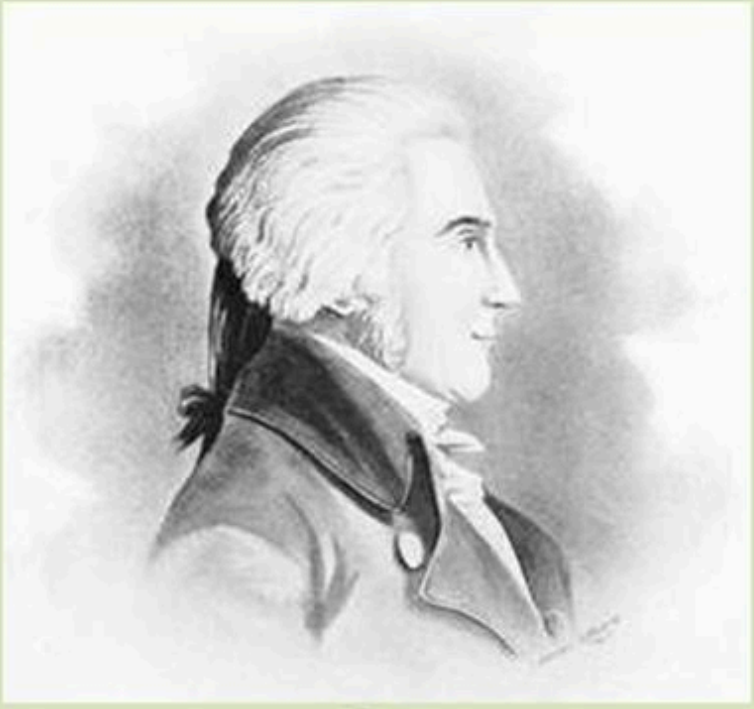
Lives of Distinguished North Carolinians



By

W. J. Peele

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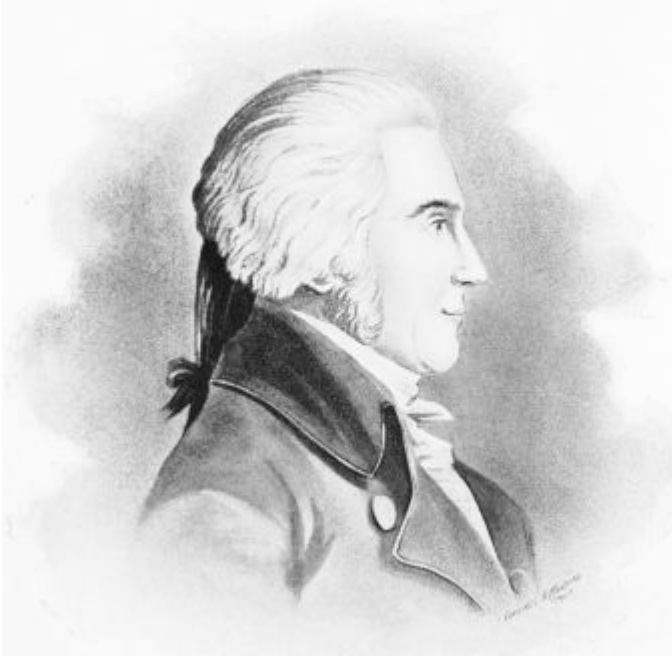
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LIVES OF DISTINGUISHED NORTH CAROLINIANS,
WITH ILLUSTRATIONS AND SPEECHES ***



WILLIAM R. DAVIE.

LIVES

OF

DISTINGUISHED NORTH CAROLINIANS

WITH

ILLUSTRATIONS AND SPEECHES

COLLECTED AND COMPILED BY
W. J. PEELE,
A MEMBER OF THE RALEIGH BAR

DAVIE, MACON, MURPHY, GASTON, BADGER,
SWAIN, RUFFIN,
BRAGG, GRAHAM, MOORE, PETTIGREW, PENDER,
RAMSEUR, GRIMES, HILL

Let us pass not through the earth so fair,
Leaving no witness the truth to bear
That we've lived and loved and labored here.

RALEIGH
1898

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BY
W. J. PEELE

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THE NORTH CAROLINA PUBLISHING SOCIETY

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THIS BOOK IS DEDICATED
TO
THOSE WHO HAVE CONTRIBUTED TO MAKE IT,
TO THE
DESCENDANTS OF THOSE WHO ARE ITS
SUBJECTS,
AND TO
ALL NORTH CAROLINIANS WHO SEEK TO
EMULATE
THE VIRTUES IT
RECORDS.

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PREFACE.

The publication, in a permanent form, of the most valuable sketches and speeches which have been produced in our State will aid materially in laying the foundation for a distinctive literature. In the beginning, character only is essential; art is a development, and will assume its comely form in due season if it springs from virtue. The undeserving are the fearful and the unbelieving, and these are they who are morbidly anxious to graft borrowed ideals of literary culture upon the native stock.

The people are entitled to the sources of history (the knowledge of which, in this State, is confined to a very few), because from among the people must always arise the man who breaks the monopoly which sequesters the facts of public interest for private interpretation.

Failure in some writers to give the sources of information and of ideas, and to give credit or quote where these are already well expressed, has caused much confusion in the historical data of this State.

This practice is fatal to any considerable literary reputation and an unwitting confession of incapacity.

The educational value of these sketches and speeches, and of such as may be published at a later period, is probably what will chiefly recommend this undertaking to the consideration of the public. A good course of home reading about worthy men close enough to the reader to stimulate his interest can hardly be overvalued, and it is the best substitute for the training of the schools as well as a powerful assistant in such training.

It will be remarked that some of the best sketches of our distinguished dead have been written to be spoken; but they are none the less effectual among North Carolinians, who have generally been hearers rather than readers: those, therefore, who have desired their attention have cultivated oratory. The style of the effective writer, however, is more condensed than that of the orator—freer from passion and local prejudice and fitter to paint for posterity pictures of the past.

To the ladies of the memorial associations of North Carolina, and to those who have generously responded to the honor of their calls, our people are indebted for the collection, in the form of addresses, and the consequent preservation of some valuable historical matter. This is especially true of the Ladies' Memorial Association of Raleigh, as the sketches of Grimes, Ramseur, Pender, and Hill, here published, will attest.

No less deserving are those who of their own accord, or at the request of others, have prepared sketches of such as have done deeds worthy of remembrance. Born of some patriotic North Carolina

woman, a man will arise who will use the stubborn facts so preserved to bruise the serpent-head of false history.

It will not be understood, of course, that an attempt is made in this volume to publish the lives of all distinguished North Carolinians—there are others, perhaps, as worthy as any which here appear; and should this book be approved and sufficiently sustained by reading people, another volume may be added at some future time.

My main object will be attained if interest in those who have done something worthy of remembrance is stimulated.

Much of what is called biography and history is a tiresome chronicle of the successive advancement in office of some who have advanced little in better things. Service, not office, is the inspired test of greatness. He who would be greatest among you must be the servant of all.

In this materialistic age it is nothing strange that some North Carolina writers have praised such as have done well mainly for themselves; and while I do not remember that, in the collection here published, place and station are set forth as an end rather than a means to good, yet here, as elsewhere and everywhere, the thoughtful reader will be on his guard against any squint in favor of false ideals.

As Jannes and Jambres withstood Moses by the art of counterfeiting the symbols of Heaven's appointment, a devilish power, so this age suffers much from spurious greatness, persistently advertised, as bearing the image and superscription of virtue.

Human limitation is such that a character is

sometimes worthy of study which only effectually illustrates one great virtue growing among defects; and human nature, unless morbid, instead of being contaminated, will be encouraged that weakness can deserve fame. The defects which criticism may discover in any character here portrayed may be used, under intelligent guidance, to gain the sympathy of the young rather than mar their ideals—which must be composite pictures of the virtues of many, or else imaged on the soul by contemplation of the life and work of One who was the Servant of all.

W. J. P.

INTRODUCTION.

This book is written of North Carolinians by North Carolinians. Many of the writers are no less distinguished than their subjects, and these together give it local color, distinctiveness, and personality which ought to make it interesting to ourselves and valuable to those who seek to know us through intrinsic evidence.

Wherever practicable the subjects are allowed also to speak for themselves. "Biography is the only true history," says Carlyle. The history of North Carolina has not yet been written, and never will be, until each pioneer investigator confines himself to a short period—say a decade. Then, eventually, perhaps, some genius for generalization and condensation will

arise and in a single life-time combine the whole into one work. Meanwhile this generation may bind up and preserve the material.

There is not sufficient political homogeneity among North Carolinians at this time to enable us to endorse with unanimity the true theory of our history for the past seventy years—especially in our relation to the General Government.

This generation, too, is inundated with cheap and often insidiously false sectional literature from the North.

Such literature is gradually glozing over and reconciling our people to the sinister changes which are being subtly wrought in American institutions.

The innovators can now persuade the misinformed and careless that just criticism of themselves and their cupidity, and just defense of the principles and motives which actuated us in the late war between the States, is rank treason against the United States Government.

To publish what our sages and warriors have taught and fought for rises, therefore, to the dignity of a duty, as tending to correct erroneous impressions common among us and still more common among others, and as giving a particular account rendered by many witnesses, of men and times to be remembered by posterity, rightly or wrongly, forever.

This introduction is intended to present also a bird's-eye view of the field in which were cast the lives and labors of the subjects of this book. Incidentally, too, I indicate a theory of Southern history which, if not obvious enough upon its bare statement, or from the facts here briefly set forth,

will one day be demonstrated to the satisfaction of the seeker after truth. It involves an analysis of the character, influence, and interests of the North acting on the South.

The inoculation of New England semi-foreign views of the Federal Constitution (for half New England is foreign born) goes on apace. With conceit, born of provincialism, these people have magnified their Mayflower scrap of local history into national importance; they have dinned it with such Codrus-like persistency into our ears that the average North Carolinian knows their story better than he does that of the settlement of Roanoke Island. We read their books, papers, and periodicals, though many reflect upon us, and nearly all are unfair to us; but they do not read ours. It would be a surprise to the publishers if one hundred copies of this book should be sold north of Mason and Dixon's line—a line which still exists against our literature, our ideas, and our construction of fundamental law. Most probably not one of their monthlies would publish what I am now writing.

The most un-American section of the Union is New England. Bounded on the west and north by British Canada and on the east by the Atlantic ocean (which may be said now to belong also to Great Britain), it is the hotbed of British ideas of government and society; and, in the event of a third war with the "mother country" (as it still affectionately terms the nation whose government has always been the enemy of our liberty, growth, and progress) it may be a hotbed for a hundred times more traitors than it had in the War of 1812. Like our great cities, this section is a danger-spot in the Union.

Many of its political and social leaders vie with

those of New York in rushing over to England and Germany to get the foreign construction of our Federal Constitution, and foreign consent to proposed financial legislation by Congress, and foreign sanction of the orders, social preferences and privileges, and marriages of our "corner"-made aristocracy.

These leaders, too, are less and less the owners of the wealth they handle, and are becoming more and more the mere agents of English capitalists and the dupes and tools of foreign marriage-brokers. About three thousand million dollars of British capital is said to be invested in a section of the Union. This copartnership of foreign and domestic wealth gives to Great Britain a voice in our government—a representation in Congress from whole groups of States. How many Northeastern Senators and Representatives have differed in late years from British views of what our financial policy should be? Foreign and domestic monopolists and bondholders have the same interests, the same social sympathies and affinities, a common cause, the same victims and enemies, the same want of confidence in popular government; therefore, what doth hinder them from forming a treasonable alliance, offensive and defensive, against the people? They have already formed it: the money-kings in all nations, in control of all kings and governments, have an understanding with one another, and, by concentration, they can easily crush any movement, for amelioration, among the people of any one nation at a time. There is a brotherhood, too, of incorporated rate, fare, and tax collectors as well as of bondholders. United they stand.

The Hamiltonian theory of government has been in

adoption, and the Hamiltonian school of politicians has been in control of the Union for nearly forty years, and they may now be judged by their fruits: they have given us a more corruptly administered government than that our fathers rebelled against in 1775; and they are fulfilling with startling fidelity and rapidity all the prophecies which Henry, Jefferson, Macon, and Randolph made about them.

It is a knowledge of these things which has organized a great rebellion in the United States, especially among those who live outside the great cities and homes of monopoly—a rebellion which has begun to control political parties, and which, in the last general election, mustered nearly six and a half million voters—voters who were hurled, for once, against the great international brotherhood of plunderers by legislation. Some, however, who were in it are not of it; these, when they comprehend it, will become offended and walk no more with it. A new declaration of independence is being formulated to voice its spirit, and it awaits its Jefferson, if, indeed, as some believe, he has not already come in the person of Bryan, a Western man descended from Southern ancestors, and seeming to have at heart the interests of all sections.

It is a significant fact, in this connection, that from two-thirds to three-fourths of the foreign voters in the Union marched under the allied leadership of foreign and domestic monopoly and ill-gotten wealth. Two-thirds, at least, of the native-born white voters were in this great rebellion, and the life and soul of it. The negro voted almost solidly with the foreigners and with his new masters, for he will have masters of some kind yet for many years. I note the status and attitude of the negro seriously (and let

him that readeth understand), for if this ever-deepening conflict comes to bullets, those who now tell the old Federal soldier to vote as he shot, will tell the negro to shoot as he voted; and he will so shoot. The negro vote, under the easy control of a sectional faction of political manipulators, is as dangerous a menace to our institutions as our foreign population indoctrinated with European medievalism—kingcraft and priestcraft.

Much, if not most, of our foreign immigration now comes from cities, and pours itself into the already corrupted life of our own great cities. ("Syrian Orontes pours its filth into The Tiber."—*Juv.*) It does not buy land, it sells votes; it specifically performs the political contracts of its priests; it buys and sells political jobs; it officers ward politics. It is one of the arms—and the negro is the other—by which greed and monopoly, the twin devils which dance attendance upon national decline, are consolidating our government.

No great city has ever been fit for self-government and civil liberty. From Babylon to Nineveh, from Nineveh to Carthage, from Carthage to Rome, from Rome to Venice, and from Venice to New York and Chicago (neither of which can elect an honest board of aldermen), it is the same old story of avarice which finally overreaches itself. This is the sin which, when finished, brings forth the death of nations.

In vain did Virgil and Horace sing their deathless melodies of country homes to a people whose blood was already poisoned with the lust for gain and fevered with the excitement of artificial life.

The South, the rural South, in spite of many shortcomings, is the great conservator of our

institutions. It is the distinctively American section of the Union, jealous of all foreign domination or interference, and stands firm in the patriot's faith that we as a nation can work out our own salvation without the aid of European capital or distinctively European ideas of finance, government or society.

Though contaminated by modern machine politics, and much hampered by the race question, the South still clings to local self-government and to the dignity of Statehood as the only sure foundation for civil liberty and perpetual Union. Long taxed unfairly, by the subtle operation of the Federal tariff and internal revenue and currency laws, out of money which has long enriched another section, in the shape of pensions, internal improvements, and "protection to home industries," the South is still the section most loyal to constitutional government, having infinitely more genuine affection for it than the pension-pampered patriotism of such as make merchandise out of "saving the Union."

These considerations are sufficient to inspire in us an effort to write our own histories, expound to our children the principles of fundamental law, and teach them the safeguards of our institutions. The collection and arrangement of the following sketches, with a few crude suggestions of my own, is what I have contributed towards this end.

Except in so far as "history is philosophy teaching by examples," I take little pleasure in it, and should be at no pains to preserve or popularize it. But seeing, as I think I see, the drift and tendencies of these times, and believing that a correct and widespread understanding of the lessons of recent events is the first postulate in determining the remedy for existing and prospective evils, I take an

abiding interest in every earnest endeavor to marshal the facts and discover the theories which will explain them—for facts without theories are dead. The field of investigation is white unto harvest, but the laborers for love are few—the hirelings are many.

In order to illustrate the necessity of our reading and writing our own histories, I will undertake to show the main cause of the war between the States, indicating as I go along some of the errors called history, which are circulated and taught to the prejudice of the South.

Northern historians make the negro and the interest of their people in his welfare the underlying cause of the agitation which resulted in the war between the States. Some of them would have us believe that the Federal soldiers, a generation ago, fired with the love of liberty and humanity, came South on a great missionary tour to strike the fetters from the limbs of four million slaves. About fifty per cent. of these missionaries were foreigners, or foreign born, having but crude ideas of the nature of our government; many thousands of them could not even speak our language; some were Hessians, imported from foreign tyrannies expressly for the purpose of war. Many tens of thousands came for money, and hundreds of thousands were compelled to come by law. Not ten per cent. came to free the negro. Those acquainted with the esteem in which he is held at the North have never been deceived by this *missionary* theory of his emancipation. Listen to the words of De Tocqueville, written about 1835. This Frenchman certainly cannot be accused of having been biased against the Northern States. He says: "Whosoever has inhabited the United States must have perceived, that in those parts of the Union in which the negroes

are no longer slaves, they have in nowise drawn nearer to the whites. On the contrary, the prejudice of the race appears to be stronger in the States which have abolished slavery than in those where it still exists; and nowhere is it so intolerant as in those States where servitude has never been known. * * * *

"The electoral franchise has been conferred upon the negroes in almost all the States in which slavery has been abolished; but, if they come forward to vote, their lives are in danger. If oppressed, they may bring an action at law, but they will find none but whites amongst their judges; and, although they may legally serve as jurors, prejudice repulses them from that office. The same schools do not receive the child of the black and of the European. In the theatres gold cannot procure a seat for the servile race beside their former masters; in the hospitals they lie apart; and, although they are allowed to invoke the same Divinity as the whites, it must be at a different altar and in their own churches, with their own clergy. The gates of Heaven are not closed against these unhappy beings; but their inferiority is continued to the very confines of the other world; when the negro is defunct his bones are cast aside, and the distinction of condition prevails even in the equality of death. The negro is free, but he can share neither the rights, nor the pleasures, nor the labor, nor the afflictions, nor the tomb of him whose equal he has been declared to be; and he cannot meet him upon fair terms in life or in death."—*Democracy in America*, page 339.

The negro's freedom was accidental and merely incidental to the main purpose of the war. When the alternative was secession or war, the sentiment of the most rabid abolitionists was voiced by Horace

Greeley, who was willing that the "erring sisters depart in peace." Many abolitionists were sincere, though fanatical, and they had too often invoked the doctrine of secession, for the North, to consistently object when the South invoked it. Abraham Lincoln (a shrewd, practical Western countryman, put into his high office to hold the agricultural West against the agricultural South) put the war exclusively upon the ground of saving the Union. He would save the Union, he said, whether it enslaved the negro or freed him. In his inaugural address, March, 1861, he said: "I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so." Eight days before, Sumner, the abolition leader, had said in Congress: "I take this occasion to declare most explicitly that I do not think Congress has any right to interfere with slavery in a State." Neither Lincoln nor Sumner, if they are to be credited with any sincerity, had stumbled upon the policy of freeing the negro; and, if they had, it would have been very impolitic to have then disclosed it, for all the border States would then have joined the South.

The negro was freed as a means to an end. The emancipation proclamation was a "war measure," and, as such, a master-stroke, for it took two hundred and fifty thousand laborers out of the South and put muskets into the hands of nearly two hundred thousand colored troops. This was the difference between success and failure, and was the turning point in the war, as was admitted by Lincoln in his message to Congress, in which he said: * * * * "and for a long time it had been hoped that the rebellion could be suppressed without resorting to it [the policy of emancipation] as a military measure."

The negro incidentally caused the defeat of the South; and he was also incidentally a cause of the war, but not the causing cause—*that lies deeper, and must be rightly understood at the peril of the nation.*

The war was about taxation—the usual cause of revolution. A century ago it was taxation without representation; a generation ago it was unequal, discriminating, sectional, and class taxation. Out of this still grows the political strife whose quadrennial flood rises higher and higher at each election: income taxes successfully resisted by the rich; rate, fare, and tariff taxes unsuccessfully resisted by the poor—these are the fruitful causes of war—fought with ballots first, and finally, if no remedy can be found, with bullets.

The truth must be told even if it diminishes the glory of those who "saved the Union"—and made money by it. The blood of the last generation was not shed in vain, if we, with the advantages we enjoy, learn and teach the lessons which all posterity will demand of us—both for the sake of those who perished and of those who may perish if we suffer them to believe a lie. Forewarned is forearmed.

Under our Federal revenue laws, those who have produced the export crops (in quantities sufficient to invite the exploits of political manufacturing and trade combinations) have long paid far more than their share of the expenses of government. They were not allowed to buy in the open market, where they sold their crops, but in the restricted "home market," at prices not fixed by open competition. But the said combinations bought these crops in a free market and sold their own products in a protected market. So they got more benefit than the government: first, in being relieved from Federal taxes, which the

producers of the export crops paid; second, in incidental, then in avowed, protection; third, in the system of internal improvements which they were obliged to invent to dispose of the surplus revenues raised as an incident to giving them "protection"; and these "improvements" usually improved one section and impoverished the other.

So, early in the game, we find one *class*, the political combinations of manufacturers, growing rich, and another class, the ill-combined agriculturalists, growing correspondingly poor. Prior to 1860, even more than now, relatively, cotton was the great export crop of America, and was also the principal money crop of a section; so the tax suffered on account of it was sectional. Being also manufactured in a section, the benefits enjoyed on account of it were sectional. So we have the *sections*, as well as the classes, antagonistic, and made so by the operation of a Federal revenue law—one section growing richer and the other growing correspondingly poorer in the sight of all men.

Political parties aligned according to "geographical discriminations" (against which Washington warned but did not provide), arose and cursed each other, from 1816—the date of the first distinctively protective tariff (which, as increased in 1828 and 1830, provoked South Carolina's first acts of secession)—to 1861, the date of the Morrill tariff, with sixty per cent. protection in it, which, passed March 2d, and flaunted in the face of the seven already seceded States, rendered reconciliation impossible. The Confederate Constitution declaring in its very first article against even incidental protection, conveyed no hint to the wilfully blind revenue-hunters that the most oppressed of the

agricultural States had formed their combination to resist the plunder of Federal tariff, as well as other sectional aggressions.

Lincoln's policy of reenforcing Federal forts in the South (the immediate cause of the war) was bottomed on a purpose to collect this odious tax (the tariff of 1861), a policy which Alexander H. Stephens says was not determined upon until the "seven war Governors" (from the seven most protected States) offered to furnish the troops requisite to subdue the States then seceded. The border States had decided for the Union before Lincoln's acts of aggression; and he, therefore, though erroneously, supposed that they all would either aid him or remain neutral until he could "strengthen the Government" by the conquest of the cotton States.

By means of the tariff the cotton crop had been made the scapegoat upon which, in relief of wealth and monopoly, was piled the huge iniquity of Federal taxes; but more than that, and worse than that, the tariff was the engine by which the political combination of spinners and shippers forced down the price of that crop.

As far back as 1791, Hamilton and those in charge of the revenue department of the General Government (a certain school of politicians has always had a Judas-like fondness for carrying the bag), finding the express powers under the Constitution too weak for the purposes of exploit, began to lay the foundation for a new government by implied powers under court construction; by means of which they and "their successors in office" have slowly but steadily amended the Constitution, consolidated our Federation, and undermined the rights of the States. While they were experimenting

to discover which States it was most advantageous to form into a copartnership with the General Government, they invented an unequal and discriminating tax on carriages, which fell heaviest on New Jersey, where they were principally manufactured. Seeing the burden of half a dozen States fall on one, North Carolina and some others denounced it as infamous and unconstitutional.

After a few more such experiments, in which it was learned effectually that the purely agricultural States could not be seduced into taking advantage of their sisters, the manipulators of the Treasury induced the General Government to coquet with the States which were more or less under the control of the political combinations of merchants, manufacturers, bankers, and speculators; and with more success.

A copartnership was perfected between the General Government and the protected States by the tariff of 1816; and the mutual considerations passed were first named "incidental benefit" for one party to the contract and "liberal construction" of implied powers for the other. Angry protests and sectional incriminations and recriminations followed, and awakened Jefferson, like "an alarm-bell at night," out of the sleep of old age. The "peculiar institution" of one section gave the other a terrible advantage, which it was quick to see and to seize; and it was used remorselessly. Greed, suddenly joining philanthropy, religion, and fanaticism, organized and led a crusade against *African* slavery. The agitation about the negro, as a counter-irritant to distract attention from the injustice of Federal revenue laws, was more than a success: for the shallow politicians of both sections forgot the real issue; but the

beneficiaries never lost sight of it. I will use a homely illustration: A and B are doing business on opposite sides of a street; B begins to undersell A; A becomes angry, but cannot afford to tell his customers the cause; he hears that B once cheated a negro out of a mule; he makes that charge; they fight; the court record of the trial shows that the fight was about the negro and the mule; but there is not a business man on the street who does not know that the record speaks a lie.

The first speech in this book opens with old Nat. Macon lecturing (in 1820) a Representative from Pennsylvania, the most protected State, for expressing a desire to see the Union dissolved rather than that slavery should be extended beyond the Mississippi.

Slavery, itself, while for several generations usually beneficial to the negro, was, doubtless, in many respects injurious to his masters. It made us provincial, of necessity, sensitive and intolerant of criticism, easily susceptible of misrepresentation, and cut us off from the sympathy of some who else had been our friends. It cramped thought, invention, progress, poetry, and literature. It enabled monopoly to divide and conquer the tillers of the soil. It tended to create caste and it *degraded manual labor*—as necessary as death after sin and decreed in the same Divine judgment. Skilled manual labor gutted the Confederacy by driving war-ships up its rivers: and the felt want of it, in late years, has established a great industrial institution at our State capital, the mother of many others, and destined to revolutionize education among us.

"Protection" and discrimination in the operation of the Federal revenue laws, though still potent for evil,

will probably never again be the principal, causing cause of another revolution unto blood; because from three to ten per cent. of our Southern population will henceforward be directly benefited by such laws, and their interests will soften the sectional aspect of the tax. But the unequal and sectional operation of the currency laws, alienating the West as well as the South; the heaping up of nearly all the wealth of the country into one section, and most of it in a few great cities of that section; the plunder of agriculture by legislation and by the unchecked conspiracy of capital; the monopoly of the carrying trade by the wealth of the cities; the growing distrust between the urban and rural populations; the sullen and fickle temper of our foreign elements—the nucleus, perhaps, of a future Prætorian Guard; the mutterings against the now "vested right" of protected labor to be fed or assisted by the government—and capital hides behind such labor; machine politics and party spirit; the prostitution of the electoral system by the national nominating mob system, which treats sovereign States as the provinces of a party; the fine Italian hand of a certain religio-political corporation in getting offices and holding the balance of power between the factions contending for public plunder; the growing intimacy of sectional wealth with foreign governments and aristocracies—these are the dangers which together threaten a perpetual Union of the States and the liberties of the people.

Before 1860, Macaulay prophesied that our government would go to pieces over a presidential election. In the face of these dangers, it is well for us to consider and carefully teach our children the causes which have worked our injury in the past, in order that we and they may be the better able to recognize and grapple them when they reappear,

under changed names or in the shape of new laws.

But a tariff tax as a causing cause of the late war shall not rest upon the foregoing testimony alone. "Let the South go," exclaimed Abraham Lincoln, in 1861, "where then shall we get our revenues?" This man was noted for hitting the bull's-eye, and Divine Inspiration had forestalled him with the prophecy that the love of revenue was the root of all evil.

Thomas H. Benton is a witness who will be heard. In a speech in the Senate, in 1828, he shows how the tariff (which, except for about twelve years, had been mainly levied for revenue) had plundered the South. He said: "I feel for the sad changes which have taken place in the South during the last fifty years. Before the Revolution it was the seat of wealth as well as hospitality. Money, and all it commanded, abounded there. But how is it now? All this is reversed. Wealth has fled from the South, and settled in the regions north of the Potomac; and this in the face of the fact that the South, in four staples alone, has exported produce since the Revolution to the value of eight hundred millions of dollars; and the North has exported comparatively nothing. Such an export would indicate unparalleled wealth, but what is the fact? In the place of wealth a universal pressure for money is felt—not enough for current expenses—the price of property all down—the country drooping and languishing—towns and cities decaying—and the frugal habits of the people pushed to the verge of universal self-denial for the preservation of their family estates. Such a result is a strange and wonderful phenomenon. It calls upon statesmen to inquire into the cause.

"Under Federal legislation the exports of the South have been the basis of the Federal revenue. * * * *

Virginia, the two Carolinas, and Georgia may be said to defray three-fourths of the annual expense of supporting the Federal Government; and of this great sum, annually furnished by them, nothing, or next to nothing, is returned to them in the shape of government expenditure. That expenditure flows in an opposite direction—it flows northwardly, in one uniform, uninterrupted, and perennial stream. This is the reason why wealth disappears from the South and rises up in the North. Federal legislation does all this. It does it by the simple process of eternally taking from the South and returning nothing to it. If it returned to the South the whole or even a good part of what it exacted the four States south of the Potomac might stand the action of the system, but the South must be exhausted of its money and its property by a course of legislation which is forever taking away and never returning anything. Every new tariff increases the force of this action. No tariff has ever yet included Virginia, the two Carolinas, and Georgia, except to increase the burdens imposed by them."—Benton's *Thirty Years View*, Vol. I, p. 98, quoted by Raphael Semmes in his *Memoirs of Service Afloat*.

In 1860 we find the South still furnished many millions more than two-thirds of the export crops, besides fifty millions to the North. In Colonial and Revolutionary times the South was the richest section, and so acknowledged to be in the Constitutional Convention of 1787.

No wonder that the South always insisted that the Federation was a limited partnership; and no wonder that her rapacious partners insisted on a government of unlimited powers, when they employed such powers for unequal taxation, sectional expenditures,

and unlimited "protection." Those who have clamored most persistently for a "strong government" have never scrupled to sap its strength for purposes of private emolument. Those who have panted most for a consolidated republic have now fully disclosed their purpose of sequestering its assets. They have not consolidated the patriotism of the republic, but they have drawn a line of division from the Atlantic to the Great Lakes—a division of interests, division of sentiment, division of population, division of history, and a division of churches. Who can measure the hypocrisy of those writers and politicians who teach the people that the way to make the government strong is to give to one section "implied powers" to plunder the other? Having gotten their wealth by the craft of booming nationalism and centralization, they now perceive that in order to keep it they must hold themselves ready to "hedge" with the doctrine of States' rights and reserved powers. So, while college professors are confusing the mind of youth about "the two opposing theories of government," the facts of opposing interests are jarring the foundations of society and wrenching the fetters which bind the States in a "more perfect Union."

Robert Toombs said, in a speech before the Georgia Legislature, in November, 1860: "The instant the Government was organized, at the very first Congress, the Northern States evinced a general desire and purpose to use it for their own benefit, and to pervert its powers for sectional advantage, and they have steadily pursued that policy to this day. They demanded a monopoly of the business of ship-building, and got a prohibition against the sale of foreign ships to citizens of the United States, which exists to this day. They demanded a monopoly

of the coasting trade, in order to get higher freights than they could get in open competition with the carriers of the world. Congress gave it to them, and they yet hold this monopoly. * * * These same shipping interests, with cormorant rapacity, have steadily burrowed their way through your legislative halls, until they have saddled the agricultural classes with a large portion of the legitimate expenses of their own business. We pay a million dollars per annum for the lights which guide them in and out of your ports. We have built, and keep up, at the cost of at least another million a year, hospitals for their sick and disabled seamen, when they wear them out and cast them ashore. We pay half a million to support and bring home those they cast away in foreign lands. They demand, and have received, millions of the public money to increase the safety of harbors and lessen the danger of navigating our rivers; all of which expenses legitimately fall upon their business, and should come out of their own pockets, instead of a common treasury.

"Even the fishermen of Massachusetts and New England demand and receive from the public treasury about half a million dollars per annum as a pure bounty in their business of catching codfish. The North, at the very first Congress, demanded and received bounties, under the name of protection, for every trade, craft and calling which its people pursue, and there is not an artisan in brass, or iron, or wood, or weaver or spinner in wool or cotton, or calico-maker, or iron-master, or a coal-owner, in all the Northern or Middle States, who has not received what he calls the protection of his government on his industry to the extent of from fifteen to two hundred per cent. from the year 1791 to this day. They will not strike a blow or stretch a muscle without

bounties from the government. No wonder they cry aloud for the glorious Union. They have the same reason for praising it that the craftsmen of Ephesus had for shouting 'Great is Diana of the Ephesians!' By it they get their wealth, by it they levy tribute on honest labor."

The future historian will devote a long chapter to show how the slavery agitation "ebbed and flowed with the sinking and the swelling" in the voices of protest from the much-plundered South; voices which were keyed to the pitch of secession and revolution against the tariff of 1828, and which again, in 1861, shouted in warlike defiance until they were hushed in blood. That chapter will point also in shame to the dark record which shows that on March 2, 1861, after seven States had seceded and their Representatives in Congress had withdrawn, and while four other States were preparing to secede if found necessary, greed thrust its "lewd snout" into the purity of that chastening hour when many thousand patriots still prayed that the awful catastrophe might be averted, and got by force a tariff with sixty per cent. protection in it! Hear the effect of that measure from the lips of a North Carolinian, General Clingman, who was lingering in the Senate in the hope of reconciliation: "But, Mr. President, there is another difficulty in the way, and we might as well talk of this frankly. I know it is present to the minds of Senators on the other side, and they must see the difficulty. The honorable Senator from Rhode Island (Mr. Simmons) particularly, who engineered the tariff bill through, of course sees the difficulty. * * * The revenues under that tariff bill cannot be collected anywhere, I think, if the declarations which gentlemen make are to be acted out. If they are to hold that all the

Confederate States are in the Union, and that you are to have no custom-houses, on the line between them and the other States, what will be the result? Goods will come into New Orleans, Charleston, Mobile, and other places; they will come in paying a low tariff, and merchants from Tennessee, Kentucky, Illinois, and Ohio, if they choose to go down there and buy goods, will take them home and pay no duties. No man from the Northwest will go to New York and pay a duty of fifty per cent. on goods that he can get at a fifteen or twenty per cent. duty at New Orleans. That will be the course of trade, of course. Senators must see that you cannot have two tariffs, one high and one low, in operation in the country at once, with any effect produced by the high tariff. If you go to a man and say: 'You may pay me a high price or a low price for an article,' you will never get the high price. When, therefore, you attempt to carry out the new tariff, which contains rates, I think, of fifty per cent., and some of one hundred per cent., and some even above one hundred per cent., you cannot collect those rates at Boston and New York and Philadelphia, while the men who want to consume the goods can get them by paying a duty of one-third as much. That is impossible. I presume the Senator from Rhode Island, and those who acted with him, did not intend the tariff, which has lately passed, to be a mere farce, a mere thing on paper, not to be acted out. Of course they mean to get duties under it some way or other. If you do not mean to have your line of custom-houses along the border of the Confederate States you must expect to stop importations there."—*Speeches and Writings of T. L. Clingman*, pp. 61, 62: extract from speech delivered in United States Senate, March 19, 1861.

Yes, and it was the armed attempt to "stop

importations there" that brought on the war!

Why it was that the bombardment, on April 12, 1861, of a Federal *fort* about to be reenforced "fired the Northern heart" more than the bombardment, on January 9, 1861, of a Federal *war-ship* attempting to carry reinforcements to that fort, the Northern historians, like the Pharisees, "cannot tell." And they never tell that between the two bombardments sectional monopoly had brooded, and on March 2d hatched a cockatrice egg of sectional advantage; that its beneficiaries had had opportunity to touch noses with the "seven war Governors" and that the inspiration of such a touch accounts for the zeal with which they urged the President to war, when twenty-one States were trying to effect peace; that between the 15th and the 28th of March these Governors had a secret conference with the President in Washington, in which they pledged their States to support him in "collecting the revenues of the Government"; and that, thus assured, he had, to the astonishment of the South and most of his own constituents, suddenly sent the invading expedition to reenforce Fort Sumter! Did this same influence persuade Lincoln to refuse to allow the Supreme Court or even Congress to pass upon the much-mooted constitutional question of the right to secede? Of course it was familiar learning to him that all the States, especially the Northeastern, had from time to time asserted, acted on, or acquiesced in this right. Did the tariff Governors induce this man, reputed to be tender-hearted, to decide, on his own responsibility, a question of law which forced the issue of blood at a cost of a million lives, and a sinister change in the character and conduct of our government? Did they seduce him into fitting out an armament to collect the revenues at Charleston, and,

at the same time, leave open for construction and equivocation his doubtful and inconsistent expressions about enforcing the Federal laws and Supreme Court decisions giving protection to Southern property in slaves? Why was it that, in this awful crisis, he refused to call Congress together until he had precipitated war by his invasion and his call for volunteers, unless it was because his extra-constitutional advisers feared to trust a body which passed a conciliatory resolution even after battles had been fought and blood had been shed? Why was it that by the very terms of his war proclamation he put off the assembling of Congress for two months and nineteen days after he had declared war, unless it was because he was willing to forestall its action, and preferred to rely on the conspiring war Governors and their protected constituents to sustain him, rather than on his constitutional advisers and the Representatives of the people? Monopoly could not then trust the Supreme Court, for the Dred Scott decision showed that it might again adhere to the original view of the Constitution; and its best members were zealous to effect compromise and peace. That Lincoln and his Cabinet were against the policy of coercion, until somebody influenced them, has been confessed by at least one of its members.

A valuable side-light on the mainsprings of Lincoln's policy is furnished by Dr. R. L. Dabney. He says that while Virginia, through her convention, sitting in April, 1861, was making a last effort to save the Union, Seward sent a confidential messenger, Allen B. McGruder, to Richmond, to urge that a representative be sent to Washington in all haste. McGruder stated that he was authorized by Seward to say that Fort Sumter would be evacuated on Friday of the ensuing week and that the *Pawnee*

would sail on the following Monday for Charleston to effect the evacuation. Colonel Baldwin, an original Union man, was fixed upon as the best representative of the peace sentiment. "He and McGruder," continues Dabney, "set out on the night following and arrived in Washington early the next morning. Immediately after breakfast they drove to Mr. Seward's, when the latter took charge of Mr. Baldwin, and the two went directly to the White House, where they arrived about nine o'clock. They found Mr. Lincoln engaged, but, upon Mr. Seward's whispering in his ear, he excused himself and conducted Mr. Seward and Colonel Baldwin into a sleeping apartment and locked the door.

"After the usual formalities, Colonel Baldwin presented his credentials. After Lincoln had read the credentials, Colonel Baldwin proceeded to state to him what was the opinion of the great body of Virginians, both in the convention and out of it. This opinion was as follows, to wit: 'That although opposed to a Presidential election upon a sectional free-soil platform, which they deplored as most dangerous and unwise, Virginia did not approve of making that, evil as it was, a *casus belli*, or a ground for disrupting the Union. That much as Virginia disapproved of it, if Mr. Lincoln would only adhere faithfully to the Constitution and the laws, she would support him just as faithfully as though he was the man of her choice, and would wield her whole moral force to keep the border States in the Union, and to bring back the seven seceded States; but that, while much difference of opinion existed on the question whether the right of secession was a constitutional one, all Virginians were unanimous in believing that no right existed in the Federal Government to coerce a state by force of arms.' To this Mr. Lincoln replied:

'You are too late, sir; *too late*!' Colonel Baldwin understood this as a clear intimation that the policy of coercion had just been determined upon, and, as he discovered, "*within four days*." Impressed with the deep solemnity of the occasion, Colonel Baldwin made a final appeal, asking, among other things, that all questions at issue should be left for adjudication by the constitutional tribunals. Lincoln asked a few questions, the last of which was, "What will become of my tariff?" He put this question with such force of emphasis as clearly indicated that this consideration should decide the whole matter.

The peace ambassadors sent to Washington by the Virginia convention immediately upon Baldwin's return found the same difficulty. "They saw Mr. Lincoln. The tariff was still the burden of his complaint. They left the next day; and the same train which carried them to Virginia carried Lincoln's proclamation also for the seventy-five thousand troops." See *North Carolina in the War Between the States*, by Sloan, pp. 27, 28, 29, 30, quoting R. L. Dabney, in the *Southern Historical Papers*.

There was a subtle influence at Washington strong enough to veer Lincoln round from Seward, whose constituents dreaded war, to Thad. Stevens, who represented in Congress the Pennsylvania iron interest, and, in his character and person, the worst element of the worst politics that America ever saw.

