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SCHOOL
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POWERS AND DUTIES
—OF—
SCHOOL OFFICERS
—AND—
TEACHERS.

A. P. MARBLE, Ph.D.

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C. W. BARDEEN, Publisher, Syracuse, N. Y.

THE POWERS AND DUTIES

—OF—

SCHOOL OFFICERS

—AND—

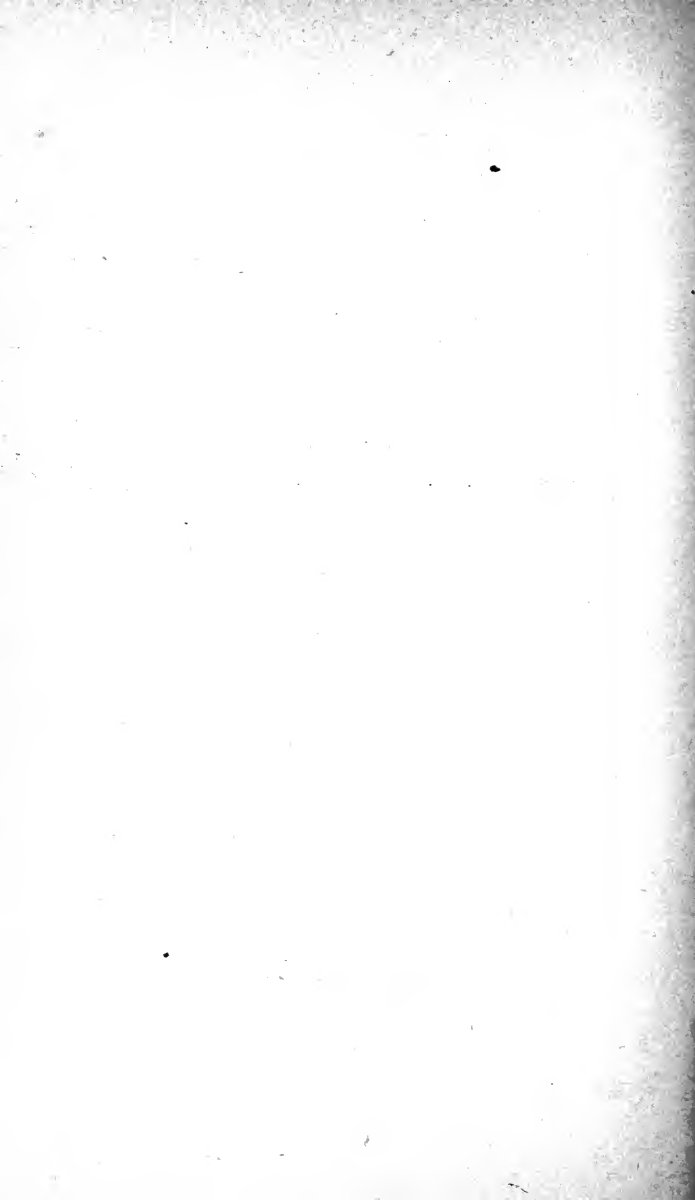
TEACHERS,

A paper read before the Department of Superintendence of the National Teachers' Association, at Washington, March 15, 1887.

BY

ALBERT P. MARBLE, Ph. D.,
SUPERINTENDENT OF SCHOOLS, WORCESTER, MASS.

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Powers and Duties of School Officers and Teachers.

DEFINITIONS.

SCHOOL OFFICERS are the agents or representatives of the public, who constitute the proprietors, in the organization and control of schools. They are of various grades, with duties more or less extensive, as district, township, burough or city, county and State; and they are variously named as Boards of Directors, Boards of Control, Trustees, School Committees, Boards of Education. They sometimes act as a body, and sometimes through an agent who is their executive officer and an educational expert, as the Superintendents. These school officers exercise the functions of the trustees of an incorporated school, or the proprietor of a private school.

TEACHERS are those who administer the school; they have the immediate control of the pupils and attend to their instruction

and discipline. Teachers also are classified as Principal and Subordinate. In such cases the general duties of the teachers are distributed; and some of the powers and duties of the subordinate teacher are exercised under the direction of the principal. Certain of the duties which belong in a general way to the teacher, are under the public system assigned to the school officer. The Superintendent, for example, may be authorized to direct, in a general way, the method of teaching; and he may in city and borough schools assist in the discipline. The principal teacher, on the other hand, may be entrusted with certain powers of the school officer, acting as the agent of the committee, directors or trustees; for example he may select and appoint his subordinate teachers. But the two-fold character in which individuals may act, in certain phases of the whole system, need not confuse the functions of the teacher with those belonging properly to the school officer; and this discussion will proceed as if these functions were always exercised by different individuals.

