A NEW DEPARTURE.

The confidence of provincials in the power of a State to protect its residents in their dealings with foreign corporations doing business within the State, by giving them prior right of satisfaction out of the local assets of such foreign corporation when reduced to insolvency, has received a rude shock from the recent decision of the Supreme Court of the United States in the Embreeville case (Blake v. McClung), promulgated on 12th December, last, after thirteen months' consideration. By some it is declared to be another step toward centralization; by others, a judicial phase of the imperialistic tendency of 1898; and by yet others, the total abolition of the reserved rights of States. Whether any or all of these sententious phrases correctly characterize the decision, depends, of course, upon the point of view and the power of vision. It may be none of these things; but, certainly, it is a noteworthy case, and will challenge professional attention because of the manifest expansion of the Federal free-trade and the distinct denial of the protective power of the State hitherto popularly and professionally believed to exist and generally recognized by the Courts.

As stated by a dissenting Justice (Brewer), "the doctrine of this opinion is that a State has no power to secure protection to persons within its jurisdiction, citizens or non-citizens, in respect to property also within its jurisdiction, because, forsooth, such protection may in some cases work to the disadvantage of one who is not only a non-resident, but also not a citizen of the State;" and he adds: "It seems to me that the practical working out of this doctrine will be, not that the State may not discriminate in favor of its own residents as against non-residents, but that the State must discriminate in favor of non-residents and against its own
AN EPISODE IN THE AFFAIRE DREYFUS.

February 23, 1898.

Through the autumn and early winter of 1897 the Affaire Dreyfus had overshadowed every other event in Paris. It was always in the air, it got upon men's nerves like an unbroken stretch of foul weather, it became a topic hazardous to discuss among the best of friends,—and yet all conversation inevitably sought that end. The figure of Dreyfus had passed rather into the background,—not that people had forgotten the scene of his condemnation in the Place Vendome three years before,—but the affaire was now clearly a battle on a larger scale. On one side stood the General Staff with the Army at its back, and, behind that, the Roman Church; for the Clerical party control the military schools and the roads to promotion, and have steadily sided with the Army; on the other side was the heterogeneous body of the Jews and the genuine liberals, with the bulk of the literary and scientific men of Paris, who for the occasion had been christened the "Intellectuels." These were the days of the Mélino ministry,—a government which had lived longer than most French ministries because it was colorless and let things drift; it had for some time ceased to make pretense of impartiality and allowed its course to gravitate towards the heads of the Army,—a policy which was almost unanimously condemned by the independent press of both parties. The journalists were of course the protagonists,—it is to be remembered that their influence is greater and that they have a larger personal clientèle in Paris than elsewhere,—and the bitterness of their editorials of those days made a record even in Paris. The Temps alone, which affects the impartial role, made the comical attempt to straddle the situation by employing two different leader writers on successive days to write mildly on the opposite sides of the case.

For some time the friends of Dreyfus had been accumulating proof of his innocence; their statements followed each other with increasing emphasis, until all at once they denounced as the real criminal the Commandant Esterhazy,—an officer with a peculiarly iniquitous record behind him, who from now on becomes a leading figure in the drama. This was in the middle of November, and from that moment it was clear that an explosion was soon to come. Public clamor for revision of the Dreyfus case and for the arrest of Ester-
hazy grew louder and more imperative. The year closed in nervous uncertainty, with the Government still playing for delay, until outside pressure forced its hand and it opened the New Year with the sudden move of sending Esterhazy before a court martial which sat behind closed doors and promptly pronounced him innocent. This was carrying the farce too far. The decision of the court martial was rendered on the 11th of January, 1898, and on the 13th the Aurore appeared with Zola’s letter to the President of the Republic formally accusing the General Staff and the heads of the Army.

That morning remains in the memory as the most exciting day of an exciting winter. As successive editions of the Aurore flooded the boulevards, we began to understand that this letter, written in apparent white heat, was a daring strategic move to compel the review of the whole Dreyfus trial. Zola was forcing the Powers that Were to bring suit for libel against him, and in proving the charge of libel the question of the guilt of Dreyfus would be the one great fact material to the issue. The Quartier Latin,—the standpoint from which we viewed the matter,—had taken sides before nightfall; the professors and the literary men were already largely of the Dreyfus party, while the mass of students immediately went over to the opposite camp, every night swinging up and down the Boulevard Saint Michel to the marching tune of “Conspuez Zola, Conspuez!” As a result the Quartier was surrounded by a cordon of police who blocked its main exits to other parts of the city, and we read in the English papers of revolution in Paris and mythical barricades. Events now followed each other rapidly; Zola was indicted and his trial opened on the 15th of February before the Cour d’Assises; he was hurried daily to and from the court under strong guard to protect him from the mob, and the Île de la Cité, upon which, not far from Notre Dame, stands the Palais de Justice, began to look like a besieged town. Fortune was playing against the Dreyfus cause; the Government had shrewdly narrowed the indictment, the court resolutely excluded testimony as to the proceedings in the Dreyfus case, and it grew more and more evident that the verdict was foreordained. Paris ordinarily loves a cause célèbre, but this was too serious a business, and the whole city had a subdued, apprehensive air which no one who passed those weeks there can ever forget. Men felt keenly that most of the world outside the borders of France was pausing for a moment to look on at this trial as it went on through those two weeks to its certain conclusion.