Lincoln had no warrant in the Constitution for calling out the militia against the seceded States. "The Congress shall have power to declare war" (Article I, section 8, clause 11); and "The Congress shall have power to raise and support armies" (Article I, section 8, clause 12); and if, in violation of standard definition and contrary to the fact, it be

said that what he inaugurated was not war, but was only an armed effort to put down insurrection, the Constitution, Article I, section 8, clause 15, replies: "The Congress shall have power to provide for the calling out of the militia to execute the laws of the Union, suppress insurrections and repel invasions." So the only warrant the President had was an old act of Congress, passed February 28, 1795, shortly after the Whiskey Insurrection. This act provided: "That whenever the laws of the United States shall be opposed in any State by combinations too powerful to be suppressed by the ordinary course of judicial proceedings or the power vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State or of any other State or States, as may be necessary to suppress such combinations and cause the laws to be duly executed." No pretense of authority was given when a State or a combination of States opposed the United States. His construction forestalled Congress and robbed it of its exclusive right and power to "declare war," and made him the sole arbiter to dictate the nation's weal or woe.

As a matter of fact, this law, thus misconstrued, was obsolete, and so marked in the reprint of the United States Statutes at Large, in 1845, authorized by Congress. Lincoln, then, "by and with the advice and consent" of interested persons, utterly ignoring the two coordinate branches of government, unearthed for the purpose of inaugurating a most frightful war an old statute, unused from the time of its passage, and standing on the authoritative Revised Statutes marked "obsolete" for sixteen years —so received by the lawyers, and unchallenged by Congress or any member thereof.

It is no wonder that Congress, when it did assemble, in July, 1861, and found war a fact accomplished and armies already threatening Washington, should have made haste to validate the President's high-handed measures and strengthen his precarious position by an act of which section three is as follows: "That all the acts, proclamations, and orders, of the President of the United States, after the 4th of March, 1861, respecting the army and navy of the United States, and the calling out, or relating to the militia or volunteers from the States, are hereby approved and in all respects legalized and made valid to the same intent and with the same effect as if they had been issued and done under previous express authority and direction of the Congress of the United States." The marginal note of the printed laws points this act specially to the proclamation of April 15, 1861, calling out the militia.

In suppressing the Whiskey Insurrection Washington acted under the "previous express authority of Congress," then lately given, "cautiously in his delicate duty," while Hamilton "was pressing for the collection of the revenue," says history. The act under which the militia was then called out, passed in 1792, required a Federal judge to certify the fact of the insurrection, and Washington took care to arm himself with the certificate of a Supreme Court Justice. The act under which *Lincoln* proceeded, an epitome of the former, shows on its face that it was also, when in force, in aid exclusively of court proceedings, and operative only when a Federal judge should call upon the President to assist the United States Marshals, who were purely court officers. Any other construction gives the President "the power to suppress insurrections," and the "power to declare war"; and, when war is declared the

Constitution places him in command of the army and militia: so nothing would be left for Congress but to vote supplies and validate his acts, as it did Lincoln's usurpations!

Though the militia had often been needed, and sometimes called out for troubles, domestic and foreign, no President of the United States, until Lincoln, had ever issued such a call unless expressly authorized by Congress, in special acts of limited duration, which have usually specified the number of troops wanted and the term of service required. It is no wonder then that an act, treated as a dead letter since the suppression of the Whiskey Insurrection, should have been marked "obsolete" by the government publisher, with the sanction of Congress.

Unless Madison's refusal to recommend a policy of coercion against the New England States, successfully resisting the drafts for the defense of the nation in the War of 1812, be regarded as a precedent, Lincoln had but one, directly in point, and that was furnished by President Jackson in the case of South Carolina's nullification of Federal law in 1832. Jackson's zeal for the Union could not be doubted; and, in spite of his military training and arbitrary temper, he found a remedy which saved the Union without bloodshed.

On December 10, 1832, after South Carolina had nullified the tariff act, proceeded to provide a separate government, notified the President, and begun to arm and organize its militia for defense, Jackson issued a proclamation in which he besought, and threatened, and promised. Failing by such means to induce the tariff-plundered planters of the plucky little State to recede from their position, on the assembling of Congress he recommended the removal of the cause of the trouble, expressing his

belief that such action would shortly put an end to resistance. Nullification still continuing, Jackson (a month later) wrote his famous message, in which he called attention to the magnitude of the opposition, and recommended to Congress to provide by law: "That in case of an attempt otherwise [than by process from the ordinary judicial tribunals of the United States] to take property [from the custody of the law] by a force too great to be overcome by the officers of the customs, it should be lawful to protect the possessions of the officers by the employment of the land and naval forces and militia under provisions similar to those authorized by the eleventh section of the Act of January 9, 1809." After recommending the revival of other expired acts to facilitate and protect the collection of the revenues and execution of Federal law, he said further: "Provisions less than these—consisting, as they do, for the most part, rather of a revival of the policy of former acts called for by the [then] existing emergency, than of the introduction of any unusual or rigorous enactments—would not cause the laws of the Union to be properly respected or enforced. It is believed that these would prove adequate unless the military forces of the State of South Carolina, authorized by the late act of the Legislature, should be actually embodied and called out in aid of their proceedings, and of the provisions of the ordinance generally. Even in that case, however, it is believed that no more will be necessary than a few modifications of its terms to adapt the Act of 1795 to the present emergency, as by that act the provisions of the Act of 1792 were accommodated to the crisis then existing; and, by conferring authority upon the President, to give it operation during the session of Congress, and without the ceremony of a

proclamation, whenever it shall be officially made known to him by the authority of any State, or by the courts of the United States, that, within the limits of such State, the laws of the United States will be openly opposed and their execution obstructed by the actual employment of military force, or by any unlawful means, whatever, too great to be otherwise overcome."

Pursuant to these recommendations, Congress passed, March 2, 1833, the "force bill," or "bloody bill," as it was called; and the section which made it infamous in the unprotected States was as follows: "Sec. 5. And be it further enacted, that whenever the President of the United States shall be officially informed by the authorities of any State, or by a judge of any Circuit or District Court of the United States in the State, that within the limits of such State any law or laws of the United States, or the execution thereof, or of any process from the courts of the United States is obstructed by the employment of military force, or by any other unlawful means too great to be overcome by the ordinary course of judicial proceedings or by the power vested in the marshals by existing laws, it shall be lawful for him, the President of the United States, forthwith to issue his proclamation declaring such fact or information, and requiring all such military or other force forthwith to disperse; and if, at any time after issuing such proclamation, any such opposition or obstruction shall be made in the manner or by the means aforesaid, the President shall be and hereby is authorized promptly to employ such means to suppress the same, and to cause said laws or process to be duly executed, as are authorized and provided in the cases therein mentioned by the Act of the 28th of February, 1795, entitled: 'An act to provide for

calling forth the militia to execute the laws of the Union, suppress insurrections, repel invasions, and repeal the act now in force for that purpose'; and also, by the Act of the 3d of March, 1807, entitled: 'An act authorizing the employment of the land and naval forces of the United States in cases of insurrection.'" Section 1 of the force bill authorized the President to call out the army, navy, and militia to aid in collecting the *customs*—a power which the Act of 1795 could not be construed to give. It was also provided in the act that the operation of said sections 5 and 1 should "continue until the next session of Congress, and no longer." Thus careful was Congress to limit the duration of the great powers delegated to the President, as it had usually done in other instances in which it had authorized the employment of military force. The Act of March 3, 1807, referred to in the force bill, simply gave the President authority to use the land and naval forces of the United States to assist in the execution of the laws whenever it should be lawful for him to call out the militia for the same purpose. The Act of 1795, referred to by Jackson, which he did not pretend he had a right to use against the nullifiers of the tariff act, unless it should be revived by Congress, and which he proposed should be revived, modified, and adapted to meet the emergency confronting him, in the same way Congress had formerly adapted and modified the Act of 1792 by the Act of 1795, to meet the emergency of the latter year, was the very act Lincoln used to cover his assumption of power to make war on the South without the authority of Congress! He had this precedent before him, in which the warrior Jackson, swift in defense of the nation's honor against her foreign foes, was slow to dye his hands in his brothers' blood. He had before

him the act in which Congress had revived the provisions of the Act of 1795, and expressly limited the duration of that revival to the time intervening before its next session; and he was lawyer enough to know, though not learned in his profession, that the substantial reenactment and enlargement of the old act, and its repeal, or limitation to a definite period, was, after the expiration of that period, a practical repeal of both—especially when it may be seen that the one was to take the place the other took in its day. See *Tynen* vs. *The United States*, 11 Wallace U. S. Reports, page 88; *Pana* vs. *Bowles*, 107 U. S. Reports, page 529, and cases cited therein; *Norris* vs. *Crocker*, 13 Howard, page 429.

Jackson, in spite of his camp association and military methods, was the embodiment of caution and conservatism, when compared to Lincoln and his "kitchen cabinet" of revenue-hunting Governors, who were as swift to declare war against their own people, under a forced construction of an old, unused, obsolete, special act, as those who now speculate in their names and fame are eager to seek treaties of partnership with our hereditary foreign foe.

They shall never, unchallenged, teach our children that Abraham Lincoln's usurpations were lawful, justified by necessity, or commended by God; lest "necessity, the plea of tyrants," or "divine right," the plea of kings and priests, or "implied powers," the plea of those who are powerful only to oppress the people and to collect and spend their revenues, should constitute the excuse for destroying the remaining safeguards of our liberties.

Those accustomed to analyze motive and conduct will note with attention that the Act of August 6,

1861, intended to legalize the call for troops, was passed after the "force bill" had been reenacted and amplified by the Acts of July 13, 29, and 31, 1861—after the President had been expressly authorized by these acts and another to accept the service of volunteers and to use the army, navy, and militia to make war upon *States and combinations of States*, as well as upon the inhabitants of districts therein—after Congress had in these acts twice gone out of its way to refer to the old Act of 1795 as still in force, and once expressly treated it as giving the authority, which had been assumed, to begin the war; and the legalizing act itself was covered under a caption which was calculated to excite as little attention as possible. The caption reads: "An act to increase the pay of privates in the regular army and in the volunteers, and for other purposes."

The Act of 1795, when in force, gave the President no authority to determine when a state of insurrection existed, even in a Federal district; Congress proved that it realized this defect of power by hastening (July 13 and 29, 1861) to supply it to Lincoln—in respect to States as well as districts—a double confession of the weakness of his position.

The Act of 1795 afforded no assistance to collect customs, for the Whiskey Insurrectionists, against whom it was passed, resisted only the internal revenue taxes; Congress practically acknowledged this limitation, by Act of July 13, 1861, expressly and separately authorizing the President to use the army, navy, and militia to "collect the customs" of the United States.

"Even our enemies themselves being judges," there were doubts everywhere, and these doubts were everywhere resolved in favor of absolute authority

and against the received construction of law and the Constitution.

An executive who usurps powers ought to be placed on a moral plane as much lower than that of a treasurer who embezzles public funds as the love of liberty in the minds of the virtuous is higher than the love of money.

Those who would derive Lincoln's assumed power to declare war from the clause of the Constitution which requires that the "President shall see that the laws are faithfully executed" betray the flimsy foundation upon which they would erect the throne of an autocrat. The faithful execution of the laws is to be secured in a lawful manner, under such powers as the Constitution gives or Congress may lawfully give to the President. If he is the sole judge of the extent of the powers conferred and the appropriateness of the means of execution, he does not need any other clause to make him the field-overseer of both the other departments of government; and this the Supreme Court has decided he is not. *Tyndall* vs. *The United States*, 12 Peters, p. 524. Lincoln did not rely upon this clause, but upon the Act of 1795, the language of which he quoted in his call for the militia of the States; and Congress, by the fifth section of the Act of July 13, 1861, showed very plainly that it recognized that he had professed to act under the Statute of 1795.

The frightful experiences of the civil war and the serpent-brood of evils which have since followed in its trail are plenary proof that the fathers were wise in not lodging the war power in the hands of any one man.

A summary of Lincoln's conduct, while there was

yet peace in the land, brings out in startling relief the facts: that he dared at the behest of pampered privilege greedy for revenue, and partisan rancor thirsting for blood, without precedent, or the support of either of the other branches of the government, to place his own private interpretation upon a statute, in effect repealed, and thereby to make war on six millions of his fellow-citizens, whom he refused a right of opinion sustained by abundant authority and precedent and by some of his own acts and utterances. The idol of the "higher law" fanatics, the chief of whom he placed in his cabinet—nominated on a platform which denounced the Supreme Court decision in the Dred Scott case as "a dangerous political heresy, revolutionary in its tendency and subversive of the peace and harmony of the country"—elected by States, many of which defied Federal authority attempting to execute the fugitive slave law, and none of which supported such authority, except New Jersey and California—and having never publicly or privately condemned the nullification of their constitutional obligations (Article IV, section 2, clause 3) by the States of Vermont, Connecticut, Rhode Island, Massachusetts, Michigan, Maine, Wisconsin, Kansas, Ohio, and Pennsylvania—he still proclaimed that his only motive in taking up the sword was to assert the paramount authority of Federal law!

His political campaign of 1864 was fought upon a platform which pledged its supporters to "bring to punishment due their crimes the rebels and traitors arrayed against the Government"; and be it remembered by all posterity that at the end of that campaign, almost at the close of a successful war, and in spite of military interference at the polls, one million eight hundred and eight thousand seven

hundred and twenty-five citizens of his own section voted to condemn him, and endorsed a platform which declared that "under pretense of a military necessity for a war power higher than the Constitution, the Constitution itself has been disregarded in every part" by him, and that "justice, humanity, liberty, and the public welfare demand that immediate efforts be made for a cessation of hostilities, with a view to an ultimate convention of all the States; * * * that peace may be restored on the basis of the Federal Union of all the States," * * * that the aim of their party was "to preserve the Federal Union and the rights of all the States unimpaired," and that they considered "the administrative usurpations of extraordinary and dangerous powers not granted by the Constitution * * * as calculated to prevent a restoration of the Union; that the shameful disregard of the administration of its duty to our fellow-citizens, * * * prisoners of war, deserves the severest reprobation."

As at the beginning, so at the end of the war, a vast majority of our nation was opposed to Lincoln's policy of coercion and blood; for his total vote, with the army and navy to back him, was only about four hundred thousand in excess of McClellan's, and this would have been far more than offset by the Southern vote.

The immediate cause of Lincoln's death was a sentence in his speech of April 11, 1865: "If universal amnesty is granted to the insurgents I cannot see how I can avoid exacting, in return, universal suffrage, or, at least, suffrage on a basis of intelligence and military service." "That means nigger citizenship," said his slayer to a witness. "Now, by God, I'll put him through!"—*Life of Lincoln*, by

Herndon and Weik, Vol. III, p. 579.

It was a singular decree of Providence that, according to his own forebodings, Lincoln should have perished by the hand of violence, and that too on the fatal 15th of April, the anniversary of his proclamation for the seventy-five thousand volunteers to begin the dance of death. "He that killeth with the sword must be killed with the sword."

Let us be as thankful as we can that we are still one nation, that African slavery has ceased, and that the safeguards of liberty may be still sufficient if we are vigilant, unselfish, and brave.

The world has long respected the courage of the South; when the whole truth shall be well told it will equally respect her cause. One obvious effect of the civil war, clearly foreseen and foretold by Southern statesmen, was to Europeanize American institutions. This was a fearful price to pay even for keeping the sections under one government.

Let us hope that the present war with Spain may destroy the stock-in-trade of the speculator in past patriotism.

An unoccupied field of investigation for a future historian is the part which Great Britain played in dissension, disunion, and war between the States, the sections, and the political parties. Her purpose has been accomplished. She has annihilated our foreign ocean-carrying trade—once threatening her own supremacy—and has thereby made us a third-rate naval power, for seamen, rather than ships, make a

navy.

"Will your people divide?" General Clingman was frequently asked while in England in 1860. Never once was he asked if slavery would be abolished. The form of the question, in a land where abolition took its rise, struck him forcibly. Hear its explanation: "In this connection I remember a statement made to me by the late American Minister at Paris, Mr. Mason. He spoke of having had a conversation with one whose name I do not feel at liberty to mention, but whose influence on the opinion of continental Europe is considerable, who declared to him that if the Union of our States continued at no distant day we should control the world; and, therefore, as an European, he felt it to be his duty to press anti-slavery views as the only chance to divide us. I have many reasons to know that the monarchies of Europe, threatened with downfall from revolutionary movements, seek, through such channels as they control, to make similar impressions."—*Speeches and Writings of T. L. Clingman*, pp. 482, 483: extract from speech in United States Senate, delivered January 16, 1860.

To prove that democracy is a failure is among the chief aims of European monarchs.

Lloyd Garrison seems to have been a sincere fanatic, but all the better may have served British policy. Listen to a group of facts about him, appearing at random in a friendly encyclopedia: "In 1833" [the year the stars fell] "he visited Great Britain, and on his return organized 'The American Anti-slavery Society.' He visited England again in 1846, 1848, and 1867, in which last year he was publicly breakfasted in St. James' Hall."

An extract from the *London Telegraph* of 1856

contains food for thought: "The aggressive spirit of the people of the United States requires an humbling, and it is for us to perform the task. England's mission is to complete the great work commenced by her in 1834, when she liberated her slaves. There are now over three million human beings in cruel bondage in the United States. If, therefore, the United States Government deny, and is resolved to question the right of Great Britain to her Central American possessions, we, the people of the British empire, are resolved to strike off the shackles from the feet of her three million slaves."

The *London News*, also of about the same time, encouraging its people against the possibility of rupture between England and this country, said: "However strong is the unprincipled appeal at present made to the anti-British feeling of the Northern States, that feeling is counterbalanced by another which has grown up within the last quarter of a century. *The abolitionists would be with us to a man. The best of them are so now.*"

In 1798 the federalistic school of tax-gatherers, under the guidance of their founders, Rufus King and Hamilton, once actually lifted their eyes from the plunder of their own countrymen long enough to adopt an aggressive foreign policy, but it was a conspiracy with England, called the "Mirandy Plot," by which they sought to despoil our late allies in our war for independence, the French people, of their territory beyond the Mississippi, the honest and honorable purchase of which by Jefferson, a few years later, this school denounced as unconstitutional and void.

Better than any American statesman, General Clingman seems to have understood the motives and

interests of Great Britain in fomenting the slavery agitation and the estrangement of the sections. Hear him, in his address to the people of the Eighth Congressional District of North Carolina, March 16, 1856: "The United States is the great republic of the earth, and the example of our free institutions was shaking the foundations of the monarchical and aristocratic governments of Europe. This was especially the case as respects the political system of Great Britain, owing to our common language, literature, and extended commercial intercourse. The aristocracy there hold the mass of the people in subjection, and under a condition so oppressive that large numbers of white men of their own race are liable to perish miserably by famine in years of scarcity. A knowledge of the successful working of our institutions was increasing the discontent of the common people, and, fearing the loss of its sway, the aristocracy, which controls the entire power of the government, began a crusade for the abolition of slavery in the United States. They expected, in the first place, by affected sympathy for the negroes here, to divert the minds of the people at home, to some extent, from the consideration of their own sufferings, and to create the impression that other laborers were much worse off than their own. And should they succeed in breaking up our system they would exultingly point to it as an evidence against the durability of free institutions.

"With a view, therefore, to effect these objects, more than twenty years ago the British press, and book-makers generally were stimulated to embark in a systematic war against negro slavery in the United States. Abolition lecturers were sent over and money furnished to establish papers and circulate pamphlets to inflame the minds of the citizens of the Northern

States.

"Looking far ahead, they sought to incorporate their doctrines into the school-books and publications best calculated to influence the minds of the young and ignorant. Their views were most readily received in Massachusetts, where British influence has, for the last half century, been greatest. From this State these doctrines were gradually diffused to a great extent throughout the North."

At the time that the British politicians were taking so much interest in the slavery question of America, and deprecating with many crocodile tears our treatment of the negroes they had sold us, the *Edinburgh Review* of January, 1856, charges the British Government with collecting rents and taxes from its subjects in India by means of the thumb-screw and other tortures as devilish as ingenuity could devise. See *Speeches and Writings of T. L. Clingman*.

According to some New England testimony, the work of the British emissaries who had been sent out to divide the Union was uphill at first. Hear the words of Representative Isaac Hill, from New Hampshire, speaking in Congress in 1836: "I have said the people of the North were more united in their opposition to the plans of the advocates of anti-slavery than on any other subject. This opposition is confined to no political party. It pervades every class of the community. They deprecate all interference with the subject of slavery because they believe such interference may involve the existence and welfare of the Union itself, and because they understand the obligations which the non-slaveholding States owe to the slaveholding States by the compact of confederation. It is the strong desire to perpetuate

the Union; it is the determination which every patriotic and virtuous citizen has made in no event to abandon the 'ark of our safety' that now impels the united North to take its stand against the agitators of the anti-slavery project. So effectually has the strong public sentiment put down that agitation in New England that it is now kept alive only by the power of money which the agitators have collected and apply in the hiring of agents and in the issue from presses that are kept in their employ.

"The anti-slavery movement which brings in petitions from various parts of the country, asking Congress to abolish slavery in the District of Columbia, originates with a few persons who have been in the habit of making charitable religious institutions subservient to political purposes, and who have even controlled some of those charitable associations.

"Many of the clergymen who have been the instruments of the agitators have been such from no bad motive. Some of them, discovering the purpose of the agitators, discovering that their labors were calculated to make the condition of the slave worse, and to create animosity between the people of the North and the South, have paused in their course and desisted from the further application of a mistaken philanthropy."

Even if it be admitted that, as early as the year 1836, the strongest elements in New England were united against the South, it is by no means true that they were then unanimous in selecting slavery as the most advantageous ground of battle. A cry of distress arose from Great Britain at the way some of the distributors of her secret service money were being treated; a paragraph from an English newspaper, the

Leeds Mercury, read on the floor of the House of Representatives by Mr. King, of Georgia, in corroboration of what Mr. Hill had said, will serve as an illustration: "Letters of the most distressing nature have been received from Mr. George Thompson, the zealous and devoted missionary of slave emancipation, who has gone from this country to the United States, and who writes from Boston. He says that 'the North (that is, New England, where slavery does not exist) has universally sympathized with the South in opposition to the abolitionists; that the North has let fall the mask; that the merchants and mechanics, priests and politicians have alike stood forth the defenders of Southern despots and the furious denouncers of Northern philanthropy'; that all parties of politics, especially the supporters of the two rival candidates for the Presidential office (Van Buren and Webster) vie with each other in denouncing the abolitionists; and that even religious men shun them, except when the abolitionists can fairly gain a hearing from them. With regard to himself he speaks as follows: 'Rewards are offered for my abduction and assassination; and, in every direction, I meet with those who believe they would be doing God and their country service by depriving me of life. I have appeared in public, and some of my escapes from the hands of my foes have been truly providential. On Friday last I narrowly escaped losing my life in Concord, New Hampshire.' 'Boston, September 11.—This morning a short gallows was found standing opposite the door of my house, 23 Bay street, in this city, now occupied by Garrison. Two halters hung from the beam, with the words above them: By Order of Judge Lynch!'"

Responding to this, the New Hampshire Representative (Hill) said: "The present agitation in

the North is kept up by the application of money; it is a state of things altogether forced. Agents are hired, disguised in the character of ministers of the gospel, to preach abolition of slavery where slavery does not exist; and presses are kept in constant employment to scatter abolition publications through the country."

Yes, and this constant "application" of money finally overcame the Yankee. The love of it has been the root of much evil with him. Then, too, eventually, his politicians and manufacturers found that the best use they could make of the negro was to hold him betwixt them and the fire of Southern indignation, kindled by their cupidity.

To show the dangerous reciprocity of feeling between old and New England long before it was intensified as it now is by the community of interest in untold millions of investments, the words uttered by John Quincy Adams, the sixth President of the United States, fall with the weight of state's evidence: "That their object (*i. e.* that of the New England States) was, and had been for several years, a dissolution of the Union and the establishment of a separate confederation, he knew from unequivocal evidence, although not provable in a court of law; and that in case of a civil war the aid of Great Britain to effect that purpose would as assuredly be resorted to as it would be indispensably necessary to their design."—*Adams' letter in reply to Harrison Gray Otis and others*, December 28, 1828, quoted by Raphael Semmes in his *Memoirs of Service Afloat*, p. 43. This attachment to British interests was so pronounced in 1812 that the New England States refused to furnish their quota of troops to help conduct our defense; and, while the nation was locked in deadly conflict

with the ruthless invader, these States actually held a convention at Hartford looking to secession. The Governor of Massachusetts proclaimed a public fast day for deploring a war against a nation which had long been "the bulwark of the religion we profess"; its Supreme Court decided that neither the President nor Congress could control its State troops in time of war, and the Legislature declared the war to be unholy, and urged its people to do what they could to thwart it. These States forced a treaty of peace in which Great Britain was not even required to cease the outrages on account of which the war was undertaken—outrages which might have been begun again but for Jackson's victory with the Southern soldiers at New Orleans. Jefferson, in a letter to Lafayette, says: "During that war four of the Eastern States were only attached to the Union like so many inanimate bodies to living men."

That will be the saddest chapter of American history which faithfully compares the treasonable obstruction of these States to this war with their Cain-like swiftness to shed their brothers' blood because of an alleged difference of opinion on a question of constitutional law. It will be remembered, in this connection, that these States had their troops mobilized and waiting for the President's call before Fort Sumter was fired on. In four days after the call the troops of Massachusetts (the most protected State save one) had invaded the State of Maryland and were shooting down the astonished and outraged citizens of Baltimore.

The next saddest chapter of our national history will show that the section which has been greediest to gain power from the States and revenues from the people has been the readiest to use these powers and

revenues against those from whom they were stolen, and the most reluctant to use them to defend the nation against foreign aggressions. "It is a principle of human nature," remarks Tacitus, "to hate those we have injured more than those who have injured us."

And who, now, but the beneficiaries of implied powers (which they fought a civil war to preserve and maintain in all their latitude), under real or affected dread of a foreign war, are zealous for the late proposed bondholders' treaty with England? As though that nation could afford to kill or even injure the goose which lays the golden egg in the shape of four hundred million dollars annual interest on British investments in this country! The sole purpose of this treaty is that this egg shall be *golden* and not *bimetallic*; and instead of preventing, it may be the cause of war, as soon as the people resume control of their government and feel the effects of an arbitration judgment on the financial question. I pause to remark, in this connection, that many well-meaning people who petitioned the Senate for the confirmation of this treaty had not read it with sufficient care to observe that it delegated to a commission, composed partly of foreigners and to a majority of the Senate, powers which have heretofore been only exercised by two-thirds of the Senate, as the Constitution provides. And this apparently slight though subtle change in the conduct of our government was sought to be inaugurated in the name of peace!

What a Southern statesman exclaimed, arguing against the adoption of the Federal Constitution, in 1787, may be appositely repeated here: "But the character of the partners (meaning the Northern States) causes me more alarm than the terms of the

partnership." England's partnership with Australia, South Africa, and India has spread such a pall of universal indebtedness over the fairest portions of the globe that we may well hesitate before we make more permanent the stipulations in the "bond" of her blighting friendship.

Undoubtedly the seeds of the War of 1812 were sown by the treaty of 1794, negotiated by John Jay, who took "a mild and conciliatory part in the Revolutionary war," and by Lord Grenville, the son of the author of the Stamp Act. The "Jay treaty," as it was called, provided for the shameful curtailment of the American ocean-carrying trade, and for the free navigation of the Mississippi for Great Britain. And if the proposed arbitration treaty is not finally rejected by the Senate, the prominence given to the present British Minister at McKinley's inauguration, accidental though it may have been, will serve as a fine prototype of British influence in the administration of our government.

"Woe to the nation that trusts England's friendship," exclaimed the thoughtful Pettigrew, after studying her national character on the narrow island where it grew. What he says, given under the sketch of him in this book, is a valuable side-light upon the suggestion that her influence more than any other (except original sin) has changed the half of our nation nearest to her into a race of "dollar-hunters and breeders of dollar-hunters." The way to make England our ally is to show her that we are able to take care of ourselves. Her government fears nothing so much as the democratic spirit of America, and would fain bind that down by treaty; but when it serves her purposes, Old England, like New England, finds a "higher law" than a contract. Unity of interest

and of purpose unites peoples—compacts often unite governments in a conspiracy to plunder.

In dwelling specially upon the main cause of our civil war, because of attempts to ignore it, I do not mean to encourage the student to neglect the other causes: the control by the Confederacy of the lower Mississippi—the ocean outlet of its headwater States; the fear of protected labor that the slaves would learn to manufacture, and reduce wages; the jealousy and friction in the newly-settled West, caused by the actual contact of the two systems of labor (for slavery was a practical and serious question there); the belief that slavery was at the bottom of the forty-four years of sectional political wrangling, and that this must cease or the Union be dissolved; the honest and the prejudiced opposition to the institution itself; the zeal and ambition of machine politicians, in both sections, anxious to get in "on the ground floor" of personal advantage—these together, acted on by the main cause, and reacting on each other, constitute the causes of the war.

And it must not be forgotten, too, that Calhoun, for the South, accepted the slavery issue as the gage of battle, though he knew for what purpose it was manufactured. Unity of the South against Northern aggression was what he was fighting for; and, having failed to present a solid front against the tariff because Clay's ambition and Louisiana's influence disintegrated his forces in the Southwest, he was the more easily betrayed into adopting a temporary expedient—the policy of shifting the issue from its high ground. In this way, too, he got "hay and stubble" in his foundation, and gave the enemies of civil liberty among the whites a chance to pose as the friends of civil liberty among the blacks.

Standing among the statutes at large, with but a page between, is the proclamation of Thomas Jefferson, thundering against the aggressions of Great Britain, and the proclamation of John Adams, breathing out threatenings and slaughter against his own countrymen for resisting the plunder of an unjust revenue tax. These two proclamations, looming up in the horizon of American history like the Mountains of Blessing and Cursing, are the embodiment of the two spirits which are contending for the mastery of this nation—the one the source of our independence gained by a foreign war and the territory on this side of the Mississippi, and of our independence maintained by a foreign war and the territory beyond the Mississippi—the other the source of our national debt in its monstrous cumulation, of Federal extravagance, of sectional expenditures of public funds, of class legislation for protected industries, of unequal taxes, and of a frightful civil war, unlawfully begun to collect them.

"To do justice" is the only way to "insure domestic tranquillity." A government is "strong" only when its foundations are laid deep in the affections and best interests of the people who support it and for whose benefit it was created. God's government is strong and will last forever because it is based upon the eternal principle of mutual affinity.

Through the long mystery of prehistoric ages the spirit of God's love brooded over the desolation of a void and formless world; continents laden with life were born out of the womb of the great deep—Life which still lives in the love of its Infinite Author—

and the great deep which still with measured pulse is beating out the changes of our times and booming in our ears the faith that we, too, are somewhere in the sweep of Nature's mighty moving heart. So, statesmen and philosophers, deeply pondering in love of country over the dreary waste of failures and disasters lying thick along the track of History and Experience, have wrought out for us wise laws and constitutions, have rescued from the "bottomless deep of theory and possibility" the institutions under which we live, but the virtue to interpret and maintain them is not transmitted nor transmissible—that we must gain, as they did, from Heaven.

Sloping in a long, gradual sweep of undulating hills and valleys, overspread with the silver network of her myriad streams, from her lofty green-bannered battlements, erected by God, down to her shifting shore, where Hatteras lies in wait for her enemies by sea, North Carolina spreads out the peaceful lap of her bounteous land for her children and for all who cherish her.

Born before the Union, which is but an offspring of the States, and surviving disunion, the child of sectional advantage, unbroken by the shock of radical changes in the Constitutions of the State and nation, North Carolina stands among the firmest of the forty-five pillars of the national superstructure, will sustain it as long as it answers the purposes of its creation, and, if greed or necessity or the will of Heaven should destroy it, will stand above its wreck, the sure foundation and protection of her people's liberties and the sure support of a more perfect

Union of the States which have been purified in the crucible of disaster.

W. J. PEELE.

LIVES OF DISTINGUISHED NORTH CAROLINIANS.

WILLIAM R. DAVIE.

BY WALTER CLARK.

William Richardson Davie was born at Egremont, near Whitehaven, Cumberland county, in the north of England, on June 20, 1756. He was brought over to this country by his father, Archibald Davie, who, upon the peace of 1763, made a visit to America, and was left in the care of his maternal uncle, Rev. William Richardson, a Presbyterian clergyman residing in the Waxhaw settlement on the Catawba river, in South Carolina. Having no children, Mr. Richardson adopted his nephew and namesake, who became heir to his estate. At the usual age young Davie was sent to the "Queen's Museum," the well-known academy and high school in Charlotte. From thence he entered at Nassau Hall, Princeton College, New Jersey, of which the famous Dr. Witherspoon was then President. In the summer of 1776, with the consent of the President, a party of students, among whom Davie was one, was raised and served as volunteers in the patriot army. In the fall of that year he returned to college, and, passing his examinations, took his college degree of Bachelor of Arts with the first honors of the institution. His uncle died before his return home. Davie selected the profession of law and began his studies at Salisbury. In 1777 he joined a detachment of twelve hundred men under General Jones, ordered to be raised for the defense of Charleston, then threatened with another attack, but on reaching Camden it was found that the design was abandoned by the enemy, and

the detachment returned home after a service of three months. In 1779 a troop of cavalry was raised in the Salisbury district. Of this William Barnett, of Mecklenburg, was chosen captain and Davie lieutenant. His commission, signed by Governor Caswell, is dated 5 April, 1779. With two hundred horse he was immediately sent into the back country to suppress a Tory rising, but it was quelled before their arrival. Soon afterward the troop joined the Southern Army and was attached to Pulaski's Legion.

Captain Barnett having resigned, Davie was promoted to captain, and shortly thereafter was made major. On June 20th of that year Davie took part in the battle of Stono, near Charleston. In this battle the North Carolina brigade was commanded by General Jethro Sumner. In a cavalry charge on that day Davie was wounded and fell from his horse, but retained hold of the bridle. The cavalry, dispirited by his fall, were in full retreat when a private in another company, whose horse had been shot under him and was carrying off his saddle, saw Major Davie standing by his horse unable to mount him, his thigh being disabled by his wound. Though the enemy were in a few yards, this man deliberately placed him on his horse and led him from the field. His deliverer then disappeared and resumed his place in the ranks, and Davie could find no trace of him. The wound was a severe one and kept Davie long in the hospital at Charleston, rendering him incapable of further service that year. At the siege of Ninety-Six, two years later, when Davie was present as Commissary-General of the Southern Army, on the morning of the attack a stranger came to his tent and introduced himself as the man who had saved his life at Stono. He promised to visit him again, but when the troops were recalled from the fruitless attempt to

storm the fort the body of the gallant unknown was found among the dead. On his return from the Charleston hospital in September, 1779, Davie being unfit for service, applied for and received his County Court license and was sent by the Governor to attend the courts on the Holston river, then in North Carolina, that he might ascertain public sentiment in that section. In the spring of 1780 he received his Superior Court license. About the same time he obtained authority from the Legislature of North Carolina to raise a troop of cavalry and two companies of mounted infantry. The authority was all that the State could give, its funds being too low to provide the means. Major Davie, with a patriotism worthy of perpetual remembrance, disposed of the estate inherited from his uncle and thus raised the funds to equip his command.

The surrender of Charleston, 12th May, 1780, and the surprise and butchery of Buford's men by Colonel Tarleton on the 29th of the same month, completed the subjugation of South Carolina. Colonel Moore, with eleven hundred Tories, having collected at Ramsour's Mills, in the edge of the present town of Lincolnton, Colonel Francis Locke with three hundred militia of Burke, Lincoln, and Rowan, crossed the Catawba at Beattie's Ford, while General Rutherford, acting in concert with him with seven hundred troops, among whom was Davie and his command, crossed at Tuckaseege Ford. The two divisions were to meet in the night near the enemy and attack at break of day. Rutherford's march being circuitous, was delayed, but Colonel Locke, notwithstanding the disparity of force, attacked alone and won a complete victory. Rutherford arrived about an hour after the action and dispatched Major Davie in pursuit of the fugitives.

Shortly after Major Davie was ordered to take post near the South Carolina line, opposite Hanging Rock, to prevent the enemy from foraging and to check the depredations of the Tories who infested that section. He was reenforced by some South Carolinians under Major Crawford, by thirty-five Catawba Indians under their chief, New River, and by part of the Mecklenburg militia. With part of his dragoons and some volunteers he left camp 20th July, 1780, to intercept a convoy of provisions and clothing destined for the enemy at Hanging Rock, eighteen miles distant. Marching all night, he turned the enemy's flank and fell into the Camden road five miles below Hanging Rock. Here he awaited the convoy, which appeared in the afternoon, and it was surprised and completely captured, with all the stores.

About the last of July, Colonel Sumter, with the South Carolina refugees, and Colonel Irwin, with the North Carolina troops, advanced to the attack of Rocky Mount, while Major Davie was to make a diversion to engage the attention of the enemy at Hanging Rock. His detachment consisted of eighty mounted men. In sight of the enemy's camp, he fell upon three companies of their mounted infantry returning from an excursion. Taken by surprise, they were literally cut to pieces almost before they were aware of his presence. Sixty valuable horses, with their furniture, and one hundred rifles and muskets, were carried off by Davie in safety without the loss of a man. On August 5th an attack was ordered upon Hanging Rock by Colonel Sumter, who commanded in person the eight hundred troops engaged in the expedition. Of these five hundred were North Carolinians, commanded by Colonel Irwin and Major Davie. The troops halted at midnight within two

miles of the enemy's camp, which they attacked next morning at daylight. The British regulars were commanded by Major Carden, while among the auxiliaries were several Tory regiments. One was composed of Tories from the upper Yadkin, commanded by Colonel Bryan (whom Davie afterwards defended when tried for treason at Salisbury), and another, mostly of South Carolinians, was led by Colonel John Hamilton, of Halifax, who for many years after the war was British Consul at Norfolk. The attack at first was completely successful, but from lack of discipline many of the troops plundered the camps and became intoxicated. A part of the British troops remaining intact, formed a hollow square and necessitated a retreat, which, however, was made in good order, Davie's corps covering the rear. The wounded were safely convoyed by him to Charlotte, where, by his foresight, a hospital had been established. It is worthy of note that on this march to the attack at Hanging Rock, by Davie's side rode, as guides conversant with the roads and of undoubted courage and patriotism, two country lads, brothers, respectively aged thirteen and fifteen years. The younger of the two was destined to see many another field of carnage, and his name has filled long and well the sounding trump of fame—Andrew Jackson. Long years after, in the retirement of the Hermitage, he said that Davie was the best soldier he had ever known and that his best lessons in the art of war had been learned from him.

On Davie's return from Charlotte he hastened to the general rendezvous of Gates' army at Rugely's Mills. On August 16th, while proceeding to join General Gates at Camden, and ten miles from the battle-field, Major Davie met the defeated army with

the General leading the retreat. He ordered Davie to fall back on Charlotte, but he replied that his men had formed the acquaintance of Tarleton's Legion and did not fear to meet them again. He continued his course towards the battle-ground, meeting the flying fragments of the routed army. He secured several wagons loaded with clothing and medicine, which had been abandoned. With characteristic thoughtfulness he immediately sent an officer to notify Colonel Sumter of the great disaster which had befallen our arms. He reached Sumter that evening, who at once began his retreat along the west bank of the Catawba, towards the up-country. Not taking sufficient precaution, however, Sumter was surprised on the 18th by Tarleton at Fishing Creek, and his entire command of eight hundred men was captured or put to flight with the loss of all his artillery, arms, and baggage. Colonel Sumter himself, who was asleep under a wagon when the attack was made, barely escaped, and the next day reached Davie's camp at Charlotte alone, riding on horseback, without saddle or bridle. The tidings carried consternation into the fragments of Gates' army which had rallied there, and in a few moments Davie and his command were the only force left in front of the enemy. Instead of retiring, he boldly advanced to the Waxhaws, and found that the enemy had fallen back to Camden.

On the 5th of September, 1780, Davie was appointed by Governor Nash Colonel Commandant of Cavalry in the Western District of North Carolina, with instructions to raise a regiment. When he had collected only about seventy men, with that force and two small companies of riflemen, commanded by Major George Davidson, he took post at Providence, twenty-five miles from the British camp. Cornwallis,

after resting at Camden till the first week in September, had advanced to the Waxhaws, forty miles below Charlotte, while the fragments of the American army were slowly gathering at Hillsborough, two hundred miles distant. South Carolina was wholly subjugated, and North Carolina had not recovered from the shock of Gates' defeat. Under these circumstances, Colonel Davie, with unprecedented boldness, with a command not exceeding one hundred and fifty men all told, on the 20th of September, turning the right flank of the British army by a circuitous march, fell upon three or four hundred of the enemy at Wahab's plantation. The attack was made at daylight. The surprise was complete.

The enemy left fifteen or twenty dead on the field and had some forty wounded. Davie got off safely with the captured horses and had only one man wounded. The enemy at once caused the farm buildings which belonged to Captain Wahab, then a volunteer with Davie, to be laid in ashes. Davie brought off ninety-six horses and their furniture and one hundred and twenty stand of arms, and arrived in camp the same afternoon, having marched sixty miles in less than twenty-four hours, including the time employed in seeking and beating the enemy. That evening Generals Sumner and Davidson arrived at his camp with their force of one thousand badly equipped militia.