THE SOURCES OF AUTHORITY.

In order to a clear understanding of the powers and duties of school officers and teachers respectively, under our system, it is necessary to examine the question historically. Schools are a very ancient institution. The teacher has come down to us from very early times. Public schools on the other hand are a modern invention comparatively; and the school officer is a new creation made necessary by the new relation of the public to the schools and to education generally.

In considering the powers and duties of the teacher therefore we must find from tradition what the status of the teacher is. The powers and duties of the school officer are defined in specific terms by the statutes. There is the same distinction between the two as between the common law and the Code, as I understand it: the same as between the constitution of England, which is known through a body of precedents, and the constitution of this country, which is a written document; the same distinction which is found between the officers of an ancient monarchy, who find their powers in long estab-

lished usage, and the officers of a new republic where the duties of each officer is specially defined by law.

My idea of the relation between the teacher and the school officer may be still further illustrated by the authority of the State as compared with the national government. The State is the sovereignty; but in entering the general government and becoming part of a great nation the State has surrendered a part of that general and undefined power called sovereignty.

If we inquire what are the powers of the federal government, we must seek them in the Constitution. If we seek what the State may do, we find nothing definite; every thing which a sovereign power may do belongs to the State to do, except what has been surrendered in the national constitution.

In like manner the powers and duties of the teacher in the public schools, include everything which is inherent in the office of teacher, in the broad understanding of the terms which we have from tradition; and the exceptions to this broad and general authority of the teacher are found in the spe-

cific laws, and what belongs to them by implication, which prescribe certain powers and duties to school officers. The modern public school teacher is the traditional teacher shorn of certain functions which have been imposed upon school officers by specific laws. We find the authority and duty of the teacher by subtraction;—by eliminating from the general notion of what belongs to the teacher, all that has been assigned to the school officer. We find the authority and duty of the school officer on the contrary by addition:—by augmenting the general notion of what belongs to the proprietors or the founders of a school (like the chartered schools of England for example), by the specific duties assigned to these officers from time to time in the law.

IN LOCO PARENTIS.

Individually, then, the teacher stands in the place of the parent for all the broad purposes of school education. Whatever belongs to the parent belongs to him in this regard; and the parents' rights and duties are inferior to no earthly power. Parents are responsible for their children; and their authority is commensurate with their duty. Under the

Roman law even the lives of children were in the hands of parents. Under our modern laws these extremes of parental authority have been abridged; but parents may still exercise all reasonable control over their children. For the purposes of school, and while in school, the teacher assumes all these broad powers of the parent.

ORIGINAL POWERS AND DUTIES OF TEACHERS.

In very early times the teacher instructed and guided those who resorted to him voluntarily, attracted by the fame of his wisdom. Such were Socrates, and Plato, and Aristotle. Mediaeval schools founded by charitable donations, established by those who had charge of the foundations and selected the teachers, were administered by the teachers; the pupils were entrusted to them by the parents who delegated their authority to these teachers. So it was in the chartered schools of England. *Magister* means *master*, a term which implies authority. In those schools even to this day the student is in the hands of the master or teacher, whose authority is as unlimited as the parent's. The right to inflict corporal punishment, and every

other reasonable right, belongs to the teacher and is entrusted to him by the parent.

MODERN RECOGNITION OF THEIR POWER.

This traditional notion of the teacher's powers and duties is recognized by the school laws of every State. In these laws, the powers and duties of a teacher, and what a school is, are assumed to be known. No specific duties are assigned to the teacher, except the implied duty of teaching a good school. There is a singular absence of all law on the subject. The only duties specially assigned to the teacher are of a merely formal character, such as having a license or certificate of qualification to teach, and making out and certifying certain school statistics. All the functions belonging to the teacher are left to be inferred from the traditional notion of what a teacher is; and from the purposes of the school, which are the right nurture and training of youth.

