

THE NIGHT LAW SCHOOL ASSAILED AND DEFENDED

Dean Ashley, of Law School of New York University, Takes Earnest Exception to Caustic Criticism of Night Legal Courses Voiced by American Law School Association.

The Late Dean Ames, of Harvard Law School, and Other Leading Authorities Quoted as Considering Evening Law School a Support of the Profession's Highest Aims.

WHEN Confucius was Minister of Justice he said: "Surely the grand object to achieve is that there shall be no litigation at all." "The first thing we do, let's kill all the lawyers," said the pal of Jack Cade. And yet last year over twenty thousand new laws were placed upon the statute books. The time is coming when we shall have to defend ourselves from those laws. In the mean time we must develop lawyers. We never know when we may need them.

legal profession or made to obtain their legal training entirely through clerkships in offices.

And concerning the old belief that the best way to acquire a legal education was to "read law" in an office, Dean Ashley says: "The student should first receive a thorough and well planned education in substantive law. When this is acquired he is in position to learn practice—that is to say, the application of his knowledge to actual life. Then, but not earlier, he should enter a good office, where he can obtain by actual experience the knowledge of practice which he requires."

DEAN AMES OF THE HARVARD LAW SCHOOL.

The evening law schools, he asserts, are uplifting the educational standards of the profession by affording such men as cannot attend class at other hours an opportunity to study in a law school where a thorough and systematic training is given. He quotes a conversation that he once had with the late Dean Ames, of the Harvard Law School, in which that great teacher expressed the belief that evening law schools have distinct advantages. And James Barr Ames was a masterly teacher. "The forty years of his connection with the Harvard Law School," writes one authority, "was its golden age; the period which President Eliot and Langdell inaugurated, but no one did more than Ames to crown with success."

No greater tribute to his power and success as a teacher could be given than that of Professor Kirchwey, of Columbia University, who says:

"A power of lucid statement was as characteristic of him as the penetration of his thought and the relentless consistency of his reasoning."

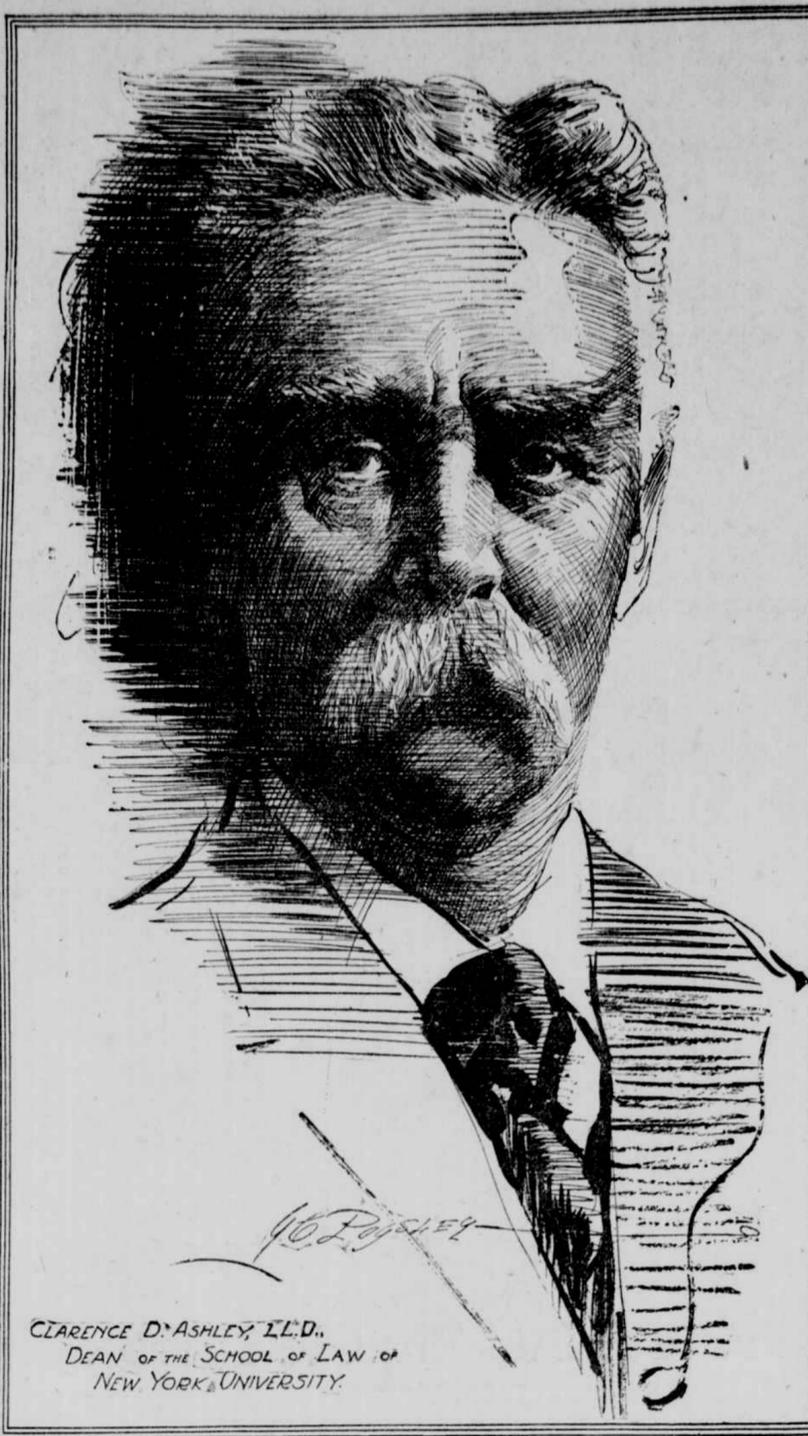
During the years of his leadership the standards of scholarship required for admission to the school and for securing its degree were continuously made more severe. But he gave preferential standing to graduates of the New York University Law School who had pursued the regular three year evening course and wished admission to Harvard.