On the 24th of September the American patrols gave notice that the force of the enemy was in motion on the Steele Creek road, leading to Charlotte. Generals Sumner and Davidson retreated by Phifer's on the nearest road to Salisbury. Colonel Davie, with one hundred and fifty mounted men and

some volunteers under Major Joseph Graham, was left alone in front of the British army, and he was ordered to observe the enemy and skirmish with his advance. On the afternoon and night of the 25th he took a number of prisoners, and at midnight took up his position at Charlotte, seven miles from the spot where Earl Cornwallis had encamped. Early on the 26th his patrols were driven in by the enemy's light troops, and in a few moments the Legion and light infantry were seen advancing, followed by the whole army. Charlotte was then a village of about twenty houses, built on two streets which crossed each other at right angles. At their intersection stood the court-house. Colonel Davie dismounted one company and stationed it under the court-house, where they were protected by a stone wall. The other two companies were advanced about eighty yards and posted behind some houses and gardens. The Legion formed at a distance of three hundred yards with a front to fill the street. On sounding the charge the enemy's cavalry advanced at full gallop, but at sixty yards from the court-house the Americans opened fire and drove them back with great precipitation. A second and third charge had the same result, but being outflanked by the Legion infantry, Davie withdrew his companies in good order, they successively covering each other, and retreated on the Salisbury road. The enemy followed with great caution and respect for some distance, when they at length ventured to charge the small rear guard. In this charge Lieutenant Locks and four privates were killed and Major Graham and five privates wounded. The coolness and skill of Davie in this ever-memorable combat, in which, with a mere handful of men, he held the whole British army for hours at bay and drove back repeatedly its best troops and finally

brought off his command unbroken and in good order, stamp him as a soldier of no ordinary capacity. He was at this time twenty-four years of age. Governor Graham says of him: "He was prudent, vigilant, intrepid, and skillful in his movements against the enemy, and with a charming presence, a ready eloquence, and an undaunted spirit, he was among the young men of the day as was Harry Percy to the chivalry of England." He also terms him "one of the most accomplished and elegant gentlemen of the Revolutionary race." Besides his abilities as a leader he was an expert swordsman. It is said in *Garden's Anecdotes of the Revolutionary War*, that he had slain more men in personal encounters in battle than any man in the army.

The next day, after the brilliant affair at Charlotte, Colonel Davie joined the army at Salisbury, where, recruits having come in and Colonel Taylor from Granville having joined him, his force consisted of three hundred mounted infantry and a few dragoons. Generals Sumner and Davidson continued their retreat across the Yadkin, while Davie returned towards Charlotte, where he so vexed the British by cutting off the foraging parties and beating up their advanced posts that Cornwallis began to feel great distress for want of forage and supplies. (*Tarleton's Campaigns*, p. 184). The British officer declared he had "found a rebel in every bush outside his encampment." On October 7th occurred the disastrous defeat of Ferguson at King's Mountain, and on the night of October 14th, Cornwallis began his retreat to South Carolina, followed by Davie, who harassed his rear and captured part of his baggage. On the 19th the British crossed the Catawba at Land's Ford and completely evacuated the State of North Carolina. When General Greene took command of

the Southern Army in December, 1780, he and Colonel Davie met for the first time. The commissary department became vacant by the resignation of Colonel Thomas Polk. The subsistence of the army had become very difficult, and Colonel Polk declared that it had become impossible. General Greene having formed a high estimate of Colonel Davie's abilities, earnestly, and in most flattering terms, solicited him to relinquish his hopes of brilliant service in the field and accept the vacant office. At the call of patriotism he abandoned the tempting career which lay before him and assumed the not less important but more unpleasant and arduous duties of a station which offered no distinctions. General Greene had himself set the example, having relinquished a brilliant career in the field to assume for years the duties of Quartermaster-General of the army. Colonel Davie assumed the duties of his new post in January, 1781, and continued with the army for the next five months. Hardly any combination of circumstances could exist presenting greater difficulties to the commissary of an army than those under which he began. With a depreciated, almost worthless, currency and an exhausted country, his only resource was to receive from the willing and extort from the reluctant such means of subsistence as they possessed, a service requiring promptness and vigor among the disaffected and skill and discretion among the friendly. These duties were well performed, and, while they make no display on the page of history, their efficient discharge was more really useful to the cause and contributed more to the success of the army than the most brilliant services of the most brilliant officer in the field. In that capacity he was present in the memorable battle at Guilford Court House. Though he had, of course,

no command, he was a watchful observer of all the movements of the fight and distinguished himself by his efforts to rally the broken ranks and bring them again into the field. After Judge Schenck's vivid description of this battle it would be a twice-told tale to recount its incidents. It may be well to recall, however, that Eaton's Brigade was composed of men from Warren, Franklin, Nash, Halifax, and Northampton counties, while Butler's men were from the present counties of Wake, Durham, Orange, Alamance, Vance, Granville, Person, and Caswell. No race of people has changed less by infiltration of foreign immigration. It is in warp and woof the same it was a hundred years ago. Those who know them well, know that they are "the blue hen's own chickens," and it is not to be believed (if all other proof was wanting) that men of that stock ever left any fair field of fight in a body save in honor.

It was here that Colonel Davie, seeing the veteran First Maryland permit the enemy to approach to close quarters while it remained apparently inert and impassive, exclaimed with great emotion, "Great God! is it possible Colonel Gunby will surrender himself and his whole regiment to the British?" He had scarce spoken when, the command having been given, their fire, like a sheet of flame, swept off the enemy's first line. This was followed up by a bayonet charge from Gunby. The hostile lines became so intermingled and the moment so critical that Cornwallis, to save himself, caused his cannon to open upon the mass of struggling men and swept off friend and foe alike. This he did against the remonstrance of General O'Hara, who was lying wounded on the ground, and whose men were thus being destroyed at short range by the cannon of their own army.

Colonel Davie continued with the army and was present at Hobkirk's Hill on April 25th, and also at the evacuation of Camden and the siege of Ninety-Six. While the army lay before Ninety-Six, General Greene found it necessary to send him as a confidential messenger to the Legislature of North Carolina to represent to that body the wants of his army, and that his almost sole reliance for assistance was on them. Colonel Davie's knowledge of the members and his tact were such that he procured a most generous contribution from the General Assembly of men and supplies. The exigencies of the service and the equipment of the new levies required him to remain in North Carolina, and in July, 1781, he entered on his duties as Commissary-General of this State, which post he filled till the end of the war. The finances of the State were in a desperate condition, and the country was well-nigh exhausted by the requisitions of both hostile and friendly armies, and, besides, supplies had to be dispatched to our troops operating in South Carolina. No duties could be more arduous or more admirably performed than those which fell to Colonel Davie's lot at this stage of the war. Transportation was lacking even for the supplies which could be obtained. The future seemed uncertain as to everything. No post could more sorely have tried the patience of any man. It argues great versatility of talents that the brilliant cavalry officer should execute with patience the duties of such a station, and it required a rare self-denial to lay aside the opportunities of distinction for the humdrum exactions of his wearying post. To add to other troubles, he had to deal, during the year 1781, with three different Governors of entirely different views and dispositions. Governor Nash had resigned in disgust at the proceedings of the

Legislature; Governor Burke had been taken prisoner, and Governor Martin completed the year. So feeble at times was the support of the government that some of the most pressing supplies were procured by Davie on his own credit. Complex and numerous as were his accounts, when he laid down his office he invited the severest legislative scrutiny, but no objection to them could be found.

The war being over, Colonel Davie resumed the practice of his profession in February, 1783. About the same time he married Miss Sarah Jones, the daughter of General Allen Jones, of Northampton, a niece of Willie Jones, and settled in the town of Halifax, which place he made his future residence. It was at that time practically the capital of the State. The sessions of the General Assembly had been frequently held at that place, and it was there that most of the executive business of the State was transacted. He was a brilliant advocate and possessed a natural aptitude for the practice of law. The State at that time was divided into seven judicial districts: Halifax, New Bern, Wilmington, Edenton, Hillsboro, Salisbury, and Morganton. To these, in 1787, Fayetteville was added. The Superior Courts were held only at these places, and not as now at a court-house in each county. Colonel Davie took the circuit and attended in turn all the Superior Courts of the State, except that held at Morganton. He soon commanded a leading practice in all these courts. At some places and at some terms the dockets show that he appeared without exception on one side or the other of every civil case. His practice was very lucrative and he quickly accumulated a large estate. An examination of our published Reports shows numerous cases of importance in which he was counsel. Probably the most important were *Hamilton*

vs. *Eaton*, 1 N. C., 84, which held the State Confiscation Act repealed by the United States treaty of peace with England, and *Bayard* vs. *Singleton*, 1 N. C., 42, the first case in America which asserted the power and duty of the courts to declare an act of the Legislature unconstitutional. It also held the confiscation acts against the late Tories invalid. Iredell, Johnston, and Davie appeared for the successful plaintiff and Moore and Nash for the defendant.

With the chivalry of his nature, it was most natural that when the Tory, Colonel Bryan, with whom he had so often crossed swords, was arraigned and tried at Salisbury, in 1782, for treason, Colonel Davie was one of the counsel who conducted his defense. In this he displayed a courage of the forum no less brilliant and commendable than his conduct in the field. Indeed Davie, though the youngest, became in fact the principal counsel. Excitement ran so high that no lesser favorite than "the hero of Charlotte" could command attention. Bryan was convicted with several others, and was sentenced to be hanged the 14th of April, 1782, but was pardoned and exchanged. Judge Murphy, who had the opportunity of judging, and whose opinion is of high value, says: "Davie took Lord Bolingbroke for his model, and applied himself with so much diligence to the study of his master that literary men could easily recognize his lofty and flowing style. He was a tall, elegant man in his person; graceful and commanding in his manners. His voice was mellow and adapted to the expression of every passion. His style was magnificent and flowing. He had a greatness of manner in public speaking which suited his style and gave his speeches an imposing effect. He was a laborious student and arranged his discourses with

care, and, when the subject suited his genius, poured forth a torrent of eloquence that astonished and delighted his audience. They looked upon him with delight, listened to his long, harmonious periods, caught his emotions, and indulged that ecstasy of feeling which fine speaking and powerful eloquence can alone produce. He is certainly to be ranked among the first orators whom the American nation has produced." It is said of him, with probably small exaggeration, that during fifteen years while he was at the bar there was not a capital trial in North Carolina in which he was not retained for the defense. Eminent as he was, it was not for the lack of worthy competitors. James Iredell and Alfred Moore, successively Justices of the Supreme Court of the United States, François Xavier Martin, afterwards Chief Justice of Louisiana, and Judge John Haywood, afterwards of Tennessee, were his contemporaries. His brief-books, some of which are still in existence, are models of neatness and show a most careful summary of the evidence and citation of authority in each case. Among his law students were Governor and United Stales Senator David Stone, Mr. Justice Daniel, of our Supreme Court, and many others who became distinguished men. Judge Daniel said that he was the best lawyer and most accomplished man he had ever known. It is stated of him, in comparison with his great legal rival, John Haywood, that while the latter carefully prepared every point, Davie would seize the strong points of the case and throw his whole strength upon them. In this he seems to have retained the experience and instincts of his soldier-life. As a characteristic of his elegant tastes and attention to details it is said that an examination of his correspondence shows that his letters were invariably written upon gilt-edge paper.

When the Convention which formed our present Federal Constitution was called to meet at Philadelphia in May, 1787, he was elected one of the delegates. The delegates were the then Governor, Richard Caswell, ex-Governor Alexander Martin, Richard Dobbs Spaight, who, like Davie, was subsequently Governor, William Blount, afterwards United States Senator, and Hugh Williamson, afterwards a member of Congress and an historian. Governor Caswell did not attend. Colonel Davie was the junior member of the delegation, being then, notwithstanding his distinguished career as a soldier and his high standing at the bar, not yet thirty-one years of age. Still his eloquence and influence made a decided impression upon the Convention. The Constitution all through is the result of compromise; but the critical question was the equal representation of each State in the Senate. Upon this it seemed likely the Convention would be dissolved. The large States were firm for proportional representation. With the smaller States an equal voice in the Senate was a *sine qua non*. On that question North Carolina voted with the other large States against the demands of the smaller States, and this made the vote a tie, as Georgia, on purpose, evenly divided her vote. The friends of the Constitution, fearing a disruption, referred the question to a committee composed of one from each State. Davie was the member of the committee from North Carolina. When the committee made its report, Davie, acting for North Carolina, gave her vote with the smaller States, and thus, by one majority, was equal representation in the Senate secured. Without it the Convention would doubtless have adjourned after a useless session. The Constitution, without that wise concession, could not have been adopted, and if

adopted by the Convention, its ratification by the smaller States could not have been expected. This act was certainly against the wishes of his own State, then the third, in point of population, in the Confederation, ranking next after Virginia and Massachusetts and ahead of New York. It was also apparently against the interests of his State, but the act was that of a statesman, and should be recalled to his lasting honor. It was a critical moment, for a narrow-minded man in his place, timid of responsibility and fearful of his own popularity at home, would have prevented or postponed for many years the American Union. He remained in Philadelphia till the deliberations of the Convention were virtually over and the adoption of the Constitution had become certain. Then, in obedience to his duty to his clients, as the fall circuit was about to begin, he left for home. Hence it is that his name does not appear among those appended to that instrument. The Constitution being the work of many hands and containing so many alterations and amendments, would naturally have been rough and ill-joined, containing a variety of styles. It is worthy of note that the Convention considerately referred it to a committee of one—Gouverneur Morris—an accomplished scholar, to make changes "of form, not of substance." Under his hand it was polished and put in shape, and hence the uniform flow and regularity of its language.

But the work was not yet done. The Constitution was yet to be ratified by the conventions of the several States. When the North Carolina Convention met at Hillsborough, July 21, 1788, a formidable opposition was arrayed against its adoption, headed by Willie Jones, David Caldwell, Judge Spencer, and others. The friends of adoption were led by James

Iredell, a remarkably able man, and Colonel Davie, aided by Spaight, Maclaine, Steele, and others. The adoption of the Constitution was at that time defeated. After its subsequent adoption by North Carolina, President Washington tendered the appointment of United States District Judge to Davie, who declined it. Colonel Stokes was appointed, but, soon dying, John Sitgreaves was appointed, probably through Davie's influence. He had married his wife's sister.

By his wife he had acquired a valuable plantation near Halifax, which he took pleasure in cultivating, and he evinced a deep interest in introducing there a better system of farming. His enterprise and public spirit procured the organization of a company for the proposed drainage of Lake Scuppernong.

A friend of education, in 1786 he obtained from the General Assembly the charter of Warrenton Academy, and had himself, with Willie Jones, Thomas Person, Benjamin Hawkins, and other prominent men named as the board of trustees. He was chosen repeatedly, except when his private business constrained him to decline an election, to represent the borough of Halifax in the House of Commons. He served thus in the years 1786, 1787, 1789, 1791, 1793, 1794, 1796, and 1798. He was the real founder of the University of North Carolina, and is so styled in the journal of 1810 of that institution, and well deserved to be so called. Judge Murphy bears this testimony: "I was present in the House of Commons when Davie addressed that body (in 1789) for a loan of money to erect the buildings of the University, and, although more than thirty years have elapsed, I have the most vivid recollection of the greatness of his manner and the power of his

eloquence upon that occasion. In the House of Commons he had no rival, and on all questions before that body his eloquence was irresistible." He procured the act of incorporation to be passed in 1789, and other aid, and was always a fostering friend.

The opposition to all the measures in favor of the University was great. The cry of "economy" and the fear expressed that the institution was one step towards the founding of an aristocracy made it difficult to carry any measure through. Gifted with less tact, with less eloquence or with less popularity, Davie must have failed. The institution is no less a monument also to his public spirit, boldness, and foresight. He was a member of the first board of trustees. The selection of a site for the University, the superintendence of the erection of the buildings, the choice of professors, the arrangement of a course of studies, the adoption of regulations, the maintenance of discipline engaged his personal and active attention. Truly he might have exclaimed "*Exegi monumentum aere perennius*." The course of studies adopted at Davie's instance in 1795 was the "optional" system which now generally obtains. In this he anticipated the course of other colleges full fifty years. When Dr. David Caldwell was elected President this was set aside and the old iron-bound curriculum was adopted and remained in force eighty years.

On December 9, 1787, in the town of Tarboro, the Free Masons of this State organized the Grand Lodge of North Carolina. At that meeting many of the most distinguished men of the State attended, Colonel Davie among them. Governor Johnston was elected the first Grand Master of North Carolina, and

Governor Caswell the second. Davie was elected Grand Master in December, 1792, and was successively reelected for seven years. In that capacity he laid the cornerstone of the University, October 12, 1793 (the old East Building), and on April 14, 1798, he laid the cornerstone of the South Building at the same place.

The project of a digest of the laws was brought forward by him, and the appointment of Judge Iredell, the accomplished jurist, to do the work, was made at his suggestion. The cession of the territory which now forms the State of Tennessee was effected mainly by his influence. In 1791 he was appointed by the Legislature one of the three commissioners to establish the unsettled part of the boundary between this State and South Carolina. He was again elected for the same purpose in 1796, and again in 1803. None of these commissions, however, were successful.

In 1794 he was commissioned by Governor Spaight to be Major-General of the Third State Division, in view of the likelihood of war with France. Congress, by the Act of June 24, 1797, directed an embodiment of troops from the several States. The number to be raised by this State under the act was seven thousand two hundred and sixty-eight, and in September of that year Davie was appointed by Governor Ashe Major-General to command this detachment. As matters became more serious, Congress, in May, 1798, authorized a provisional army of the United States of ten thousand men, and in this he was appointed a brigadier-general by President Adams, July 17, 1798, and was confirmed by the Senate on July 19th. Of this army Washington was made commander-in-chief, and he,

in effect, committed to General Davie the selection of the officers for that part of the troops which should be raised in this State. In the same year General Davie prepared a system of cavalry tactics which was adopted by the Legislature and ordered to be printed. A copy of this is now in our State Library.

General Davie came out of the war with the first military reputation in the State, and these successive appointments, so many years after, prove that North Carolina still turned to him as her greatest soldier.

Just at this time, singularly enough, when in the receipt of high honors, State and national, his election for the borough of Halifax was first endangered. The circumstance is thus stated in a private letter from that town, written in August, 1798: "The 'true whigs,' as they styled themselves, dined together under the oaks and toasted Mr. Jefferson. The other party, who were called 'aristocrats,' ate and drank in the house on entirely different principles. General Davie dined in the house with the 'aristocrats.' The 'true whigs' took offense at this and resolved to oppose his election, and it was only with much address that they were kept quiet." The writer adds: "If any person had had the impudence to dispute the election General Davie would certainly not have been returned. The rabble, which in all places is the majority, would have voted against him."

He took his seat when the Legislature met. By that body, under the then constitutional mode, he was, on joint ballot, elected Governor of the State on December 4th, 1798, over Benjamin Williams (afterwards Governor), and was inaugurated December 7th. Nothing of special note took place during his tenure of office. President Adams

appointed an embassy to treat with the French Directory, consisting of Mr. Murray, then our Minister to Holland, Chief Justice Ellsworth, and Patrick Henry. The latter having declined on the ground of age and ill health, Governor Davie was appointed in his stead, June 1, 1799. On September 10th he resigned the office of Governor, and on the 22nd, left Halifax to join Mr. Ellsworth at Trenton. At his departure the people of Halifax and vicinity presented him with a complimentary address, which was written by a political adversary and signed by large numbers of the same party.

On November 3, 1799, Messrs. Ellsworth and Davie embarked in the frigate *United States*, from Newport, Rhode Island. Aware of the changes constantly taking place in the French government, they touched at Lisbon on the 27th of November. They left on the 21st of December, but being driven out of their course by a storm, they put into Corunna the 11th of January, 1800, which they left by land on the 27th, and on February 9th, at Burgos, in Spain, they met a courier from Talleyrand, the French Minister, inviting them, on the part of Bonaparte, who had become First Consul, to proceed to Paris, which place they reached on March 2d. These dates will show the vast difference which less than a century has made in the modes of traveling and the transmission of intelligence. On April 8th the Commissioners were received with marked politeness by the First Consul. Napoleon having left for Italy on the famous campaign of Marengo, the negotiations dragged till his return. On September 30, 1800, the treaty between the United States and France was signed by our Commissioners and by Joseph Bonaparte, Roederer, and Fleurieu, on the part of France. The conclusion of the treaty was celebrated

with *éclat* at Morfontaine (the country-seat of Joseph Bonaparte), the First Consul and a brilliant staff attending. One who was then in Paris writes: "A man of his (Davie's) imposing appearance and dignified deportment could not fail to attract especial attention and remark wherever he went. I could not but remark that Bonaparte, in addressing the American legation at his levees, seemed for the time to forget that Governor Davie was *second* in the commission, his attention being more particularly directed to him." In the brilliant circles of the nascent empire of Napoleon he was distinguished by his elegance and his popular manners. His sojourn in Paris was very agreeable to him. He was an accomplished linguist and spoke French and Spanish fluently.

In the fall of that year Governor Davie returned directly home. It is significant that the very day after the treaty was signed, France, by the treaty of St. Ildefonso, reacquired Louisiana from Spain, which it so soon after sold to the United States.

On his return home Davie was solicited to become a candidate for Congress in 1801, but his private affairs, by reason of his long absence, required his attention, and he declined. Willis Alston, then a member of the same political party, was elected. In June of that year President Jefferson appointed Governor Davie head of a commission, with General Wilkinson and Benjamin Hawkins, to negotiate with the Creeks and other Indians for further cession of lands. This he declined for the same reason that he had refused an election to Congress. In 1802 he was appointed by President Jefferson a commissioner on the part of the United States in the treaty to be made between North Carolina and the Tuscaroras, most of

whom had moved from this State, but had retained a valuable landed interest in Bertie county. He met the agents of the State and the chiefs of the Indians at Raleigh, and the treaty was signed December 4th, 1802, by virtue of which King Blount and the remainder of the tribe removed to New York in June, 1803. In the spring of 1803, Alston having gone over to the opposite political party, General Davie was again solicited by his friends to become a candidate for Congress. He accepted the nomination, but declined to make any canvass. He was charged with being an aristocrat and with being opposed to Mr. Jefferson, whose prestige was then all-powerful. He was defeated at the polls.

He had lost his wife not long after his return from France. This, together with his political defeat, determined him to withdraw altogether from public life. In November, 1805, he removed to an estate he possessed at Tivoli, near Landsford, in South Carolina, just across the line from Mecklenburg county in this State. Here he lived in dignified ease and leisure.

Many men, after the bufferings of a stormy or a busy life, have in like manner felt the need of rest before going hence. It was thus that the Emperor Charles V., at Juste, and Wolsey, who had "sounded all the depths and shoals of honor," at Leicester Abbey, had sought to put a space of contemplation between the active duties of life and the grave. Davie's country, however, did not forget him. During the second war with Great Britain, President Madison appointed him a major-general in the United States army, and he was confirmed by the Senate, March 2d, 1813. But "time steals fire from the mind as vigor from the limbs." Though not an old man, General

Davie's early campaigns had told upon him. The sword which twenty-five years before had almost leapt of itself from the scabbard was now constrained to hang idly by his side, and he declined the appointment. General Harrison (afterwards President) was appointed in his stead and fought the battle of the Thames, October 5, 1813 in which Tecumseh was slain. The next year he in turn resigned and General Andrew Jackson was appointed to succeed him, and the battle of New Orleans followed on January 8, 1815.

General Davie's seat at Tivoli, on the Catawba, was the resort of many of the Revolutionary characters. In their journeys by private conveyance to Virginia or the North, the custom was to arrange to spend a day or two there with him, where he kept open house for his friends, and, sitting under an immense oak, from which there was a view of miles of the Catawba, they fought over the war together or discussed the workings of the new government and the Constitution they had established. This was all the more interesting, as much of his campaigning had taken place on and around this very spot. In this connection it is interesting to state that after his retirement to Tivoli he was much sought after in drawing wills. He drew some of the most famous wills in that State—indeed, it is said, all of them in that part in which he resided, not one of which, except his own, was ever assailed. In this respect he had the fortune of Sugden (Lord Saint Leonard's), Governor Tilden, and many other famous lawyers. The contest over Governor Davie's will has just been settled by a decision of the Supreme Court of the United States, filed the 28th of March of this year (1892), in the case of *Bedon* vs. *Davie*, 144 U. S., 142, a very interesting case.

His correspondence and other materials for history must have been very large and very valuable. It was from his papers that the copy of the Mecklenburg Declaration of May 20th, 1775, was procured, which is known as the "Davie Copy." Unfortunately all his family papers and all the historical material which had been carefully preserved by him for publication at some future time were destroyed during Sherman's raid. The banks of the Catawba were said to have been strewn with them, and nothing of the collection now remains.

In retirement he displayed his accustomed public spirit by introducing improved methods of farming, and mainly at his instance a State Agricultural Society in South Carolina was formed, of which he was the first president. By his practice at the bar he had accumulated a large estate, which he dispensed with liberality and hospitality.

When the end came he met it with the firmness of a soldier. His sun of life went down in a cloudless sky. He passed away the 18th of November, 1820, in his sixty-fifth year.

"The hero lies still, while the dew-drooping
willows,
Like fond weeping mourners, lean over his
grave.
The lightnings may flash and the loud cannon
rattle,
He heeds not, he hears not, he's free from all
pain;
He sleeps his last sleep, he has fought his last
battle,
No sound can awake him to glory again!"

He was buried at Waxhaw Church, Lancaster county, South Carolina, just across the Catawba river from his Tivoli plantation. The following modest and truthful inscription in his tomb is said to be from the pen of his friend, Governor Gaston, of South Carolina:

IN THIS GRAVE ARE DEPOSITED THE REMAINS
OF
WILLIAM R. DAVIE,
THE SOLDIER, JURIST, STATESMAN, AND
PATRIOT.
IN THE GLORIOUS WAR FOR
AMERICAN INDEPENDENCE
HE FOUGHT AMONG THE FOREMOST OF THE
BRAVE.
AS AN ADVOCATE AT THE BAR,
HE WAS DILIGENT, SAGACIOUS, ZEALOUS,
INCORRUPTIBLY HONEST, OF COMMANDING
ELOQUENCE.
IN THE LEGISLATIVE HALL
HE HAD NO SUPERIOR IN ENLARGED VISION
AND PROFOUND PLANS OF POLICY.
SINGLE IN HIS ENDS, VARIED IN HIS MEANS,
INDEFATIGABLE
IN HIS EXERTIONS.
REPRESENTING HIS NATION IN AN IMPORTANT
EMBASSY,
HE EVINCED HIS CHARACTERISTIC DEVOTION TO
HER INTERESTS
AND MANIFESTED A PECULIAR FITNESS FOR
DIPLOMACY.
POLISHED IN MANNERS, FIRM IN ACTION,
CANDID WITHOUT IMPRUDENCE, WISE ABOVE
DECEIT.
A TRUE LOVER OF HIS COUNTRY,
ALWAYS PREFERRING THE PEOPLE'S GOOD TO

THE PEOPLE'S FAVOR.
THOUGH HE DISDAINED TO FAWN FOR OFFICE,
HE FILLED MOST OF THE STATIONS TO WHICH
AMBITION MIGHT ASPIRE,
AND DECLINING NO PUBLIC TRUST,
ENNOBLED WHATEVER HE ACCEPTED
BY TRUE DIGNITY AND TALENT,
WHICH HE BROUGHT INTO THE DISCHARGE OF
ITS FUNCTIONS.
A GREAT MAN IN AN AGE OF GREAT MEN.
IN LIFE HE WAS ADMIRED AND BELOVED BY THE
VIRTUOUS AND THE WISE,
IN DEATH HE HAS SILENCED CALUMNY AND
CAUSED ENVY TO MOURN.
HE WAS BORN IN EDINBURGH,[1] 1756,
AND DIED IN SOUTH CAROLINA IN 1820.

[1] A mistake.

The foregoing is the main body and more strictly biographical part of an address delivered by Judge Clark, July 4th, 1892, at the celebration of the battle of Guilford Court House, on the battle-field.

Davie's life has been written more at length by Prof. Fordyce M. Hubbard and published in *Sparks' American Biography*; but I have used Judge Clark's sketch, and have slightly abbreviated it to suit the scope of my purpose.

I am reminded by Colonel Benehan Cameron, a member of the North Carolina Publishing Society, that the lovers of fine horses will be glad to have it noted here that General Davie was once the owner of the celebrated "Sir Archie"—the sire of American thoroughbreds—the Godolphin of the American turf. Like all great commanders, Davie was a fine judge of a horse; he readily paid five thousand dollars for "Sir

Archie" as a colt, and only parted from him in deference to his friends, who urged him that such a price was very extravagant. Davie's judgment, however, was abundantly vindicated; for, many years afterwards, the commissioner of the court found that the horse had been worth to the estate of William Amis, his subsequent owner, the round sum of eighty thousand dollars.

Some idea may be gathered of the interest of the turfmen in this great horse—the great-grandsire of "Lexington"—from the fact that they are still disputing about the places of his birth and death.

The truth of the matter is, says Colonel Cameron, who takes interest in this controversy, he was born at Carter Hall, in Virginia, died in North Carolina, and was buried on the "Mowfield" plantation of Colonel Amis in Northampton county. The place of his burial is still pointed out by old people, for human nature is loath to allow the memory of great excellence to perish, even though exemplified in a dumb beast. It is said that some years ago his bones were taken up and carried to a museum in Philadelphia.



NATHANIEL MACON.

NATHANIEL MACON.

BY THOMAS H. BENTON.

Philosophic in his temperament and wise in his conduct, governed in all his actions by reason and judgment, and deeply imbued with Bible images, this virtuous and patriotic man (whom Mr. Jefferson called "the last of the Romans") had long fixed the term of his political existence at the age which the Psalmist assigns for the limit of manly life: "The days of our years are threescore years and ten; and if by reason of strength they be fourscore years, yet is their strength labor and sorrow; for it is soon cut off, and we fly away." He touched that age in 1828; and, true to all his purposes, he was true to his resolve in this, and executed it with the quietude and indifference of an ordinary transaction. He was in the middle of a third senatorial term, and in the full possession of all his faculties of mind and body; but his time for retirement had come—the time fixed by himself; but fixed upon conviction and for well considered reasons, and as inexorable to him as if fixed by fate. To the friends who urged him to remain to the end of his term, and who insisted that his mind was as good as ever, he would answer that it was good enough yet to let him know that he ought to quit office before his mind quit him, and that he did not mean to risk the fate of the Archbishop of Grenada. He resigned his senatorial honors as he had worn them—meekly, unostentatiously, in a letter of thanks and gratitude to the General Assembly of his State, and gave to

repose at home that interval of thought and quietude which every wise man would wish to place between the turmoil of strife and the stillness of eternity. He had nine years of this tranquil enjoyment, and died without pain or suffering, June 29, 1837—characteristic in death as in life. It was eight o'clock in the morning when he felt that the supreme hour had come, had himself full-dressed with his habitual neatness, walked in the room and lay upon the bed, by turns conversing kindly with those who were about him, and showing by his conduct that he was ready and waiting, but hurrying nothing. It was the death of Socrates, all but the hemlock, and in that full faith of which the Grecian sage had only a glimmering. He directed his own grave on a point of sterile ridge (where nobody would wish to plough), and covered with a pile of rough flint-stone (which nobody would wish to build with), deeming this sterility and the uselessness of this rock the best security for that undisturbed repose of the bones which is still desirable to those who are indifferent to monuments.

In almost all strongly marked characters there is usually some incident or sign, in early life, which shows that character and reveals to the close observer the type of the future man. So it was with Mr. Macon. His firmness, his patriotism, his self-denial, his devotion to duty, and disregard of office and emolument; his modesty, integrity, self-control, and subjection of conduct to the convictions of reason and the dictates of virtue, all so steadily exemplified in a long life, were all shown from the early age of eighteen, in the miniature representation of individual action, and only confirmed in the subsequent public exhibitions of a long, beautiful, and exalted career.

He was of that age, and a student at Princeton College, at the time of the Declaration of American Independence. A small volunteer corps was then on the Delaware. He quit his books, joined it, served a term, returned to Princeton, and resumed his studies. In the year 1778 the Southern States had become a battle-field, big with their own fate, and possibly involving the issue of the war. British fleets and armies appeared there, strongly supported by the friends of the British cause; and the conquest of the South was fully counted upon. Help was needed in these States; and Mr. Macon, quitting college, returned to his native county in North Carolina, joined a militia company as a private, and marched to South Carolina—then the theatre of the enemy's operations. He had his share in all the hardships and disasters of that trying time; was at the fall of Fort Moultrie, surrender of Charleston, defeat at Camden, and in the rapid winter retreat across the upper part of North Carolina. He was in the camp on the left bank of the Yadkin when the sudden flooding of that river, in the brief interval between the crossing of the Americans and the coming up of the British, arrested the pursuit of Cornwallis and enabled Greene to allow some rest to his wearied and exhausted men. In this camp, destitute of everything and with gloomy prospects ahead, a summons came to Mr. Macon from the Governor of North Carolina, requiring him to attend a meeting of the General Assembly, of which he had been elected a member, without his knowledge, by the people of his county. He refused to go, and the incident being talked of through the camp, came to the knowledge of the general. Greene was a *man* himself and able to know a *man*. He felt at once that, if this report was true, this young soldier was no common character, and

determined to verify the fact. He sent for the young man, inquired of him, heard the truth, and then asked for the reason of this unexpected conduct—this preference for a suffering camp over a comfortable seat in the General Assembly. Mr. Macon answered him, in his quaint and sententious way, that he had seen the *faces* of the British many times, but had never seen their *backs*, and meant to stay in the army till he did. Greene instantly saw the material the young man was made of and the handle by which he was to be worked. That material was patriotism, that handle a sense of duty; and laying hold of this handle, he quickly worked the young soldier into a different conclusion from the one that he had arrived at. He told him he could do more good as a member of the General Assembly than as a soldier; that in the army he was but one man, and in the General Assembly he might obtain many, with the supplies they needed, by showing the destitution and suffering which he had seen in the camp; and that it was his duty to go. This view of duty and usefulness was decisive. Mr. Macon obeyed the Governor's summons, and by his representations contributed to obtain the supplier which enabled Greene to turn back and face Cornwallis—fight him, cripple him, drive him further back than he had advanced (for Wilmington is south of Camden), disable him from remaining in the South (of which, up to the battle of Guilford, he believed himself to be master), and sending him to Yorktown, where he was captured and the war ended.

The philosophy of history has not yet laid hold of the battle of Guilford, its consequences and effects. That battle made the capture of Yorktown. The events are told in every history: their connection and dependence in none. It broke up the plan of

Cornwallis in the South, and changed the plan of Washington in the North. Cornwallis was to subdue the Southern States, and was doing it until Greene turned upon him at Guilford. Washington was occupied with Sir Henry Clinton, then in New York with twelve thousand British troops. He had formed the heroic design to capture Clinton and his army (the French fleet cooperating) in that city, and thereby putting an end to the war. All his preparations were going on for that grand consummation when he got news of the battle of Guilford, the retreat of Cornwallis to Wilmington, his inability to keep the field in the South, and his return northward through the lower part of Virginia. He saw his advantage—an easier prey—and the same result, if successful. Cornwallis or Clinton, either of them captured, would put an end to the war. Washington changed his plan, deceived Clinton, moved rapidly upon the weaker general, captured him and his seven thousand men, and ended the Revolutionary war. The battle of Guilford put that capture into Washington's hands; and thus Guilford and Yorktown became connected; and the philosophy of history shows their dependence, and that the lesser event was father to the greater. The State of North Carolina gave General Greene twenty-five thousand acres of western land for that day's work, now worth a million of dollars; but the day itself has not yet obtained its proper place in American history.

The military life of Mr. Macon finished with his departure from the camp on the Yadkin, and his civil public life commenced on his arrival at the General Assembly, to which he had been summoned—that civil public life in which he was continued above forty years by free elections—Representative in

Congress under Washington, Adams, Jefferson, and Madison, and long the Speaker of the House; Senator in Congress under Madison, Monroe, and John Quincy Adams; and often elected President of the Senate, and until voluntarily declining; twice refusing to be Postmaster-General under Jefferson; never taking any office but that to which he was elected; and resigning his last senatorial term when it was only half run. But a characteristic trait remains to be told of his military life—one that has neither precedent nor imitation (the example of Washington being out of the line of comparison): he refused to receive pay or to accept promotion, and served three years as a private through mere devotion to his country. And all the long length of his life was conformable to this patriotic and disinterested beginning: and thus the patriotic principles of the future Senator were all revealed in early life and in the obscurity of an unknown situation. Conformably to this beginning, he refused to take anything under the modern acts of Congress for the benefit of the surviving officers and soldiers of the Revolution, and voted against them all, saying they had suffered alike (citizens and military), and all been rewarded together in the establishment of independence; that the debt to the army had been settled by pay, by pensions to the wounded, by half-pay and land to the officers: that no military claim could be founded on depreciated continental paper money, from which the civil functionaries who performed service, and farmers who furnished supplies, suffered as much as any. On this principle he voted against the bill for Lafayette, against all the modern Revolutionary pensions and land bounty acts, and refused to take anything under them (for many were applicable to himself).

His political principles were deep-rooted, innate, subject to no change and to no machinery of party. He was democratic in the broad sense of the word, as signifying a capacity in the people for self-government; and in its party sense, as in favor of a plain and economical administration of the Federal Government, and against latitudinarian constructions of the Constitution. He was a party man, not in the hackneyed sense of the word, but only where principle was concerned; and was independent of party in all his social relations, and in all the proceedings which he disapproved. Of this he gave a strong instance in the case of General Hamilton, whom he deemed honorable and patriotic; and utterly refused to be concerned in a movement proposed to affect him personally, though politically opposed to him. He venerated Washington, admired the varied abilities and high qualities of Hamilton, and esteemed and respected the eminent Federal gentlemen of his time. He had affectionate regard for Madison and Monroe; but Mr. Jefferson was to him the full and perfect exemplification of the republican statesman. His almost fifty years of personal and political friendship and association with Mr. Randolph is historical, and indissolubly connects their names and memories in the recollection of their friends, and in history, if it does them justice. He was the early friend of General Jackson, and intimate with him when he was a Senator in Congress under the administration of the elder Mr. Adams; and was able to tell Congress and the world who he was when he began to astonish Europe and America by his victories. He was the kind observer of the conduct of young men, encouraging them by judicious commendation when he saw them making efforts to become useful and respectable, and never noting

their faults. He was just in all things, and in that most difficult of all things, judging political opponents, to whom he would do no wrong, not merely in word or act, but in thought. He spoke frequently in Congress, always to the point, and briefly and wisely; and was one of those speakers whom Mr. Jefferson described Dr. Franklin to have been—a speaker of no pretension and great performance, who spoke more good sense while he was getting up out of his chair, and getting back into it, than many others did in long discourses; and he suffered no reporter to dress up a speech for him.

He was above the pursuit of wealth, but also above dependence and idleness; and, like an old Roman of the elder Cato's time, worked in the fields at the head of his slaves in the intervals of public duty, and did not cease this labor until advancing age rendered him unable to stand the hot sun of summer—the only season of the year when senatorial duties left him at liberty to follow the plough or handle the hoe. I think it was the summer of 1817—that was the last time (he told me) he tried it, and found the sun too hot for him—then sixty years of age, a Senator, and the refuser of all office. How often I think of him when I see at Washington robustious men going through a scene of supplication, tribulation, and degradation, to obtain office, which the salvation of the soul does not impose upon the vilest sinner. His fields, his flocks and his herds yielded an ample supply of domestic productions. A small crop of tobacco—three hogsheads when the season was good, two when bad—purchased the exotics which comfort and necessity required and which the farm did not produce. He was not rich, but rich enough to dispense hospitality and charity, to receive all guests in his house, from the President to the day-laborer—

no other title being necessary to enter his house but that of an honest man; rich enough to bring up his family (two daughters) as accomplished ladies, and marry them to accomplished gentlemen—one to William Martin, Esq., and the other to William Eaton, Esq., of Roanoke, my early schoolfellow and friend for more than half a century; and, above all, he was rich enough to pay as he went and never to owe a dollar to any man.