With a dismal appropriateness, the end of the trial fell upon a wet, chilly, disheartening Ash Wednesday. It was early in the morning and the Boulevard Saint Michel was deserted as we walked
down it toward the Ile de la Cité to make a final attempt to see the last scene of this preposterous affair. There was no great crowd at any of the approaches to the bridges across the Seine, because the city had been carefully policed the night before, although the rainy southwester blowing up the river had its share in keeping the crowd away. We passed the long line of soldiers on the south Quais unmolested, reaching at last the Place Dauphine, the open square in front of the Palais de Justice,—where we found a line of seventy or eighty men and women already waiting outside the great gate. The region of the court room reserved for the public during the trial was known to offer standing room for less than sixty people, so that places in this line had been taken up at unheard of hours in the early morning. Fortunately there were places to be sold, and after some bargaining, we squeezed in about fortieth in line,—and waited. Our arrival was none too soon, for as the hour for opening drew in sight, and carriage after carriage appeared with new bidders for places, prices rose to ruinous figures and lively auctioneering progressed at the farther end of the line, which helped to break the monotony of standing for three hours in the rain and watching the immovable Sergeant de Ville on the other side of the gate. As the hour drew nearer people of evident importance drove up and passed inside unchallenged. Well-known journalists, Rochefort, Drumont, Guyot and the heads of the Army, Gouse, de Boisdefre, Zurlinden and others were recognized by the crowd and applauded, but they hurried in, too preoccupied to notice the applause. Finally, exactly at noon, the Chief of Police was seen coming down the long steps of the Palais, followed by a guard of soldiers, the big gate was swung back, the soldiers formed a diagonal line up the steps and under their surveillance our line of fifty individuals filed through into the Palais itself.

An immense foyer runs across the front of the building, and from the middle of this a broad staircase leads up a half story to a small vestibule, which opens into the hall of the Cour d'Assises. The foyer was filled with excited groups of officers and avocats, but as we were people without importance and without reserved seats we crowded up the stair and into the court room. There was barely room for the fifty of us to stand at one end of this huge hall; we were packed in tightly and contemplated gru mismely the probability of standing for an unknown number of hours with scarcely space to stir hand or foot. However, from our corner we had a clear view of the hall. It is an immensely long affair, lighted only by a row of upper windows on the north side; and by its size and proportion, its dark wainscoted walls and heavily beamed ceiling in brown and gilt, recalls vividly the great hall of the Doges Palace at Venice.
At the further end of the room is the ponderous raised bench of the judges, on their right the pen for the jury, with seats rising in tiers, and beside it in threatening prééminence the seat of the Avocat Général. On the left of the court and lower down is the bar at which sit the lawyers for the defense, and on the wall behind and above them all hangs the large, dim picture of the Christ on the Cross. Below the bar, filling the middle of the hall that morning, was the solid company of lawyers in black gowns, with stiff clerical-looking white linen bands, and black stuff caps, circular and shaped like those of the Paris cooks. The nearer and larger section of the hall was crowded with the persons in any way connected with the case, those who had been the witnesses and their friends, which meant some two or three hundred of the best known people in Paris,—literary men, journalists, professors, politicians, many ladies of the haut monde, and, more numerous than all, the band of generals and the “lesser military.” Among the latter we could pick out certain familiar figures, the Chief of the General Staff, de Boisdeffre; Billot, the Minister of War; Colonel Henry, looking bent and careworn; Esterhazy, whose face certainly in no way belied the manner of man he was, and at one side the erect figure of Colonel Picquart, who was presumably thinking gloomily of what the immediate future had in store for him. After a few moments a bell rang, the audience (at least the lucky ones who had seats) rose, and the Sheriff ushered in the jury, the Avocat Général, and then the judges in their brilliant robes of red,—and the session was opened. Its opening at least was impressive and without commotion. The huge, silent hall, with its eight hundred or a thousand people, the colors of the uniforms of the officers scattered through the crowd, the solid black and white of the mass of lawyers, and the four scarlet figures on the bench, all against the background of dark wainscoting and in the dim atmosphere of a dull winter day, compelled the feeling that the whole scene was some large historical picture hung in a rather bad light.