PROMOTER OF AMERICAN LAW SCHOOL ASSOCIATION.

This man Ames was the promoter of the American Law School Association. Could such a great man be unfair? Ames gave the "Langdell method" its success as a system of teaching. "By a skill hardly surpassed by Socrates in inducing his pupils to answer by their own reasoning the problems which the cases suggested, Ames developed a remarkably flexible and effective mode of teaching from cases. Langdell is entitled to the great honor of a discoverer; but Ames put the discovery to practical use."

The early struggles of this same Langdell are worth noting. When he was eighteen he worked in one of the Manchester mills. He conformed to a lawyer's dream of going to college. He acted on advice to try to work his way through Exeter. He failed to get a scholarship, and almost heartbroken he sat down upon the steps of the academy building and wept.

But in spite of this blow he did not waver in his purpose. He remained



CLARENCE D. ASHLEY, LL.D.,
DEAN OF THE SCHOOL OF LAW OF
NEW YORK UNIVERSITY.

Have you ever allowed yourself to dwell upon the variety of things that a man ought never to undertake to do except upon the advice of a competent attorney? If you are making a will it is as important to have an attorney as that you should have a surgeon when amputating a leg. Exact technical things are required in the structure of wills. Because so many wills have been drawn by amateurs the old proverb has been revised to read: "Where there's a will there's a way—to break it."

PROTEST AND REQUEST OF DEAN ASHLEY.

Repetition of the word "argument" is necessary when dealing with any phase of the lawyer question, even, as is now the case, when we are discussing the "protest and request" of Clarence D. Ashley, dean of the Law School of New York University. The protest is against a resolution of the American Law School Association, the preamble of which declares that "the maintenance of regular courses of instruction in law at night parallel to courses in the day tends inevitably to lower standards." This resolution declares the policy of the association hereafter "not to admit to membership any law school pursuing this course." The request is that the resolution be repealed or modified.

This resolution, according to Dean Ashley, was proposed without explanation and was adopted without debate. Which goes to prove once again that the legal mind is not for the layman to understand. He can only stand by and marvel at it. If the decedent had said, "I am dying. It was John Smith who shot me," that evidence would be admissible in a court of law. But if he said, "It was John Smith who shot me. When I get well I will kill him," that statement is not admissible. If you have the time and the money a lawyer will explain this thing to you.

There are others who will undertake to prove that studying law at night, when the student is compelled to earn his living in the daytime, tends inevitably to lower standards. It is the opinion of Dean Ashley, who has just made an exhaustive report based on months of study of this question, that if the evening schools were abandoned, as the American Law School Association desires, many worthy men would either be prevented from entering the

at the academy, being employed to ring the academy bell, and in other work. His sister Hannah sent him occasionally small sums out of her earnings. Each time she dropped the letter into the box she said: "This is the happiest day in my life."