He was steadfast in his friendships and would stake himself for a friend, but would violate no point of public duty to please or oblige him. Of this his relations with Mr. Randolph gave a signal instance. He drew a knife to defend him in the theatre at Philadelphia, when menaced by some naval and military officers for words spoken in debate and deemed offensive to their professions; yet, when Speaker of the House of Representatives, he displaced Mr. Randolph from the head of the Committee of Ways and Means because the chairman of that committee should be on terms of political friendship with the administration—which Mr. Randolph had then ceased to be with Mr. Jefferson's. He was above executive office, even the highest the President could give; but not above the lowest the people could give, taking that of justice of the peace in his county, and refusing that of Postmaster-General at Washington. He was opposed to nepotism, and to all quartering of his connections on the government; and in the course of his forty-years' service, with the absolute friendship of many administrations and the perfect respect of all, he never had office or contract for any of his blood. He refused to be a candidate for the Vice-Presidency, but took the place of Elector on the Van Buren ticket in 1836. He was against paper money and the paper

system, and was accustomed to present the strong argument against both, in the simple phrase that this was a hard-money government, made by hard-money men, who had seen the evil of paper money and meant to save their posterity from it. He was opposed to security-ships, and held that no man ought to be entangled in the affairs of another, and that the interested parties alone—those who expected to find their profit in the transaction—should bear the bad consequences, as well as enjoy the good ones, of their own dealings. He never called any one "friend" without being so, and never expressed faith in the honor and integrity of a man without acting up to the declaration when the occasion required it. Thus, in constituting his friend, Weldon N. Edwards, Esq., his testamentary and sole executor, with large discretionary powers, he left all to his honor, and forbade him to account to any court or power for the manner in which he should execute that trust. This prohibition was so characteristic, and so honorable to both parties, and has been so well justified by the event, that I give it in his own words, as copied from his will, to-wit:

"I subjoin the following, in my own handwriting, as a codicil to this my last will and testament, and direct that it be a part thereof—that is to say, having full faith in the honor and integrity of my executor above named, he shall not be held to account to any court or power whatever for the discharge of the trust confided by me to him in and by the foregoing will."

And the event has proved that his judgment, as always, committed no mistake when it bestowed that confidence. He had his peculiarities—idiosyncrasies, if any one pleases—but they were born with him,

suited to him, constituting a part of his character, and necessary to its completeness. He never subscribed to charities, but gave, and freely, according to his means—the left hand not knowing what the right hand did. He never subscribed for new books, giving as a reason to the soliciting agent that nobody purchased his tobacco until it was inspected, and he could buy no book until he had examined it. He would not attend the Congress Presidential Caucus of 1824, although it was sure to nominate his own choice (Mr. Crawford); and, when a reason was wanted, he gave it in the brief answer that he attended one once and they cheated him, and he had said that he would never attend another. He always wore the same dress—that is to say, a suit of the same material, cut, and color superfine navy blue —the whole suit from the same piece, and in the fashion of the time of the Revolution; and always replaced by a new one before it showed age. He was neat in his person, always wore fine linen, a fine cambric stock, a fine fur hat with a brim to it, fair top-boots—the boot outside the pantaloons, on the principle that leather was stronger than cloth. He would wear no man's honors, and when complimented on the report on the Panama mission, which, as Chairman of the Committee on Foreign Relations, he had presented to the Senate, he would answer, "Yes, it is a good report; Tazewell wrote it." Left to himself, he was ready to take the last place and the lowest seat anywhere; but, in his representative capacity he would suffer no derogation of a constitutional or of a popular right. Thus, when Speaker of the House, and a place behind the President's Secretaries had been assigned him in some ceremony, he disregarded the programme, and, as the elect of the elect of all the

people, took his place next after those whom the national vote had elected. And in 1803, on the question to change the form of voting for President and Vice-President, and the vote wanting one of the constitutional number of two-thirds, he resisted the rule of the House which restricted the Speaker's vote to a tie, or to a vote which would make a tie—claimed his constitutional right to vote as a member, obtained it, gave the vote, made the two-thirds, and carried the amendment.

And, what may well be deemed idiosyncratic in these days, he was punctual in the performance of all his minor duties to the Senate, attending its sittings to the moment, attending all the committees to which he was appointed, attending all the funerals of the members and officers of the Houses, always in time at every place where duty required him; and refusing double mileage for one traveling when elected from the House of Representatives to the Senate or summoned to an extra session. He was an habitual reader and student of the Bible, a pious and religious man, and of the "*Baptist persuasion*," as he was accustomed to express it.

I have a pleasure in recalling the recollections of this wise, just and good man, and in writing them down, not without profit, I hope, to rising generations, and at least as extending the knowledge of the kind of men to whom we are indebted for our independence and for the form of government which they established for us. Mr. Macon was the real Cincinnatus of America, the pride and ornament of my native State, my hereditary friend through four generations, my mentor in the first seven years of my senatorial, and the last seven of his senatorial life; and a feeling of gratitude and of filial affection

mingles itself with this discharge of historical duty to his memory.

Mr. Benton called his sketch, which appears in his *Thirty-years' View*, "Retiring of Mr. Macon." It is well done, and interesting also because it is what one great man said of another. Yet I confess with some mortification that I have never seen it in print in North Carolina except in Benton's book.

To the foregoing admirable sketch by Benton I subjoin the following copious extracts from the *Memoir of Nathaniel Macon* by Weldon N. Edwards, published in July, 1862:

> Nathaniel Macon was born on the 17th of December, 1758, in the county of Bute, of the then province of North Carolina, in the part of it now Warren, within a few miles of the present village of Warrenton, of poor and respectable parents. His great-grandfather was a Huguenot and came over from France to escape the persecutions consequent upon the revocation of the Edict of Nantes, in 1685. His father, Gideon H. Macon, was born in Virginia, whence he came to North Carolina. His mother was a native of North Carolina and a daughter of Edward Jones, of Shocco. He lost his father in early boyhood, and was left, with many brothers and sisters, in the care of his widowed mother, with such moderate means of support as to require the utmost care and industry to get on even tolerably in the world. He assisted in all the domestic offices and labors common with boys at that day. He acquired the rudiments of education in the neighborhood, at what was called an "old-field school." The application, progress, and good habits of the boy gave such promise of the future man that it was resolved to

make every effort to give him a thorough education, and he was accordingly sent to Princeton College, New Jersey. His own inclinations eagerly seconded the hopeful purpose of his friends. While there, he prosecuted his studies with fond diligence, and sought all the avenues to useful knowledge with unflagging zeal. Nor did he relax his efforts in this respect after his return home, devoting to such books as were within his reach all the time he could spare from the ordinary duties of life; but he met with great difficulties, owing to the scarcity of books and his own poverty. In the latter part of his life he was often heard to say that his eyesight failed him sooner than it otherwise would have done, in consequence of his reading so much by firelight in his youth and early manhood, being then too poor to buy candles, his small patrimony having been exhausted during his minority in his support and education.

His love for North Carolina was sincere and thorough. In all that concerned her character, her institutions, her welfare, he felt an ever-wakeful solicitude. Although he received his collegiate education in a distant State, he ever after gave a decided preference to the seminaries of his own loved North Carolina. When his son-in-law, William Eaton, Sr., in the year 1823 was about to send two of his sons to Cambridge, he dissuaded him from it and advised him to send them to the University of North Carolina, because, among other reasons, they would there make acquaintances of many of the future men of the State, and contract friendships that would be of service to them in the part they were destined to act in the great drama of life.

He studied law, but never applied for a license to practice. There is now in possession of his grandson, William Eaton, Jr. (who shared his confidences and affections, and is a worthy representative of his principles and virtues), an old London-bound edition of Blackstone's Commentaries, which was used by

him, and which is highly valued as a family relic. Like all persons of taste, he admired the classic elegance of this celebrated work, but regarded its author as too subservient to power, and wanting in manliness and independence. He considered Sir Edward Coke a much better friend to English liberty. * * * * * * * * *

Stability and consistency were strong points in Mr. Macon's character, formed upon his uncompromising adherence to principle and unswerving fidelity to duty. In his conversation he was easy and unaffected, in his manners and dress a decided model of republican simplicity, pretentious in nothing; all who approached him felt conscious of receiving the civility and respect demanded by the nicest sense of propriety. To these characteristics did he owe much of that firm hold upon the confidence and esteem of his countrymen which sustained him in the severe trials always to be met in the great battle of life. His was an enduring popularity; it never waned; it existed in as much vigor and freshness at the close of his life as at any former period; it lived after him, and it is the source of the highest gratification to his numerous friends and admirers that he is still often quoted as the bright exemplar of "the honest man and the wise and virtuous statesman." * * * * * * * * * *

Though so long honored, and so many years the depositary of public honors and public trusts, Mr. Macon's was the rare merit of never having solicited any one to vote for him, or even intimated a wish that he should; and though no one shared more fully the confidence of a large circle of influential friends, his is the praise of never having solicited the slightest interest for his own preferment. Public honors sought him; he prized them only as the reward of faithful and virtuous performance, and regarded place as the means merely of bringing him in nearer contact with public duty. He made no

popular harangues, seeking to avoid temptation of being betrayed into promises which he could not or would not fulfill, or into protestations which his heart would not sanction. He was never found rambling through his Congressional District, seeking to engineer himself into popular favor by means which self-respect and a just sense of the rights of others forbade. His rule was to attend punctually, once a year, if health permitted, the first court held in each county in his district after his return from Congress. There he met his constituents, there he received their greetings and heard their complaints; there, without simulation, gave a full account of his stewardship. In his intercourse with them he was easy, frank, and communicative, never withholding his opinion upon matters of public concernment, and always inviting them to the exercise of the utmost freedom of thought and of speech as the highest privilege of freemen and the surest guard of liberty. He never attended what, in his own characteristic language, he called "a man-dinner," regarding all such political pageants as having too much deceptious exterior, and as being too little calculated to better the popular heart or enlighten the popular mind. And when, upon his retirement from Congress, a large portion of his old constituents tendered him the compliment of a public dinner, he declined it in a brief note, saying that "he had never been at such a show, and that he had already received the most gratifying proofs of their good-will and esteem."

To shun all ostentatious display and the emptiness of pride was, with him, a *principle*; and to do good to his fellow-men, and to society, a rule of action which he scrupulously observed, always abstaining, in the employment of his faculties, and in the use of the abundant goods with which frugal industry had blessed him, from the gratification of any passion, the indulgence of which prudence forbade to others less favored by fortune—thus teaching, by both precept and example, the necessity of temperance,

frugality and industry, as the surest and best foundation for contentment and plenty.

Of generous and unsuspicious nature, he never looked with uncharitableness on the actions of his fellow-men, but, with the strength and armor of a well-balanced mind, gave to them the calmest consideration and assigned to each its appropriate place in the scale of good and evil. Of philosophic mind, subdued temper, and great self-command, he met the incidents and accidents of life, not with stoic indifference, but with quiet submission—yielding nothing to passion, less to despondency, and looking to passing events as to a school for instruction, and deducing from them useful lessons to guide him in the pathway of life.

Of him it may be emphatically said, that he thought for himself, but reposing, with confidence, on his discriminating sense of justice and integrity of purpose, he gave to all subjects the fullest deliberation, and never jumped to conclusions in advance of his judgment. But when he had formed an opinion he adhered to it with a fearless and virtuous inflexibility which yielded to no importunity or persuasion. This, with some, subjected him to the charge of obstinacy.

"Virtue itself 'scapes not calumnious strokes."

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He was chary of promises, but always punctual and exact in performance; would give his bond or note to no man, contract no debts, would buy nothing without paying for it. "Pay as you go" was a law to him which he inflexibly observed. He mastered all his wants and kept them in strict subjection to reason. He would lend money to a friend, but never take interest. He classed labor among the virtues, never called for help in anything he could do himself, labored often in his fields at the head of his slaves, during the intervals allowed from

public duties, and topped all his own tobacco, when at home at the proper season, till the infirmities of age rendered him unable to stand the heat of the sun. He was fond of the chase and indulged in his favorite amusement, the pursuit of the fox and the deer, as long as he lived.

He spoke often in Congress—seldom long. His speeches were always to the point, strong, practical, sententious, often furnishing materials for the rhetorical displays of others. A most distinguished member once characterized his speeches as "dishes of the best material served up in the best manner." Unless prevented by bad health, he was always in his seat, voted on every question, was punctual in attendance upon committees, and ever ready at the call of duty.

He was fond of reading, but his favorite study was man. "He made choice of human nature for the object of his thoughts." To this predilection did he owe that consummate knowledge of the human character, and those practical lessons of wisdom (of so much consequence in the conduct of life) which gave him rank among the "wisest and best."

There is no surer test of merit than is found in the favorable opinions of the wise and the good, formed in the unrestricted freedom of social intercourse, when the seal of reserve is unloosed, and neither the pride of ostentation nor the dread of criticism or censure invites to concealment. Impressed with this truth, with a view to impart deeper interest to this sketch, by stamping the seal of verity upon the high and noble traits it portrays, recourse is had to the correspondence of eminent and distinguished statesmen, to whom all the avenues of knowledge were opened by close intimacy and long association in public life. Thomas Jefferson, whose monument is to be found in the Declaration of Independence, and in the enduring popular veneration which he so largely shared, but a few weeks after his first

inauguration as President of the United States, in 1801, thus writes to Mr. Macon: "And in all cases when an office becomes vacant in your State, as the distance would occasion a great delay, were you to wait to be regularly consulted, I shall be much obliged to you to recommend the best characters. There is nothing I am so anxious about as making the best possible appointments, and no case in which the best men are more liable to mislead us by yielding to the solicitations of applicants. For this reason your own spontaneous recommendation would be desirable." Thus did Mr. Jefferson stake an important portion of his administrative duties upon his high estimate of Mr. Macon's integrity and wisdom. Again, in another letter to Mr. Macon, the 24th of March, 1826, Mr. Jefferson says: "My grandson, Thomas Jefferson Randolph, the bearer of this letter, on a journey to the North, will pass two or three days, perhaps, in Washington. I cannot permit him to do this without presenting him to a friend of so long standing, whom I consider as the strictest of our models of genuine republicanism. Let him be able to say, when you are gone, but not forgotten, that he had seen Nathaniel Macon, upon whose tomb will be written, '*Ultimus Romanorum!*' I only ask you to give him a hearty shake of the hand, on my account, as well as his own, assuring you he merits it as a citizen, to which I will add my unceasing affection to yourself." * * * * * * *

Of Mr. Macon's claims to distinction, and to take rank on the roll of fame among the first of those who embellish the pages of American history, that sagacious statesman, John Randolph of Roanoke, whose perception of character was rarely at fault, in a letter to Mr. Macon, 14th December, 1828, thus speaks: "Your kind letter of the 10th is just now received. Many, many thanks for it. I am truly concerned at the causes which justly occasion you uneasiness; yet, when I reflect, I know of no man in the United States whom I would so soon be as

yourself. There is no one who stands so fair in the public estimation; and, with the single exception of General Washington, there is not one of your times who will stand so fair with posterity as yourself. There are various sorts of reputations in the world. Some are obtained by cringing and puffing, some are actually begged for and given as an alms to importunity, some are carried by sheer impudence. No one has had a better opportunity of observing this than yourself; and there is no keener observer."

Upon such testimonials as these, from such high and pure sources, the reputation of this just and virtuous man may safely repose. They bespeak a name and a fame which dignify humanity, and invest his memory with a usefulness scarcely less to be prized than his services while living.

This sketch would be imperfect did it not notice the suggestive fact that in his latter years Mr. Macon had painful misgivings for the future of his country. 'Tis true he did not parade his opinions before the public gaze, preferring rather to encourage, not to alarm, the popular mind; but often when his thoughts were turned on what he deemed the political distempers and proclivities of the times, did he say to a friend in his own pregnant language: "I am afraid of all my labors have been for nothing"—obviously referring to his hardships in the tented field and his arduous and well-directed labors in the councils of his country, having devoted to these patriotic offices the greater part of a long life, commencing before manhood and ending with its close. At one period he reposed with entire confidence on the conviction that popular rights and public liberty were effectually secured by the Constitution of the United States, but this hopeful reliance failed him as early as 1824. In a debate, at that period, in the Senate of the United States, on the bill for a subscription to the Delaware and Chesapeake Canal, Mr. Macon said: "I rise with a full

> heart to take my last farewell of an old friend that I have always admired and loved—the Constitution of the United States. * * * In times of old, whenever any question touching the Constitution was brought forward, it was discussed day after day; that time is now passed. * * * Do a little now and a little then, and by and by you will render the government as powerful and unlimited as the British government was. We go on deciding these things without looking at the Constitution; and I suppose we will, in a few years, do as was done in England. We shall appoint a committee to hunt for precedents. My heart is full when I think of all this; and what is to become of us I cannot say. * * * My fears may be groundless; they may be nothing but the suggestions of a worn-out old man; but they are sincere, and I am alarmed for the safety of this government."
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> In vain did he then, as often before, raise his warning voice against the dangers of inroads upon the Constitution. And now that the direst calamities are upon us, resulting from its utter overthrow and its base prostitution by wicked men to the worst and most wicked purposes—how loudly do they proclaim the unerring sagacity of his gifted and far-reaching mind!

In person Macon was above the middle size, of florid but fair complexion, keen blue eyes, animated but kindly countenance, not very good-looking, but possessed of a symmetrical form and strength of body. His manners were simple and unostentatious, but not without sufficient dignity and firmness.

He was married early in life to Miss Hannah Plummer, of Warren, his own county.

A good story is told of the way he won her. He

proposed in her presence to his rival that they should settle their claim to her hand by a game of cards. This was agreed to and Macon lost. He then raised up his hands, and with eyes fixed on the object of his affection, exclaimed: "Hannah, notwithstanding I have lost you fairly, love is superior to honesty: I cannot give you up." He won, and was married to her October 9th, 1783.

He was elected to the House of Representatives in 1791, and served continuously until 1815, when he was elected to the Senate. He was also a trustee of the University and a justice of the peace, both of which offices he gave up in 1828, at the time he resigned his seat in the Senate.

He was not a party man, but believed in true democracy. He complained often that some of the most vital parts of the Constitution had been construed or enacted away before he left Congress. He was a strict constructionist.

He presided over the Constitutional Convention of 1835, and took part in its deliberations upon the more important questions. With Gaston, he favored religious toleration, and made a speech against the clause in the old Constitution prohibiting all but those of the Protestant religion from holding any office of trust or profit in North Carolina.

He was averse to having his picture taken. This peculiarity grew on him, until in very old age he is said to have threatened a persistent picture-maker with libel if, as he had suggested, he should take his (Macon's) picture without his knowledge. Hardly a growth so strong and rugged without some gnarls and knots. The picture of him given in this book is from a portrait by Randall, and is pronounced a good likeness by Mr. J. A. Egerton (an old neighbor) and

others who knew him intimately.

He paid his physician attending him in his last illness before he died, and directed the details of his burial.

The *Life of Macon* was written in 1840 by Edward R. Cotten; but in his book of two hundred and seventy-two pages, Cotten says comparatively little of Macon, and devotes most of his space to his own views on many subjects, Macon's opinions and acts sometimes furnishing the text. If the book was not entitled *Life of Macon* it would be more interesting. As indicating what a Warren county gentleman of much leisure and considerable reading, of good associates and ordinary capacity, was thinking about in 1840, the book ought to be preserved.

In order to give an idea of Macon's directness and simplicity, I offer an abbreviated report of one of his speeches made in the Senate, taken almost at random from the *Abridgment of the Debates of Congress*. The time was January 20, 1820. The question was the admission of Missouri, as well as Maine, into the Union. The protected States urged an amendment restricting slavery in Missouri before it should be admitted as a State, which amendment Mr. Macon opposed with his usual sound sense. The speech is imperfectly reported, but contains the germ of almost all that could have been said on the subject from his standpoint.

SPEECH ON THE MISSOURI COMPROMISE.

By NATHANIEL MACON.

Mr. Macon, of North Carolina, said that he agreed in opinion with the gentleman who had declared this to be the greatest question ever debated in the Senate, and that it ought to be discussed in the calmest manner, without attempting to excite passion or prejudice. It was, however, to be regretted that while some of those who supported the motion were quite calm and cool they used a good many hard words, which had no tendency to continue the good humor which they recommended. He would endeavor to follow their advice, but must be pardoned for not following their example in the use of hard words. If, however, one should escape him, it would be contrary to his intention, and an act of indiscretion, not of design or premeditation. He hoped to examine the subject with great meekness and humility.

The debate had brought forcibly to his recollection the anxiety of the best patriots of the nation, when the present Constitution was examined by the State conventions which adopted it. The public mind was then greatly excited, and men in whom the people properly placed the utmost confidence were divided. There was then no whisper about disunion, for every one considered the Union as absolutely necessary for the good of all. But to-day we have been told by the honorable gentleman from Pennsylvania (Mr. Lowrie) that he would prefer disunion rather than that slaves should be carried west of the Mississippi. Age, Mr. Macon said, may have rendered him timid, or education may have prevailed on him to attach greater blessings to the Union and the Constitution than they deserve. If this be the case, and it be an error, it was one he had no desire to be free from even after what he had heard in this debate. Get clear of this Union and it will be found vastly more

difficult to unite again and form another. There were no parties in the country at the time it was formed, not even upon this question. The men who carried the nation through the Revolution were alive, and members of the Convention. Washington was at their head. Have we a Washington now? No. Is there one in the nation to fill his place? No. His like, if ever, has been rarely seen; nor can we, rationally, expect another in our day. Let us not speak of disunion as an easy thing. If ever it shall come, it will bring evils enough for the best men to encounter, and all good men, in every nation, lovers of freedom, will lament it. This Constitution is now as much an experiment as it was in the year 1789. It went into operation about the time the French Revolution commenced. The wars which grew out of that, and the difficulties and perplexities which we had to encounter, in consequence of the improper acts of belligerents, kept the people constantly attached to the government. It has stood well the trial of trouble and of war, and answered, in those times, the purposes for which it was formed and adopted; but now it is to be tried, in time of universal peace, whether a government within a government can sustain itself and preserve the liberty of the citizen. When we hear the exclamation "Disunion, rather than slaves be carried over the Mississippi," it ought not to be forgotten that the union of the people and the Confederation carried us through the Revolutionary war (a war of which no man can wish to see the like again in this country); but, as soon as peace came, the Confederation was found to be entirely unfit for it; so unfit that it was given up for the present Constitution. Destroy this Union, and what may be the condition of the country, no man, not the most sagacious, can even imagine. It will surely be much

worse than it was before the Constitution was adopted; and that must be well remembered.

The proposed amendment is calculated to produce geographical parties, or why admonish us to discuss it with moderation and good temper? No man who has witnessed the effect of parties nearly geographical can wish to see them revived. Their acts formerly produced uneasiness, to say the least of them, to good men of every party. General Washington has warned us against them; but he is now dead, and his advice may soon be forgotten; form geographical parties and it will be discarded. Instead of forming sectional parties it would be more patriotic to do them away. But party and patriotism are not always the same. Town meetings and resolutions to inflame one part of the nation against another can never benefit the people, though they may gratify an individual. Leave the people to form their own opinions, without the aid of inflammatory speeches at town meetings, and they will always form them correctly. No town meeting was necessary to inform or inflame the public mind against the law giving members of Congress a salary instead of a daily allowance. The people formed their own opinions, disapproved it, and it was repealed. So they will always act if left to themselves. Let not parties formed at home for State purposes be brought into Congress to disturb and distract the Union. The general government hitherto has been productive enough of parties to satisfy those who most delight in them; so that they are not likely to be long wanted in it. Enough, and more than enough, has been produced by the difficulty of deciding what is and what is not within the limits of the Constitution. And, at this moment, we have difficulties enough to scuffle with without adding the present question. The

dispute between the Bank of the United States and the State banks, the want of money by the government, the increase of taxes in the midst of increasing debts, and the dispute with Spain might serve for this session.

All the States now have equal rights and all are content. Deprive one of the least right which it now enjoys in common with the others, and it will no longer be content. So, if the Government had an unlimited power to put whatever conditions it pleased on the admission of a new State into the Union, a State admitted with a condition unknown to the others would not be content, no matter what might be the character of the condition, even though it was not to steal or commit murder. The difference in the terms of admission would not be acceptable. All the new States have the same rights that the old have, and why make Missouri an exception? She has not done a single act to deserve it, and why depart, in her case, from the great American principle that the people of each State can govern themselves? No reason has been assigned for the attempt at the departure, nor can one be assigned which would not apply as strongly to Louisiana. In every free country that ever existed the first violations of the principles of government were indirect and not well understood, or supported with great zeal by only a part of the people.

All the country west of the Mississippi was acquired by the same treaty, and on the same terms, and the people in every part have the same rights; but, if the amendment be adopted, Missouri will not have the same rights which Louisiana now enjoys. She has been admitted into the Union as a full sister, but her twin-sister, Missouri, under the proposed

amendment, is to be admitted as a sister of the half-blood, or rather as a stepdaughter, under an unjust stepmother—for what? Because she, as well as Louisiana, performed well her part during the late war, and because she has never given the general government any trouble. The operation of the amendment is unjust as it relates to the people who have moved there from other States. They carried with them the property which was common in the States they left, secured to them by the Constitution and laws of the United States as well as by the treaty. There they purchased public lands and settled with their slaves, without a single objection to their owning and carrying them; but now, unfortunately for them, after they have been to the trouble and expense of building houses and clearing plantations in the new country it has been discovered that they had no right to carry their slaves with them and that they must now move and make room for those who are considered a better people. The country was bought with the money of all, slaveholders as well as those who are not; and every one knew when he bought land and moved with his property he had a perfect right to do so. And no one till last session ever said to the contrary or moved the restriction about slaves. The object now avowed is to pen up the slaves and their owners, and not permit them to cross the Mississippi to better their condition, where there is room enough for all and good range for man and beast. (And man is as much improved by moving and range as the beast of the field.) But what is still more unaccountable, a part of the land granted to the soldiers for their services in the late war was laid off in Missouri expressly for the soldiers who had enlisted in the Southern States, and would prefer living where they might have slaves. These too are

now to leave the country of their choice and the land obtained by fighting the battles of the nation. Is this just in a government of law, supported only by opinion? for it is not pretended that it is a government of force. In the most alarming state of our affairs at home—and some of them have an ugly appearance—public opinion alone has corrected and changed that which seemed to threaten disorder and ill-will into order and good-will, except once, when the military was called out in 1791. Let this be compared to the case of individuals and it will not be found to be more favorable to the amendment than the real case just stated. A and B buy a tract of land large enough for both and for their children, and settle it, build houses and open plantations. When they have got it in good way to live comfortably, after ten or fifteen years, A thinks there is not too much for him and his children, and that they can, a long time hence, settle and cultivate the whole land. He then for the first time tells B that he has some property he does not like, and that he must get clear of it or move. B states the bargain. A answers that it is true he understood it so until of late, but that move he must or get clear of his property; for that property should not be in his way. The kind or quality of property cannot affect the question.

A wise legislature will always consider the character, condition and feelings of those to be legislated for. In a government and people like ours this is indispensable. The question now under debate demands this consideration. To a part of the United States, and that part which supports the amendment, it cannot be important except as it is made so by the circumstances of the time. In all questions like the present, in the United States, the strong may yield without disgrace even in their own opinion; the weak

cannot. Hence the propriety of not attempting to impose this new condition on the people of Missouri. Their numbers are few compared to those of the whole United States. Let the United States then abandon this new scheme, let their magnanimity and not their power be felt by the people of Missouri. The attempt to govern too much has produced every civil war that ever has been, and probably every one that ever may be. All governments, no matter what their form, want more power and more authority, and all the governed want less government. Great Britain lost the United States by attempting to govern too much and to introduce new principles of governing. The United States would not submit to the attempt, and earnestly endeavored to persuade Great Britain to abandon it, but in vain. The United States would not yield, and the result is known to the world. The battle is not always to the strong nor the race to the swift. What reason have we to expect that we can persuade Missouri to yield to our opinion that did not apply as strongly to Great Britain? They are as near akin to us as we were to Great Britain. They are "flesh of our flesh and bone of our bone." But as to kin, when they fall out they do not make up sooner than other people. Great Britain attempted to govern us on a new principle, and we are attempting to establish a new principle for the people of Missouri on becoming a State. Great Britain attempted to collect a threepenny tax on the tea consumed in the then colonies, which were not represented in Parliament; and we to regulate what shall be property when Missouri becomes a State, when she has no vote in Congress. The great English principle of no tax without representation was violated in one case, and the great American principle, that people are able to govern themselves, will be violated if the

amendment be adopted. Every free nation has had some principle in its government to which more importance was attached than to any other. The English principle was not to be taxed without the consent of the people given in Parliament; the American principle is the right of the people to form their State governments in their own way, provided they be not inconsistent with the Constitution of the United States. If the power in Congress to pass the restriction was expressly delegated, and so clear that no one could doubt it, in the present circumstances of the country, it would still not be wise or prudent to do so; especially against the consent of those who live in the territory. Their consent would be more important to the nation than a restriction which would not make one slave less, unless indeed they might be starved in the old States.

Let me not be understood as wishing or intending to create any alarm as to the intentions of the people of Missouri. I know nothing of them. But in examining the question, we ought not to forget our own history nor the character of those who settle on our frontiers. Your easy chimney-corner people, the timid and fearful, never move to them. They stay where there is no danger from an Indian or any wild beast. They have no desire to engage the panther or the bear. It is the bravest of the brave and the boldest of the bold who venture there. They go not to return.

The settling of Kentucky and Tennessee during the war of the Revolution proves in the most satisfactory manner what they can do and will undergo, and that they will not return. The few people who first settled there had to contend, without aid from the States, against all the Indians bordering on the United States

except the Chickasaw and Choctaw nations, and maintained their stations. The northern tribes, unaided by the southern, attacked the United States since the adoption of the Constitution and defeated two armies, and it required a third to conquer them. The frontier people in the Revolutionary war, as well as in the late, astonished everybody by their great exploits. Vermont, though claimed in the Revolutionary war by New Hampshire and New York, was not inferior to any of the States in her exertions to support independence.

The gentleman from Pennsylvania will pardon me for stating that that State had had some experience of its government managing a few people who would not yield obedience to its authority, though settled within its limits. They were obliged to compromise. I mean the Wyoming settlers. Again, since this government was in operation, a few people settled on the Indian lands: they were ordered to move from them, but did not obey: the military was sent to burn their cabins. The commanding officer told them his business, and very humanely advised them to move what property they had out of them. This they did, and their cabins were burnt. They waited till the troops marched, and very soon after built new cabins on the same places and to the same chimneys.

These facts are stated to show that a contest with a people who believe themselves right and one with a government are very different things. It would have been very gratifying to me to have been informed by some one of the gentlemen who support the amendment what is intended to be done if it be adopted, and the people of Missouri will not yield, but go on and form a State government (having the requisite number of inhabitants agreeably to the

ordinance), as Tennessee did, and then apply for admission into the Union. Will she be admitted, as Tennessee was, on an equal footing with the original States, or will the application be rejected as the British government did the petitions of the old Congress?

If you do not admit her, and she will not return to the territorial government, will you declare the people rebels, as Great Britain did us, and then order them to be conquered for contending for the same rights that every State in the Union now enjoys? Will you for this, order the father to march against son and brother against brother? God forbid! It would be a terrible sight to behold these near relations plunging the bayonet into each other for no other reason than because the people of Missouri wish to be on equal footing with the people of Louisiana. When Territories they were equal. Those who remember the Revolution will not desire to see another civil war in our land. They know too well the wretched scenes it will produce. If you should declare them rebels and conquer them, will that attach them to the Union? No one can expect this. Then do not attempt to do that for them which was never done for others, and that which no State would consent for Congress to do for it. If the United States are to make conquests, do not let the first be at home. Nothing is to be got by American conquering American. Nor ought we to forget that we are not legislating for ourselves, and that the American character is not yielding when rights are concerned. But why depart from the old way, which has kept us in quiet, peace and harmony, every one living under his own vine and fig-tree and none to make him afraid? Why leave the road of experience, which has satisfied all and made all happy, to take this new

way, of which we have no experience? This way leads to universal emancipation, of which we have no experience. The Eastern and Middle States furnish none. For years before these States emancipated their slaves they had but few, and of them a part were sold to the South. We have no more experience or book-learning on this subject than the French Convention had which turned the slaves of Santo Domingo loose. Nor can we foresee the consequences which may result from this new motion clearer than the Convention did in their decree.

A clause in the Declaration of Independence has been read declaring that "all men are created equal." Follow that sentiment, and does it not lead to universal emancipation? If it will justify putting an end to slavery in Missouri, will it not justify it in the old States? Suppose the plan followed and all the slaves turned loose, and the Union to continue, is it certain that the present Constitution would last long? The rich would in such circumstances want titles and hereditary distinctions, the negro food and raiment, and they would be as much or more degraded than in their present condition. The rich might hire these wretched people, and with them attempt to change the government by trampling on the rights of those who have only property enough to live comfortably. Opinions have greatly changed in some of the States in a few years. The time has been when those now called slaveholding States were thought to be the firm and steadfast friends of the people and of liberty. Then they were opposing an administration and a majority in Congress supported by a sedition law; then there was not a word heard, at least from one side, about those who actually did most toward changing the administration and the majority in Congress, and they were from slaveholding States.

And now it would be curious to know how many members of Congress actually hold seats in consequence of their exertions at the time alluded to. Past services are always forgotten when new principles are to be introduced.

It is a fact that the people who move from the non-slaveholding to slaveholding States, when they became slaveholders, by purchase or marriage, expect more labor from them than those do who are brought up among them.

To the gentleman from Rhode Island (Mr. Burrill) I tender my hearty thanks for his liberal and true statement of the treatment of slaves in the Southern States. His observations leave but little for me to add, which is this, that the slaves gained as much by independence as the free. The old ones are better taken care of than any poor in the world, and treated with decent respect by their white acquaintances. I sincerely wish that he and the gentleman from Pennsylvania (Mr. Roberts) would go home with me, or some other Southern member, and witness the meeting between slaves and owner and see the glad faces and hearty shaking of hands. This is well described in General Moultrie's *Memoirs of the American Revolution*, in which he gives the account of his reception by his slaves the first time he went home after he was exchanged. He was made prisoner at the surrender of Charleston. Could he (Mr. Macon) have procured the book in the city he intended to have read it to show the attachment of the slave to his owner. A fact shall be stated. An excellent friend of mine—he too, like the other characters which have been mentioned in the debate, was a Virginian—had business in England which made it necessary that he should go to that country himself or send a

trusty agent. He could not go conveniently, so he sent one of his slaves, who remained there near a year. Upon his return he was asked by his owner how he liked the country, and if he would have liked to stay there? He replied that to oblige him he would have stayed; the country was the finest he ever saw; the land was worked as nice as a square in a garden; they had the finest horses and carriages, and houses, and everything; but that the white servants abused his country. What did they say? They said we owed them (the English) a heap of money, and would not pay; to which he added, their chief food was mutton; he saw very little bacon there. The owner can make more free in conversation with his slave and be more easy in his company than the rich man, where there is no slave, with the white hireling who drives his carriage. He has no expectation that the slave will, for the free and easy conversation, expect to call him fellow-citizen or act improperly.

Massachusetts, Pennsylvania, and Virginia have been mentioned by Senators in this debate, and it has frequently been said that the two first had emancipated their slaves; from which an inference seems to be drawn that the other might have done so: emancipation to these gentlemen seems to be quite an easy task. It is so when there are but very few slaves; and would be more easy did not the color everywhere place the blacks in a degraded state. Where they enjoy the most freedom they are there degraded. The respectable whites do not permit them to associate with them or to be of their company when they have parties. But if it be so easy a task, how happens it that Virginia, which before the Revolution endeavored to put an end to the African slave-trade, has not attempted to emancipate? It will not be pretended that the great men of other States

were superior or greater lovers of liberty than her Randolph, the first President of the first Congress, her Washington, her Henry, her Jefferson, or her Nelson. None of these ever made the attempt, and their voices ought to convince every one that it is not an easy task in that State. And is it not wonderful, that if the Declaration of Independence gave authority to emancipate, the patriots who made it never proposed any plan to carry it into execution? This motion, whatever is pretended by its friends, must lead to it. And is it not equally wonderful that if the Constitution gives the authority, this is the first attempt ever made, under either, by the Federal Government to exercise it? For if under either the power is given, it will apply as well to States as to Territories. If either intended to give it, is it not still more wonderful that it is not given in direct terms? The gentleman would not then be put to the trouble of searching the Articles of Confederation, the Constitution and the laws for a sentence or a word to form a few doubts. If the words of the Declaration of Independence be taken as part of the Constitution (and that they are no part of it is as true as that they are no part of any other book), what will be the condition of the Southern country when this shall be carried into execution? Take the most favorable view which can be supposed, that no convulsion ensue, that nothing like massacre or war of extermination take place as in Santo Domingo, but that whites and blacks do not marry and produce mulatto States, will not the whites be compelled to move and leave their lands and houses and abandon the country to the blacks? And are you willing to have black members of Congress? But if the scenes of Santo Domingo should be re-acted, would not the tomahawk and the scalping-knife be mercy?



ARCHIBALD D. MURPHY.

ARCHIBALD D. MURPHY.

BY WM. A. GRAHAM.

Archibald D. Murphy was, in the generation immediately preceding our own, one of the most eminent characters in North Carolina. In many of the attributes of a statesman and philosopher he excelled all his contemporaries in the State, and, in every department of exertion to which his mind was applied, he had few equals or seconds. As an advocate at the bar, a judge on the bench, a reporter of the decisions of the highest court of justice, a legislator of comprehensive intelligence, enterprise and patriotism, a literary man of classic taste, attainments and style in composition, his fame is a source of just pride to his friends and his country. But for the paucity of our information, and the pressure of time and circumstances in the preparation of this sketch, it would be a labor of love to review his earlier years and trace the development and progress of his career in youth. Neither materials nor leisure for this topic, however, are now at our command.

His father, Colonel Archibald Murphy, was a conspicuous citizen of the county of Caswell, and bore a part in the military service in the war of the Revolution, for which the citizens of that county, and especially of his vicinity, were greatly distinguished. The residence of his father was about two miles from Red House, in the congregation of Rev. Mr. McAden, a Presbyterian minister, whose son, the late Dr. John

McAden, married the daughter of Colonel Murphy, by whom he left descendants who still survive. At this place, some seven miles from Milton, Archibald DeBow Murphy, the subject of our memoir, was born, we believe, in the year 1777. Of the other children of his parents there were two brothers and four sisters. His education, preparatory to admission into the infant University of the State at Chapel Hill, was received in the school of the Rev. Dr. David Caldwell, of Guilford county. Of the opportunities for education during his youth, Mr. Murphy himself informs us that before the University went into operation, in 1795, there were not more than three schools in the State in which the rudiments of a classical education could be acquired, and that the most prominent and useful of these was that of Dr. Caldwell; that the deficiency of books for literary instruction, except in the libraries of a few lawyers in the commercial towns, was still greater, and by way of illustration he relates that after completing his course of studies under Dr. Caldwell he spent nearly two years without finding any books to read except some old works on theological subjects, and that then chance threw in his way Voltaire's history of Charles XII. of Sweden, an odd volume of *Roderick Random* and an abridgment of *Don Quixote*. These constituted his whole stock of literary furniture when he entered college in 1796. When we remember that he afterwards became capable of writing like Goldsmith, and with an ease and rapidity that Goldsmith could not have equaled, we can but recall these reminiscences of earlier times and encourage the diligent student by his example. With a mind delighted by a consciousness of advancement in knowledge, and spirit of emulation, he profited greatly by three years of study in the University, and

graduated with the highest distinction in 1799.

Such was the reputation acquired by him in this period that he was at once appointed Professor of Ancient Languages in his *alma mater*—a situation in which he continued the three succeeding years, and in which he matured that scholarship and taste for liberal studies which so much distinguished him among his professional brethren and the educated gentlemen of the State. His admission to the bar took place in 1802, after a course of professional reading so limited that the first judge to whom he applied (the signatures of two being then necessary for a license) refused to examine him; and (as he was accustomed to amuse his friends by relating) his success, only a few months later, in gaining admission to the practice in all the courts at once, was owing to the good fortune of bearing a letter from a friend, at the succeeding term of the Court of Conference, to one of the judges, a gentleman of proverbial benevolence and kindness, who conducted the examination, or interview, in his own chamber, and procured the signatures of his brethren without so much having been requested or expected—so little strictness was observed towards the few applicants then entering the profession.