The only exception to the above, the only specific duty of teachers in the laws, relates to moral culture. It is expressed in the statutes of Massachusetts as follows:—

It shall be the duty of . . . all instructors of youth, to exert their best endeavors to impress upon the minds of children and youth comitted to their care and instruction the principles of piety and justice and a sacred regard to truth; love of their country, humanity, and universal benevolence; sobriety, industry, and frugality; chastity, moderation, and temperance; and those other virtues which are the ornament of society and the basis upon which a republican constitution is founded; and it shall be the duty of such instructors to endeavor to lead their pupils, as their age and capabilities will admit, into a clear understanding of the tendency of the above mentioned virtues to preserve and perfect a republican constitution and secure the blessings of liberty as well as to promote their future happiness; and also to point out to them the evil tendencies of the opposite vices.

In spirit though not in terms, the laws of many if not of most of the other States contain the same.

By tradition, then, confirmed by this single statute, the education of children is entrusted to the teacher by the parents; and all the authority necessary to this great end, are conferred upon the teacher. This authority is amplified by numerous decisions of the courts.

CONFORMATORY LEGAL DECISIONS.

I will refer to a few. The teacher may

inflict reasonable corporal punishment, except when forbidden by special law. He may punish for offences committed out of school, which directly interfere with the school, (Lander v. Seaver, 32 Vt. 114). He may insist that a pupil shall submit to the authority of the school, after suspension, before assuming his place, even against the school officer who waives such submission, (Scott v. School District, 46 Vt. 452). He may suspend a pupil for disorderly conduct. The school house is his castle, and he may insist upon the same control over all persons who enter, which a man may exercise in his own house, (Storms v. Pratt, 27 Maine, 266).

The teacher is the school. The best service to education consists in appointing the best teachers. School officers have no higher duty than this. Teachers are employed for purposes "vastly great." They must teach the science of health with all the learning but without the pay of the doctor; they must inculcate the principles of morality with all the impressive sincerity but without the sectarianism of the minister; they must be altogether more patient and discreet than God

Almighty himself, for He was "wroth" when he punished the wicked, whereas, if a teacher punishes in anger, he is guilty of an assault and battery; they must invent schemes to invert human nature, and make every good thing and thought enticing and every bad thing and thought abominably disgusting, especially to the "desperately wicked" who have "no good thing in them;" they must tenderly moderate the zeal of the too ambitious, and inspire the dullest blockhead with a manly thirst for fame and knowledge; the incorrigibly uncouth and vicious, they must endow with the tastes, the instincts, and the manners of the refined and virtuous. And in short, they must turn all from the thousand paths that lead to indolence, ignorance, and folly; and prepare them to find infallibly all the ways of pleasantness and all the paths of peace. These are the high purposes for which the teacher is employed; and it would be a shame and a reproach to require so much of them, and at the same time tie their hands by withholding from them the power which is indispensable to their success. The law is not so unreasonable, for with every well defined duty the law gives

an incontestible right to all the power necessary for the performance of that duty. (Pedagogical Law III, on case of Newman v. Bennett, 2 Chitt., 195.)

Let us now inquire to what extent all this has been modified by the

POWERS AND DUTIES OF SCHOOL OFFICERS

who are created and made necessary by our system of public schools. In the earliest colonial days, the necessity of universal education was recognized. In 1636, the colony of Massachusetts Bay appropriated £400 to found a university "in order that learning may not be buried in the graves of our forefathers in church and state."

The act of 1642 enjoined upon the municipal authorities the duty of making education universal but not necessarily free. In 1647, another law was passed, making the support of public schools compulsory and education universal and free. As this was the first law of the kind ever passed by any community or by any State, Massachusetts may claim the honor of having originated the free public schools. "The school law of 1826 (Massachusetts) was the first to require

towns to elect a school committee." (Secretary Dickinson in School Laws, 1883.)

GROWTH OF THE AMERICAN SYSTEM.

Previous to the laws of 1826, the public schools were supported by the towns, and the teachers were appointed by the Selectmen, or a set of officers chosen primarily for another purpose. The school officers as they now exist have developed from this law, and similar laws in the several States of the Union. This system has not grown up in any one State, or in the several States as from thirty-eight individual and separate centres: but each State has adopted or improved upon the laws of other States. The American system is not national in the sense that it is promoted and conducted by the general government; but it exists nevertheless, and it may be known by a careful study of the various State laws respecting education, and the customs that have grown up from them; and the resemblances are far more numerous than the differences.

Since education is a recognized necessity, and it is made a public duty in all the states, the teacher becomes the agent of the state.

