morning until 5 or 6 o'clock in the afternoon. He thinks no more of running half way across the continent for a few days than does a man half his age. Only last week he appeared before the United States court of appeals in St. Louis and argued an important law suit involving the title to a large tract of land in Topeka, Kan. He frequently appears before the supreme court of this state, where his arguments command close attention.

Outside of his profession his chiefest joys are found in the home life of his family and in the society of his friends. He has lived in his comfortable home at Nineteenth and California streets since 1868. There he is a familiar figure cultivating the garden, pruning trees and shrubs and superintending the work on his lawn. In the summer he arises early and devotes two or three hours to this work before going to his office for the day.

His Rich Humor

The French say that no man can be truly great who lacks the sense of humor. Judge Wakeley possesses this sense in a degree which would never be suspected from a look at his dignified and studious face. A letter which he wrote to G. W. Ambrose, a brother attorney, in 1875 is a masterpiece of quiet humor. He borrowed a book from Ambrose and, after the lapse of four months, the latter wrote him a brief note, calling attention to the time he had had it and asking that he return the volume if he was through with it. Judge Wakeley replied as follows:

Dear Ambrose: I herewith comply under protest with your untimely request that I shall return your book.

You remark that you have held my receipt for it some four months. This is probably true. But if you will read the statute of limitations of Nebraska you will observe that it does not bar any claim, under any written instrument, until the lapse of five years, leaving you about four years and eight months still to reclaim your book. Why, then, this undue precipitancy?

Will you permit me, as a searcher after legal knowledge, respectfully to inquire if you can refer me to any respectable authority requiring the borrower of a law book to return it within four months? I have read a large number of cases in my time and I do not remember one in which such a proposition is advanced, although there may be an occasional dictum to the effect that the borrower is under a moral obligation to return the book as soon as he becomes able to buy one for himself.

Considered upon principle and without reference to authority how would the proposition stand? Is it reasonable to suppose that a man engaged in a somewhat active practice can find time in four months to read through all the books he borrows, besides perusing the daily papers, answering letters and keeping up with the Beecher-Tilton literature? That case, you will remember, was going on for some two months after I got your volume.

You remark that you often wish to consult the book. I highly commend that resolution. You would certainly find it beneficial to occasionally read some law, and, if you should become accustomed to it, you will find it comparatively easy; only, don't overdo it at first.

The only thing I object to in that paragraph is an implication that I would not allow you to consult the book at my office. This is unjust. I have never refused the owner of a book that privilege, even when it has occasioned inconvenience to myself.

In conclusion, permit me to suggest that, if you really cannot afford to keep law books for other practitioners to use, it would be a philanthropic thing for you to sell them to some one who can.

Gratefully yours,
E. WAKELEY.

He is brilliant at repartee, as those can attest who have been associated with him as a lawyer or practiced before him when he was on the bench.

He is a man of unobtrusive but deep moral and religious conviction. He has been a regular attendant at Trinity Episcopal church of this city for thirty-nine years, during most of which time he has served as a vestryman or a warden. He has carried his religion into his home and into his business, always unobtrusive, but firm in his faith.

Wife and Family

To his wife Judge Wakeley ascribes much credit for his success. For more than fifty years they have lived together. In May, 1904, surrounded by their children and friends at the old homestead on Nineteenth and California streets, the couple celebrated their golden wedding anniversary. Mrs. Wakeley has always been active in charitable and philanthropic work in Omaha, and no woman is more interested than she in current events and the progress of the world. Judge Wakeley's household consists of himself, Mrs. Wakeley and their daughter, Miss Nellie Wakeley. Three children have married, another lives in California, and one, William G. Wakeley, died in 1884 while city clerk of Omaha.

Two of the married children live in Omaha. Arthur C. Wakeley has been a prominent attorney of this city for a number of years. Lucius N. Wakeley is general passenger agent for all the Burlington lines west of the Missouri and has headquarters in Omaha. Bird C. Wakeley is a newspaper correspondent and stenographer in Los Angeles. Mrs. Charles E. Crain, who was Miss Emily Wakeley, lives in Springfield, O.

Judge Wakeley has occupied the distinguished position of nester of the Omaha bar for many years. For several decades he has been the oldest lawyer in the city. But his interest in his life work has never lagged for an instant. Today he is as keenly alive to all that goes on as anyone. He has made it a rule to attend the annual banquets of the State Bar association, where the toast to which he responds is regarded as the principal feature of the occasion. During the last few years he has attended meetings of the National Bar association in Denver, Buffalo, St. Paul and Saratoga Springs.

Through Sweden and Norway

MY VISITATION in Sweden and Denmark consumed a comparatively short time, from the 30th of August to the 11th of September, 1906. During this time I visited the following principal cities in the order given: Gottenberg, Sweden; Copenhagen, Denmark; and Malmö, Stockholm and Upsala, Sweden. On my way to Norway, however, I spent considerable time in Copenhagen and Stockholm. Besides these large places I passed through many small places in Sweden and came in contact with representatives of the smaller towns and villages.