He entered Harvard, and at the end of the first year he ranked second in his class. "True," says Dean Ashley in his report, "it is not aristocratic to earn one's own living and pay for one's own education, but those who are able to do this possess an element of strength and of character which makes of them strong and liberally educated lawyers."

Langdell was dean of the Harvard Law School for twenty-five years. Also, he was generally conceded to be a great lawyer. He was the founder of the case system of studying and teaching law, now followed at the New York University Law School.

In other words, why not give the evening fellows a chance?

The writer attended a day and night session at the New York University Law School last week. There was more electricity in the air in the night class. The men were more alert to answer the questions put to them. The students were interested, stimulated, tantalized. The analytical powers of the men were being developed at high speed by the professor,

who made them think as lawyers. He asked a lot of questions, but he did not do much answering.

He was not too tender of the feelings of the students. Judges on the bench in the Big World have also been known to be sharp at times. The professor and the class discussed concrete cases, real or hypothetical, to the mental disturbance—not to say anguish—of more than one member of the class. But you were conscious that law was being absorbed during those crowded sixty minutes. He baptized men in brain fire. If he led the student to the brink of a precipice he did not let him fall over. He never failed to indicate the path

back to safety. Modestly, in all discussions, he placed the student on his own level. Both, apparently, were groping in the wilderness for the truth, and while he would give possible clues, he was ever ready to discuss the student's suggestions and to follow them until it became apparent to the whole class that they led only to confusion. He helped men in many ways, but most of all because he made them help themselves."

It is thus that a writer has described Professor Ames's method of teaching. And it is the so-called Harvard system that is used at the New York University Law School. Professor Ames once said that if a lawyer's office were conducted purely in the interest of the student—the suggestion was made by one of his colleagues—"and if, by some magician's power, the lawyer could command an unfailing supply of clients with all sorts of cases, and could so order the coming of these clients as one would arrange the topics of a scientific law book, we should have the law student's paradise."

TENNIS AND DEVELOPMENT OF LEGAL DOCUMENTS.

"This fanciful suggestion," said Ames, "was made with a view of showing how close an approximation to this dream of perfection we may actually make. If we cannot summon at will the living clients, we can put at the service of the students, and in a place created and carried on especially for their benefit, the adjudicated cases of the multitude of clients who have had their day in court. We have only to turn to the reported instances of past litigation, and we may so arrange these cases by subjects and in the order of time as to enable us to trace the genesis and the development of legal documents."

"If it be the professor's object that a student shall be able to discriminate between the relevant and the irrelevant facts of a case, to draw just distinction between things apparently similar and to discover true analogies between things apparently dissimilar—in a word, that they shall be sound legal thinkers, competent to grapple with new problems because of their experience in mastering old ones—I know of no better course for him to pursue than to travel with his class through a wisely chosen collection of cases."

Again, it should be borne in mind that this is the system pursued at the New York University Law School.

LAW BY DAYLIGHT AND LAW BY NIGHT.

Benjamin F. Peiner points out to Dean Ashley in a letter that is incorporated in the dean's report that there may be poor evening schools as there are poor day schools. "But," he adds, "I know of no law in the realm of physics or any other domain which makes the student of law by sunlight superior to the student of law by lamplight. From my experience I can say that in respect to earnestness, sobriety and honesty of thought and sincerity of purpose, the general average of the student body of the night law schools of this city is superior to that of the day school."

"If an evening school is carried on with the idea that its students must be coddled, that allowance must be

made for them, and that it is not necessary to furnish the same class of instructors and lecturers as in the day school, then, of course, the work is inferior and must tend to hurt the entire institution. But we have never permitted anything of the kind," says Dean Ashley.

"The records of our graduates for the last fourteen years show that the evening men have maintained a better average grade than those taking the day course. Some having the least time for study accomplish the best work. There is no indication of any lowering of educational standards by us. Men come here from the best law schools elsewhere, bringing certificates showing a good record obtained; some enter the day division and others the evening. They invariably take the same average rank as our own students. Some do well and others poorly, but there is no indication that the previous standards have been higher than our own."

POOR BOYS WHO ATTAINED EMINENCE.

Dean Ashley tells of cases that have come under his notice of poor boys who, because of evening law schools, were enabled to get an education and afterward became eminent in their profession. He believes this is true of thousands, and that evening law schools can be special servitors of the people.