He stands only in the place of the parent, but he represents the State in securing universal education. The public moreover assumes the position of proprietor of the schools; and hence there must be agents or representatives of the public, to take the place of trustees in an incorporated school, to select the teachers, and to make rules and regulations for the schools. The public, including all parents, by their agents the school officers, organize the school and appoint the teachers; and by the laws the public compels the attendance of the children at school. Parents, then, as part of the body politic are the proprietors of the school and act through their agents: and as parents merely they surrender their parental authority for the school, to the teachers so appointed. The school officers, however, so elected have a form and authority under the laws, the most arbitrary and complete known to our constitution. The school is an institution of the state for the benefit of the state, and not merely for the individual pupil; though this benefit is attained, of necessity, through securing the welfare of the individual pupil.

ARBITRARY POWER OF SCHOOL OFFICERS.

The powers and duties of school officers are direct and immediate, as in the case of the district trustees or committees, or they are more general and remote, as in the case of State boards of education and State superintendents of public instruction, etc.; and among these officers there are various ranks. The execution of the school laws is in some States entrusted to the subordinate or more immediate school officers, who are only partially under the control of the superior officer; and in some States these subordinate officers are controlled in their actions by those above them.

For example, in Massachusetts the local school committee have the entire management of the schools in their locality, including the examination, the certificating, and the appointment of their teachers. In Pennsylvania, the trustees of a district can appoint no teacher who has not the certificate of the County Superintendent. In most cases, I believe, the more general and remote school officers may exert a powerful influence upon the schools through the official inspection

which they have the power to make, and through the statistics which they may require, that will show the necessity for new laws and secure their enactment. Through the distribution of funds to the several districts that comply with their requirements, these officers may also powerfully affect the schools.

SOME OF THEIR SPECIFIC POWERS.

Under various names and with duties variously subdivided, school officers have these duties and powers—and others perhaps, for I do not propose to enumerate them all:—They may determine what schools are needed; how many and what kind of houses are required; and in some States they may assess the taxes and raise the funds to build them or to support the schools. They appoint and contract with the teachers. They decide what pupils shall be admitted to a school. They fix the course of study in the schools; and when the schools are graded they fix the attainments required for each grade. They select the school books to be used in each grade. They may dismiss a teacher for any cause satisfactory to themselves. They may exclude any pupil from school whenever



they judge his attendance to be injurious to the school, or no longer useful to himself.

SCHOOL OFFICERS VS. PARENTS.

This authority of the school officers, who are the officers of the state, may overrule the wishes of parents. A parent may desire his child to pursue a study not in the curriculum fixed upon; or he may desire the child to omit one or two studies included. He can insist upon neither as a right, though a wise administration of the schools would make all possible allowance for the parents' wishes. The decision in the celebrated Wisconsin case, where a man insisted upon his child's omitting the study of geography, would, if applied broadly (which the judge may not have intended), overthrow the power of the constituted authority to fix upon any curriculum, and leave the whole school system, not in the hands of the majority, but at the mercy of an insignificant minority. (*Monroe v. Wood*, 35 Wis., 59.)

They may insist upon punctuality and regularity of attendance. It has been held by one court that the only cause for which a committee may expel a pupil is incorrigible

misconduct. But the weight of the decisions is in favor of a broader discretion in school officers; and if it were not,—if pupils might be absent or tardy as often as they pleased without fear of expulsion, the committee would still have the right to assign all such irregular pupils to a school by themselves, and thus practically exclude them from the school they had previously pretended to attend.

These powers specifically conferred upon school officers, it will be seen abridge the ancient prerogative of the teacher.

THE RELATIVE POWERS AND DUTIES

of school officers and teachers will now be briefly considered.

1. The officers, having the power to appoint and dismiss teachers, are able to control the school and give it the character they prefer, for they can select teachers in sympathy with their own views; and they may dismiss those who will not act in harmony with them.

2. The power of inspecting and examining a school gives the school officer the right to act as teacher for the time being. In the ex-

amination, he may listen while the teacher conducts the exercise, or he may conduct it himself and compel the teacher to listen; and while performing this duty he is clothed with all the authority of the teacher; and he may apply correction and discipline while acting in this capacity. (Peck v. Smith, 41 Conn., 442.) On this point we have also the opinion of one of the most eminent educational writers, Horace Mann:—

During the period of examination the committee have entire control of the school. For the time being it is their school, and the teacher is their servant. They may decide what classes shall be called upon to perform exercises, and in what studies. They may direct the teacher to conduct the examination, or may conduct it wholly themselves, or may combine both methods. In fine, they may dismiss the teacher for the hour, and pursue the examination in his absence....Should any scholar misbehave himself or prove contumacious or refractory to the committee while they are engaged in examining the school, it is presumed they have the authority to suspend, to expel, or to punish on the spot in the same way that the teacher may do in case of like misconduct committed against himself. (10th Report, p. 183.)