But if he was allowed admission *ex gratia*, and without the requisite amount of learning, he was not long in supplying the deficiency. The powers of mind and eagerness in quest of knowledge which had been exhibited in his scholastic studies enabled him to make rapid progress in the law. His professional studies were directed by William Duffy, Esq., an eminent lawyer, then residing in Hillsborough, to whom he was ever afterwards affectionately attached, and to whose memory he paid a grateful

tribute among his sketches of public and professional men of North Carolina, in an oration before the Literary Societies of the University in his latter years. Mr. Murphy advanced rapidly to the first rank of the advocates of his day, and notwithstanding his turning aside, to the indulgence of his tastes for general literature, his enlightened labors and bright career in legislation, his promotion and service on the bench for two years, his decayed health and irregular attendance on the courts in his latter days, he maintained his position in the public estimation, even to the end of his life. When it is remembered that among his competitors at one time or another, for more than a quarter of a century, were Archibald Henderson, Cameron, Norwood, Nash, Seawell, Yancey, Ruffin, Badger, Hawks, Mangum, and Morehead, it must be admitted that he was at a bar where the remark of Pinkney that "it was not a place where a false and fraudulent reputation for talents can be maintained," was fully justified. His practice for many years was not exceeded by that of any gentleman in the State, and his success corresponded with its extent. Both his examination of witnesses and argument of causes before juries on the circuit could not be excelled in skillfulness. He had a Quaker-like plainness of aspect, a scrupulous cleanness and neatness in an equally plain attire, an habitual politeness and a subdued simplicity of manner which at once won his way to the hearts of juries, while no Greek dialectician had a more ready and refined ingenuity or was more fertile in every resource of forensic gladiatorship. His manner of speaking was never declamatory or in any sense boisterous, but in the style of earnest and emphatic conversation, so simple and apparently undesigning that he seemed to the jury to be but interpreting

their thoughts rather than enunciating his own, yet with a correctness and often elegance of diction which no severity of criticism could improve. A pattern of politeness in all his intercourse, public and private, he could torture an unwilling or corrupt witness into a full exposure of his falsehood, and often had him impaled before he was aware of his design; no advocate had at his command more effective raillery, wit, and ridicule to mingle with his arguments.

Many of his speeches in the *nisi prius* courts are still recollected by the profession and the people of middle age in the Fourth Circuit, and are spoken of with great admiration. One of the last of these in which, though he was then broken down by misfortune and enfeebled by disease, the fires of his genius and eloquence shone out in the lustre of his palmiest days, was made in the case of *Burrow* vs. *Worth*, in the Superior Court of Randolph in 1830 or 1831. It was an action for malicious prosecution against Dr. David Worth, a prominent physician, charging him with having falsely and maliciously caused the plaintiff, Burrow, to be presented for the murder of one Carter, of whose wife it was pretended he was the *paramour*. The plaintiff sought to show that not only was the accusation against him false, but that Worth was himself accessory to the murder which he alleged had been committed by the wife of Carter, by poison, which he (Worth) had furnished to her for that purpose, and he supported his complaint with a well-combined scheme of perjury and fraud which it required no ordinary skill and courage to baffle. His chief witness was a married woman who was found to be a member of a church, whose general character was vouched by her acquaintances to be good, and who deposed to a conversation

between Worth and the wife of Carter, in which it was agreed that for a base motive he would provide her with arsenic with which she was to poison her husband. It was further shown, and this was true, that Worth had attended the deceased as a physician at the time of the alleged conspiracy against his life, so that the opportunity, at least, was not wanting. Such was the aspect worn by the case when this witness was tendered to Mr. Murphy, the defendant's counsel, for cross-examination. By a series of questions as to the time, place and circumstances, the furniture in the room in which the conversation was located, the relative positions of the parties and the witness, their previous acquaintanceship, the course of the dialogue between them, *et cetera*, he involved her in such a maze of inconsistencies, contradictions, and improbabilities as to expose the whole story as a base fabrication. The privilege of cross-examination is often abused, though there is a consistency in truth and incongruity in falsehood which, even in the case of the least resolute witnesses, rarely allows such abuse to do much harm. All perceived, in the case in question, that it was one of the great tests of truth which cannot safely be dispensed with in judicial proceedings. The evidence, as usually happens in such cases, was quite voluminous; we have but delineated its most prominent feature. Having for his client a personal friend, threatened to be victimized by a foul conspiracy for daring to perform one of the highest duties of a citizen, in bringing at least a supposed murderer to justice, Mr. Murphy in his defense, inspired by the theme, is said to have delivered a speech which has never been surpassed in the forensic displays of the State. Analysis, denunciation, wit, ridicule, pathos, invective were in turn poured

forth with such telling effect that not only was the defendant triumphantly acquitted, but it would have been dangerous for the plaintiff had the question of his life or death been in the hands of the jury. The audience alternately convulsed with laughter, bathed in tears, or burning with indignation, were enraptured with his eloquence, and could not be restrained from demonstrations of applause.

Mr. Murphy delighted in the equity practice of his profession, and was accustomed to speak of this branch of our jurisprudence as the application of the rules of moral philosophy to the practical affairs of men. More of the pleadings in equity causes within the sphere and time of his practice will be found in his handwriting than in that of any other solicitor, and, with two or three exceptions, among those named above, he was by far the most adept as an equity pleader. He wrote with facility and accuracy, even amid the crowd of courts and confusion of clients, and his neat and peculiar chirography, to those a little accustomed to it, was as legible as print.

In the year 1818 he was elected by the General Assembly a judge of the Superior Courts, and rode the circuits in that capacity for two years, when he resigned and returned to the practice of his profession. Under a clause in the criminal law establishing the present Supreme Court system, passed that session, which authorized the Governor by special commission to detail a judge of the Superior Court to sit in stead of a judge of the Supreme Court, in causes where any one of their number had been of counsel or had an interest in the result, he was commissioned by the Governor for this service, and presided in the Supreme Court in several causes, in place of Judge Henderson, who had been

recently elected from the bar. This provision of the law, being afterwards thought to be in conflict with that clause of the Constitution which requires the judges of the Supreme Court to be elected by the General Assembly, was repealed. In his office as a judge he well sustained his reputation for learning and ability, which had been so well established at the bar, and attracted the admiration of the profession and the people by the courtesy, patience, dignity and justice which characterized his administration of the laws. Before taking leave of his career as a lawyer it is proper to mention his tribute to his profession in three volumes of reports of the Supreme Court of the State, embracing the decisions of cases of interest from 1804 to 1819.

From 1812 to 1818, inclusive, Mr. Murphy was continually a Senator from the county of Orange in the General Assembly, and on this new theatre shone more conspicuously than he had done in his profession. He inaugurated a new era in the public policy of the State, and for many years exerted a greater influence in her counsels than any other citizen. Judging from the public documents which he has left behind him in advocacy of this policy, no man ever brought into our legislative halls a more ardent spirit of patriotism, a more thorough survey and comprehension of her situation and wants, or proposed bolder or more intelligent measures for her relief. Whether these measures failed from error in their conception or timidity in his contemporaries to meet and boldly sustain them, the historian must pronounce that his reports and other writings in regard to them are the noblest monuments of philosophic statesmanship to be found in our public archives since the days of the Revolution. From 1815 to 1823, either as chairman of a committee in the

Legislature or of the Board of Internal Improvement, he annually prepared a report on the public policy of the State in relation to her improvement in the means of transportation, and in 1819 he published a memoir on improvements contemplated and the resources and finances of the State, dedicated to his friend John Branch, then her Governor; any one of which papers would have done honor to DeWitt Clinton or Calhoun, the champions of internal improvement in the State and Federal governments, respectively, during that period. Fully appreciating the condition of the world resulting from the general peace consequent on the battle of Waterloo and the overthrow of the first Napoleon (since which time there has been a greater advance in all the useful arts and diffusion of the comforts of life among mankind than in any five preceding centuries), he applied all the energies of his intrepid and well-furnished mind to the task of devising how his native State should most profit in this universal calm, confer the greatest good on the greatest number of her people, and resume her proper rank in the Union of which she was a member. His solution of this important problem he seems to have summed up in three propositions, namely: first by improving her means of transportation, in deepening her inlets from the ocean, opening her rivers for navigation, connecting these rivers by canals, and constructing turnpike or macadamized roads, so as to concentrate all her trade at two or three points within her own limits; second, by building up commercial cities of her own at these points, with a view to commercial independence of other States, to the better regulation and control of her currency and exchanges, and to cherish and stimulate a just State pride; third, by a system of education commensurate with the State's

necessities, embracing primary schools, academies for instruction in the higher branches, the University by greatly enlarging its accommodations and course of instruction, and an asylum for the deaf and dumb. On this last subject of education he made a report to the General Assembly in 1817, comprehending these several topics, from which, since our limits will not permit us to recur to it again, we make one or two brief extracts as exhibitions of his style, his public spirit and his noble benevolence. The University then was, from causes which he details, in a state of extreme depression. He says: "When the pride of the State is awakening and an honorable ambition is cherished for her glory, an appeal is made to the patriotism and generous feelings of the Legislature in favor of an institution which in all civilized nations has been regarded as the nursery of moral greatness and the palladium of civil liberty. That people who cultivate the sciences and the arts with most success acquire a most enviable superiority over others. Learned men by their discussions and works give a lasting splendor to national character; and such is the enthusiasm of man that there is not an individual, however humble in life his lot may be, who does not feel proud to belong to a country honored with great men and magnificent institutions. It is due to North Carolina, it is due to the great men who first proposed the foundation of the University, to foster it with parental fondness, and to give to it an importance commensurate with the high destinies of the State." We may here remark that although much improvement has been made in the interim, yet even after the lapse of forty-odd years the outline of a system of studies in the University, which he therein proposed, has not been filled up. Of the necessity of public instruction for poor children he says: "Such

has always been, and probably always will be, the allotment of human life, that the poor will form a large portion of every community; and it is the duty of those who manage the affairs of a State to extend relief to the unfortunate part of our species in every way in their power. Providence, in the impartial distribution of its favors, whilst it has denied to the poor many of the comforts of life, has generally bestowed upon them the blessing of intelligent children. Poverty is the school of genius; it is a school in which the active powers of man are developed and disciplined, and in which that moral courage is acquired which enables him to toil with difficulties, privations and want. From this school generally come forth those men who act the principal parts upon the theatre of life; men who impress a character upon the age in which they live. But it is a school which if left to itself runs wild; vice in all its depraved forms grows up in it. The State should take this school under her special charge, and nurturing the genius which there grows in rich luxuriance, give to it an honorable and profitable direction. Poor children are the peculiar property of the State, and by proper cultivation they will constitute a fund of intellectual and moral worth which will greatly subserve the public interest."

His greatest and most persevering exertions, however, were devoted to the subject of internal improvement. His reports and memoir on that and kindred topics were examined with high commendation in the year 1822, in an article in the North American Review, then under the editorial charge of the Hon. Edward Everett. It must be borne in mind that in that day the modern resource of the railroad for transportation at long distances had entered the contemplation of no one in Europe or

America; sluices, canals and turnpike roads were the only improvements deemed to be practical. To effect these in the most approved methods, Mr. Hamilton Fulton, an engineer of much reputation, was brought into the service of the State from Europe, at a salary of twelve hundred pounds sterling ($6,000) per annum, who made surveys of all the harbors and rivers, and of many routes for roads in all sections of the State. The main features of the plan of Mr. Murphy, and to which he obtained the approbation of Mr. Fulton, after the improvement of inlets at Nag's Head (if practicable), Ocracoke, Beaufort, Swansborough, and Wilmington, consisted in opening for batteau navigation the rivers Roanoke, Tar, Neuse, Cape Fear, Yadkin, Catawba, Broad, and sundry tributaries, and by canals to join the Roanoke and Tar or Pamlico, and Neuse, so as to ship the productions of the country watered by each of them from Beaufort; and to unite by similar means the Cape Fear with Lumber River, and at a more northerly point with the Yadkin, and the Yadkin with the Catawba, so as to bring to the mouth of the Cape Fear the commerce of our whole watershed trending from the Blue Ridge, except that of Broad River (which was to be opened into South Carolina), and thus making commercial marts of Fayetteville and Wilmington. Places and sections more remote from these waters were to be supplied by roads. The boldness and comprehensiveness of this plan, providing, as it proposed to do, for the whole State, with the only facilities then known to science, must be seen by all. Whether it was practicable, and if so, at what cost, was a question for engineers. It was in all probability practicable at a cost not exceeding the amount which up to this time the State has invested in railroads, and if accomplished it would evidently

have been a great advance beyond the cart and wagon, then the only means of transportation in use. Its very comprehensiveness, however, was probably the reason of its failure. To conciliate favor, inadequate appropriations for various parts of it in all sections of the State were made at once, and work was commenced under incompetent supervision, which resulted in failure. After a few years' trial the whole was abandoned, and the engineer, whose salary had at no time been less than twice that of the Governor of the State, was discharged. Its miscarriage is the less to be regretted since the iron rail and steam car, then undeveloped in the womb of time, would have superseded, if not supplanted, the most perfect works which it contemplated, so far as regards inland transportation at least. But the fame of its author as a patriot, statesman and sage should not be dimmed by mistakes or failures in the details of its execution or the advances made in the science of engineering in a subsequent age. The expenditures upon it from the State treasury, including the salaries of the principal engineer and assistants, did not exceed $50,000, and this was repaid tenfold in the topographical and statistical information which it elicited and caused to be published, and in the loyal and true North Carolina patriotism aroused by Mr. Murphy's discussions of the subject in the hearts of her people. We have recurred to this matter of expenditure with some care, for the reason that before the subject of internal improvement became popular in the State, it was the custom of its opponents to hold up Mr. Murphy's scheme of improvements as a kind of South Sea Bubble, from which the treasury had been well-nigh rendered bankrupt.

While immersed in endeavors to press forward

those projects of improvement, and at the same time assiduously laboring in his profession, either as a judge on the bench or a lawyer at the bar, Mr. Murphy conceived the purpose of writing the history of his native State. He had studied her interests by every light of political economy and every record of the past within his reach, was personally acquainted with nearly every citizen of intelligence, and his talents, public spirit and engaging manners had rendered him a favorite among the surviving officers and soldiers of the Revolution. This latter circumstance had made him acquainted with the traditions of that period, and the great injustice by omission and commission which the State had suffered at the hands of the writers of history. He seems to have undertaken this task with the same motives of zealous patriotism which had inspired his legislative action. In a letter to General Joseph Graham, of Lincoln, dated July 20, 1821, he says:

"Your letter to Colonel Conner first suggested to me the plan of a work which I will execute if I live. It is a work on the history, soil, climate, legislation, civil institutions, literature, etc., of this State. Soon after reading your letter I turned my attention to the subject in the few hours which I could snatch from business, and was surprised to find what abundant materials could, with care and diligence, be collected —materials which if well disposed would furnish matter for one of the most interesting works that has been published in this country. We want such a work. We neither know ourselves nor are we known to others. Such a work, well executed, would add very much to our standing in the Union, and make our State respectable in our own eyes. Amidst the cares and anxieties which surround me, I cannot cherish a hope that I could do more than merely

guide the labors of some man who would take up the work after me and prosecute it to perfection. I love North Carolina, and love her more because so much injustice has been done to her. We want pride. We want independence. We want magnanimity. Knowing nothing of ourselves, we have nothing in our history to which we can turn with conscious pride. We know nothing of our State and care nothing about it. We want some great stimulus to put us all in motion, and induce us to waive little jealousies, and combine in one general march to one great purpose."

His habits of labor, his readiness as a writer, and addiction to literary exercise as a pleasure, the philosophical cast of his mind, and above all, his sentiment of devotion to North Carolina, eminently fitted him for this enterprise; and he seems to have entered upon it with his characteristic industry and zeal. He gathered materials for the work from a great variety of sources, public and private, within and without the State. At his instance the Legislature, through the intervention of Mr. Gallatin, then the Minister of the United States in Great Britain, caused the office of the Board of Trade and Plantations and the State Paper Office in London to be explored, and an index of the documents therein, pertaining to our colonial history, to be furnished; literary men in other States, including Mr. Madison and Mr. Jefferson, readily seconded his efforts by supplying information sought of them; the families of deceased public men in the State, including those of Governor Burke, Governor Samuel Johnston, and Mr. Hooper, opened all their papers to his inspection; and many officers of the Revolution, then living, among whom were Colonel William Polk, General Lenoir, Major Donoho, of Caswell, General Graham, and divers others, undertook to contribute to him their personal

reminiscences of the war. The memoranda of the gentleman last named, prepared in accordance with a request of Mr. Murphy, were given to the public in the pages of our *University Magazine* in the year 1856. Upon application of Mr. Murphy, by memorial, the General Assembly at the session of 1826 granted him authority to raise by lottery a sufficient sum for the publication of his contemplated history, the plan of which he set forth in detail. We regret that we have not at hand a copy of this memorial to lay before our readers the outline of the work as then prepared. It was more voluminous, and embraced a greater variety of topics than would have been preferred by the generality of readers, but its very magnitude showed the comprehension of his genius and the intrepidity of his mind. Beyond one or two chapters on the Indian tribes of the State, he appears to have done but little towards its composition, though his collection of materials, directing attention to the subject, and rescuing from oblivion much that was passing away, rendered the undertaking itself a great public benefit. Decayed health and a ruined fortune arrested him in mid-career, put a stop to his favorite enterprise, and clouded with poverty and adversity the evening of his days.

Among his public employments may be classed his mission to Tennessee as the representative of the University in 1822. The chief endowments of the University from the State consisted in escheats, or the estates of persons dying without heirs or next of kin, which passed to the State by a prerogative of sovereignty. In her deed of cession to the United States of her Tennessee territory, North Carolina had reserved the right to satisfy the claims of her citizens for military service in the army of the Revolution, by grants of land in the ceded territory, and where her

soldiers had died leaving no heirs, or none who appeared and made claim within a limited period, their titles were considered as escheats, and vested by law in the Board of Trustees, and warrants were issued by the authorities of North Carolina, in the names of such soldiers for the benefit of the institution. The State of Tennessee took exception to these proceedings of North Carolina, alleging that they were in conflict with the provisions of the deed of cession, and, since her admission into the Union, with her sovereign rights as an independent State. The controversy became a serious one, and Mr. Murphy was sent to confer with the Legislature of Tennessee respecting it, in the year 1822. He was received with the courtesy due to his high character and the important interest he represented, and was heard upon the subject at the bar of the Legislature on two successive days. An adjustment of the dispute succeeded, by which a portion of the claims of the University were yielded for the benefit of a similar institution at Nashville, and the residue were confirmed. From the sales of the lands thus acquired have arisen a large portion of the investment in bank stocks, on which this institution is at present maintained.

As a literary character Mr. Murphy deserves to be classed among the first men of the State; and among those who, like himself, devoted their time laboriously to professional and public employments, he has had few superiors in literature in the nation. In the Latin, Greek, and French languages he attained such proficiency that till the close of his life he read the standard authors with pleasure and for amusement, and with the best of the English classics few were more familiar. To this, though self-taught, he added no inconsiderable attainments in science.

As an epistolary writer he had no equal among his contemporaries, and in all his compositions there was an ease, simplicity, and at the same time an elegance of expression which showed him to be master of his native tongue. When it is known that a large part of his life was passed in taverns, on the circuit, where he was immersed in business—and when not so immersed, such was his proverbial urbanity and kindliness of nature that his rooms were the resort of all seeking advice and consultation, as well as of his circle of friends in every county, attracted by the charms of his conversation—his acquirements are a marvel to those less studious or less imbued with a true love of letters. His oration before the two Literary Societies of the University, in 1827, is a fair exponent of his style of writing, and also indicates his favorite studies, the subjects of his admiration, his enthusiastic American sentiment, his characteristic benevolence and kindness towards young men, and that unaffected modesty which was so remarkable a virtue in his character. Yet it is tinged with a vein of sadness, as if life for him was approaching its twilight and he was walking among the graves of the dead, some of them his comrades, whom he was soon to follow. Notwithstanding it was the first in the series of these discourses before the Societies, it has never been surpassed in appropriateness and interest by those of any of his successors, though among them have been many of the most distinguished scholars in the State. Its commendation by Chief Justice Marshall, in a letter to the author, published with the second edition, stamps its portraits of public characters with his approbation and renders it historical.

To the possession of genius in an eminent degree

he united some of its infirmities. A sanguine temper, a daring confidence in results, a reliance on the apparent prosperity of the times, involved him in pecuniary obligations, many of them, perhaps, of a speculative character, which eventuated in disaster and swept away his estate. A little later came an attack of chronic rheumatism, from which he suffered much, and was often incapacitated for business during the last half-dozen years of his life. But during this season of adversity he struggled with a brave heart against the storms of fate. With a pallid cheek and disabled limbs he made his appearance in the courts, where, as we have seen, his gifted mind occasionally shone out in all its meridian splendor; and when this was not practicable, the hours of pain and misfortune were beguiled, if not solaced, by the pursuit of those noble studies which had been the delight of his leisure in the days of his prosperity.

He died in Hillsborough, then his place of residence, on February 3, 1832, and is interred in the graveyard of the town, a few feet from the door of the Presbyterian church, and nearly in front of it. No monument marks his resting-place. His sons, Dr. V. Moreau Murphy, of Macon, Mississippi, and Lieutenant P. U. Murphy, of the navy of the United States, are his only surviving children.

The work and worth and greatness of Murphy have never been duly appreciated even in his own State; and yet, when our history is written, if greatness is measured by the public benefit it confers, perhaps Macon, Murphy, and Vance will stand together as the three greatest men the State has yet produced.

In common-sense statecraft, in the choice and application of principles to existing conditions, and in the prophetic knowledge of the fruit they would bring forth after their kind, Macon was greatest. In scholarship and breadth of culture, combined with originality to conceive the most far-reaching policies of public welfare, Murphy was greatest. In the knowledge of men, in his boundless wealth of human sympathy, as the advocate and champion of the people's rights, Vance was greatest. But Graham had a far greater knowledge and grasp of the details of public business than any of them; and Badger, in his ability to rapidly acquire and assimilate law and learning, easily outstripped them all.

The sensibilities of Murphy were too refined for what is called success in practical politics. His love and enthusiasm for the public weal were so great that he forgot himself—but let us never forget him.

If Murphy had lived to write, as he intended, the history of North Carolina, he would have made all the world know and acknowledge that some of her people began the Revolution against British tyranny four years before the battle of Lexington. Perhaps he would have made it too plain for cavil that more than a year before Jefferson penned his immortal document, the spirit that resisted Tryon had formed a government at Charlotte independent of British rule, and that, in the strongest probability, the authors of that government had prepared the way for it by a declaration of independence.

Leavened by that spirit, the people of the whole State, through their convention at Halifax, on May 12, 1776, proposed, and on May 22 adopted, a resolution providing for "declaring independence" in concurrence with the "other colonies"—the first step

taken in that direction by any of the colonies.

Perhaps his clear voice could have been heard above the conflicting jargon about the Regulators' War. The threadbare statement that the spirit of these people was so thoroughly crushed by Tryon's dress-parade campaign that they all took sides with the British in the Revolutionary war might have been thrashed a little thinner. Perhaps he would have found at King's Mountain some of the fifteen hundred families who fled west after the battle of Alamance.

Mrs. E. E. Moffitt of this city (a granddaughter of Judge Murphy's sister, Mrs. John Daniel) is my authority for the statement that Peter S. Ney—whom some believe to have been none other than the great Marshal Ney—was Murphy's amanuensis. It was a singular fate which drew these two peculiar men of genius together.

There is grim humor in his pathetic attempt to enkindle a love of history and education in this State by appealing to the love of gain. His other scheme, internal improvements, was equally chimerical; not because it lacked intrinsic merit, but because the times and people had changed. He had not calculated on the soporific effect of indirect taxes upon the unpreferred States. It was too early for any but a prophet to fully see that the States had dug the graves of their ultimate autonomy by adopting a Constitution which forbade them "to emit bills of credit"—a power of which they never stood in dire need until the General Government had monopolized all control of banking and currency.

No State, since the Union was formed, has, without Federal aid, direct or indirect, made any material progress in developing its resources!

ADDRESS AT THE UNIVERSITY.

BY ARCHIBALD D. MURPHY.

The Literary Societies of this institution have resolved that an address be delivered before them annually by some one of their members. This resolution, if carried into effect in the spirit in which it has been adopted, will be creditable to the Societies and favorable to the general literature of the State. It is now more than thirty years since these Societies were established, and all the *alumni* of this University have been members of one or the other of them. Upon these *alumni*, and upon others who shall go forth from this University, our hopes must chiefly rest for improvement in our literary character; and their zeal for such improvement cannot fail to be excited by being annually called together, and one of them selected to deliver a public discourse upon the progress and state of our literature, or some subject connected therewith. The Societies have conferred on me an unmerited honor by appointing me to deliver the first of these discourses. I accepted the appointment with pride, as it was an evidence of their esteem; yet with humility, from a conviction of my inability to meet public expectation—an inability of which I am conscious at all times, but particularly so after a painful and tedious illness.

Little that is interesting in the history of literature can be expected in the infancy of a colony planted on a continent three thousand miles distant from the mother-country, in the midst of a wilderness and surrounded by savages. Under such circumstances civilization declines, and manners and language degenerate. When the first patent was granted to Sir Walter Raleigh, in 1584, the English language had

received considerable improvement. Spenser had published his *Faerie Queene*, Shakespeare his *Plays*, Sir Philip Sidney his *Arcadia*, Knolles his *General History of the Turks*, and our theology had been enriched by the eloquent writings of Hooker. This improvement was not confined to the learned; it had already extended itself to the common people, particularly in the towns and villages, and the language of the first colonists no doubt partook of this improvement. But these colonists were all adventurers; they joined in Sir Walter Raleigh's expedition only for the purpose of making fortunes, and their chief hope was that they would quickly find gold in abundance and return home to enjoy their wealth. This delusive hope continued for many years to beguile adventurers; who, not finding the treasure they came in quest of, became idle and profligate, and abandoned a country in which they had met with nothing but disappointment. Sir Walter Raleigh, after expending a large part of his estate in attempts to settle a colony, assigned to Thomas Smith, of London, and his associates, the privilege of trading to Virginia and of continuing the colony. Under the advice of Raleigh he directed his efforts to the waters of the Chesapeake, and there caused to be planted a colony which became permanent, and from which Virginia and Carolina were peopled. A new charter was granted to Thomas Smith and his associates in 1606, and enlarged in 1609. Their company continued with many vicissitudes of fortune until the year 1626, when it was dissolved. The history of the colony to the time of this dissolution was written by John Smith and also by Stith. They were contemporary with Lord Clarendon, who wrote the *History of the Great Rebellion* in England. Their style and manner of writing, and the

public papers published by the President and Council of the Colony, during this period, evidence great improvement in our language. The chaos in which it lay in the early part of the reign of Elizabeth gradually gave way to the order and method which good sense introduced into every pursuit; the pedantry and conceits which disfigured our literature in the reign of James I. yielded to the influence of good taste. Sir Walter Raleigh published his *History of the World*, Lord Bacon his historical and philosophical works and moral essays, and our poetry was adorned by the writings of Milton, Dryden, Butler, and Otway. Shortly afterwards came Sir William Temple, Archbishop Tillotson and others, who gave facility and grace to composition. These were new beauties and pleased the nation more as they gave to style the charm of polished conversation.

Whilst the literary taste of the nation was thus improving, religious intolerance drove from England a great number of Quakers, Presbyterians and other sectarians, who sought refuge in the Virginia colony. They there soon met with the same persecution which had driven them from their native country. They were compelled to leave the colony; and Providence directing their course through the wilderness, they settled near Pasquotank and Perquimans, and formed the germ of the Carolina colony. Many of them were Quakers, and their descendants continue to occupy that district of country to this day.

In the year 1663, Charles II. granted the soil and seigniory of Carolina to eight Lords Proprietors, who, to encourage emigration, held out favorable terms. They promised to adventurers gratuities in land

according to the number of their respective families, and the most perfect freedom in the exercise of religion. A civil government was established purely representative; a circumstance to which may be attributed, in a great degree, the republican feelings and opinions which soon characterized the colony, and which led to the plan of civil polity under which we now live. When the Lords Proprietors discovered that the colony was likely to become numerous and powerful they endeavored to restrain the civil and religious liberty which they had promised to emigrants: they established a new form of government, declaring their object to be "to make the government of the colony agree as nearly as possible with the monarchy of which it was a part, and to avoid erecting a numerous democracy." This plan of government was the joint work of Lord Ashley and the celebrated John Locke; and its chief aim was to appoint orders of nobility, establish a powerful aristocracy and check the progress of republican opinions and manners. A more ridiculous plan for the government of the colony could not have been devised. The people were accustomed to equality and self-government; a rank of nobility was odious to them, and they disregarded laws which they had not been consulted in making. The prosperity of the colony declined, public morals relaxed, the laws lost their energy, a general spirit of discontent grew up and ripened into rebellion; the Governors became corrupt, and the people idle and vicious. The attempt to give effect to the new plan of government entirely failed, and the Lords Proprietors abolished it as unsuited to the condition of the colony. Two factions then arose; one that wished to establish a high-toned prerogative government; the other consisted of High-churchmen, who gained the ascendency, and by their

violence brought the government into contempt. Their object was to deprive all dissenters of the right of suffrage, to curtail their civil rights, and render their situation so oppressive as to compel them to leave the colony. A party of French Huguenots had emigrated to the colony to enjoy that liberty of conscience and of worship which was denied to them in their native country. These people, entitled by their sufferings no less than by their Protestantism to the friendship and hospitality of the colonists, were treated with a cruelty that disgraced the High-church party. Being aliens, they were incapable of holding lands until they were naturalized; and this party having the ascendency in the Assembly, not only refused to naturalize them, but declared their marriages by ministers not ordained by Episcopal Bishops illegal and their children illegitimate. The progress of this violent, persecuting spirit was checked by the wise and conciliating measures adopted by Governor Archdale. He assumed the government of the colony in 1695; he was a Quaker, and possessed in an eminent degree the philanthropy and command of temper for which this sect has been distinguished. He was one of the Proprietors of the province, and by the mere force of his character overawed the turbulent and restored good order. To this excellent man our ancestors are indebted for that tolerant provision in their militia law which we still retain as part of our code, for granting exemption to men who were restrained by religious principles from bearing arms.

The religious intolerance of the High-church party was exerted with new energy after the departure of Governor Archdale from the province. This party passed laws, which the Lords Proprietors ratified, to establish the Church of England and to disable

dissenters from being members of the Assembly. This was in direct violation of the chartered rights of the colonists. The dissenters remonstrated to the House of Lords; and Queen Anne, upon the advice of that body, caused these laws to be repealed. But the High-church party, steady to their purpose, varied their mode of attack; the spirit of intolerance grew with the growth of the province; emigrations from the Virginia colony and the patronage of the Lords Proprietors gave to this party a decided majority in the Assembly; they levied a tax on each precinct for the support of a minister, and built churches. Protestant dissenters were only permitted to worship in public, and there to be subject to the rules and restrictions contained in the several acts of Parliament. Quakers were permitted to affirm instead of swearing; but they could not hold an office of profit or trust, serve as jurors, or give evidence by affirmation in any criminal case. This contest between the High-church party and the dissenters produced an hostility of feeling which time has softened, but which the lapse of more than a century has been insufficient to allay. This contest, however, promoted freedom of thought and inquiry among the people; it sharpened their understandings, and in a great degree supplied the place of books for instruction. At that time there were few books in the colony: the library of a common man consisted of a Bible and a spelling-book; the lawyers had a few books on law, and the ministers a few on theological subjects, and sometimes a few of the Greek and Roman classics: for they, particularly the Presbyterian ministers, were generally school-masters—and from them the poor young men of the colony, who wished to preach the gospel or plead law, received their humble education. The turbulent

spirit of the colonists, their leaning towards republicanism and sectarianism, had induced the Lords Proprietors to forbid the establishment of printing presses in the colony; and Sir William Berkeley, who had the superintendence of this colony in 1661, gave thanks to heaven that there was not a printing office in any of the Southern provinces.

What improvement in literature could be expected among a people who were thus distracted by faction, destitute of books, and denied the use of the press? Notwithstanding all these discouragements and disadvantages, however, the literature of the colony evidently advanced. The public papers of that period are written in a conspicuous, nervous style, corresponding in force of expression, purity of language and perspicuity of arrangement, with similar writings in the reigns of Charles II., King William, and Queen Anne. The intelligence of the common people and the ability and learning of the men who managed the affairs of the colony in that period are matters of surprise and astonishment to any one acquainted with the disadvantages under which the colony labored. The Assembly and the courts of justice sat in private houses; the acts passed by the Assembly were not printed; they were read aloud to the people at the first court after they were passed; they were in force for only two years, and every biennial Assembly was under the necessity of reenacting all that were thought useful. There was no printing press in the colony before the year 1746, at which time the condition of the statute-book required a revisal, and the public interest called aloud for the printing of it. The learning and literature of the colony were confined to the lawyers and ministers of the gospel, most of whom were

educated in England; and it was owing to this circumstance chiefly that the literature of the colony advanced so steadily with that of the mother-country.

The legislation of the colony began to assume form and system in the reign of Queen Anne; and in the year after her death, 1715, the Assembly passed sixty-six acts, most of which had been frequently reenacted before. Many of those acts remain in force to this day, and are monuments of the political wisdom and legal learning of that time. In style and composition they are equal to any part of our statute-book; they are the first statutes of the colony that have come down to our time.

In the year 1729 the Lords Proprietors, with the exception of Lord Granville, surrendered to the Crown their right to the soil and seigniory of North Carolina; and from that time the population and prosperity of the colony rapidly increased. But in a few years the great contest commenced between the prerogative of the Crown and the liberty of the colonial subject, which contest eventually terminated in the American Revolution. This contest gradually introduced into North Carolina, and into all the British colonies which took part in it, a style in composition which distinguishes this period from all others in English or American literature: a style founded upon and expressive of exalted feeling. Education embellished it and gave to it new beauties; but its force and impressive character were perceptible in the writings and speeches of ordinary men. What age or nation ever produced compositions superior to the addresses of the Continental Congress? When or where shall we find a parallel to the correspondence of General Washington and the

general officers of the American army? The style of these addresses and of the correspondence is the style of high thought and of lofty, yet chastened feeling, and reminds the reader of the finest specimens of composition in Tacitus, and of the correspondence of Cicero and his friends after the death of Pompey.

There is something in the style and sentiment of the writings of this period which gives to them a magic charm, and seems to consecrate the subjects on which it is employed—a something connected with the finest perceptions of our nature. The reader is every moment conscious of it, yet knows not how to explain it. The high moral feeling and virtuous sympathy which characterized the American Revolution have given to it a hallowedness of character. It is fortunate for us that Chief Justice Marshall has written the history of this Revolution. Whatever may be the defects of this work, the history of our Revolution will never be so well written again: no work on that subject so well calculated to produce an useful effect upon its readers will ever appear. Marshall was a soldier of the Revolution, and possessed the finest genius; he was the personal friend of the Commander-in-chief; partook of all the feelings of the officers of the army; and he has transfused into his work that exalted sentiment which animated his compatriots in arms. This sentiment is strongly portrayed in the writings of the Marquis de Chastellux and Count Rochambeau, two French general officers in the American service, and in the correspondence of the Commander-in-chief and the American general officers. But it can never be embodied into an historical work by a man who did not feel it in all its force in the American camp. Literary elegance

disappears before such moral beauty. There is no historical work in any language that can be read with so much advantage, such moral effect, by American youth, as Marshall's *Life of George Washington*. They should read it with diligence, and read it often. They will never rise from the perusal of it without feeling fresh incentives both to public and private virtue.

The progress of the style which marked the period of the American Revolution may be traced in North Carolina from the administration of Governor Dobbs. It had become the common style of the leading men of the colony before the meeting of the Continental Congress in 1774. The correspondence and public papers of Samuel Johnston and Joseph Hewes, of Edenton; of William Hooper and Archibald Maclaine, of Wilmington; of Richard Caswell, of Kinston; of Thomas Burke, of Hillsborough; of Francis and Abner Nash of New Bern, upon the great subjects which then engrossed the public attention, do honor to the literature of North Carolina at that time. They wrote upon matters of business—business which concerned the welfare of the nation; they wrote as they felt; and their compositions, coming warm from the heart, are free from affectation or pedantry, and equally free from that prolixity which is the vice of modern composition.

When these men disappeared, our literature, in a great degree, disappeared with them. The war had exhausted the resources of the State and ruined the fortunes of many individuals; we had no schools for the education of our youth; few of our citizens were able to send their sons to the Northern colleges or to Europe to be educated. Two individuals, who received their education during the war, were

destined to keep alive the remnant of our literature and prepare the public mind for the establishment of this University. These were William R. Davie and Alfred Moore. Each of them had endeared himself to his country by taking an active part in the latter scenes of the war; and when public order was restored and the courts of justice were opened they appeared at the bar, where they quickly rose to eminence, and for many years shone like meteors in North Carolina. They adorned the courts in which they practiced, gave energy to the laws, and dignity to the administration of justice. Their genius was different and so was their eloquence. Davie took Lord Bolingbroke for his model, and Moore, Dean Swift; and each applied himself with so much diligence to the study of his model that literary men could easily recognize in the eloquence of Davie the lofty, flowing style of Bolingbroke; and in that of Moore, the plainness and precision of Swift —they roused the ambition of parents and their sons; they excited emulation among ingenuous youth; they depicted in glowing colors the necessity of establishing a public school or university in which the young men of the State could be educated. The General Assembly resolved to found an university. I was present in the House of Commons when Davie addressed that body upon the bill granting a loan of money to the trustees for erecting the buildings of this University; and although more than thirty years have since elapsed, I have the most vivid recollections of the greatness of his manner and the power of his eloquence upon that occasion. In the House of Commons he had no rival, and upon all great questions which came before that body his eloquence was irresistible. The genius and intellectual habits of Moore fitted him for the bar rather than a deliberative assembly. Public opinion

was divided upon the question whether he or Davie excelled at the bar. Moore was a small man, neat in his dress and graceful in his manners; his voice was clear and sonorous, his perceptions quick, and his judgment almost intuitive; his style was chaste and his manner of speaking animated. Having adopted Swift for his model, his language was always plain. The clearness and energy of his mind enabled him, almost without an effort, to disentangle the most intricate subject and expose it in all its parts to the simplest understanding. He spoke with ease and with force, enlivened his discourses with flashes of wit, and where the subject required it, with all the bitterness of sarcasm. His speeches were short and impressive: when he sat down every one thought he had said everything that he ought to have said. Davie was in his person tall and elegant, graceful and commanding in his manners; his voice was mellow and adapted to the expression of every passion; his mind was comprehensive, yet slow in its operations, when compared with his great rival. His style was magnificent and flowing, and he had a greatness of manner in public speaking which suited his style and gave to his speeches an imposing effect. He was a laborious student, arranged his discourses with care, and, where the subject suited his genius, poured forth a torrent of eloquence that astonished and enraptured his audience. They looked upon him with delight, listened to his long, harmonious periods, caught his emotions, and indulged that ecstasy of feeling which fine speaking and powerful eloquence alone can produce. He is certainly to be ranked among the first orators, and his rival, Moore, among the first advocates, which the American nation has produced.

Whilst these two men were in the zenith of their

glory, another man arose at the bar in North Carolina who surpassed them both in profoundness of legal learning, and, on many occasions, successfully contended with them for the palm of forensic eloquence. This was the late John Haywood. He had few advantages from nature; his person was indifferent, his voice harsh, his manners uncouth, his education limited. He was a stranger to the graces, and had few of the accomplishments of an orator. But he had a powerful and intrepid mind, which he cultivated by the most laborious study. The fame of Davie and Moore inspired his ambition, and he was tortured by a desire of entering the lists with these champions of the bar. He was conscious of his defects, and sought to gain the ascendency by superior legal learning. He came to the bar with confidence of high intellectual powers and profound knowledge of the law; and in a little time acquired a reputation that placed him at the head of his profession in this State and gave him rank among the ablest common-law lawyers in the Union.

Contemporary with Haywood were several gentlemen of the bar now living and several who are dead who have sustained the character of their profession for legal learning and general literature. Among the latter were William Duffy and Archibald Henderson. Duffy was the child of misfortune. Thrown upon the world without friends and without fortune, accident introduced him, in his early youth, to the acquaintance of John Haywood, Esq., the venerable Treasurer of this State, who, in the exercise of that benevolence for which his whole life has been conspicuous, gave him employment and enabled him to prosecute his studies and prepare himself for the bar. Duffy had an opportunity of witnessing the splendid displays of Davie and Moore

and he profited by their example. He devoted a large portion of his time to polite literature, and acquired a more elegant style in composition than any of his contemporaries in North Carolina. He had a slight impediment in his speech, but by laborious perseverance he succeeded in regulating the tones and modulations of his voice in such a way that his impediment seemed to be an ornament to his delivery. He was one of the few men of our country who could read well; he studied the art of reading, and his friends will long remember the pleasure they have received from hearing him read. In his addresses at the bar he was always impressive, particularly upon topics connected with virtuous and benevolent feeling. He had a vigorous mind and feelings attuned to the finest emotions. I remember him with fond affection. He was my friend, my preceptor, my patron. He instructed me in the science of the law, in the art of managing causes at the bar, and in the still more difficult art of reading books to advantage. I wish it were in my power to render to his memory a more permanent honor than this passing tribute of respect and gratitude!