"Over twenty years ago," says Dean Ashley, "in the old Metropolis, I was on the point of advising a student to give up law study because I believed that he would waste his time and money. He was a machinist in the Brooklyn navy yard, and his daily employment physically tired him out. Fortunately, I did not follow my impulse. The man did well in his law studies, graduated, and was admitted to the New York Bar. His course since that time has been a success, and he has well managed important litigation."

"A man, now dead, started life as a newsboy, hawking papers about City Hall Park. By sheer grit he obtained a good preliminary education. He entered the Metropolis Law School, and for three years easily led his class, although he was in competition with bright, able minds, some of them good examples of our best college graduates. He was, in successful practice at the time of his death."

"Every experienced lawyer knows that he does his best work under pressure. These men know the importance of systematizing every moment, compelling their attention to the subject on hand and putting a steam power force of energy, determination and pluck into their work. They are the very men who develop into our cultured lawyers."

The Carnegie Foundation is now investigating legal education in the United States. This will include an examination of the requirements for admission to the bar in the several states, and its suggestions are likely to be productive of much good.

Will it decide to agree with the resolution passed by the American Law School Association?

"Once satisfied that our evening division is detrimental to the highest aims of the profession," says Dean Ashley, "and we shall discontinue it at once."

That's fair enough. Give the man a hearing!

BOY OFFICER TELLS ABOUT SMASHING SPANISH FLEET AT SANTIAGO

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at the half-drowned Spanish sailors staggering up through the surf. This so angered our men that a cutter's crew (I don't know which ship it was from) quickly beached their boat and, seizing the boat stretchers, rushed upon the nearest squad of "patriots." Any misgivings that their officers may have had as to the advisability of such a reckless action were quickly dispelled, however, for the "soldiers," who but a moment before had been calmly butchering drowning men, dropped their loaded firearms and fled in every direction, vainly endeavoring to protect their heads from the rain of blows that were descending on them.

As we shoved off to go back to our ship we passed a corpse floating on its back, with mouth and eyes wide open; every little while it would give a convulsive shudder as if something were attacking it from below; some carnivorous fish probably.

We were busy all the afternoon transferring prisoners; all told, between two and three hundred were taken on board the Indiana. Captain Taylor met the commissioned officers at the gangway and requested their parole (in French), which they all promptly gave; then they were taken down in the wardroom and given any clothes they needed. The enlisted men were lined up in two long ranks, and I certainly felt sorry for them, particularly their petty officers.

You know, the chief master at arms is chief of police on board ship and "cock of the walk" of the lower decks. Well, I saw the Oquendo's master at arms, still wearing his brass buttons, lined up alongside a mess servant, all his authority gone. It was pretty tough.

I strongly suspect that the Spanish officers had warned their men "what to expect" if they were captured by the Yankees, for they all looked as if they were standing by for a general massacre to begin at any moment. In the last boatload that I brought on board one of the prisoners wore a Theresa cap ribbon and I endeavored to tell him that I would exchange one of the Indiana for it. He was so frightened to understand and snatched off his cap and presented it to me. He thought that I wanted his clothes.

While we were receiving the prisoners the word was passed aft that Admiral Cervera was coming. It had been the original intention to send him to us, but as the Indiana has no admiral's quarters he was sent to the Iowa instead. I climbed up on one of the eight-inch turrets, which extend well out over the ship's side, and he passed nearly under me. The poor old man looked completely broken up. He had on a suit of civilian's clothes (loaned him by Captain Wainwright, as he had been obliged to take off his uniform to swim from his burning flagship) and had neither hat nor collar. His son, who served on his staff, was with him. The boat was half full of water, and in the bottom, swishing back and forth, was the body of his sailor orderly, who had died from loss of blood on the way out.

Captain Taylor and the officers made every effort to keep the men from cheering, but it was impossible, as they were scattered all over the ship and were wild with excitement. When Cervera was only a few feet away one crowd started to yell like wild Indians, but the junior officer of the watch came running forward and made them pipe down. The yells were changed into three cheers for the admiral, which he gravely acknowledged.

I was the boat officer that night, and about 10 o'clock was sent to the Harvard to get one of our surgeons, who was helping the Spanish wounded. When I got there he was just amputating a man's arm at the shoulder. Some of the prisoners were terribly hurt; one man I saw had his backbone shattered. The smell of blood was sickening.