Sweden and Denmark are exceedingly interesting countries to visit. With the other Scandinavian countries, they occupy the most northern part of Europe and are accordingly in marked contrast with the most southern countries of Europe. The whole population are hardy, of light complexion, blue eyes, intelligent, industrious, economical and self-respecting, practically no begging. They are Protestant in religion, almost wholly Evangelical Lutheran.

They make the best use of their lands for cultivation, their waters for fishing and transportation and their other limited means of livelihood are well husbanded in the short seasons for labor. In morality and Christian integrity the Scandinavian countries rank higher than other nations in the world. The great mystery to me about the Scandinavian countries is that, with practically one language, one Protestant church, and noted as they are for intelligence, morality, industry and economy, they are so widely separated into small kingdoms at a great disadvantage to each and all of them, instead of being united as one strong Scandinavian people for their highest development and defense. This, however, will doubtless come as a natural result of the greater things in which they agree. No people come to America that are more welcome and appreciated, as citizens, than the Scandinavians. They have given the world some of its best men, Christian teachers, scientists, artists, patriots, etc.

Gottenberg has a population of 130,000 inhabitants and is said to be the largest commercial city of Sweden, through which trade for all parts of Sweden passes. It is a well-planned, well-built and well-adapted city for a trade center. Canals, intersecting it in every direction, make it resemble Amsterdam, Holland. Its streets are wide, well paved and clean. It has many fine public and private buildings. The Young Men's Christian association building is large and

one of the best in all Europe. The Young Women's Christian association has also a building in a very desirable location, but smaller. Gottenberg is surrounded by hills that stand for protection and for beauty also, as they are covered with trees and a rich foliage. One of these hills is enclosed in the chief park, and from its summit all parts of the city can be plainly seen. The museum is a fine and extensive one. Over one of its main stairways is a most striking picture—Gustavus Adolphus, his officers and his whole army in the attitude of prayer before the battle of Lutzen, in which he lost his life, but gained a great victory for all mankind. In the words of another, let me say of Gottenberg: "Its close vicinity to the sea, its capital harbor and perfect means of communication with all other parts of the Scandinavian peninsula and the continent through the capital of Denmark, make the position unique, not only as a commercial center, but as the headquarters and starting point for tourists wishing to explore the far-famed charms of the north."

Copenhagen, the capital, and a very large part of Denmark, has a population of 500,000 inhabitants. It has many well paved and well kept streets, besides large, open plazas, promenades and parks. It has many large and artfully and artistically constructed buildings, public and private. A large number of splendid churches, among which are, first, the noted Frue church, a very large and old one in which are the far-famed marble statues of Christ and His apostles, including Paul, by Thorwaldsen, the great Scandinavian sculptor; and, second, the very beautiful marble church near the royal palaces—an old church, but rebuilt and richly adorned by a wealthy brewer. Of its many public institutions the Thorwaldsen museum and another museum are very noteworthy; the former because of the name it bears (Thorwaldsen, the celebrated sculptor) and its contents including many of Thorwaldsen's own works; the latter because of the splendid building, the best lighted and best arranged contents of endless varieties. This latter museum was also built by a wealthy brewer, I am told, who is adding to it and spends much of his time in it.

There is so much of Copenhagen that I cannot do justice to it in a letter. In the words of another, let me say of it: "Copenhagen, the capital of Denmark, is the largest and most important of all the capitals of the north and has repeatedly been chosen as the meeting place of the principal sovereigns of

Europe. The surroundings of Copenhagen are very charming and offer almost unparalleled opportunities for drives, yachting, cycling and pedestrian excursions. A glance at the map shows its central position as a link between the surrounding countries of the north and south, of the east and the west of Europe."

Malmö, Sweden, just across the strait, or sound, from Copenhagen, is a most attractive and fast-growing manufacturing city. It has just recently taken a very rapid stride forward in the establishment of manufacturing plants, which has increased the value of building lands many fold, and is yet on the rise.

Stockholm, the capital of Sweden, and the residence of the king, has a population of 310,000 inhabitants and is a most attractive and beautiful city in many respects; its streets, boulevards, promenades and parks, its many canals and picturesque waterways, and its very many public and private buildings, including the royal palace, an immense structure, almost covering the island on which it stands.

There are many old and noted churches. Of these I will mention, first, the Klara church, one of the oldest, in a district of the city called, from the church, Klara; it has the highest tower and is now undergoing repairs. Second, the Riddarholm church, an old church in which are the monuments of Swedish kings and other distinguished persons. Prominent among these is the tomb of Gustavus Adolphus. Third, in the same quarter of the city is another old church. Before it stands the statue of Olavus Petri, who lived from 1483 to 1552. As a young student he went from Stockholm to Wittenberg, Germany, to attend lectures under Luther, then returned and preached the new doctrines in Stockholm. Now not only Stockholm, but all Sweden is permeated with these doctrines. The Young Men's Christian association building has a very desirable location, but only a part of the proposed building is erected. It is modern, artfully constructed, convenient and well adapted to the work of the association. When the whole building is completed it will be one of the best in the world for the work of the association.

The situation of Stockholm is very picturesque, surrounded by water and built on several islands. The increasing prosperity may be seen from the many magnificent architectural structures erected every year. Stockholm has often been compared to

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