3. Fixing the course of study carries with it the power to decide to a very large extent,

the method of teaching. In a certain grade which corresponds to a certain year in school, and which is designed to prepare pupils for the studies of the following year, certain studies must be taught in general in a specific way; and the power which organizes the school must be able to insist that the particular work shall be done by the teacher. But it would be exceedingly unwise to exercise such a power except in a general way. To destroy the individuality of the teacher, by minute and detailed directions, is to hinder him and injure the school.

4. The selection of school-books also enables school officers to give tone to the school and color to teaching. Suppose, for example, that a text-book in political economy is selected which strongly advocates protection because the school officers favor that view; and suppose the teacher is a very strong believer in free trade, so much so that he regards protection as a moral wrong—a kind of robbery of the many to furnish a monopoly. He can not conscientiously follow the teachings of the text-book; he must then refute its teachings and thus in effect violate

the regulations of the school, for which he would be likely to be discharged; or else he must do violence to his conscience—commit what he regards as a wrong—in order to retain his place; and in this case he would prove himself unfit to be a teacher.

Here comes the question, how far has a public school the moral right to give instruction in any branch of study involving questions upon which the community is not agreed? Such questions may arise in the study of zoölogy where, for example, the doctrine of evolution may point to an origin of man not in accordance with the commonly accepted understanding of scripture; and in the teaching of English history the question may arise whether Mary Stuart was a murderer or a saint; whether Elizabeth was a most wise, patriotic and virtuous sovereign, or a malignant and vindictive persecutor and worse. To exclude all such subjects as may give rise to differences of opinion, is to deny the right of public schools to conduct the higher education and even the secondary, and thus practically to debar a large portion of the community from the privileges of this

higher training. To enforce through the textbooks and the teachers the teaching of opinions held by the majority, as represented by the school officers, is a kind of oppression of the minority.

The object of schools is education, and not the propagation of any set of opinions:— the development of the powers, and not storing the pupil's mind with the opinions and thoughts of other people. The true course, on such doubtful questions as are suggested above, is, then, not to exclude the studies, and not to control the teaching of them in any particular channel; it is rather the duty of the officers and of the teacher to present the opposite views fairly, and to lead these advanced pupils to reason themselves upon the questions at issue, leaving their conclusions as much as possible to their own mature judgment later in life. In this way only can the honesty and the fairness of the teaching be justified to the minds of the pupils at maturity.

5. The authority to send pupils to any particular school involves the power to promote pupils who are not qualified. What

is the teacher to do in case this happens? He can do nothing but submit, and leave the officers who are guilty of a wrong, to the inevitable retribution which overtakes all wrong-doing. In such a case the retribution will come from an awakened and outraged community—if there be a wrong. There may be cases where it is the best for all concerned to advance a pupil to the higher grade though he be not fully prepared.

6. May a teacher punish a pupil, or require of him, with the approval of the committee, any duty which the parent has forbidden? The answer to this question appears when we consider what the school is for. It is not alone for the individual pupil, but for the community—for the good of the whole. Now if one parent may interpose his wishes, with authority, another may do the same. This would remove the direction and control of the school from the regularly constituted authorities, the officers elected by the majority and the teachers whom they appoint, and vest the real control in individual caprice. The right to dictate does not

belong to the parent. If he is dissatisfied his remedy is to secure a new set of officers.

7. But the more arbitrary the authority with which the highest success of a system of public schools makes it necessary to invest the school officers, the more discreetly this authority should be exercised lest it become oppressive and so defeat its own aim. It is a great thing for a parent to surrender into the hands of a teacher so much of his own authority and control over his children as he must in order to the maintenance of an effective system of public schools; and when by the laws the support of the schools becomes a public tax and either attendance upon them or else the additional cost of private schools is made compulsory, an extreme limit has been reached in the curtailment of a parent's natural rights. Hence, so far as it may be done without positive injury to the school, the preferences of the individual parents ought always to be granted.

CONCLUSION.