Maitre Labori, Zola’s counsel, rose immediately and recommenced his speech to the jury. He had certainly had a herculean task; for with the exclusion of testimony bearing directly on the original Dreyfus case, the burden fell upon him of laying the whole matter before the jury in this final address. He had already spoken for two days and made one of the most brilliant harangues ever heard at the French bar, but he looked that morning perfectly fresh and vigorous, and his voice came sailing up from the far end of the hall with marvelous force and clearness. Step by step he laid before the jury the familiar story of the condemnation of Dreyfus, his ban-
ishment and the persecution of his family, interrupted here and there by demonstrations in the audience which grew gradually more frequent, but which he subdued by the defiant ring of his immense voice. A youngish man, of not more than thirty-five, tall, broad-shouldered, with brown hair and beard, large head and features, he had much of the genuine air of the orator about him. In spite of its frequent outbreaks, the crowd listened to him for two hours, when the court rose for a few minutes’ recess. It was already after two, Labori showed no sign of nearing the end of his address, and we resigned ourselves to the thought of standing steadily till evening and suffering patiently from hunger and fatigue. There was one certainty; the French law forbids keeping the same jury longer than fifteen days, and this was the fifteenth day of the trial, so that we knew we should hear the verdict that night if the court had to sit, and we to stand, until midnight.

With the reopening of the session the crowd grew plainly more restless, the continual murmur of talk through the hall sounding harsher and more excited. Every few moments came an outbreak of hisses and shout which the court was powerless to silence. Labori had now begun the last part of his address; he had led the story to the point where Colonel Picquet took a hand in the affair, where this officer became convinced that Dreyfus had been wrongfully condemned and that not he, but Esterhazy, was the original culprit. Finally,—and his voice grew more vibrating and excited,—he recounted how Colonel Picquet at last spoke out and how he had been persecuted by the chiefs of the Army. All through this passage the audience was growing more and more clamorous, hisses greeted every mention of Picquet’s name, and when the lawyer pronounced eulogy on his conduct there was the wildest commotion and Labori was angrily yelled down. The square-faced President of the court tried fiercely to command silence; no one paid him the least attention in the midst of the uproar. But Labori rose to the occasion, and striding up to the end of the bar nearest the crowd, his head thrown back and his voice with a fire in it which it had not had before, by the sheer power of it compelled a hearing. It was the most striking moment of the day’s trial. He then went on, nearing gradually the end of his address; bringing the story down to the events of the weeks just past, the court martial’s acquittal of Esterhazy, and the famous letter of Zola denouncing the court martial which had brought him before the bar of this court. The crowd was uncontrollable, but we could hear his voice even above the crowd, and he finished with tremendous power.

This ending of his speech was the signal for the fiercest commotion. The court looked on helplessly, while the jury had a fatigued
and battered look which argued more for the verdict than all of the advocate's address.

After a moment's adjournment Clémenceau began his argument for the *Aurore*, whose editor had been indicted for the publication of Zola's letter. Clémenceau was a little bald-headed man with a clear, metallic voice, which sounded cold after the oratory of Labori; he indulged in no flights of eloquence and we thought at first that he would talk forcibly and to the point. But he did not; on the contrary, soon sliding off on a vague tangent about true patriotism and the foundations of government, and several other things under the sun, the crowd in the meantime shouting at him, growing every minute more intolerant. The President could do nothing and acted as if he had resigned himself to watching the affair end itself as soon as possible. Toward the end of Clémenceau's speech it was hard to tell whether he had finished or not, for his voice was drowned in the shouts of "Vive l'Armée! Vive la France!" His closing words about six o'clock that evening were heard by no one. He was followed immediately by the Avocat Général, to whom the crowd deigned to listen. In a few words he stated to the jury the single question raised by the indictment and then turned to Zola and his counsel, denouncing them as cowardly conspirators against the Army. The words were lost in a burst of applause, but we could see Labori on his feet hurling back the insult and could hear his last words, "C'est la lutte de la violence et l'erreur contre la justice, le droit et la vérité." Before the whirlwind had stopped the court had put the question to the jury and they were filing out through a small door at the back of the hall to the jury room.