A SPANIARD SWIMS ABOUT WITH A LEG CUT OFF.

When we got back to the Indiana a Spanish officer was being taken on board whose right leg had been cut off between the ankle and the knee. He had been on one of the destroyers, and when she blew up he had jumped overboard and had got mixed up with the propeller, which had cut off his leg just as a knife would have done. He was a good looking young fellow, about twenty years old. He had been in the water over two hours, and as the sea is extremely salty here you can imagine what he suffered

I made my report to the captain, and in about ten minutes came up on deck again. In going forward I had to pass the wardroom skylight; when I got abreast of it I looked down and saw the young Spaniard stretched out on a table, held by four sailors. The two surgeons were standing over him with their sleeves rolled up and their hands dripping with blood. There were puddles of blood and shreds of flesh on the table and on the deck; the necessary re-ammputation and sewing up were going on. The end of the stump looked like a bloody sponge; every now and then he would come to his senses, groan in a sickening fashion and shout incoherently in Spanish. His leg had been cut off at 10 o'clock in the morning and he had received no medical attention until midnight. During that time the wound had been soaked in salt water and dragged up on the beach, where it had been filled with sand and small shells.

I certainly was sorry for the officers; most of them were half naked, but one little fellow had all his finery on; he came over the side stiff as a ramrod and saluted, but everybody was so excited and busy that they kept running around and paid no attention to him, so he had to repeat his salute several times before it got the recognition it deserved.

ABOARD THE BROOKLYN WITH COMMODORE SCHLEY.

I was sent in charge of the steam cutter on a still later trip, and on the way back to the slip passed near the Brooklyn. Her officer of the deck hailed me and told me to come alongside. When I got on board he told me that Commodore Schley wanted a boat officer. I went below to the cabin and saw the commodore with one of his aids, who was reading a telegram or letter which had apparently just been composed; the commodore kept rubbing his hands and saying: "Very good, very good." When I was announced he shook hands and gave me the telegram in an envelope, saying that he wished it taken to the New York at once and that all the Brooklyn's boats were away from the ship. I went alongside the New York and gave it to the officer of the deck.

While on the Brooklyn I learned that she had been hit repeatedly in the run-

ning fight and that one man had been killed and several wounded. The dead man, Chief Yeoman Ellis, had been taking ranges with a stadimeter from her high forecastle, and had been struck by a small calibre shell which had cut off his head above the mouth and had taken head and stadimeter overboard, but had not touched the ship.

This morning, it being Independence Day, we full dressed ship, rainbow fashion, and at noon fired a national salute of twenty-one guns. All forenoon we were busily engaged in transferring prisoners to the various auxiliaries; I was glad when I got my outfit safely on board, for there was a heavy swell running and the boats were loaded almost to the gunwales.

PROSPECTS OF QUIET NIGHT SUDDENLY VANISH.

The afternoon passed quietly and we all expected an "all-night in" for the first time in weeks, but shortly after midnight somebody bumped violently into the bottom of my hammock, which was hanging in the passageway; I looked over the edge, saw the gunner, and asked what was the matter; he replied: "General Quarters has gone and you had better turn out." I piled out, put my uniform on over my pajamas, and ran up on the bridge.

The captain and the navigator were already there and the ship was speeding along toward the harbor entrance. One of the signalmen told me that the Texas, which was on searchlight duty, had signalled that the enemy were trying to sink a vessel across the channel (it afterward proved to be the Reina Mercedes), as Hobson's attempt to block the entrance had not been entirely successful. As soon as we were in range the batteries opened on us, everybody on the bridge, of course, being entirely unprotected.

I suppose you know how the range is found for modern guns. A chart of the harbor is divided into squares; the position of every square is exactly known and the angle to which the gun must be elevated in order to hit an object in the square is worked out, so that all the gunner has to do is to find what square the enemy's vessel is in (which is done by land marks, compass bearings, etc.),

then look up the necessary angle of elevation and blaze away.

Well, we got into one of the danger squares. In about a minute a big mortar shell came whizzing along out of the darkness ahead and burst directly under the starboard bow, dishing the bow plate and deluging the bridge with water. Everybody dodged except Captain Taylor; he didn't even wink; he certainly is a bird.

A SHELL MUSSUES UP OFFICERS' QUARTERS.