These extensive powers and the corresponding duties in conducting public school education are vested in the school officers and

teachers by the laws and from the necessities of the case, since education is a public concern under republican institutions and indispensable under our form of government. It will be noticed that the principle of local control is recognized in every State. This is the wisest and most beneficent feature of the system. The county and State boards of control are chiefly useful in stimulating this interest; and whatever the duty and authority of the teacher and the school officer of whatever rank, that authority is best exercised and that duty is best performed when it secures and works with an intelligent, active interest in the community, the parents, and the pupils; and without this co-operation all other agencies are comparatively powerless. Paul may plant and Apollos may water; from that source comes the increase. For this illustration, Paul is state assistance *ad libitum*; Apollos is national aid *ad nauseam*; the divine spirit which gives life and growth must be found in the local interest.

Ours is not a grace-of-God government with all power and wisdom inherent in hereditary rules. Neither is in an aristocracy in which the best rule. In a democracy like

ours foolish councils will sometimes prevail; but the exercise of folly works its own cure. The people get sick of misrule after a while, and they then rise in their might and reform or revolutionize.

And we have no grace-of-God system of education. It is what the people make it, and want it to be. There are no hereditary school officers or teachers endowed with all wisdom. Power does not proceed from above downward in our education, as it does not in our government. If teachers buy their places, and if school trustees sell out, as has here been said, the best cure for a community where this is possible, is to let it go on—the more the better; for the sooner will it then cure itself.

Educational reformers and great teachers inspired with a noble ambition do indeed arise from time to time. But they are not like a great central dynamo sending currents to the little arcs or incandescent ribbons in every room—though they sometimes resemble gasometers. They are like the sunlight rather, whose beams start into life the seeds long slumbering in the ground. Those seeds are the individual local interest.

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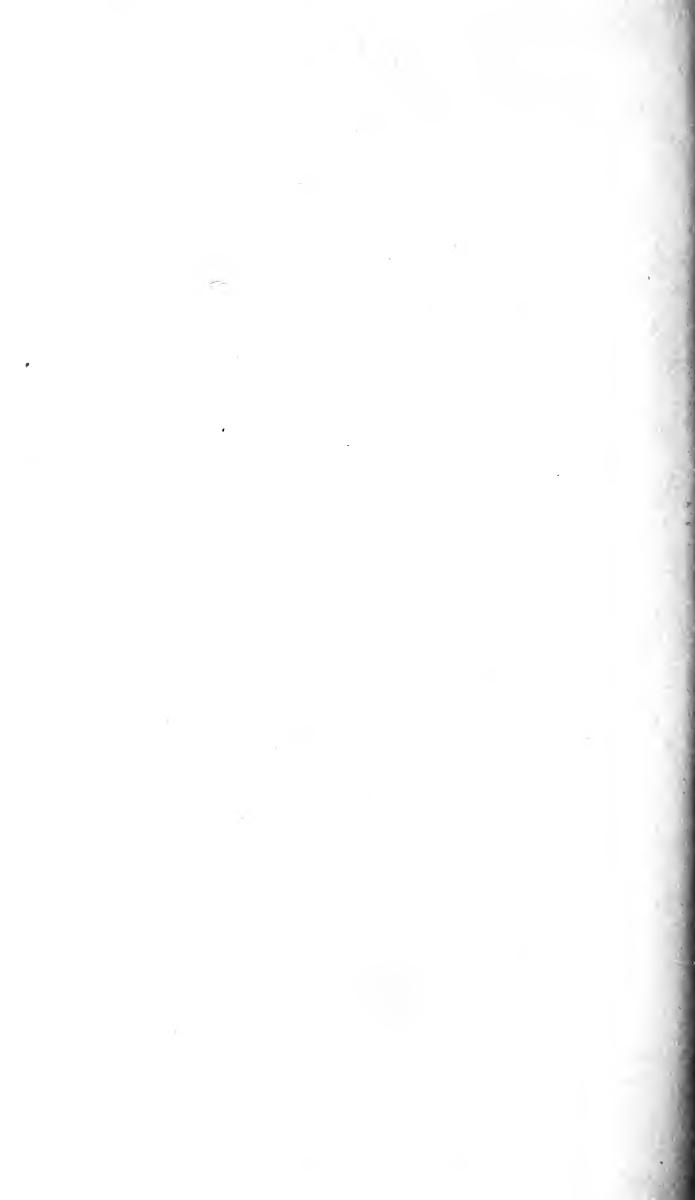
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