It seemed a foregone conclusion that the jury would bring in a verdict of "guilty;" the members of the military standing around us looked hopeful and expectant. But, as ten and twenty minutes went by, there was a feeling of anxiety which came over every one, we began to consider the possibility of a dispute in the jury, and the crowd seemed too restless to stand there longer. The tension lasted only a moment more, for the jury door opened, and the jurors filed out slowly to take their places,—they had been out less than a half hour. As the foreman of the jury produced two big sheets of white paper and stepped closer to his lamp to read them, a dead silence came over the hall for the first time on that long day, and every man in the court room heard him announce the unanimous verdict of "guilty." Then the storm broke; and the hall was the scene of the wildest, indescribable commotion. But in a moment, through all the immense noise in the court room, we could hear a fainter prolonged roar coming in through the closed doors from the mass of
men in the foyer below; a strange monotonous sound like that of
an excited crowd somewhere in the distance; it seemed for the in-
stant as if we were hearing the whole of Paris taking up the cry
outside. In the midst of the tumult the judges had retired to delib-
erate on the sentence, but they made short work of it, and took their
seats again before many of the crowd noticed their absence. The
sentence was four months for the editor of the Aurore, and for Zola
a year’s imprisonment—the maximum penalty of the law. The
crowd, which was almost unanimously against Zola, was now mad
with delight, and there was a rush for the doors. With some diffi-
culty we forced our way to the railing of the outer vestibule, where
we could look down on the mass of men in the foyer below; every-
thing there was in the wildest uproar, men embracing each other
and shouting “Vive la France!” “Vive l’Armee!” It was an odd
theatrical spectacle. But suddenly some one started the fiercer cry
of “A’ mort les fuifs!” The crowd took it up with a single voice which
rang angrily through the building, and meant a serious attack. The
few partisans of Zola had foreseen the danger and had remained in
the nearly deserted court room, and after a few moments two pla-
toons of soldiers were rushed in from outside and the crowd quieted.
A broad lane was formed with a wall of soldiers on each side, and
down this passed the body of officers who had spent this day in the
court room and for whom the result was a thorough triumph. Led
by the Generals Pellieux and Gouse, they walked slowly out, while
the crowd pressed through the line of soldiers to grasp them by the
hand. We watched this procession from the vestibule above until
the body of the military had gone from the building, then worked
our way down across the foyer and out on the great steps of the
Palais. The lamps all about us were flaring up under the wind
which still blew in gusts across the square. The Place Dauphine
below us looked in the lamplight like an armed camp; with lines of
police, squads of infantry presenting arms, and on one side, at a
little distance, a body of mounted cuirassiers silently saluting the
various officers as they stepped into their carriages and drove away.

We waited to see the crowd gradually disappear from the square,
and then slowly followed after, turning down across the Pont Neuf
to the left bank of the Seine. It was a long circuit to get back to
the Quartier Latin, for we found all the direct roads barred by
bodies of soldiers. We walked in silence, pretty well worn out with
the day’s excitement,—my French friend, H, one of the keenest
supporters of Dreyfus, evidently plunged in uncomfortable thought.
Our companion, an English journalist, who had come over for the
Daily Chronicle, seemed in a condition of almost equal disappoint-
ment. As our walk led us further away from the Cité we found everything silent and the streets deserted; it was impossible not to feel an intense discouragement at the result of the day's work; the question rose unanswered, What good had come of all this effort, had it brought any one nearer the truth at the bottom of the whole affair? One thing, at least, was certain, there would be no revolution in Paris that night for our English editor to send across the Channel to his paper the next morning; for the moment, at least, the victory of the Army was complete.

*A* * * * * * * * * * * * * A year has passed since the episode of the Zola trial and has brought with it a good many startling revelations; we have at last reached a point where the revision of the Dreyfus case seems assured. But, for a long period after the close of that day's trial, the Affaire entered upon a slow and tedious fourth act, where no progress was visible and both parties appeared in the worst possible light, and where many of the leaders on each side played parts that were cheap and insincere. The Quartier Latin had its cynical laugh at the sudden collapse of the enthusiasm of certain of the "Intellectuals" who had, earlier in the day, come out strongly for Zola in his unsuccessful crusade. Even Zola himself disappointed many of his supporters, by crossing the Swiss border to escape his sentence. The military party misused its momentary advantage by the most outrageous persecution of Colonel Picquart; not content with depriving him of his rank, the chiefs of the Army had him thrown into prison and made every effort to send him before a court martial, which would mean certain condemnation to a fate similar to that of Dreyfus. In the midst of the outcry raised by this proceeding the confession and suicide of Colonel Henry fell like a thunder clap, and men now feel that the final act of the Dreyfus affair is opening at last. The sudden death of President Faure has put at the head of France a man apparently of much stronger will and firmer hand; it remains for him to show whether he can carry through the task of terminating the Affaire Dreyfus. This is a possibility that looks almost mythical; but no one who has watched the strange history of this affair will venture many predictions as to what the next day may bring forth. There are some of us, however, who heartily share the feeling expressed by my friend, the English journalist, as we walked home to the Quartier Latin that night of Zola's trial;—that it might be a long run to the conclusion of this Dreyfus business, but that when it came he prayed to be in Paris to see the finish.

Winthrop E. Dwight.