Henderson survived Duffy many years, and obtained the first standing at the bar of this State. He was devoted to his profession, and, upon the whole, was the most perfect model of a lawyer that our bar has produced. It was late in life before he turned his attention to polite literature, and he never acquired a good style in composition. Yet his style and manner of speaking at the bar were extremely impressive. I shall here speak of him as I did in a sketch of his character published shortly after his death. In him the faculties of a fine mind were blended with exalted moral feelings. Although he was at all times accessible, he seemed to live and move in an

atmosphere of dignity. He exacted nothing by his manner, yet all approached him with reverence and left him with respect. The little quarrels and contests of men were beneath him; his was the region of high sentiment, and there he occupied a standing that was preeminent. The Constitution and jurisprudence of his country were his favorite studies. Profound reflection had generalized his ideas and given to his political and legal learning a scientific cast. No man better understood the theory of our government; no man more admired it, and no man gave more practical proofs of his admiration. The sublime idea that he lived under a government of laws was forever uppermost in his mind, and seemed to give a coloring to all his actions. As he acknowledged no dominion but that of the laws, he bowed with reverence to their authority, and taught obedience no less by his example than his precept. To the humble officer of justice he was respectful; the vices of private character were overlooked when the individual stood before him clothed with judicial authority. In the County Courts, where the justices of the peace administer the law, he was no less respectful in his deportment than in the highest tribunal of the State. He considered obedience to the laws to be the first duty of a citizen, and it seemed to be the great object of his professional life to inculcate a sense of this duty and give to the administration of the laws an impressive character. He was conscious of his high standing, and never committed himself nor put his reputation at risk. He always came to the trial of his causes well prepared; and if the state of his health or his want of preparation were likely to jeopardize his reputation in the management of his client's cause he would decline the trial until a more favorable time. The

courts in which he practiced, and his brother lawyers, understood the delicacy of his feelings upon this point so well that they extended to him the indulgence he required, and a knowledge of this part of his character gave confidence to his clients and attracted crowds of people to hear his speeches. When he rose at the bar no one expected to hear common-place matter; no one looked for a cold, vapid, or phlegmatic harangue. His great excellence as a speaker consisted in an earnestness and dignity of manner and strong powers of reasoning. He seized one or two strong points, and these he illustrated and enforced. His exordium was short and appropriate; he quickly marched up to the great point in controversy, making no manœuvre as if he were afraid to approach it, or was desirous of attacking it by surprise. The confidence he exhibited of success he gradually imparted to his hearers; he grew more warm and earnest as he advanced in his argument, and seizing the critical moment for enforcing conviction, he brought forth his main argument, pressed it home and sat down. As he advanced in life he seemed more and more anxious that the laws should be interpreted and administered by the rules of common sense. He lost his reverence for artificial rules; he said the laws were made for the people, and they should be interpreted and administered by rules which the people understood, whenever it was practicable; that common sense belonged to the people in a higher degree than to learned men, and that to interpret laws by rules which were at variance with the rules of common sense necessarily lessened the respect of the people for the laws, and induced them to believe that courts and lawyers contrived mysteries in the science merely for the purpose of supporting the profession of lawyers. He

said the rules of pedantry did not suit this country nor this age; that common sense had acquired dominion in politics and religion, and was gaining it in the law; that judges and lawyers should have the independence and magnanimity to strip off the veil of mystery from every branch of the science, and simplify and make it intelligible, as far as possible, to the understanding of the common people.

In all free States eloquence has preceded poetry, history, and philosophy. By opening the road to wealth and fame it subserves the purposes of avarice and ambition; society is led captive by its charms, and sometimes bound in fetters by its powers. In this State the bar and the General Assembly have been thus far the theatres for its display. Oratory is the branch of literature which we have cultivated with most success, and in which we have not been far behind any of our sister States.

Not long after Davie left the House of Commons there appeared in that body another man whose genius we have all admired and whose misfortune we all deplore. I hope I may be permitted to speak of him, although he be still living. Providence has withdrawn him from public view, and he has been followed by the regrets and tears of his countrymen. I speak of John Stanly, Esq. For more than twenty years he has been the ornament of the bar and of the House of Commons. Small in stature, neat in dress, graceful in manner, with a voice well modulated, and a mind intrepid, disciplined and rich in knowledge, he became the most accomplished orator of the State. His style of eloquence was more varied than that of any of his predecessors. Such were the versatility of his genius and the extent of his acquirements that he could at pleasure adopt the

lofty, flowing style of Davie, or the plain, simple, energetic style of Moore. He could rouse the noble passions, or amuse by his wit and pleasantry. He excelled in appropriate pauses, emphasis and gesticulation. No speaker was ever more fortunate in accommodating his manner to his subject; and on all important subjects he had a greatness of manner which small men seldom acquire. He resembled Moore in the quickness of his perceptions and the intuition of his judgment. His talents and knowledge were always at command, and he could bring them to bear with force and effect as occasion required, without any preparation. His mind was so well disciplined and so happily toned that it was always ready for action. He possessed the rare talent of conversing well; his conversation was the perpetual flow of sober thought or pleasant humor, and was heightened in its effect by his happy style and gracefulness of manner. He was among the few orators of this or any country, whose style and manner in conversation equaled his style and manner in public speaking.

Few of the men whom I have named had the advantage of a liberal education; they rose to eminence by the force of genius and a diligent application to their studies. The number of our literary men has been small, when compared with our population; but this is not a matter of surprise when we look to the condition of the State since the close of the Revolutionary war. When the war ended the people were in poverty, society in disorder, morals and manners almost prostrate. Order was to be restored to society and energy to the laws before industry could repair the fortunes of the people; schools were to be established for the education of youth and congregations formed for preaching the

gospel before the public morals could be amended. Time was required to effect these objects; and the most important of them, the education of youth, was the longest neglected. Before this University went into operation, in 1795, there were not more than three schools in the State in which the rudiments of a classical education could be acquired. The most prominent and useful of these schools was kept by Dr. David Caldwell, of Guilford county. He instituted it shortly after the close of the war and continued it for more than thirty years. The usefulness of Dr. Caldwell to the literature of North Carolina will never be sufficiently appreciated; but the opportunities of instruction in his school were very limited. There was no library attached to it; his students were supplied with a few of the Greek and Latin classics, *Euclid's Elements of Mathematics*, and *Martin's Natural Philosophy*. Moral philosophy was taught from a syllabus of lectures delivered by Dr. Witherspoon at Princeton College. The students had no books on history or miscellaneous literature. There were indeed very few in the State, except in the libraries of lawyers who lived in the commercial towns. I well remember that after completing my course of studies under Dr. Caldwell, I spent nearly two years without finding any books to read except some old works on theological subjects. At length, I accidentally met with Voltaire's history of Charles XII. of Sweden, an odd volume of Smollett's *Roderick Random*, and an abridgment of *Don Quixote*. These books gave me a taste for reading, which I had no opportunity of gratifying until I became a student in this University in the year 1796. Few of Dr. Caldwell's students had better opportunities for getting books than myself; and with these slender opportunities of instruction, it is not surprising that

so few became eminent in the liberal professions. At this day, when libraries are established in all our towns, when every professional man and every respectable gentleman has a collection of books, it is difficult to conceive the inconveniences under which young men labored thirty or forty years ago.

But has the number of our distinguished men increased as the facilities of instruction have increased? They certainly have not. Of the number of young men who have been educated at this University, how few have risen to eminence in any branch of literature! Their number bears no proportion to the increased means of instruction which they have had. To what causes is this to be attributed? The causes are numerous, but we will notice only a few of the most operative. In the first place the plan of education in all our schools, particularly in our preparatory schools, is radically defective; too much time is spent upon syntax and etymology; the time of the student is wasted, and his genius frittered away upon words instead of being developed and polished by the spirit of the writer. Instead of directing the study of the Greek and Latin classics to the development of his faculties and the improvement of his taste, his time is taken up in nice attention to words, arrangement of clauses and construction of periods. With his mind thus injured, he enters upon the study of the physical and moral sciences, and long accustomed to frivolous investigation, he never rises to the dignity of those sciences nor understands the methods by which their truths are illustrated. In the next place, too many studies are crowded upon the student at once; studies which have no analogy or connection. In the third place, the time allotted for completing a course of scientific study is too short; the student's mind flags

under the severe labors imposed upon it. The elasticity of the mind ought never to be weakened; if it be, the student thenceforward hobbles through his course, and is often broken down before he gets to the end of it. In the fourth place, too many studies are pursued, and none are pursued well; the student acquires a smattering of languages and sciences, and understands none of them. This encyclopedical kind of learning is destructive of the powers of the mind, and unfits it for deep and severe investigation. In the last place, the multitude of books is a serious injury to most students. They despair of reading many of them, and content themselves with reading reviews of the most celebrated. At length the valuable books are placed away carefully in a library, and newspapers, pamphlets and other fugitive productions take up all their time for reading. There is nothing in this course which teaches youth how to think and investigate. The great object of education is to give to the mind activity and energy: this object can never be attained by a course of studies which distracts its attention and impairs its elasticity.

The evils which I have mentioned are not confined to the schools of North Carolina; they exist in nearly all the schools of the Union. Massachusetts has taken the lead in correcting them and introducing methods of instruction founded upon the philosophy of the mind. The state of science and literature among her people shows the happy effect of these changes. The Trustees of this University have resolved to make similar changes, to remodel the plan of studies, and introduce new methods of instruction. But whatever changes may be made in our plan of education, young men, who are desirous of being either useful or eminent in active life, should recollect this truth, that the education received at a college or university

is intended only as a preparation of the mind for receiving the rich stores of science and general knowledge which subsequent industry is to acquire. He who depends upon this preparation alone will be like a farmer who ploughs his land and sows no grain. The period of useful study commences when a young man finishes his collegiate course. At that time his faculties have acquired some maturity from age and some discipline from exercise; and if he enter with diligence upon the study of a branch of science, and confines his attention to that branch, he soon becomes astonished at his progress and at the increase of his intellectual powers. Let him avoid reading or even looking into a variety of books. Nine-tenths of them are worse than useless; the reading of them produces a positive injury to the mind; they not only distract his attention, but blunt his faculties. Let him read only works of men of genius—read but few books, and read them often. Take two young men of equal minds and similar genius; put into the hands of one Shakespeare's *Plays*, Milton's *Paradise Lost*, *Don Quixote* and *Gil Blas*; and into the hands of the other all the hundred volumes of dullness which fill our libraries; and at the end of twelve months mark the difference between them. The first will be like the high-spirited steed that is ready for the course; the other will be encumbered with a load of useless ideas, his faculties weakened, and the bright tints of his genius obscured.

The next great object, after the improvement of the intellectual faculties, is the forming of a moral character. This is by far the most difficult part of education: it depends upon the doctrines of morals and the philosophy of the passions and feelings. Little success has heretofore attended it, either in the schools of Europe or this country. The moral

character of youth has been generally formed by their parents, by friends who gained their confidence, or by their pursuits in active life. The morality thus taught is purely practical; it has reference to no abstract truths; it looks only to the passions and feelings of our nature under the variety of circumstances in which we may be placed in society, and the duties which thence result. The science of ethics taught in our schools is a cold, speculative science; and our youth are misled by substituting this for practical morality. It is to be regretted that we have no work on moral philosophy which treats of ethics purely as a practical science; and it is remarkable that, notwithstanding the great improvement that has been made within the last century in metaphysical and physical science, and the liberal turn of philosophical inquiry which has been introduced, the science of ethics remains stationary. The question, "What is the foundation of moral obligation?" is not more satisfactorily answered now than it was two centuries ago. And until the principles of ethics shall be disentangled from the speculative doctrines of theology, interwoven by the schoolmen and monks in the sixteenth and seventeenth centuries, and those principles be traced to the constitution and condition of man, having for their object the development of his social rights and duties, we shall have to regret that the most sublime of all the sciences remains imperfect. It seems to be reserved for the philosophers of Scotland to trace those principles and make this development; and we wait with impatience for the promised work of Dugald Stewart on this subject. But any system of morals which we may study as a science will never have much effect in forming our moral character. We must look to our

constitutional temperament, to our passions and feelings as influenced by external circumstances; and for rules of conduct we must look to the sermons and parables of Christ: they are worth more than all the books which have been written on morals; they explain and at the same time apply that pure morality which is founded upon virtuous feeling.

Young Gentlemen of the Dialectic and Philanthropic Societies:

As you have conferred on me the honor of delivering this first public address under your joint resolution, I hope you will permit me before I sit down to say a few words upon a subject connected with the usefulness of your Societies and the interests of the University. I speak to you in the spirit of fellowship, and a long acquaintance with your Societies enables me to speak with confidence. I well know the influence which your Societies can exercise in maintaining the good order of this Institution, in sustaining the authority of the faculty, in suppressing vice and promoting a gentlemanly deportment among the students. Every respectable student of proper age is a member of one or the other of your Societies, and feels more mortification at incurring its censure than that of the faculty. This feeling is the fulcrum on which the power of the Societies ought to be exerted. Let me entreat you then, more particularly as you propose hereafter to occupy a higher ground than you have heretofore done, to exert that power in sustaining the discipline of the University, in encouraging industry and good manners, and in suppressing vice. The united efforts of the two Societies can do more in effecting these objects than the authority of the Trustees or faculty. A high responsibility rests upon you; your honor and

the welfare of the University demand its faithful discharge.

In a short time you will complete your course of studies at this place and bid adieu to these halls, to act your parts upon the great theatre of active life. Your friends and your country have much to hope, much to expect from you. Devote yourselves with diligence to your studies. When you shall have finished your course here, remember that your education is just commencing; I mean that education which is to fit you for acting a distinguished part upon the theatre of your country. The pursuits and the honors of literature lie in the same road with those of ambition; and he who aspires to fame or distinction must rest his hopes upon the improvement of his intellect. Julius Caesar was one of the most accomplished scholars of Rome, and Napoleon Bonaparte of France. In our own country we lately have seen one of our most eminent scholars raised to the chief magistracy of the nation, and the greatest orator of the age made his prime minister. I speak not here of politics: literature has no factions; good taste no parties. Remember, my young friends, that most of the men who thus far have shed a lustre upon our country had not one-half the opportunities of education which you have enjoyed. They had to rely upon their genius and industry. Genius delights to toil with difficulties: they discipline its powers and animate its courage; it contemns the honors which can be obtained without labor, and prizes only those which are purchased by noble exertion. Wish not, therefore, for a life of ease; but go forth with stout hearts and determined resolution. As yet you little know what labor and perseverance can effect, nor the exalted pleasures which honorable exertion gives to an ingenious mind. May God take charge of you;

lead you in the ways of uprightness and honor; make you all useful men, and ornaments to your country!

LETTER FROM CHIEF JUSTICE MARSHALL TO MURPHY.

RICHMOND, October 6, 1827.

DEAR SIR:—Your oration, delivered in Person Hall, Chapel Hill, reached this place during a visit I had made to our mountain country. It was taken out of the post-office and placed on a general table, among a number of papers and pamphlets received during my absence, and was not perceived till to-day. I mention this circumstance as an apology for having permitted so much time to elapse without making any acknowledgments for the gratification derived from its perusal.

I take a great deal of interest in your portraits of the eminent men of North Carolina, who have now passed away from the theatre of action. It was my happiness to be acquainted with those of whom you speak as being known to yourself, and I feel the justness of the eulogies you have bestowed upon them. I never heard Mr. Davie nor Mr. Moore at the bar, but the impressions they both made upon me in private circles were extremely favorable, and I think you have given to the character of each its true coloring. Neither have I ever heard Mr. Stanly, but I have known him also in private, and it was not possible to be in his company without noticing and being struck with his general talent, and most especially his vivacity, his wit, and his promptness. He appeared to be eminently endowed with a ready elocution, and almost intuitive perception of the subjects of discussion. With Mr. Haywood and Mr.

Henderson I was well acquainted, and have heard them often at the bar. They were unquestionably among the ablest lawyers of their day. I saw not much of Mr. Duffy as a professional man, but thought him a pleasing, agreeable gentleman. You omitted one name which ranks, I think, among the considerable men of your State. It is that of the late Judge Iredell. I was well acquainted with him too, and always thought him a man of real talent.

In the rapid sketch you have taken of the colonial government, some circumstances excite a good deal of surprise. The persecuting spirit of the High-church party was still more vindictive than I had supposed, and the principle of limiting your laws to two years was, I believe, peculiar to Carolina. The scarcity of books, too, which seems to have prevailed ever since the Revolution, is a very remarkable fact. Although I concur perfectly in the opinion you express that much more advantage is to be derived from the frequent and attentive perusal of a few valuable books, than from indiscriminate and multifarious reading—that cramming injures digestion—yet, some books are necessary, not only for ornament, but for use.

Allow me to thank you for the pleasure I have received from the perusal of your oration, for I must suppose that I am indebted to yourself for this mark of polite attention, and to express my particular acknowledgments for the flattering notice you have taken of the *Life of George Washington*. That work was hurried into the world with too much precipitation, but I have lately given it a careful examination and correction. Should another edition appear it will be less fatiguing and more worthy of the character which the biographer of Washington ought to

sustain.

With very great respect and esteem, I am, sir,

Your obedient servant,

J. MARSHALL.

The Hon. ARCHIBALD D. MURPHY,
Haw River, North Carolina.



WILLIAM GASTON.

WILLIAM GASTON.

BY WM. H. BATTLE.

William Gaston, late one of the Judges of the Supreme Court of North Carolina, was born in the town of New Bern on the 19th day of September, A. D. 1778. His paternal ancestors were distinguished French Huguenots, who were driven from their country by the revocation of the famous edict of Nantes, and retired to Ballymore, in Ireland, where they settled, and where Alexander Gaston, the father of the Judge, was born. Alexander, having chosen the profession of medicine and obtained his diploma at the medical college of Edinburgh, entered the British navy as a surgeon. After remaining a few years in this service, he resigned his commission and came to New Bern in this State, where he settled and commenced the regular practice of his profession. In the year 1775 he married Margaret Sharpe, an English lady of the Roman Catholic faith, by whom he had two sons and a daughter, of whom the Judge was the second son. The elder brother died young; and before the subject of this sketch was three years of age he lost his father in a manner deeply tragical. He was shot by a band of Tories, who, in the year 1781, surprised the town of New Bern, and singled out the doctor, who was an ardent and active Whig, as an especial object of their vengeance. It is said that the fatal instrument of death was fired over the head of the agonized wife, while she was imploring, as only a woman can implore, the life of her husband. The Judge was then doubtless too young to

appreciate all the horrors of the scene, but that it made a deep impression upon him in subsequent life we are well assured. Many years afterwards, while he was a member of Congress, upon being charged, in an exciting party debate, with a want of proper American feeling, he indignantly repelled the imputation by the eloquent exclamation, "I was baptized an American in the blood of a murdered father." That same incident was alluded to with thrilling effect in the convention called to amend the Constitution in 1835 by the distinguished and venerable president of that body. The death of his father threw upon his mother the entire care and responsibility of rearing and educating her infant children. Her situation was peculiarly beset with difficulties. The death of two brothers, with whom she had come to this country, followed by the loss of her husband, left her without any other relatives in America than her two children. But happily for them, she was a woman of great energy of character, of singular prudence, and of devoted piety. It immediately became a leading object of her life to train up her son to usefulness and honor. We may be well assured from its results, that her course of discipline was eminently judicious. Indeed, the Judge has been heard to declare that whatever success and distinction he had attained in life he owed to her counsels and her admirable management, and that but for her he might have been a vagabond. He was first sent to school in his native town, and while there he was represented as having been "very quick, and apt to learn; of an affectionate temper, and yet volatile and irritable. His mother used every means to correct his infirmities of disposition, and to give an aim to his pursuits—sometimes employing kindness, or mild but solemn admonition, and

occasionally still stricter discipline." She kept him under her own immediate supervision and control until the fall of the year 1791, when she sent him to the Roman Catholic college at Georgetown. After remaining at this institution about eighteen months, his failing health compelled him to return home. Soon afterwards his health was reestablished, and he resumed his studies under the tuition of the Rev. Thomas P. Irving, who then had charge of the academy at New Bern. Here he was prepared for admission into the junior class of Princeton College, which he entered in the fall of 1794; and in 1796 was graduated, at the early age of eighteen, with the first honors of the institution.

After completing his collegiate course he selected the law as his profession, and immediately commenced his studies in the office of François Xavier Martin, then a practicing lawyer in this State, but now a Judge of the Supreme Court of the State of Louisiana. The same diligent attention to the studies of his profession, which had distinguished his career in college, enabled him to obtain admittance to the bar in the year 1798. In that same year the late Chief Justice Taylor, who had married his sister, was elevated to the bench and gave all his business to his young friend and relative, which put him at once into full practice. This sudden accumulation of business, which would have operated to the disadvantage of a mind less active and cultivated, served only to call forth all his energies, by the necessity it occasioned of a thorough preparation to meet the great responsibility thrown upon him. He very soon acquired distinction in his profession, which steadily increased until he attained, by universal acknowledgment, the proud eminence of being at the head of the bar of this State—a pre-

eminence which he never lost until he was raised by his admiring countrymen to a still more exalted station. But while he was thus pursuing, with rare success, the profits and honors of his profession, he never for a moment lost sight of the interests of his country. The very next year after he reached the age of manhood he was elected a member of the State Senate from his native county of Craven; and in 1808 he was elected a member of the House of Commons, and was chosen to preside over its deliberations. The same year he was nominated by the Federal party, to which he was attached, as Presidential Elector for the district in which he resided. The reputation which he had acquired at the bar and in the legislative halls of the State for integrity, patriotism and distinguished ability procured his election in 1813, and again in 1815, to the House of Representatives in the Congress of the United States. Of the elevated stand which he took in that body it is needless for me here to speak. It is a part of the history of the country, that amidst the brilliant constellation of statesmen then seen in the councils of the American nation—a constellation illustrated by the genius and eloquence of a Lowndes, a Randolph, a Calhoun, a Webster, and a Clay, the star of Gaston was far from being the least brilliant. The admirer of parliamentary oratory will find in his speeches upon the Loan Bill and the previous question some of the finest displays of reasoning and eloquence which our country has produced.

In 1817, Judge Gaston voluntarily retired from Congress, and never returned to the national councils. The residue of his days he devoted to the duties of domestic and professional life, and to the service of his native State. He was frequently chosen, sometimes by the freemen of the county of Craven,

and sometimes by those of the town of New Bern, to represent them in the General Assembly. Of the value of his services in this more limited, but still very important sphere of usefulness, it is difficult to speak in adequate terms without the appearance of exaggeration. I have not the materials, if I had the time and opportunity, for stating in detail all the measures which he accomplished, or assisted in accomplishing, for the good of the State. I can point only to a few monuments in the course of our legislative history, to show that the hand of a master-workman has been there. In the year 1808 he drew up the "Act regulating the descent of inheritances," which, with scarcely any alteration or addition, remains the law on that subject to this day. In 1818 he was mainly instrumental in the establishment of our present Supreme Court system; and in 1828 all his varied powers of eloquence and argumentation were exerted to their utmost to prevent the success of a measure in relation to the banks, which would have spread ruin and dismay throughout the length and breadth of our State. His last appearance in the Legislature was as a member of the House of Commons in 1831 when he made a splendid effort, but all in vain, in favor of rebuilding the capitol, which had been destroyed by fire the preceding summer.

In the summer of 1833 a vacancy upon the bench of the Supreme Court occurred by the death of Chief Justice Henderson. From various causes, of which I know too little to attempt an explanation, the Supreme Court had at that time by no means so strong a hold upon the confidence of the people as it has since obtained. It was very desirable, therefore, on the part of the friends of the system to fill the vacancy by a man of commanding talents and great

influence, in order to give it strength. All eyes were at once turned towards Judge Gaston. But there were supposed to be two very serious obstacles to his acceptance of the office. It was known that his practice at the bar was extensive and very lucrative, and it was also known that a prudent regard to his private affairs would dictate that his professional income should not be exchanged for a judge's salary. It was also believed by many that the thirty-second article of our State Constitution forbade his accepting the office, in that clause which declared that "no person who shall deny the truth of the Protestant religion shall be capable of holding any office or place of trust or profit, in the civil department, within this State." The friends of the Judge nevertheless urged him to become a candidate for the office. After a full and fair explanation of the latter and most important objection, he became satisfied that it was not tenable; and as to the former, that his duty to his country required him to make the sacrifice. His name was accordingly brought before the Legislature in the winter of 1833, and he was elected by a large majority on the first ballot. At the ensuing term of the Court he took his seat upon the bench, and from that time until the very day of his death he continued to discharge the duties of his office with an ability and devotion seldom equaled and never surpassed. When a Convention of the people of the State was called in 1835, to amend the Constitution, he took a seat in it as one of the members from the county of Craven. Of the manner in which he performed the peculiarly delicate and important duties of assisting to revise and amend our fundamental law, I know it is needless for me to speak in this presence. The distinguished President of this Institution, who was then Governor of the State

and a member of the Convention, can tell the extent of his labors and the value of his services in that body. Suffice it for me to say that he was placed on almost every important committee; that he took a leading part in every important debate; that he, in a great measure, guided and directed the whole business of the Convention. And when its labors were at last brought to a successful conclusion, it was from his hand that the amendments to the Constitution received the form and dress in which they now appear. Excepting his judicial duties, this was the last public service in which he was engaged. It is true that when our Senators in Congress resigned in 1840, the Whig party, which had then the ascendency in the Legislature, tendered him the nomination for one of the vacancies; but he declined it, preferring to remain on the bench, where he thought he could do the State better service. Nor need we regret his determination; for though none could have represented the State in the Senate with more dignity, fidelity, and ability, yet his profound legal attainments, his extensive and varied information, his severe and patient habits of thought, and a style of composition at once dignified and elegant, so admirably fitted him for the high tribunal on which he was placed that we could not have wished to see him transferred to any other station, however exalted. But it is needless for me to enlarge upon his judicial fitness and ability. The Chief Justice of the Court, the associate of his labors and his duties, himself one of the ablest judges and most profound lawyers of his day, has emphatically pronounced from the judgment-seat that he was a "great judge." In confirmation of this sentence, if it needed confirmation, I would refer to all his reported judicial opinions; and particularly to the opinion of

the Court as delivered by him in the case of the *State* vs. *Will*, 1 Dev. and Bat. Rep., 121; and his dissenting opinion in the *State* vs. *Miller*, *ibid.*, 500; the latter of which has been pronounced by a very competent judge one of the finest judicial arguments to be found in this country.

I have said that Judge Gaston continued in the faithful discharge of his official duties until the very day of his death. This is literally true. On Tuesday, the 23d of January past, not quite a fortnight ago, he took his seat in the Court as usual, though he had felt for several days a sensation of chilliness and a difficulty of breathing. He remained on the bench until about two o'clock P. M., giving strict attention to a case then under discussion, when he was attacked with faintness and other symptoms of violent sickness. He was taken to his room and a physician called in, who very soon relieved him. He revived, became cheerful and engaged in an interesting conversation with some of his friends who had called to see him. In the course of the evening he told several anecdotes, at which they laughed heartily. "He then related" (says a published account) "the particulars of a convivial party at Washington City, many years ago, and spoke of one who, on that occasion, avowed himself a freethinker in religion. 'From that day,' said Judge Gaston, 'I always looked on that man with distrust. I do not say that a freethinker may not be an honorable man; that he may not, from high motives, scorn to do a mean act; but I dare not trust him. A belief in an All-ruling Divinity, who shapes our ends, whose eye is upon us, and who will reward us according to our deeds, is necessary. We must believe and feel that there is a God—All wise and Almighty." As he was pronouncing the last word, he rose to give it greater

emphasis. The moment after there was a sudden rush of blood to the brain, when he immediately fell back and expired.

In reviewing the life of this eminent man, which has been thus hastily and imperfectly sketched, we see that though left an orphan in earliest infancy in a country where he had no kindred, save a widowed mother and an infant sister, though professing a religious faith almost proscribed, and attached to a political party always in the minority, he yet rose to the highest summit of professional distinction, acquired, during a brief career in the Legislature of his State, a preponderating influence in its councils, was among the foremost of the great in the national assembly, was selected by almost general acclamation to preside in the highest judicial tribunal known to our law, and, more than all, won and maintained to the day of his death, the confidence, the admiration, and the affection of his countrymen. It is interesting, and it must be profitable to all, particularly to you, young gentlemen, who are just entering upon the career of life, to inquire what were the qualities and what the talents which enabled their possessor, under such circumstances, to achieve such great results. In the very outset of his life, we discover one trait to which much, if not all, of his success was owing—his love and veneration for his mother.

An early attention to all his duties, and a desire to excel in everything useful, was another distinctive trait in the character of Judge Gaston. We discover this in the rapid progress made in his studies and the distinction which he acquired at college. I am aware that college honors are often decried, at least by those who never obtained them, and that it has been

frequently said that they afford no presage of excellence in after-life. I beg leave to dissent from that opinion. Judge Gaston himself thought far otherwise. Long after he had left the walls of his *alma mater*, when his mind was enlarged by observation and corrected by experience, he expressed himself in an address to the young men who then occupied the seats now filled by you in the following glowing words: "True it is that it sometimes, though very rarely, happens that those who have been idle during their academical course have by extraordinary exertions retrieved their early neglect and in the end outstripped others who started in the race far ahead. These are exceptions—they furnish cause to humble arrogance, check presumption, banish despair and encourage reformation. But as surely as a virtuous life usually precedes a happy death so surely will it be found that within the college precincts is laid the groundwork of that pre-eminence afterwards acquired in the strife of men; and that college distinctions are not only good testimony of the fidelity with which college duties have been performed, but the best presages and pledges of excellence on a more extended and elevated field of action."

A faithful and fearless discharge of whatever he found to do in the path of duty was another prominent trait in the character of the Judge. He never asked what interest or policy might dictate, but what truth and justice required; and the latter he resolutely performed, "uncaring consequences." I might mention many instances of his braving popular prejudices, and incurring for a time popular odium, in doing what an enlightened conscience told him he ought to do. A memorable instance is presented in

his appearing as counsel for Lord Granville in the famous suits which he instituted in this State after the Revolutionary war. A course, which all would now acknowledge to be right, then very sensibly affected his popularity for many years. He was at that time a young man, and it required no little of the force of conscious rectitude to enable him to stem the torrent of prejudice which ran so strong against him.

Another eminent quality which illustrated the whole life of Judge Gaston was the constant love of order and a devoted and almost sacred regard for the Constitution and laws of his country. In all his precepts, wheresoever and to whomsoever uttered, in all his conduct, whether in public or in private, he inculcated and enforced obedience to the law, observance of order, and the support and maintenance of our fundamental institutions in all their integrity. His views and opinions upon this subject are expressed in an address which he delivered at Princeton in September, 1835, before the "American Whig" and "Cliosophic" Societies of the College of New Jersey. It is difficult to find anywhere, within the same compass, the duties of an American citizen, in relation to the laws and institutions of his country, so clearly expressed and so powerfully enforced. The address was much admired at the time, and received on two occasions a compliment of which any man might be justly proud. In a charge to the grand jury of his Court, Chief Justice Cranch, of the District of Columbia, read several pages from the address, accompanied by remarks of the highest commendation. And shortly afterwards, Governor Vance, of Ohio, on an occasion so solemn as his inauguration, quoted largely from it,

after speaking in the most flattering terms of the author, as one of the most eminent statesmen and profound jurists of our country.

If the qualities which we have considered excite our admiration and command our respect, that to which I would now call your attention is well calculated to inspire love and win affection. I mean his kind regard for the young. To them he was ever accessible, kind and communicative; always ready to give advice, or to impart instruction. Among them it was his delight to unbend, after the severity of his official labors, and to engage in their innocent amusements. Often have I seen him in such moments of relaxation; and as I saw, I could but admire and love a wisdom which, while it could instruct senates, disdained not the sports of the young, nor even the frolics of infancy; which, while it could one moment expound the gravest of laws, could the moment after explain an apothegm for the instruction of youth, or solve a riddle for the amusement of childhood. His regard for the young extended from the earliest to the latest period of that time of life. For those just approaching the verge of manhood he has often given signal proofs of his solicitude. In 1832 he was invited to deliver an address before the two Literary Societies of this institution, and in 1835 he received an invitation to perform a similar duty before the Societies of Princeton College in New Jersey. In both instances, though at much personal inconvenience, he complied with the request, and delivered the addresses to which I have had occasion to allude. On the merit of these productions the public has already decided. It remains only for me to say that no young man can read them, as they ought to be read, with care and attention, without profit and advantage; and the best return I can make for your kindness to

me on this occasion is to advise each of you to procure copies of them, and to "attend to their admonitions, treasure up their counsels and obey their injunctions."

From what I have already said, you have doubtless anticipated my account of the character of Judge Gaston in private and domestic life. A kind master, a fond father, a true friend, a most amusing and instructive companion, he made the social intercourse of life a source at once of pleasure and profit. None could make the grave remark, none could tell the laughable anecdote, better than he. An evening spent among his friends always left them in doubt whether to admire most the extent of his information, the depth of his erudition, the variety of his powers, or the easy, cheerful, instructive flow of his conversation.

It can hardly be necessary for me to say that Judge Gaston was always a zealous and enlightened friend to the cause of education. His great services to the University as a guardian and benefactor for more than forty years have been very justly and appropriately acknowledged in the resolutions recently adopted. He was appointed a trustee of the University in the year 1802, and was at the time of his death, with the exception of Judge Potter, the oldest member of the board.

The crowning glory of Judge Gaston's character remains yet to be spoken of. He was a firm believer in the superintending Providence of an All-wise and an Almighty Being, and in the truths of Revelation. The principles of the Christian religion were deeply impressed upon his infant mind by the devoted piety of his excellent mother; and they were never forgotten and never departed from. An abiding faith

in them was a staff to his hand and a lamp to his feet. It sustained, guided, and animated him through life, and in the hour of death it did not desert him. The last sentence he uttered recognized its truth and its consolations. Yes, this elegant scholar, this accomplished orator, this eminent statesman, this profound jurist, was an humble follower of the meek and lowly Jesus. He thought it no scorn to bow at the footstool—he felt it no degradation to take upon him the yoke of a Saviour. And when his last hour came, we cannot doubt that the parting soul counted all—fame, reputation, worldly pleasures, worldly honors—as but dross, in comparison with that faith, upon whose wings it was upborne to the bright realms of glory.

Such, my young friends, was the great and good man whose life and character I have attempted to portray. I cannot take upon myself to say that he was faultless: since the memorable declaration of the incarnate Son of God, that "there is none good save one, that is God," it would be impious for me to do so; but whatever might have been his frailties, he had such great virtues, such noble qualities, there was such a harmony in his character, such a beauty in his life, that I can conscientiously propose him for your study, and recommend him for your imitation. Go then, and like him, perform fully, faithfully, fearlessly, your duty to yourselves, your families, your country and your God; and then, like him, you will be honored in your lives, and when you come to die, a nation's tears will hallow your graves.

ADDRESS AT THE UNIVERSITY.

BY WILLIAM GASTON.

Gentlemen of the Dialectic and Philanthropic Societies:

When I look around on this extraordinary concourse of visitors I cannot but feel that expectation has been too highly excited, and cannot but anticipate and regret the disappointment which it must necessarily meet with. Aware of the value which is here set upon the ceremony of the annual address; knowing that friends of the University throughout the State regard it as calculated not only to excite a spirit of emulation among the students, but to attract the public attention to the institution itself; and warmly attached to that noble cause, for the advancement of which these edifices have been erected and your associations formed, I felt myself bound to accept the invitation, in obedience to which I appear before you. Could I indeed have foreseen the unusual engagements which, added to the ordinary occupations of a busy life, have left me no leisure to prepare anything worthy of the general expectation, I should have deemed myself at liberty to decline the call. But the discovery was not made until after my word was pledged and it was too late to hope that the duty could be devolved on another. Compelled then to choose between an entire disappointment of your hopes and the presenting myself to you without the advantage of full preparation, I have resolved to execute the undertaking imperfectly rather than forego it altogether. To whatever petty mortifications the adoption of this alternative may expose me elsewhere, from you, my young friends, I am sure of

a favorable reception. You will see in it an expression of the sense which I entertain of the honor conferred on me, by your choice, of my readiness to gratify your wishes, and of my solicitude to cheer you on in the noble career upon which you have entered. The few homely truths which I wish to impress upon your minds will not indeed come mended from my tongue, but I do not despair that, presented in their naked plainness, but urged with the earnestness and sincerity of friendship, they may win their way to your generous and affectionate approbation.

The authority of Shakespeare is often invoked for the position that "there is a tide in the affairs of men, which taken at the flood, leads on to fortune." Without venturing to deny altogether the fitness of this metaphor, and fully admitting it to have enough of truth to render it appropriate to the occasion for which it was used, and the character to whom the great poet assigned it, I yet regard it as too favorable to that indolence of disposition which is always ready to imagine success in life as depending on some fortunate tide. I hold that, generally, every man is the architect of his own fortune, the author of his own greatness or insignificance, happiness or misery. True, it is, that casualties, neither to be foreseen nor prevented, may defeat schemes which have been wisely concerted and vigorously prosecuted; and that success, undeserved, and perhaps unsought, may sometimes befall the weak and slothful. These, however, are but occasional deviations from the ordinary course of nature, according to which, man's energies, wisely or foolishly directed, and diligently or carelessly exerted, are made to determine his character and condition in society. The stoutest ship that was ever manned with prudent heads, brave hearts, and strong hands has foundered in a

hurricane, while the feeble bark that "owns no mastery in floating" is sometimes safely wafted into port; yet, who can deny that, ordinarily, the fate of the voyage must depend on the skill, care, and courage with which it is conducted. Much, too, very much, either for permanent good or ill in the fate of every individual, has been found to follow almost necessarily from the habits formed, the propensities cherished or restrained, and the rules of conduct adopted at a very early period of life. We might, perhaps, be tempted to regret that such important and often awful consequences should follow on the doings of an age, when the unworn senses are alive to every impression and the keen appetite greedy for every enjoyment; when the imagination is wild, the judgment feeble, and "heedless, rambling impulse" has scarcely learned to think. Yet such is the constitution of nature, and such consequently the appointment of Him, whose ways are always wise, benevolent and just, and whose will it were not more madness to resist than it is impiety to question. Look through the world, and the least observant cannot fail to discover talents abused, opportunities squandered, and men ruined because of early folly, misbehavior or thoughtlessness; and let those who have passed through life's ordeal with safety and honor look back on their trials, and they will acknowledge how much they owe to very early impressions and to habits contracted almost without a sense of their use or a foresight of their consequences. He, therefore, who aspires to excellence cannot too soon propose to himself the objects which he should strive to obtain, nor fix his aim too early, or too steadily, on the end to which his efforts should be directed. The shortness of life, large fragments of which are necessarily occupied by

animal wants or wasted on frivolous cares and amusements, leave, at best, but an inconsiderable portion to be devoted to intellectual cultivation and exertion. To waste this portion would be criminal improvidence, and it is of the highest moment to learn betimes how it may be most beneficially applied.

The end which an ingenuous youth naturally proposes to himself is a faithful and honorable discharge of the duties of life. His objects are to realize the fond hopes of his parents and friends, to acquire the affection and esteem of those around him, to become the dispenser of good to his fellow-men and thus to fulfill the purposes for which it has pleased God to place him in this world of trial and discipline. He feels that these objects are indeed good. By a moral instinct he is propelled towards them as fit to fill his heart, kindle his aspirations, and animate his exertions. Reason, as she gradually unfolds her powers and assumes dominion over him, sanctions this choice with her approbation; and religion comes in aid of nature and reason, to teach him that talents are but lent to be improved, and that an account must be one day rendered in which their use or neglect will be amply rewarded or severely punished. How much is it not to be lamented that sloth should enervate, dissipation corrupt, or vice brutalize this child of hope and promise? You, who have him in charge, watch over him with never-sleeping vigilance and affectionate solicitude. Give him a happy start, sustain him when disposed to flag, reanimate him when discouraged, check kindly his wanderings, soothe his wounded feelings, guide him with your counsels, and save him from the foes by which he is waylaid and beset. *Macte nova virtute puer sic itur ad astra.*

Most faithfully, no doubt, are these duties performed by the able and excellent men who are here charged with the office of instruction. Little can be done in aid of their efforts but to exhort and entreat all placed under their care to attend to their admonitions, treasure up their counsels, and obey their injunctions. Yet, there are some errors which were prevalent when I was a boy which I have reason to believe still prevail in public schools, and which may perhaps be better handled by an old friend than an acknowledged instructor, and to these, therefore, I would for a few moments request the favorable attention of the younger portion of my hearers.