We started ahead full speed both engines, but before we could clear a shell landed on the quarterdeck, passed through it just as if it had been paper, down through the crisp deck, through the ammunition passage and burst in the wardroom, knocking three of the officers' rooms into one.

I never saw such confusion; everything was scattered around; there were pictures, swords, broken glass and clothes all over the place. One fragment passed through the steerage and blew all our earthly belongings out on deck, but we got them back. The water main was cut and everything awash, and for a short time we were afire, but it was soon put out. Luckily we had all gone to battle stations about ten minutes before; if we hadn't it would have been goody to the whole steerage. The ship isn't hurt, and the only things lost are the personal property of the officers.

It was mighty unpleasant on the bridge while those things were whizzing out of the black night and coming down on top of us without even the flash of the discharge being visible and nothing in sight to shoot at. I was glad when we got out of it.

Off Agudadores, July 12.

The army is apparently having a pretty hard time of it, as yellow fever has appeared among them and the Spanish troops are making a very stubborn resistance. The general has written to our commander in chief and asked that, if possible, a bombardment of the city should be begun by the ships, as he has no siege guns heavy enough to do the work. Accordingly, the Indiana, Brooklyn and New York proceeded to a position off Agudadores (which is the nearest

place in a direct line to the city) yesterday morning and started operations.

The signal corps had established a field telegraph station ashore which was in communication with its most advanced position, and stood by to report the fall of our shell as seen by the troops overlooking the city. We anchored with the port broadside to the beach and swung the heavy turrets to starboard, which gave the ship a heavy list in that direction and consequently raised the port 8-inch guns high in the air. The position of the ship was carefully plotted on the chart and the compass bearing of the centre of the city calculated; then the 8-inch turrets were trained until the guns were pointing directly at the heart of a city that no one on board could see.

At 10 o'clock No. 1 gun was raised to its maximum elevation and a shot fired over the hills. It went shrieking and belching out of sight, and long after it had disappeared we could hear echoes rumbling among the hills like a yehon thunderstorm. Hardly had the signalman commenced calling up the beach commenced wigwagging. We read: "Passed over city and to right." The range was reduced 2,000 yards and No. 2 turret trained about ten degrees to the left. The second shot was fired at 10:25. Again the shriek and roars, and then the signal came: "Fell in bay to left of city." It being No. 1's turn once more, she was trained five degrees to the right and the third shot fired at a quarter to 11. It seemed to us as if the shell had hardly passed out of sight when the signalman commenced calling up. We acknowledged, and then read the message: "Fell in lower part of city."

After that it was easy; at regular intervals a shot would be fired into Santiago. This was kept up all day yesterday and until about 4 o'clock this afternoon, when we got a signal from the general requesting us to cease firing, as an armistice had been declared looking toward the surrender of the city.

DEADLOCK ASHORE—SANTIAGO SURRENDERS.

July 15. There appears to be a deadlock ashore. The Spanish general has expressed his utter indifference to the destruction of the city and the death of non-combatants,

There have been a series of armistices, followed by repeated demands for surrender. The general keeps urging our commander in chief to run into the harbor over the mines, which the admiral declines to do, referring to such an action as "suicidal folly," which it certainly would be.

The admiral has expressed his entire willingness to start countermining operations with the smaller craft, removing or exploding the mines so the channel will be clear for the battleships. To do this, however, it is necessary first to capture the mine fields, otherwise the yachts and launches will be sunk and their crews killed, to no purpose, and we will be just where we started.

It has finally been decided that two regiments will be sent to the seacoast, and these troops, together with a thousand men from the fleet, will storm the batteries. Meanwhile the countermining parties will be ready, and the moment the Spanish flag falls they will run in and clear the channel of the mines. Then the fleet will form column, go through the entrance, and the city will be under their guns.

We don't know yet whether the land attack on the forts is to be by day or by night; all the midshipmen went down to the carpenter shop this afternoon and had their swords sharpened.

It could be a splendid finish if the navy could cap the destruction of the Spanish sea power by a successful storming of their batteries ashore.

Orders are expected at any moment, and those of us who have been detailed for the storming party have our goggles on already and keep wandering around. Somehow or other we aren't able to sit still.

Another armistice. The general signals that the city will probably surrender very shortly.

Copy of a cable dispatch sent from Copanama to New York via Key West on July 17, 1898.

"Santiago surrendered this morning. Fleet sails north as soon as protocol is agreed."