Vigorous, diligent, and persevering application is essential to the attainment of excellence in every pursuit of man. It is undoubtedly a mistake to suppose that there is no original inequality in the mental faculties of different individuals. Probably, there is as great a disparity in their intellectual as in their physical conformation. But however false this extravagant theory may be there is another error far more common, and, practically, far more mischievous—the error of exaggerating the difference between the original energies of intellect, and of attributing to splendid and resistless genius those victories which are not to be achieved but by well directed and continued industry. It is in the infancy of life that the inequalities of original talent are most striking, and it is not strange that vanity, on the one hand, and indolent admiration, on the other, should hyperbolically extol these obvious advantages. In what this disparity consists it may not be easy to state with precision. But from an observation of many years, I venture to suggest that the chief natural superiority manifested by the

favored few over their competitors in the intellectual conflict is to be found in the facility with which their attention is directed and confined to its proper subjects. That youth may be regarded as fortunate indeed who in early life can restrain his wandering thoughts and tie down his mind at will to the contemplation of whatever he wishes to comprehend and to make his own. A few moments of this concentrated application is worth days and weeks of a vague, interrupted, scattered attention. The first resembles the well-known manœuvre in strategy, so simple in its conception and yet so astonishing in its results, by which all the arms of a military force are made to bear upon a given point at the same moment. Everything here tells, because there is no power wasted, and none misapplied. Now let no one despair because he finds this effort to confine his attention difficult, or for a considerable length of time, impracticable. Nothing is more certain than that this power over the mind may be acquired. Let the attempt be repeated again and again—first short, afterwards (as the ability is increased) for longer periods, and success will ultimately follow. The habit of fixed attention will thus be created, and it is one of the peculiarities of all active habits, that in proportion to the difficulty with which they were produced, is their inveteracy, when once thoroughly formed. Thus, it not unfrequently happens that the advantages with which the individual commenced his career, who was naturally alert and devoted in his attention to every subject as it was successively presented to his notice, have not enabled him to contend successfully with him who, by hard efforts, has chained down his wandering thoughts and dissipated faculties to the habit of attention.

Among the best results which attend a course of

regular academical education is this exclusive and concentrated direction of the mental powers to their appropriate objects. In the years employed principally in the study of the learned languages the necessity of finding out the meaning of each word and discerning either the agreement between different words or the dependence of some of them upon others in certain grammatical relations necessarily sharpens and fixes the attention. After this preparatory discipline of the intellect the student is introduced to the study of mathematical science, where proposition leads on to proposition in regular order, and his attention is necessarily enchained to each truth, as it follows with logical certainty, from truths previously demonstrated. He is then initiated into the mysterious laws of natural philosophy, as they have been discovered, explained and illustrated, by a course of rigorous induction, and is ultimately familiarized with the yet nobler and more sublime investigations of moral science, the refinements of taste, the beauties of eloquence, and the charm of heavenly poesy. And this admirable training is conducted remote from the bustle and cares of the world, in the very hush of the passions, and beyond the reach of beguiling and distracting pleasures. Here surely, then, the understanding is disciplined, its discrimination rendered more acute, its general health and vigor confirmed, while a facility is created for directing its powers to the various manly and trying services which may await in life's busy theatre. But not unfrequently is the question asked by querulous students, why all this devoted attention to the dead languages, to mathematical theorems, philosophical experiments, metaphysical disquisitions and critical subtleties? In the world [he soliloquizes] no one talks Greek or Latin, and in the

forum or legislative hall we shall not be called upon to demonstrate the propositions of Euclid, or explain the phenomena of hydrostatics and optics. The motives of human action are better learned in that great practical school, the world, than by poring over the theories of metaphysicians; and all the rules of Quintilian, Rollin, or Blair will never make a powerful reasoner or an eloquent orator. Why, then, shall we consume our nights and days in the acquisition of that which is to be of no practical utility hereafter, and which brings with it no immediate advantage, except the gratification of pride, a shortlived honor, a distinction at commencement? Beware, my young friends, beware of the tempter! These are the suggestions of sloth—the most insidious, persuasive and dangerous of deceivers. *Vitanda est improba Siren Desidia.*

If you cannot close your ears against her insinuations, strengthen your understandings to triumph over her sophisms, and nerve your courage to resist her wiles. Be sure, if you submit to her benumbing influence, and waste your days here in idleness, the time will come, when with bitter, but perhaps unavailing anguish, you shall bemoan your folly. Remember, that it is not designed by an academical education to teach you all that it behooves you to learn. Education is not completed within these walls. When you shall have quitted this peaceful retreat, and selected the profession or state in life in which you are to be engaged, then you should apply all your efforts to the acquisition of that species of knowledge which is more especially needed. Here are inculcated those elementary principles of science and literature which experience has shown to be best fitted to form the foundation of the character of the scholar and gentleman—those

rudiments of instruction, which, omitted here, are rarely indeed acquired afterwards. Here are to be formed those habits of vigorous and continuous application—here, the capacities for improvement are to be cultivated and strengthened, so that every occasion and every employment without these walls may become subsidiary to further advancement in knowledge, ability, and usefulness. It is a miserable fallacy to mistake the exception for the rule. True it is, that those who have won the highest honors at college do not always realize the hopes which these glorious beginnings have excited. "The fair bloom of fairest fruit" may be blasted by pestilent dews. Folly, vanity and vice, low pursuits and vulgar associations, indolence, intemperance, and debauchery but too often debase and destroy the generous youth who entered on life's career rich in academical distinction, docile, ardent for fame, patient of labor, of manly purpose and noblest promise. Mourn over these moral wrecks. Lament the inadequacy of all earthly good, the frail character of all human excellence. Weep for those who have fallen from their high estate, but say not it was folly in them thus to have risen. True it is also, that it sometimes, though very rarely, happens that those who have been idle during their academical course have, by extraordinary exertions, retrieved their early neglect, and in the end outstripped others who started in the race far ahead. These are the exceptions—they furnish cause to humble arrogance, check presumption, banish despair, and encourage reformation. But so surely as a virtuous life usually precedes a happy death, so surely it will be found that within the college precincts is laid the groundwork of that preeminence afterwards acquired in the strife of men, and that college distinctions are not only good testimony of

the fidelity with which college duties have been performed, but the best presages and pledges of excellence on a more elevated and extensive field of action. In defiance, therefore, of all the lures of pleasure and seductive suggestions of sloth, let active, persevering industry be the habit of your lives. Form this habit here, and cherish and preserve it ever afterwards.

But however earnestly you are thus exhorted to diligence, let it not be forgotten that diligence itself is but a subordinate quality, and derives its chief value from the end to which it is directed and the motives by which it is impelled. It is diligence in a good cause only that is commendable. The first great maxim of human conduct, that which it is all-important to impress on the understandings of young men, and recommend to their hearty adoption is, above all things, in all circumstances, and under every emergency, to preserve a clean heart and an honest purpose. Integrity, firm, determined integrity, is that quality which, of all others, raises man to the highest dignity of his nature, and fits him to adorn and bless the sphere in which he is appointed to move. Without it, neither genius nor learning, neither the gifts of God, nor human exertions, can avail aught for the accomplishment of the great objects of human existence. Integrity is the crowning virtue—integrity is the pervading principle which ought to regulate, guide, control, and vivify every impulse, desire, and action. Honesty is sometimes spoken of as a vulgar virtue; and perhaps that honesty, which barely refrains from outraging the positive rules ordained by society for the protection of property, and which ordinarily pays its debts and performs its engagements, however useful and commendable a quality, is not to be numbered

among the highest efforts of human virtue. But that integrity which, however tempting the opportunity, or however secure against detection, no selfishness nor resentment, no lust of power, place, favor, profit or pleasure can cause to swerve from the strict rule of right, is the perfection of man's moral nature. In this sense the poet was right when he pronounced an honest man the noblest work of God. It is almost inconceivable what an erect and independent spirit this high endowment communicates to man, and what a moral intrepidity and vivifying energy it imparts to his character. There is a family alliance between all the virtues, and perfect integrity is always followed by a train of goodly qualities, frankness, benevolence, humanity, patriotism, promptness to act, and patience to endure. In moments of public need, these indicate the man who is worthy of universal confidence. Erected on such a basis, and built up of such materials, fame is enduring. Such is the fame of our Washington, of the man "inflexible to ill and obstinately just." While, therefore, other monuments, intended to perpetuate human greatness, are daily mouldering into dust, and belie the proud inscriptions which they bear, the solid granite pyramid of his glory lasts from age to age, imperishable, seen afar off, looming high over the vast desert, a mark, a sign, and a wonder for the wayfarers through this pilgrimage of life.

A nice sense of integrity cannot, therefore, be too early cherished, or too sedulously cultivated. In the very dawnings of life occasions are presented for its exercise. Within these walls temptations every day occur, when temporary advantage solicits a deviation from the rule of right. In the discharge of the various duties which you owe to your companions, let no petty selfishness be indulged, no artifices practiced,

by which you are to escape from your fair share of labor, inconvenience or contribution, or any one deprived of the full measure of whatever he may rightfully claim. Cultivate singleness of purpose and frankness of demeanor, and hold in contempt whatever is sordid, disingenuous, cunning or mean. But it is when these peaceful shades shall have been left behind, and the fitful course of busy life begun, that seductions will be presented under every form by which inexperience, infirmity of purpose, and facility of disposition, can be waylaid. Then is the crisis of the young man's fate—then is the time to take his stand, to seize his vantage ground. If he can then defy the allurements of cupidity, sensuality and ambition, the laugh of fools, the arts of parasites, and the contagion of improbity, then indeed, may he hope,

"In sight of mortal and immortal powers,
As in a boundless theatre to run
The great career of justice—
And through the mists of passion and of sense,
And through the tossing tide of chance and pain
To hold his course unfaltering."

You, my young friends, who are standing at the threshold, and waiting with eager impatience the signal for entrance upon life, must not think that I mean to alarm you with idle fears because I thus warn you of the approaching conflict. The enraged bull may close his eyes before he rushes upon his foe, but rational courage calmly surveys danger, and then deliberately prepares and determines to encounter it. Apprised of your peril, and armed for the encounter, enter on your course with resolved hearts, and fear not for the issue.

So sweet are the notes of human praise, and so abhorrent the tones of reproach, that it is among the highest efforts of magnanimity to pursue the straightforward course of duty, without being turned aside by commendation or reproof, by flattery or calumny. Whatever be our journey through life, like the princess in the eastern tale, ascending the mountain in search of the wondrous bird, we are sure to hear around us the confused sounds of blandishment and solicitation, or menace and insult, until with many of us, the giddy head is turned, and we are converted into monuments of warning to those who are to follow life's adventure. Rare, indeed, is that moral courage which, like the prudent Parizade, closes its ears against the impression of these sounds, and casts not an eye behind until its destined course be accomplished. Rare, however, as may be this excellence, and in its perfection perhaps unattainable, there can be no true dignity and decision of character without a near approach to it. Let youth be ever modest, ever deferential to the counsels, the suggestions and the claims of others. But in matters of right and wrong, whatever be the lures, the taunts, or the usages of the world, or whatever the supposed inconveniences of singularity, let judgment and conscience always rule with absolute sway. Carry this maxim with you through life, whatever be the station you are to occupy, or the business you are to pursue; and carry with it another kindred maxim—rely for success in your undertakings, not on the patronage of others, but on your own capacity, resolution, diligence, and exertions. Rise by merit, or rise not at all. Suited as these injunctions are believed to be by all, they are peculiarly addressed to those who, panting for renown, are resolved to enter upon a public career,

and long "to read their history in a nation's eyes."

"O how wretched," exclaimed the Poet of Nature, "is that poor man that hangs on princes' favors." Miserable is the condition of every being who hangs on the favors of creatures like himself. Deserve, and strive by desert, to win the esteem of your fellow-men. Thus acquired, it decorates him who obtains and blesses those who bestow it. To them it is returned in faithful service, and to him in aid of the approbation of conscience to animate diligence and reward exertion. Those too, who engage in public service, are bound to cherish a hearty sympathy with the wants, feelings, comforts, and wishes of the people—whose welfare is committed to their charge. It is essential for the preservation of that confidence which ought to subsist between the principal and the agent, the constituent and the representative, that all haughtiness and reserve should be banished from their intercourse. It sometimes happens that he who has lived too constantly among books manifests a disgust in an association with the uneducated and unrefined, which mortifies and repels them. This is absurd in him, and unjust to them. It is absurd, for he ought to know, and know well, those for whom, and upon whom, he expects to act—they constitute in fact, one of the first and most appropriate objects of his study; and it is unjust, for not unfrequently under this roughness which shocks the man of books is to be found a stock of practical information, in which he is miserably deficient. Banish, then, all superciliousness, for it is criminal and ridiculous. Honestly seek to serve your country, for it is glorious to advance the good of your fellow-men, and thus, as far as feeble mortals may, act up to the great example of Him in whose image and likeness you are

made. Seek also, by all honest arts, to win their confidence, but beware how you prefer their favor to their service. The high road of service is indeed laborious, exposed to the rain and sun, the heat and dust; while the by-path of favor has, apparently, at first, much the same direction, and is bordered with flowers and sheltered by trees, "cooled with fountains and murmuring with waterfalls." No wonder, then, that like the son of Abensina, in Johnston's beautiful apologue the young adventurer is tempted to try the happy experiment of "uniting pleasure with business, and gaining the rewards of diligence without suffering its fatigues." But once entered upon, the path of favor, though found to decline more and more from its first direction, is pursued through all its deviations, till at length even the thought of return to the road of service is utterly abandoned. To court the fondness of the people is found or supposed to be easier than to merit their approbation. Meanly ambitious of public trust, without the virtues to deserve it; intent on personal distinction, and having forgotten the ends for which alone it is worth possessing, the miserable being, concentered all in self, learns to pander to every vulgar prejudice, to advocate every popular error, to chime in with every dominant party, to fawn, flatter and deceive, and become a demagogue! All manliness of principle has been lost in this long course of meanness: he dare not use his temporary popularity for any purposes of public good, in which there may be a hazard of forfeiting it; and the very eminence to which he is exalted renders but more conspicuous his servility and degradation. However clear the convictions of his judgment, however strong the admonitions of his, as yet, not thoroughly stifled conscience, not these, not the law of God, nor

the rule of right, nor the public good, but the caprice of his constituents, must be his only guide. Having risen by artifice, and conscious of no worth to support him, he is in hourly dread of being supplanted in the favor of the deluded multitude by some more cunning deceiver. And such, sooner or later, is sure to be his fate. At some unlucky moment, when he bears his blushing honors thick upon him—and well may such honors blush—he is jerked from his elevation by some more dextrous demagogue, and falls, unpitied, never to rise again. Can this be the lot of him who has been here trained to admire and love high-minded excellence, and who has been taught by high classical authority to regard with the same fearless and immovable indifference the stern countenance of the tyrant and the wicked ardor of the multitude, and who has learned from a yet higher and holier authority to hold fast to "whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, to abhor that which is evil and cleave to that which is good?" Believe me, however, this is no fancy picture. The original may be found in the world every day. Nor will it surprise those who have had occasion to see how the vain heart is swollen, and the giddy head turned, how honesty of purpose and manliness of spirit are perverted by popular applause. It is but the first step that costs. Once yield to the suggestion that a little deceit or prevarication, a slight sacrifice of principle and independence, a compromise of conscience in matters not absolutely fundamental, may be excused, when the immediate gain is obvious and the end in view important, and the downward path becomes every day more and more smooth until, in its descent, it reaches the very abyss of vulgar, trading, intriguing, electioneering,

office-hunting politicians. If in this lowest depth a lower deep can be found, none of us, I am sure, have the curiosity to explore it.

But is integrity sure to meet here its merited reward? Unquestionably not. If it were, and the fact generally known, there would scarcely be room for choice, and men would be honest from the want of a plausible temptation to be otherwise. But it is not too much to say, that in general, integrity has a tendency to promote the interests of him who pursues it, and it is therefore recommended to our adoption by prudence, not less than by principle. Success in the acquisition of any intrinsic object is necessarily uncertain, since it depends on contingencies which cannot be foreseen, and which, if foreseen, are frequently beyond our power. It is not in mortals to command success. No talent, no courage, no industry, and no address can be certain to effect it. But when it is attempted by cunning, disingenuous means, it is usually rendered more difficult of attainment because of the complexity of the scheme and the risk of detection and counteraction. Honesty, in the long run, is therefore the surer policy. It is impossible to thrive without the reputation of it, and it is far easier to be honest, indeed, than to cheat the world into the belief of integrity where it is not. The crooked stratagems, the arts, toils, concealments and self-denials, which are necessary to carry on a successful imposition, are far more onerous and painful than all the duties which a life of probity enjoins; while the consciousness of an upright deportment diffuses through the whole man that security and serenity which infinitely outweighs all the advantages of successful cunning. Nor, in recommending a spirit of independence, is it intended to proscribe the acceptance of friendly aid,

freely tendered, and won by no mean solicitation. Children of the same common family, we are bound to help each other in the trials and difficulties of our common pilgrimage; nor should we ever be too proud to receive from others that assistance which it is our duty to render to them. Now such aid is not only more likely to be bestowed, but comes with far greater effect, when there has been a manly and sustained effort to do without it. The spindling plant which has always been supported by a prop is not only unable to stand alone, but can scarcely be sustained by props when the season of fruit arrives; whereas, the slight assistance then bestowed on the hardy tree that, self-sustained, has always braved the breeze, will enable it to bear up under the heaviest and richest burthen. He who trusts to others must necessarily be often disappointed, and the habit of dependence creates a helplessness which is almost incapable of exertion. Fancy dwells on expected aid, until it mistakes its own creations for realities, and the child of illusion wastes life in miserable daydreams, unable to act for himself, and confidently relying on assistance which he is destined never to receive.

Deeply-rooted principles of probity, confirmed habits of industry, and a determination to rely on one's own exertions constitute, then, the great preparation for the discharge of the duties of man, and the best security for performing them with honor to one's self and benefit to others. But it may be asked what is there in such a life of never-ending toil, effort and privation, to recommend it to the acceptance of the young and the gay? Those who aspire to heroic renown, may indeed make up their minds to embrace these "hard doctrines;" but it may be well questioned whether happiness is not

preferable to greatness, and enjoyment more desirable than distinction. Let others, if they will, toil "up the steep where Fame's proud temple shines afar"; we choose rather to sport in luxurious ease and careless glee in the valley below. It is, indeed, on those who aspire to eminence that these injunctions are intended to be pressed with the greatest emphasis, not only because a failure in them would be more disastrous than in others, but because they are exposed to greater and more numerous dangers of error. But it is a sad mistake to suppose that they are not suited to all, and are not earnestly urged upon all, however humble their pretensions or moderate their views. Happiness, as well as greatness, enjoyment as well as renown, have no friends so sure as Integrity, Diligence, and Independence. We are not placed here to waste our days in wanton riot or inglorious ease, with appetites perpetually gratified and never palled, exempted from all care and solicitude, with life ever fresh, and joys ever new. He who has fitted us for our condition, and assigned to us its appropriate duties, has not left his work unfinished, and omitted to provide a penalty for the neglect of our obligations. Labor is not more the duty than the blessing of man. Without it there is neither mental nor physical vigor, health, cheerfulness, nor animation; neither the eagerness of hope, nor the capacity to enjoy. Every human being must have some object to engage his attention, excite his wishes, and rouse him to action, or he sinks, a prey to listlessness. For want of proper occupation, see strenuous idleness resorting to a thousand expedients—the race-course, the bottle, or the gaming-table, the frivolities of fashion, the debasements of sensuality, the petty contentions of envy, the grovelling pursuits of avarice, and all the

various distracting agitations of vice. Call you these enjoyments? Is such the happiness which it is so dreadful to forego?

"Vast happiness enjoy the gay allies!
A youth of follies, an old age of cares,
Young yet enervate, old yet never wise;
Vice wastes their vigor and their mind impairs.
Vain, idle, dissolute, in thoughtless ease,
Reserving woes for age, their prime they spend;
All wretched, hopeless to the evil days,
With sorrow to the verge of life they tend;
Grieved with the present, of the past ashamed;
They live and are despised, they die, no more are named."

If to every bounty of Providence there be annexed, as assuredly there is, some obligations as a condition for its enjoyment, on us, blest as we have been, and as we now are, with the choicest gifts of heaven here below—with freedom, peace, order, civilization and social virtue—there are unquestionably imposed weighty obligations. You whom I now address will, in a few years, be among the men of the succeeding age. In a country like ours, where the public will is wholly unfettered, and every man is a component part of that country, there is no individual so humble who has not duties of a public kind to discharge. His views and actions have an influence on those of others, and his opinions, with theirs, serve to make up that public will. More especially is this the case with those who, whatever may be their pursuits in life, have been raised by education to a comparative superiority in intellectual vigor and attainments. On you, and such as you, depends the fate of the most

precious heritage ever won by the valor, preserved by the prudence, or consecrated by the virtue of an illustrious ancestry—illustrious, not because of factitious titles, but nature's nobles, wise, good, generous, and brave! To you, and such as you, will be confided in deposit the institutions of our renowned and beloved country. Receive them with awe, cherish them with loyalty, and transmit them whole, and, if possible, improved, to your children. Yours will, indeed, be no sinecure office. As the public will is the operative spring of all public action, it will be your duty to make and to keep the public will enlightened. There will always be some error to dispel, some prejudice to correct, some illusion to guard against, some imposition to detect and expose. In aid of these individual efforts, you must provide, by public institutions, for diffusing among the people that general information, without which, they cannot be protected from the machinations of deceivers. As your country grows in years, you must also cause it to grow in science, literature, arts, and refinement. It will be for you to develop and multiply its resources, to check the faults of manners as they rise, and to advance the cause of industry, temperance, moderation, justice, morals, and religion all around you. On you too, will devolve the duty which has been long neglected, but which cannot with impunity be neglected much longer, of providing for the mitigation, and (is it too much to hope for in North Carolina?) for the ultimate extirpation of the worst evil that afflicts the southern part of our confederacy. Full well do you know to what I refer, for on this subject there is, with all of us, a morbid sensitiveness which gives warning even of an approach to it. Disguise the truth as we may, and throw the blame where we will, it is

slavery which, more than any other cause, keeps us back in the career of improvement. It stifles industry and represses enterprise—it is fatal to economy and providence, it discourages skill, impairs our strength as a community, and poisons morals at the fountain-head. How this evil is to be encountered, how subdued, is indeed a difficult and delicate inquiry which this is not the time to examine nor the occasion to discuss. I felt, however, that I could not discharge my duty without referring to this subject, as one which ought to engage the prudence, moderation, and firmness of those who, sooner or later, must act decisively upon it.

I would not depress your buoyant spirits with gloomy anticipations, but I should be wanting in frankness if I did not state my convictions that you will be called to the performance of other duties unusually grave and important. Perils surround you, and are imminent, which will require clear heads, pure intentions and stout hearts to discern and overcome. There is no side on which danger may not make its approach, but from the wickedness and madness of factions it is most menacing. Time was, indeed, when factions contended amongst us with virulence and fury, but they were, or affected to be, at issue on questions of principle; now Americans band together under the names of men, and wear the livery and put on the badges of their leaders; then the individuals of the different parties were found side by side, dispersed throughout the various districts of our confederated republic, but now the parties that distract the land are almost identified with our geographical distinctions. Now, then, has come the period foreseen and dreaded by our Washington—by him, "who more than any other individual, founded this, our wide-spreading empire,

and gave to our western world independence and freedom"—by him, who with a father's warning voice, bade us beware of "parties founded on geographical discriminations." As yet, the sentiment so deeply planted in the hearts of our honest yeomanry, that union is strength, has not been uprooted. As yet, they acknowledge the truth and feel the force of the homely but excellent aphorism, "United we stand, divided we fall." As yet, they take pride in the name of "the United States"—in the recollection of the fields that were won, the blood which was poured forth, and the glory which was gained in the common cause, and under the common banner of a united country. May God, in His mercy, forbid that I or you, my friends, should live to see the day when these sentiments and feelings shall be extinct! Whenever that day comes, then is the hour at hand when this glorious republic, this once national and confederated Union, which for nearly half a century has presented to the eyes, the hopes and the gratitude of man a more brilliant and lovely image than Plato or More or Harrington ever feigned or fancied, shall be like a tale that is told, like a vision that hath passed away. But these sentiments and feelings are necessarily weakened, and in the end must be destroyed, unless the moderate, the good, and the wise unite to "frown indignantly upon the first dawnings of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together its various parts." Threats of resistance, secession, separation have become common as household words in the wicked and silly violence of public declaimers. The public ear is familiarized with and the public mind will soon be accustomed to the detestable suggestion of *disunion*! Calculations and conjectures, what may

the East do without the South, and what may the South do without the East, sneers, menaces, reproaches, and recriminations, all tend to the same fatal end! What can the East do without the South? What can the South do without the East? They may do much; they may exhibit to the curiosity of political anatomists, and the pity and wonder of the world the *disjecta membra*, the sundered, bleeding limbs of a once gigantic body instinct with life and strength and vigor. They can furnish to the philosophic historian another melancholy and striking instance of the political axiom that all republican confederacies have an inherent and unavoidable tendency to dissolution. They will present fields and occasion for border wars, for leagues and counter-leagues, for the intrigues of petty statesmen, the struggles of military chiefs, for confiscations, insurrections, and deeds of darkest hue. They will gladden the hearts of those who have proclaimed that men are not fit to govern themselves, and shed a disastrous eclipse on the hopes of rational freedom throughout the world. Solon in his code proposed no rational punishment for parricide, treating it as an impossible crime. Such with us ought to be the crime of political parricide—the dismemberment of our "fatherland." *Cari sunt parentes, cari liberi, propinqui, familiares; sed omnes omnium caritates patria una complexa est; pro qua quis bonus dubitet mortem oppetere, si ei sit profuturus? Quo est detestabilior istorum immanitas qui lacerarunt omni scelere patriam, et in ea funditus delenda occupati et sunt et fuerunt.*

If it must be so, let parties and party men continue to quarrel with little or no regard to the public good. They may mystify themselves and others with disputations on political economy, proving the most

opposite doctrines to their own satisfaction, and perhaps to the conviction of no one else on earth. They may deserve reprobation for their selfishness, their violence, their errors, or their wickedness. They may do our country much harm. They may retard its growth, destroy its harmony, impair its character, render its institutions unstable, pervert the public mind, and deprave the public morals. These are indeed evils, and sore evils, but the principle of life remains, and will yet struggle with assured success over these temporary maladies. Still we are great, glorious, united, and free, still we have a name that is revered abroad and loved at home—a name which is a tower of strength to us against foreign wrong and a bond of internal union and harmony, a name which no enemy pronounces but with respect, and which no citizen hears but with a throb of exultation. Still we have that blessed Constitution which, with all its pretended defects and all its alleged violations, has conferred more benefit on man than ever yet flowed from any other human institution—which has established justice, insured domestic tranquillity, provided for the common defense, promoted the general welfare, and which, under God, if we be true to ourselves, will insure the blessings of liberty to us and to our posterity. Surely such a country and such a Constitution have claims upon you, my friends, which cannot be disregarded. I entreat and adjure you, then, by all that is near and dear to you on earth, by all the obligations of patriotism, by the memory of your fathers who fell in the great and glorious struggle, for the sake of your sons whom you would not have to blush for your degeneracy, by all your proud recollections of the past and all your fond anticipations of the future renown of our nation, preserve that country, uphold that

Constitution. Resolve that they shall not be lost while in your keeping, and may God Almighty strengthen you to fulfill that vow!



GEORGE E. BADGER.

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BY WM. A. GRAHAM.

My acquaintance with Mr. Badger commenced in the latter part of the summer of 1825. He had already completed his service as a judge, which office he resigned at the close of the spring circuit of that year; had contested the palm of forensic eloquence and professional learning with Seawell and Gaston, with a wide increase of reputation, at the recent term of the Supreme Court, and was returned to the practice in Orange, where he had once resided, in generous competition with Murphy, Nash, Yancey, Mangum, Hawks, Haywood, and others—Mr. Ruffin, hitherto the leader at this bar, having been appointed his successor on the bench of the Superior Court.

He was then a little turned of thirty years of age. One half of his time since his majority had been passed upon the bench, yet his fame as a lawyer was fully established; and though he doubtless afterwards added vastly to his stores of erudition, yet in quickness of perception, readiness of comprehension, clear and forcible reasoning, elegant and imposing diction, in all that constitutes an orator and advocate, he had attained an eminence hardly surpassed at any period of his life. From that time and before it, I know not how long, till the day he was stricken by the disease which terminated his life, in North Carolina, at least, his name was on every tongue. He was not only marked and distinguished,

but an eminent man. So bright and shining a character could not but attract general observation; and though

> "Hard is his fate on whom the public gaze
> Is fixed forever, to detract or praise";

and while, with gay and hilarious nature, frank but somewhat eccentrical manners and unequaled powers of conversation, united with some infirmity of temper, his expressions and conduct in the earlier half of his life were often the subject of severe criticism; yet in the long period of from forty to fifty years, in which he moved "in the high places of the world," no one denied him the gifts of most extraordinary talents and unswerving integrity and truthfulness. Even in the particular in which complaint had been made—an imputed hauteur and exclusiveness—his disposition was either mellowed by time, or, what is more probable, his character came to be better appreciated from being better understood; and for years before the sad eclipse which obscured his usefulness no man enjoyed more of the general confidence and favor of the people, as none had possessed in a higher degree their admiration.

Transferred to the more extended field of jurisprudence administered in the courts of the United States, and afterwards to the Senate of the nation, he took rank with the first advocates, jurisprudents, and debaters of the Union; and the purity of his morals, the elevation of his character, his readiness and accomplishments as a conversationalist, the gayety and vivacity of his manners, rendered him a general favorite with old and young, the grave and gay, in the brilliant society

of the metropolis.

George Edmund Badger was born in New Bern, North Carolina, on the 17th of April, 1795. His father, Thomas Badger, Esq., the son of Edmund and Lucretia Badger, was a native of Connecticut, and his birth is recorded to have taken place at Windham, in that State, on the 27th of June, 1766. Having received a good education, he came early in manhood to New Bern, and thence to Spring Hill, in the county of Lenoir, where for some time he taught school, but was then probably a student of the law, and was in due time admitted to the practice in this State. Fixing his residence in New Bern, he early rose to distinction as a practitioner, and appears in the published reports as one of the leading counsellors in the courts of that riding, and in the Supreme Court of the State, from 1792 till his death, which occurred from yellow fever, while in attendance on a court at Washington, in Beaufort county, on the 10th of October, 1799.

The traditions of the profession and of intelligent persons of his acquaintance represent him as a man of determined character and great intellectual and professional ability, and leave the question in doubt whether at the same period of life he was more than equaled by his son. The late Peter Browne, himself one of the first lawyers and men of letters of his time in North Carolina, a contemporary at the bar of the senior Badger, spoke of him, before the entrance of his son into public life, as one of the ablest men he had ever known, and especially as possessing a power to fascinate and control masses of men in the most remarkable degree—a power, he added, which the son might exert with similar effect, if he would.

His mother, by name Lydia Cogdell, was the

daughter of Colonel Richard Cogdell, of New Bern, a gentleman of much consideration under the provincial rule in North Carolina, and an active and bold leader in the movement of the Revolution. As early as August, 1775, his name appears second on the list of the committee of safety for New Bern district, appointed by the first Congress of the province (that of Alexander Gaston being at the head). Lydia Cogdell was a person of singular vigor of mind and character, well fitted to encounter the cares and trials of her early widowhood. Her husband had experienced that which has been said to be the common lot of the profession in this country, "to work hard, live well and die poor," and left her with but little fortune to rear three children, of whom George was the eldest and the only son.

According to her narrative, he manifested no fondness for books, and made little progress in learning till about seven years of age. At that period she placed in his hands Goldsmith's *Animated Nature*. He was delighted with its perusal, and she never found it necessary to stimulate his thirst for knowledge afterwards. His preparatory course was taken in his native town of New Bern, and at the age of fifteen he entered Yale College. There he passed through the studies of the freshman and the sophomore classes, when his education, so far as it depended on schools, was brought to a close. A relative, a man of fortune, at the North, who had hitherto furnished the means for his college expenses (his own patrimony being wholly insufficient), and from whose bounty he had hoped to pass on to graduation, suddenly withdrew his support and left him to his own exertions. Of the motives of this unexpected arrest in his college career, on which so much might have depended, it is useless, now at

least, to speculate or inquire. But it will be a source of gratification to his friends to be assured that it was attributable to no demerit in our student. True, his contemporaries at Yale differ widely in their estimation of his capacities while there. The Northern students, who belonged to a different society, regarded him as a frolicsome youth, averse to mathematics, and fond of novel-reading, who gave no indications of superior endowments. On the other hand, a college classmate (Thomas P. Devereux, Esq., of Halifax) and member of the same society, who knew him intimately throughout life, and was five and twenty years associated with him at the bar, affirms that "he was beyond dispute the first boy of his class, composed of seventy individuals, many of them afterwards distinguished men." He was not, says this friend, "a hard student of the prescribed course. Perhaps I ought to add that he was remiss in his college duties, but he was eager for information to a most wonderful degree, and among his fellow-students he exhibited the same intellectual superiority we have seen him so steadily maintain among men." To the same source I am indebted for the following observations concerning his elocution, which I repeat for the advantage and encouragement of the young. "I think," he remarks, "that the thousands who listened to the fluency with which Mr. Badger spoke, the clearness of his enunciation, the exact accuracy of his sentences and the carefulness of their formation—the right words always in the right places—will be surprised to learn that in his youthful attempts in debate he was almost a stammerer. I have heard him say he owed exemption from downright stuttering to his father, whom he remembered with affection, though under five years of age at the time of his decease, who

would not permit him to speak while he hesitated in the least, but required him to stand by his side perfectly silent, until he had collected himself and arranged his thoughts. He, himself, often asserted that any one could speak fluently who thought clearly and did not lose his presence of mind."

He made known to President Dwight the reception of the letter announcing the withdrawal of the patronage by which he had been thus far supported, and the *res angusta domi* which caused him to bid adieu to Yale when reaching the portion of her curriculum by which his expanding mind would have been most profited, and left with the regrets and kind wishes of that venerable divine and instructor. In after years when he had established a character, his *alma mater* honored herself by volunteering a degree to her barely risen junior, and enrolling his name among her sons with whom he should have graduated in 1813, as, at a later period, she acknowledged his still higher advancement in liberal learning, by conferring upon him the degree of Doctor of Laws.

He appears to have indulged in no unavailing grief at the freak of fortune which blasted his hopes of a collegiate education, but returning home, though but little over seventeen years of age, betook himself at once to the study of the law. His legal preceptor was his maternal cousin, Hon. John Stanly, of New Bern, who as an advocate, a statesman, a parliamentarian, a wit and adept in conversation, is one of the historical characters of North Carolina; and, who, viewing him as I did, from the gallery of the House of Commons in my boyhood, impressed me as an orator of more graceful and elegant manner and action, according to my conception of the Ciceronian

standard, than any public speaker it has ever been my fortune to hear.

Mr. Badger was granted a license to practice law in the County Courts in the summer of 1814, and, according to the usual probation, in the Superior Courts in 1815; the Judges of the Supreme Court consenting to relax the ordinary rule and overlook his nonage, by reason of the narrowness of his fortune and the dependence of his mother and sisters upon his exertions for their support. The war with England raging in the former year, and an invasion of the State being threatened by the British forces under Admiral Cockburn, then hovering on our coasts, Governor Hawkins called out the militia, and himself took the field, in an expedition for the defense of New Bern and Beaufort. In this expedition Mr. Badger served as aid-de-camp to General Calvin Jones, of Wake, with rank of major; but the alarm soon ceasing, with the retirement of the enemy the soldier was again resolved into the youthful barrister. A vacancy occurring in the office of solicitor to prosecute the pleas of the State in that riding, about this time, he was introduced to public notice by the temporary appointment from the judge, and made one circuit in that capacity.

In 1816, the year of his majority, he was returned a member of the House of Commons from the town of New Bern; and whatever advantages he may have lost by his retirement from college (and they were doubtless many and important), it may well be questioned whether any of the more fortunate youths he had left behind in the classic shades of Yale were, by this time, better fitted to play a distinguished part in a deliberative assembly or a court of justice. Profiting by the instruction, the conversation, the

intercourse, and the example of that accomplished gentleman, Mr. Stanly, and his compeers, Gaston, Edward Graham, Moses Mordecai, and others, whom he met at the bar or in society, but above all by his own profound study, he not only gained great attainments in the law, but (what is now I fear becoming rare), a familiar acquaintance with the classic authors of English literature, and with the arts of rhetoric and composition. He wrote and spoke our language with a readiness, force, precision, and propriety, the more remarkable because equally as conspicuous in jocose and trifling conversation (in which he freely indulged) as in public address. As a critic, whether under the inspiration of a "good or bad natured muse," he has had few peers among the judges of "English undefiled." His appearance in the Legislature was the advent of a new star above the horizon, somewhat erratic and peculiar in its orbit, but effulgent even in its irregularities, and shining with a splendor not unworthy of the oldest and greatest lights of the firmament.

Tradition furnishes anecdotes of many encounters, during the session, of gladiatorial skill, in which his love of pleasantry and the *gaudia certaminis* involved him with the late Attorney-General Drew, a son of genius and of Erin, and others, with various success: but it assures us that this, his first and last session in the General Assembly, closed with a profound impression and universal acknowledgment of his genius, culture, and high promise for the future.

The Hon. Thomas Ruffin, the speaker of the House of Commons, who had been first appointed a judge of the Superior Court during this session, discovering in Mr. Badger a congenial spirit, alike emulous with himself of liberal culture and professional distinction,

invited him to take his briefs and pursue the practice in Orange. The acceptance of this proposition carried him to Hillsborough as his place of residence for the next two or three years, during which, having married the daughter of Hon. James Turner, of Warren, he transferred his home to Warrenton; thence he moved to Louisburg, where he continued to reside until his retirement from the bench in 1825, when he removed to Raleigh, and there abode during the residue of his life.

How well he maintained his professional character in the new field of his practice is observed in the fact that, with but little of what is known as personal popularity, he was elected a judge of the Superior Court by the Legislature in its session of 1820, at the age of twenty-five. In this office he rode the circuits four years with admitted ability, candor and impartiality, evading no question and no duty; but he was sometimes thought to err from quickness of temper and too great readiness to assume responsibility. His courtesy to the profession won him general esteem. The people, though sometimes murmuring at the severity of a sentence or a supposed arbitrary or whimsical order, regarded with equal wonder the promptness and force with which he discussed questions of law with the veterans of the bar, and the intelligent, amusing and instructive conversation with which he habitually entertained his acquaintances and associates.

I mention a single case in his administration of the law as illustrative both of the firm and impartial hand with which he dealt out justice and the jealous care with which the judiciary of North Carolina has ever protected and maintained the rights of the weak against the strong and influential. A citizen of great

fortune, and advanced age, who had represented his county in earlier years in both Houses of the Legislature, having also numerous and influential connections, charged a free-negro with larceny of his property, had him brought by warrant before a justice of the peace, prevailed on the justice to try and convict him of the offense charged, and to sentence him to punishment by stripes, which were inflicted—a proceeding allowable by law, provided the offender had been a slave. But here the culprit was a freeman, and by the Constitution entitled to public trial in open court before a jury of the country. The prosecutor, with the justice and constable, was arraigned before the Superior Court for this violation of law, and their guilt being established, Judge Badger, who happened to preside at this term, was strongly inclined to imprison the principal defendant, and was only deterred by reason of his (said defendant's) age and state of health; but, announcing that this was omitted from that cause only, sentenced him to a fine of twelve hundred dollars, the justice of the peace to fifty, and the constable to ten dollars, the differences being made on account of their several grades of intelligence and consequent criminality, as well as of ability to pay.

From the time of his return to the bar and location at Raleigh, until the access of disease which suddenly, and, as it proved, finally arrested his course, he devoted his time to the practice of his profession, with the exception of a few months, occasioned by his appointment by Harrison and his continuation by Tyler as Secretary of the Navy, and such further interruption as was produced by his occupation of a seat in the Senate of the United States from 1846 to 1855. During his forensic career he was, at different times, proposed by executive

nomination for the bench of the Supreme Court, both of his own State and of the United States; but the spirit of party exacted a denial of his confirmation, though no man doubted his eminent qualification.

If it be true, as remarked by Pinkney, in one of his familiar letters, published by Wheaton, that "the bar is not a place to acquire or preserve a false or a fraudulent reputation for talents," it was eminently so in his case. He had an intrepid and self-reliant mind, which, disdaining artifice, timidity or caution, struck out into the open field of controversy with the daring of conscious power, and shunned no adversary not clad in the panoply of truth; was as ready to challenge the authority of Mansfield or Denman, Rosyln or Eldon, if found deflecting from the paths of principle or precedent, as that of meaner names. If, from want of opportunity or inclination, he had failed to master the mathematics of numbers, he made himself proficient in the mathematics of life (as our law, from the exactness of rule at which it aims, has been not inaptly denominated), and by a rigorous logic was prompt to expose whatever could not bear the test of reason. Yet, it was a logic free from the pedantry of the schools, apparently not derived from books, and accompanied by a rapidity of mental action, which gave to it the appearance of intuition. Whether in analysis or synthetical reasoning, in dealing with facts before juries or the most intricate questions of law before courts, these faculties were equally conspicuous, and attended, when occasion called for their use, with powers of humor, sarcasm, and ridicule hardly inferior to those of ratiocination. Added to all this, there was a lucidness of arrangement, an exact grammatical accuracy in every sentence, a forcible and graceful style which, independent of a clear and distinct

enunciation, a melodious voice and engaging manner, imparted even to his extemporaneous arguments the charms of polished composition.

On one occasion, in a case of indictment for blasphemy, the question had been raised whether the Christian religion was a part of the common law, with a suggestion that if it was, it might be altered by statute, Mr. Badger volunteered an argument for the cause of religion and sound morality. It so happened that, as he opened his case, a venerable citizen of the State, of great intelligence, entered the court-room to speak a word to the reporter, expecting immediately to retire. He was, however, so fascinated with the manner of the speaker, the splendor of his diction, the copiousness of his theological and legal learning, the force and clearness of his arguments and the precision with which they were stated, that he sat down and heard him to the close, observing, as he withdrew, "what folly ever to have made him a judge, he ought to have been a bishop."

Literature, whose office it is to preserve the results of learning, knowledge, and fancy, has made so little progress among us that there has not been much effort to save from oblivion the discussions at the bar or in the deliberative assemblies of the State—the chief theatres of public intellectual exertion besides the pulpit. Had Mr. Badger been studious of posthumous fame and bestowed half the time in reporting his speeches in the more important of his causes on the circuit, which Cicero recommended and practiced in the preparation of his orations, the result would have been a most interesting contribution to American rhetorical literature. There are occasions enough within the recollection of

many, who were present, in Wake, Orange, Granville, Halifax, and elsewhere, when his utterances, even if printed as delivered, would have formed a volume of no less interest than the speeches of Wirt or Emmet, Erskine or Curran, as well as afforded insight into events, crimes, transactions of business, and the state of society of our times, such as the muse of history derives from the records of courts of justice.

Two causes in the Circuit Court of the United States, in the days of Chief Justice Marshall, are especially remembered as being the themes of his most admired arguments, and in which he overcame the preconceived opinions of the great Judge, though impressed and supported by the acknowledged abilities, learning and persuasiveness of Gaston. These were the cases of *Whitaker* vs. *Freeman*, an action for libel in twenty-five different counts, and *Lattimer* vs. *Poteat*, one of a series of cases in ejectment, to recover immense bodies of land in the western counties, claimed by the citizens of Northern States under purchases from speculators who, it was alleged, had made their entries and procured grants before the extinction of the title of the Cherokee Indians, in violation of law; the defendants claiming under grants from the State made after the admitted cession of the Indian title; and Mr. Badger was retained by the State to defend their interests. This latter case, involving the relations of North Carolina while a separate sovereignty, and afterwards of the United States with the Cherokee Indians, as regulated by sundry treaties, the location of several lines of partition between them and the whites, but removed further and further west as the population of the superior race increased and emigration advanced, surveys partially or wholly made to establish these

lines through a mountainous, and in many parts, an impervious country, imputed frauds in transgressing those lines and entries without actual survey, was of exceeding volume and complication in its facts, and occupied a week in the trial. The argument, running through four days, was said to be the most elaborate on both sides ever made in the State in a jury trial. It resulted in a verdict and judgment for the defendants, which was afterwards affirmed by the Supreme Court of the United States. After the trial, Judge Marshall, in the simplicity and candor of his great character, observed to the then Governor of the State, "At the close of Mr. Gaston's opening argument, I thought he had as good a case as I ever saw put to a jury, but Mr. Badger had not spoken two hours before he satisfied me that no one of his [Gaston's] positions could be maintained."

To this instance of *laudatus a laudato viro* I deem it not improper to add a few others from sources only less eminent: Chief Justice Henderson declared in my presence that "To take up a string of cases, run through them, extract the principle contained in each, and discriminate the points in which they differed from each other, or from the case in hand, I have never seen a man equal to George Badger."

Judge Seawell remarked of him: "Badger is an elementary man," and, continuing in his peculiar and racy style, "he goes to first principles; he finds the corners of his survey and then runs out the boundaries, while others hunt along the lines. The difference between him and myself is, that when I take up a book I read slowly, pausing at the end of each sentence, and when I have reached the bottom of the page I must stop and go back to see whether I fully comprehend the author's meaning, while he

reads it off like a novel, and by the time he gets to the bottom of the page or the end of the treatise he has in his mind not only all that the author has taught, but a great deal that the author never knew."

Chief Justice Ruffin, yet surviving in honorable retirement from the labors of the profession, whose early appreciation of the faculties of Mr. Badger we have already noticed, and before whom as a Judge of the Supreme Court, he was in full practice for twenty-three years, affirmed to me, since the death of Mr. Badger, that in dialectic skill and argument he excelled any individual with whom he had ever been acquainted, not even excepting Chief Justice Marshall himself, for that he possessed the faculty of imagination and the capacity for illustration which Judge Marshall had not.

To his hospitality and kind intercourse with gentlemen of the profession, his liberality and assistance to its junior members (whom his gracious demeanor and familiar manners won, no less than his spirited and intelligent conversation entertained and improved), to his unselfish and genial nature, and an integrity on which no temptation ever brought a stain, the occasion permits time only to allude before closing our view of his professional life. Had he been called to the office of Attorney-General of the United States by General Jackson at the period of his first election (of which Mr. Badger had been an ardent and efficient advocate), as many of his friends entertained expectation, and had continued from that time his practice in the Supreme Court of the United States, it is hazarding but little to say that his fame would have equaled that of any advocate in the history of American jurisprudence.

Of Mr. Badger's brief service at the head of the

Navy Department—excepting his recommendation of the establishment of a home squadron to patrol the Gulf of Mexico and West Indian seas, as a protection against piracy or any sudden hostile demonstration on our coasts (a measure since adopted)—there is no circumstance demanding especial notice. He had accepted the appointment at the request of President Harrison with reluctance, retained it by the expressed desire of his successor, and resigned it as soon as the breach between Mr. Tyler and the party that elected him was found to be irreparable.

Equally unsought and unexpected was his election to the Senate of the United States when absent from the seat of government on a professional errand beyond the sphere of his usual practice. He entered the Senate in the first year of the war with Mexico and held his seat throughout the struggle which ensued over the introduction of slavery into the Territories acquired by the treaty of peace, a struggle which was then threatening the dissolution of the Union; he held his seat during the compromise measures of 1850, under the leadership of Clay; the election of General Taylor; the succession of Fillmore; the election of Pierce and the first half of his term, including the organization of territorial government in Kansas and Nebraska, a period of more fierce, convulsive and (as the sequel has proved) fatal party agitation than any in American history except the years that have succeeded it. Even now, after the dreadful chastening that all have received from recent calamity, it is difficult to recur to it without reviving passions inconsistent with the solemnities of the hour and the charities inspired by common suffering.

In this struggle it was maintained on the one hand

that inasmuch as these acquisitions of territory had been made by the common contribution of men and means from all the States, the citizens of any State were at liberty to emigrate and settle upon them, and to carry any property they might possess, including slaves; that this was the case by virtue of the operation of the Constitution over the new territory *proprio vigore*. It was further declared that Congress had no authority to legislate in contravention of this right; and, in the progress of the dispute, this latter position, was extended into the assumption that it was the duty of Congress to enact laws to ensure it, and that a failure in this was a breach of Constitutional duty so gross as to justify the injured States in withdrawing from the Union, a power which, it was declared, every State held in reservation, and might exercise at pleasure, the Constitution being but a compact having no sanctions for its perpetuation. On the other hand, there had been for years at the North a party organization, not numerous at first, but which at this period had swollen into a formidable power, whose avowed object was the extinction of slavery; which had denounced the Constitution, so far as it upheld or tolerated it, as a covenant with the infernal powers; had absolved themselves from its maintenance in this particular, and avowed their preference for a disruption of the Union unless slavery should be abolished in the Territories and States as well. More moderate men in that section, while not agreeing with these extremists, denied emphatically either that the Constitution gave to slavery a footing in the Territories or bound Congress to maintain, or not interfere with, its existence there; and that in the exercise of a legislative discretion they might encourage, tolerate or forbid it; the great

majority favoring its prohibition in the Territories, while they held themselves bound to non-interference in the States.

In this conflict a third party arose, which affirmed that Congress had no power over the question in the Territories; that the people who settled in those distant regions were entitled (not only when applying for admission into the Union as a State, but whenever organized into a Territory, or at any time thereafter) to determine on the establishment or rejection of slavery as well as all other questions of domestic policy; and by consequence, that the whole history of the Government in the regulation of its Territories had been an error.

Either of the contending parties was accustomed to tolerate very considerable aberrations, and even heresies against its creed, to acquire or preserve party ascendancy, or to achieve success in a Presidential election; to which latter object no concessions and no sacrifices were deemed excessive. And the flame on the main topic was probably fanned by many, on both sides, with a view to the marshalling of forces for this quadrennial contest for power and patronage. Be this as it may, never were themes presented for sectional parties so well adapted to deepen and widen the opened breach between them, or pressed with more intensity or zeal. In the ardor of the contest, old landmarks were discarded and old friends repudiated, if not found in accordance with new positions assumed in its progress. William Pinkney, the great champion of Southern interests, at the period of the Missouri question, was pronounced an abolitionist on the floor of the Senate by the highest Southern authority, and the doors of Faneuil Hall were closed against Daniel

Webster by the authorities of Boston, for words of truth, soberness, and conciliation, spoken in the Senate; and this while Clay (once so much deferred to by them as a party leader) sat by, admiring and encouraging every sentence Webster uttered.

Between these excited parties, Mr. Badger stood approved by neither. As far back as the Mexican war, perceiving, as he thought, the dangers to flow from the adjustment of the interests of slavery, provided conquests should be made and new territories acquired, he had repeatedly endeavored to bring the war to a close and to bar out those dangers to the Union, by abstaining from the acquisition of new domains, while the fierce contestants were both eager for extensive conquests—the one with the flattering, but delusive, hope of expanding the area of slavery, the other with the settled purpose to apply to all such conquests the Wilmot Proviso and to exclude slavery.

When peace came with those splendid acquisitions of territory, so gratifying to the national pride, he was not disappointed in discovering in them an apple of discord which was to prove fatal to tranquillity at home. In the contention which was thus inaugurated, he steadily supported the rights of his own section, maintaining the justice and expediency of opening the Territories to all emigrants, without restriction as to any species of property. In an argument, replete with scriptural learning, he defended the servitude existing in the South, under the name of slavery, as not inconsistent with the divine law, more than justified by Jewish precedents, and not forbidden by the benignant teachings of the Saviour of the world, who found in the Roman Empire, at His coming, and left without condemnation, a system of far greater

severity. He reminded Northern Senators of the responsibility of their ancestors for the introduction and establishment of slavery in this country—ours being but purchasers from them, at second hand, for a consideration vastly greater than they had paid; the profits being the foundation of much of their wealth, which their consciences did not forbid them to retain. He brought home to their sense of duty and of honor the obligation to maintain the Constitution, so long as it remained the Constitution, in all its parts, as well those which, as individuals, they disapproved as those to which they assented. If any representative of the South urged any or all of these considerations in favor of the rights of his section, with more earnestness and ability than Mr. Badger, it is some one whose argument has not fallen under my observation. But he refused to go further. He refused to argue that Congress had no constitutional power to legislate on the subject of slavery in the Territories. He discussed the question with boldness, and adduced a decision of the Supreme Court, announced in an opinion of Judge Marshall, to the effect that the power did exist; and therefore, he addressed his appeals to the legislative discretion of Congress. For this he incurred the disapprobation of the extreme advocates of Southern interests. But his opinion on the question had been deliberately formed, and though he maintained that the exclusion of the Southern emigrant with his peculiar property from these Territories would be an unjust exercise and abuse of power, he declined to make what he believed to be a false issue, in pronouncing it unconstitutional. He dealt with the whole subject in the interest of peace, in subordination to the Constitution, in the hope of allaying excitement, and with an earnest desire for continued Union. He

therefore gladly co-operated with his old political associates, Clay, Webster, Pearce of Maryland, Bell, Mangum, Berrien, Dawson, as well as his Democratic opponents, Cass, Douglas, Dickinson, Foote and other compatriots of both parties, in the well-remembered measures of the Compromise of 1850, which calmed the waves of agitation, and promised a lasting repose from this disturbing element—an effect which was fully realized, with an occasional exception of resistance to the law providing for the surrender of fugitive slaves—until the unfortunate revival of the quarrel by the repeal, in 1854 (in the law for the organization of the Territories of Kansas and Nebraska) of the provision of the Missouri Compromise, by which slavery was restricted from extending north of thirty-six degrees thirty minutes, the southern boundary of Missouri. His participation in this measure of repeal, Mr. Badger regarded as the most serious error of his public life. He lived to see consequences flow from it which he had not contemplated, and publicly expressed his regret that he had given it his support. Not on the ground of any breach of faith, for, as he amply demonstrated in his speech on the passage of the measure, the Representatives of the North in Congress had, in the Oregon Territorial bill, as well as in other instances, demonstrated that they attached to it no sanctity. Yet many good men among their constituents did—and politicians who had, since the settlement of 1850, found "their occupation gone," eagerly welcomed this new theme for agitation. The experience of climate, labor, and production, had shown that African slavery could not be attended with profit north of this parallel, and the repeal was regarded as a flout, defiance, and aggression which provoked the resentment of thousands who had never before co-

operated with that extreme faction which conspired the destruction of slavery in despite of the Constitution. Followed up as this measure was by the impotent attempt to enforce protection to the institution in Kansas, where it neither did, nor could exist without unreasonable aid (which attempt was made after Mr. Badger left the Senate, and in which there is no reason to believe he would have concurred), it aroused an opposition, which, when embodied in the organization of party, was irresistible. He was no propagandist of slavery, though all the affections of his home and heart seconded the efforts of his great mind in defending it as an institution of the country recognized and guaranteed by the Constitution of the United States. He was too sagacious to believe it could be benefited in any way by provoking the shock of civil war, and too truthful and patriotic to trifle with it as a means of rallying parties or subserving any of the interests of faction. In voting for the repeal of the Missouri restriction, he looked upon it as having been overvalued in its practical importance at first, abandoned by the North as effete, if not disregarded from the beginning, and its removal out of the way as but conforming the system of territorial law to that part of the Compromise of 1850 pertaining to the Territories, which left the adoption or rejection of slavery to be decided by the inhabitants when framing a constitution, preparatory to their admission as a State of the Union; not anticipating the recoil in public sentiment, which was the first step in the overthrow of slavery itself.

I have been thus tedious in the review of the history of this period because it was upon topics arising out of this great subject of controversy, ever uppermost in the public mind, that Mr. Badger made

his most frequent and probably most elaborate efforts in the Senate, and for the further reason that in the heated atmosphere of the time his opinions as expressed and the moderation of his course were, by some, supposed to imply indifference to the interests of his section. Time and disaster are not unfrequently necessary to vindicate true wisdom.

He was as averse to the details of revenue and finance as Charles James Fox, and could probably have united with that statesman in the declaration that he had never read a treatise on political economy. But on all subjects pertaining to general policy, or to the history, jurisprudence, or Constitution of the country, he commanded a deference yielded to scarcely any other individual, after the withdrawal of Mr. Webster; and as a speaker and writer of English, according to the testimony of Judge Butler, of South Carolina, he had no peer in the Senate, save Webster.

He delighted in repeating the rule for the construction of the Constitution, which he had heard enunciated by Judge Marshall in the Circuit Court for North Carolina. "The Constitution of the United States," said he, "is to be construed not *strictly*, not *loosely*, but *honestly*. The powers granted should be freely exercised to effect the objects of the grant, while there should be a careful abstinence from the assumption of any not granted, but reserved." With this simple rule for his guide, with an innate love of truth and wonderful perspicacity in its discernment, with an ethics which permitted no paltering in deference to the authority or suggestion of faction, his arguments on constitutional questions were models of moral demonstration. Such was the confidence reposed in his accuracy and candor on

questions of this nature, that his opinions were sought, for practical guidance, alike by friends and opponents. And such was the personal favor and kindness entertained towards him by all his associates that at the expiration of his term the rare compliment was paid him of expressing regret at his departure by an unanimous vote of the Senate.

After ceasing to be a Senator he held, until the commencement of the late calamitous war, the place of one of the Regents of the Smithsonian Institution. In his professional visits to Washington, until the interruption of intercourse by that dire event, and in all his correspondence with public men, he never departed from that course of moderation and peace on the exciting subject of the times which had characterized him as a Senator, joined heartily in the movement of his old Whig friends for the organization of a Constitutional Union party to abate the violence of faction which was too surely tending to disunion, and to make an appeal to the people to rescue the country from the impending peril. The result of this movement was the nomination of Bell and Everett for the first offices of the government; and Mr. Badger accepted the nomination for Elector on this ticket, and visited various parts of North Carolina, addressing the people in its support. In these addresses, with the frankness which belonged to his nature, he freely admitted that there was a strong probability of the election of Mr. Lincoln, not merely from a division of votes among three other candidates, but from the strength of his party in the Northern States, founded on the principle of opposition to slavery; and he charged, that in that event, it was the design of a large portion of the supporters of Mr. Breckinridge to attempt to destroy the Union by the secession of the Southern States,

and that there was reason to believe his defeat and the election of Mr. Lincoln were desired by this latter class, because of the opportunity it would afford for a dissolution of the Union, a purpose which they had long cherished. While, therefore, he advocated the election of Mr. Bell, he conjured the people, no matter who might be elected, to acquiesce in the decision and give no countenance to secession. Although, with the exception of a small faction, the people were averse to disunion, the majority were persuaded that this was an overstatement of the case, and cast their votes for Mr. Breckinridge, as they usually did for the party nominee.

When the election was past, and the proceedings which immediately followed in other States verified Mr. Badger's anticipations, the people began to turn to him, and those of like opinions, for guidance in the future. And, to persons in distant parts of the Union, it is, no doubt, a matter of mystery how he, with all his antecedents in favor of Union, became involved in war against the Government of the United States. The case of Mr. Badger, in this particular, is the case of at least three-fourths of the people of the State (for they relied upon his counsels for their action quite as much as upon those of any other individual) and requires a word of explanation. Notwithstanding the long and acrimonious disputations which had been carried on in Congress and at the hustings, and the sentiments declared in opposition to slavery by Mr. Lincoln and his supporters, Mr. Badger maintained that his election afforded no sufficient cause for a resort to revolution —as to the right, claimed, of a State to secede, he had never for a moment believed in it or given it the least countenance—that the accession of such a party to power would require increased vigilance over the

rights and interests of the South; but that the majority in Congress was not lost to us, if the members from all the Southern States would remain and be faithful, and that the judiciary was open to any just complaint, even if the Executive should attempt aggression. After every State south of North Carolina to the confines of Mexico had adopted ordinances of secession, the people of this State rejected a proposition to call a convention to consider the question.

But when Virginia, our neighbor on the northern frontier, also withdrew, and Tennessee on the west had taken measures for the same object, when war had been actually begun, no matter by whose rashness or folly, and the only alternatives presented were in the choice of the side we should espouse, considerations of national or State interest, safety and necessity (such as are not unfrequently forced upon the decision of neutrals by the conduct of belligerents not connected under the same government) at once occurred, and were obliged to be weighed with the obligations of constitutional duty. Our borders were surrounded on all sides, except that washed by the ocean, by seceded States. Our youth must go forth to battle with or against these States. The Union we had so long and so sincerely cherished, was a Union in its integrity; and next to that, and as a part of it, was a Union with neighboring States, in which were our kindred and most intimate friends, and identical institutions. Slavery, whatever may be thought of it elsewhere or now, constituted more than one-half of our individual and public wealth. It had paid our taxes, built our railroads, reared our seminaries of education and charity, and was intimately connected with the order and repose of our society. Withal, in

the acrimony of a long quarrel, its maintenance had become a point of honor. In the actual posture of affairs, which promised to continue while the war lasted, instead of fifteen States in which slavery existed, whose Representatives were to maintain a common interest in the halls of Congress, there were to be but three, or at most, four, and all these, except our own, with a minor interest in the system. A civil war which threatened to be sanguinary and protracted, kindled avowedly for the protection of slavery, was not likely to end in the defeat of the insurgent States without the destruction of the institution in them, and after no long time, in the adhering States, also. Though far from approving the course of the recusant States, victory on the side of those who held the reins of government could not inure in benefit, nor without serious disaster, to us.

These ties of blood, vicinity, institutions and interests, the desire to avoid internecine strife among our own people (which must have been immediately precipitated by a zealous minority, with the local government, legislative and executive, in their hands) impelled Mr. Badger, and those who acted with him, to decline to take up arms against their own section in favor of the distant authority of the national government, and as a consequence to unite with those whose action they had deprecated and endeavored to prevent, and with whom they had had little sympathy or cooperation in the politics of the past. The support of the undertaking, if concurred in by all the slaveholding States, which was confidently represented to be certain, appeared to afford hope of a safer and better future than its suppression by force. The determination of the question, as I know, occasioned him pain and embarrassment, but when made it was firmly maintained. He accepted a seat in

the Convention which passed the ordinance declaring the separation of the State from the Federal Union, and gave to this ordinance his sanction; not, however, without a distinct declaration of his disbelief in the doctrine of secession as a constitutional right. He also sustained measures for the prosecution of a vigorous war, as, in his conception, the surest and shortest way to peace, but was ever vigilant of the dignity and just rights of the State, the encroachments of the military authority, the jurisdiction of the civil tribunals and the protection and liberty of the citizens. He sought no patronage or favor for himself or his family. His sons served in the ranks of the army and bore their part in the perils and adventures of war.

While it yet raged, he was stricken by the hand of disease, which partially obscured his faculties and withdrew him from public view. He survived, however, until after the return of peace, and in the twilight of mind, with which he was yet favored, rejoiced in the deliverance of the country from the calamities of war, and very sincerely acquiesced in a return to his allegiance to the Government of the United States.

These observations on the professional and public life of the subject of our sketch have been so prolonged that the occasion will permit but a few further remarks upon his general attainments, his intellectual and moral character and usefulness as a citizen. It was the remark of Lord Bacon that "Reading makes a full man, conference a ready man, and writing an exact man." Mr. Badger's reading was confined, with the exception of the dead languages, which he had acquired in his youthful studies, to the literature of our own language. With the most

approved authors in this he had a familiar acquaintance, and, as already remarked, excelled in the accomplishments of a critic. The field of learning, which next to jurisprudence he most affected, and perhaps even preferred to that, was moral science. Upon the sublime truths of this science, in the conversations with his friends, his remarks and illustrations were often not unworthy of Alexander or Wayland, Butler or Whately. "In it," says one of the most intimate of his friends and contemporaries, "the rapidity of his perception and accuracy of his deductions were marvelous. Place before his mind any proposition of moral science, and instantly he carried it out, either to exact truth, most beautifully enunciated, or reduced it to an absurdity." To his acquisitions in the kindred topic of didactic divinity, or theology as a science, only a professional theologian can do justice. An earnest member of the Protestant Episcopal Church, though but a layman, he ventured on more than one occasion to discuss matters of discipline and doctrine in the character of a pamphleteer, in opposition to clergymen of note, and in a memorable instance with the head of the diocese himself with such signal success that, although the Bishop ultimately united himself with the Romish Church, whither Mr. Badger charged that he was tending, not another member of his denomination left its communion.

He was averse to the labor of writing, and beyond an address before the Literary Societies of the University, the reports, by his own hand, of some of his speeches in Congress, and other pamphlets on subjects political or religious, has left few written performances. But he had the accuracy in thought and speech of a practiced writer.

In conversation he realized in the fullest sense Bacon's idea of readiness, and shone with a lustre rarely equaled. The activity and playfulness of his thoughts and the gayety of his disposition inclined him to paradox and repartee to such a degree that his conversation was oftentimes but amusing levity. But in a moment it rose to the profoundest reflection and most fascinating eloquence. His knowledge was ever at instantaneous command, as it was far more the result of his own meditations than of acquisition from others, and fancy lent her aid in giving a grandeur to his conceptions on all the subjects of his grave discourse. After all the public displays in which he enchained the attention of judges, jurors, senators, and promiscuous assemblies with equal admiration and delight, it is a matter for doubt, among those who knew him well, whether his brightest thoughts and most felicitous utterances, the versatility of his genius, and the vast range of his contemplations were not oftener witnessed in his boon and social hours, in the converse of friends, around his own hospitable board, or at the village inn, or on a public highway—all without pedantry or apparent effort, "as if he stooped to touch the loftiest thought"—than in these elaborate and studied exhibitions. He affected no mystery, and wore no mask, and stood ready in familiar colloquy to make good, by new and apt illustrations, any sentiment advanced in formal argument, or to abandon it as untenable if satisfied of error.

His reverence for truth, to which allusion has been already made in the course of these observations, was even above his intellectual powers, his most striking characteristic. He was accustomed to speak of it "as the most distinguished attribute of God himself, and the love of it as giving to one moral

being an eminence above another." To its discovery he delighted to apply the powers of his remarkable intellect, to its influence he was ready to surrender his most cherished convictions whenever found to be erroneous.

The fruits of this were seen in the crowning virtues of his character: he was a Christian of humble and intelligent piety without intolerance toward others, a lawyer without chicanery or artifice, a statesman without being a factionist, a party man above the low arts of the demagogue, a gentleman and citizen enlightened, social, charitable, liberal, impressing his character upon the manners and morals of his times, ready to render aid in every good and noble work, and prompt to resist and repel any evil influence, no matter by what array of numbers, power or vitiated public opinion supported. I have known no man to whose moral courage may be more fitly applied the ideal of the Latin poet, as rendered in free translation:

"The man whose mind on virtue bent,
Pursues some greatly good intent
With undiverted aim,
Serene beholds the angry crowd,
Nor can their clamors fierce and loud
His stubborn honor tame.
Not the proud tyrant's fiercest threat,
Nor storms, that from their dark retreat
The rolling surges wake;
Not Jove's dread bolt that shakes the pole,
The firmer purpose of his soul
With all its power can shake."

In the latter years of his life, actuated by a desire to be useful in his day and generation, wherever

opportunity and his ability might allow, he accepted the office of justice of the peace, an office which, to the honor of those who have filled it in North Carolina from the first organization of civil government until now, has ever been performed without pecuniary reward, and took considerable interest in administering justice in the County Courts of Wake, giving to this inferior tribunal the dignity and value of a Superior Court, to the great satisfaction of the bar and the public.

He was thrice married; first, as before mentioned, to the daughter of Governor Turner; second, to the daughter of Colonel William Polk, and third, to Mrs. Delia Williams, daughter of Sherwood Haywood, Esq., in each instance forming an alliance with an old family of the State, distinguished by public service and great personal worth from an early period. The last named lady, the worthy companion of his life for thirty years, who survives him as his widow, receives in her bereavement the condolence and sympathy, not merely of this community and State, but that of those in distant lands and in other States of the Union whom, not the lapse of years nor the excitement of intervening events, nor the fiery gulf of civil war shall separate from a friendship accorded to her and her departed husband, as representatives of the personal character, the society and domestic virtues of their native State in better days of the republic. By the two latter marriages he left numerous descendants.

While taking his accustomed walk at an early hour in the morning of January 5, 1863, he was prostrated by a paralytic stroke, near the mineral spring in the environs of the city of Raleigh, and although retaining his self-possession and ability to converse

until assistance was kindly furnished, on the way home his mind wandered, and before reaching his residence his faculty of continuous speech deserted him, never again to return. His mental powers after a brief interval rallied, insomuch that he took pleasure in reading and in listening to the conversations of friends, whose visits afforded him much satisfaction; and, with assistance, he could walk for exercise in the open air; but was never afterwards able to command language, except for brief sentences, failing often in these to convey his full meaning. In this condition he lingered until the 11th of May, 1866, when, after a few days' illness from renewed attacks of the same nature, he expired, having recently completed his seventy-first year.

My task is done. I have endeavored but "to hold the mirror up to nature." If the image reflected appears, in any of its features, magnified, it was not so intended. Yet the memory of a friendship, dating back to kind offices and notice in my student-life, extending through all my active manhood, may not have been without its influence in giving color to the picture. But the character in our contemplation was of no ordinary proportions. At the bar of the State he wore the mantle of Gaston and Archibald Henderson for a much longer period than either, worthily and well, with no diminution of its honors. In the highest court of the Union he was the acknowledged compeer of Webster, Crittenden, Ewing, Johnson, Berrien, Walker and Cushing. That he did not sit in the highest seat of justice in the State and nation, as proposed successively by the Executive of each, is imputable to no deficiency or unworthiness for the station, his adversaries being judges. In the Senate, when Clay, Webster, and Calhoun still remained there, not to name others of scarcely inferior repute,

he was among the foremost, upholding the rights of his own State and section with manliness and ability, but with candor, moderation, and true wisdom, which sought to harmonize conflicting elements and avert the calamities of civil strife. In morals he was inflexible, without stain or suspicion of vice; in manners and social intercourse, genial, frank, hospitable, with colloquial powers to instruct, amuse, and fascinate alike, and "with a heart open as day to melting charity." The fame of such a man is a source of natural and just pride to the people of the State. This sentiment is that which the poet describes in the Englishman, when he sings

"It is enough to satisfy the ambition of a private man,
That Chatham's language was his mother tongue,
And Wolfe's great name compatriot with his own."

How much he will be missed as a member of the community, as the friend of order and law, religion and morality, as a professional man, counsellor, and advocate of unrivalled ability and reputation, as an intellectual and cultivated man, with armor bright and powers ever at his command, presenting a model for the emulation of our ingenuous youth, as a public character, as adviser and true friend, but no flatterer of the people, and an unflinching supporter of their rights, wherever truth and duty might lead, time and experience may demonstrate. There is no public aspect, however, in which his loss is so much to be deplored as in the relation he bore to the past, and his probable efficiency in solving the problem of the day. Who so capable of interpreting the Constitution which forms our government, and the alleged laws of

war by which it is claimed to be suspended or superseded, as that gifted mind and sincere nature, so trusted on these topics in former years, and so thoroughly imbued with the spirit and teachings of Marshall? Who so deserving to be heard on the best means of pacification and reestablishment of order and right among thirty-five millions of freemen as he who, by his temperance, calmness, and intelligent constitutional opinions, in the commencement of our national difficulties, incurred the censure of many in our own section of country, without receiving the approbation of their adversaries? Who so fitted for the exposure and correction of error, of allaying the ignoble passions of hatred and revenge, and rekindling the national affections inspired by a common and honorable history? Who so skillful to remove the scales from the eyes that will not see, and who so wise and brave to rebuke the age of faction, threatening to realize the assertion of Mr. Fox, in his history of James II., that "the most dangerous of all revolutions is a restoration?"

To that good Being, in whose hands are the destinies of nations and individuals, by whose divine agency crooked paths are often made straight and issue granted out of all troubles, in ways not visible to human eyes, let us unite in commending every interest of our beloved country.

The foregoing sketch, in the form of an address on the life and character of George E. Badger, was delivered in Raleigh, July 19, 1866, at the request of the Wake county bar. Though much of it is not strictly biographical, it is interesting on account of its

distinguished author, as well as for giving us a view of the times and events discussed.

The address delivered by Mr. Badger at the State University in June, 1833, before the two Literary Societies, is said, by those who heard him on other occasions, not to afford a fair illustration of his great powers as a speaker. He was in fact never a florid orator, powerful to move the passions above reason, but his mind was so clear, his manner so unhesitating, his knowledge so great, his flow of language so easy, his memory so accurate, and his presence so commanding that he was bound to make a powerful impression whenever he spoke to men in public or in private.

He was not greatest as a statesman—he had his run in the technical learning of the law too long—statesmen must be early and specially trained and educated in the business of statecraft.

He was too reserved, austere at times, and perhaps sensitive, ever to win the affections of men in the same proportion that his great talents commanded their respect and admiration.

His short tribute to Judge Gaston, hereto subjoined, is valuable for the purpose for which it was uttered, and as a fair sample of his style, showing his choice of words, in easy command, when occasion called them forth. Judge Gaston died in January, 1844, and, at the meeting held in honor of his memory, Mr. Badger said: "This meeting of the members of the bar of the Supreme Court has learned with profound grief the melancholy and totally unexpected bereavement which the Court and the country have sustained in the death of the Hon. William Gaston. Struck down suddenly by the hand of God, in the midst of his judicial labors, dying as

he had lived in the enlightened and devoted service of his country, endued by learning and adorned by eloquence with their choicest gifts, enobled by that pure integrity and firm and undeviating pursuit of right which only an ardent and animating religious faith can bestow and adequately sustain, and endeared to the hearts of all that knew him by those virtues which diffuse over the social circle all that is cheerful, refined, and benevolent, he has left behind him a rare and happy memory, dear alike to his brethren, his friends, and his country."

Governor Graham undertakes to set forth Mr. Badger's reasons for finally favoring the secession of North Carolina from the Union, but the reader will see from the subjoined resolutions that it is best to allow Mr. Badger to speak for himself. He and the people of North Carolina then assumed as axiomatic that Lincoln's call for troops to invade the South was utterly without warrant of law. Strong as was the language of the resolutions, it was not strong enough to express the indignation of the people at Lincoln's usurping the authority to begin the war on his sole responsibility. Not mainly because the institution of slavery was threatened, nor yet because we were wedged between seceding States, but because the people, as one man, believed that the most vital powers of a government of three departments had been violently seized by the Executive, that the seizure was supported by a conspiracy of States, and that the Constitution and the Union of the fathers were already outraged and dismembered.

The resolutions above alluded to, and a part of the speech delivered in the United States Senate, March 19, 1850, instructive in themselves, are given also as specimens of Mr. Badger's style.

ORDINANCE OF SECESSION.

PROPOSED BY GEO. E. BADGER.

"Whereas, Abraham Lincoln, of Illinois, and Hannibal Hamlin, of Maine, were chosen President and Vice-President of the United States by a party in fact and avowedly entirely sectional in its organization, and hostile in its declared principles to the institutions of the Southern States of the Union, and thereupon certain Southern States did separate themselves from the Union, and form another and independent government, under the name of 'The Confederate States of America'; and

"Whereas, the people of North Carolina, though justly aggrieved by the evident tendency of this election and of these principles, did, nevertheless, abstain from adopting any such measures of separation, and, on the contrary, influenced by an ardent attachment to the Union and Constitution, which their fathers had transmitted to them, did remain in the said Union, loyally discharging all their duties under the Constitution, in the hope that what was threatening in public affairs might yield to the united efforts of patriotic men from every part of the nation, and by their efforts such guarantees for the security of our rights might be obtained as should restore confidence, renew alienated ties, and finally reunite all the States in a common bond of fraternal union; meantime, cheerfully and faithfully exerting whatever influence they possessed for the accomplishment of this most desirable end; and

"Whereas, things being in this condition, and the people of this State indulging this hope, the said Abraham Lincoln, President of the United States did, on the fifteenth day of April, by his proclamation,

call upon the States of the Union to furnish large bodies of troops to enable him, under the false pretense of executing the laws, to march an army into the seceded States with a view to their subjugation, under an arbitrary and military authority, there being no law of Congress authorizing such calling out of troops, and no constitutional right to use them, if called out, for the purpose intended by him; and

"Whereas, this call for troops has been answered throughout the Northern, Northwestern, and Middle non-slaveholding States with enthusiastic readiness, and it is evident, from the tone of the entire press of those States and the open avowal of their public men, that it is the fixed purpose of the governments and people of those States to wage a cruel war against the seceded States, to destroy utterly the fairest portion of this continent, and reduce its inhabitants to absolute subjection and abject slavery; and

"Whereas, in aid of these detestable plans and wicked measures, the said Lincoln, without any shadow of rightful authority, and in plain violation of the Constitution of the United States, has, by other proclamations, declared the ports of North Carolina, as well as all the other Atlantic and Gulf States under blockade, thus seeking to cut off our trade with all parts of the world; and

"Whereas, since his accession to power, the whole conduct of said Lincoln has been marked by a succession of false, disingenuous and treacherous acts and declarations, proving incontestably that he is, at least in his dealings with Southern States and Southern men, devoid of faith and honor; and

"Whereas, he is now governing by military rule

alone, enlarging by new enlistments of men both the military and naval force, without any authority of law, having set aside all constitutional and legal restraints, and made all constitutional and legal rights dependent upon his mere pleasure and that of his military subordinates; and

"Whereas, in all his unconstitutional, illegal and oppressive acts, in all his wicked and diabolical purposes, and in his present position of usurper and military dictator, he has been and is encouraged and supported by the great body of the people of the non-slaveholding States;

"Therefore, this convention, now here assembled in the name and with the sovereign power of the people of North Carolina, doth, for the reasons aforesaid, and others, and in order to preserve the undoubted rights and liberties of the said people, hereby declare all connection of government between this State and the United States of America dissolved and abrogated, and this State to be a free, sovereign, and independent State, owing no subordination, obedience, support or other duty to the said United States, their Constitution or authorities, anything in her ratification of said Constitution or of any amendment or amendments thereto to the contrary notwithstanding; and having full power to levy war, conclude peace, contract alliances, and to do all other acts and things which independent States may of right do, and appealing to the Supreme Governor of the world for the justice of our cause, and beseeching Him for his gracious help and blessing, we will, to the uttermost of our power and to the last extremity, maintain, defend, and uphold this declaration."

SPEECH ON SLAVERY AND THE UNION.

BY GEORGE E. BADGER.

I concur entirely in what has so often been said on this floor that there can be no peaceable separation of this Union. From the very nature of the case, from the character of our institutions, from the character of our country, from the nature of the government itself, it is, in my judgment, impossible that there can be a peaceable separation of this Union. But if there could be, I agree entirely with the honorable Senator from Kentucky, that the state of peace in which we should separate must be speedily ended, must terminate in intestine conflicts, in wars, which, from the nature of the case, could know no amicable termination, no permanent peace but, until the superiority of the one or the other side in the conflict should be completely established, would admit of nothing but hollow truces, in which each might breathe from past exertions, and make preparations for future conflicts.

Sir, the idea of a separation of these States into distinct confederacies was thought of, and considered, and spoken of before the adoption of this Constitution. At the time that the question was before the American people, whether the Constitution proposed by the Convention should be adopted, it was then spoken of. It is probable—yea, certain—consequences were referred to by the writers of that admirable series of papers denominated the "Federalist"; and I beg the indulgence of the Senate while I read a very brief extract, conveying the views of those eminent men:

"If these States should either be wholly disunited, or only united in partial confederacies, a man must

be far gone in utopian speculation who can seriously doubt that the subdivisions into which they might be thrown would have frequent and violent contests with each other. To presume a want of motives for such contests, as an argument against their existence, would be to forget that men are ambitious, vindictive, and rapacious. To look for a continuation of harmony between a number of independent, unconnected sovereignties, situated in the same neighborhood, would be to disregard the uniform course of human events, and to set at defiance the accumulated experience of ages."

If this was a just view of the probable—the certain—results of a separation of these States at that time, and under the then existing circumstances, I pray you, sir, upon what, at the present day, can we found a better hope? Then the States were fresh from the conflict of the Revolutionary war. Then, not only had they a lively remembrance of the contest in which they had fought and in which they had gathered victory and honor together, but the leading men of that time were those choice spirits who had carried them through that recent conflict, who had established the independence of the country, and who exercised an influence in public affairs proportioned to their patriotism, their valor and their wisdom. Then they might have separated without the same causes of hostility and alienation which must exist in any separation of these States at the present day. If we separate now, we do it with feelings of mutual distrust and bitterness. We divide, not by common consent, as partners who can no longer carry on their joint business with mutual profit, each to pursue, for his own separate advantage, that course of business in which he thinks he can best succeed, but we part with the feelings of those who

consider themselves mutually wronged. A sense of injustice and oppression rankles in the hearts of one portion of the new confederacies, and a sense in the other of defiance and indignity.

Under such circumstances, "what can ensue" (to borrow the language of the great English moralist) "but a continual exacerbation of hatred, an unextinguishable feud, an incessant reciprocation of mischief, a mutual vigilance to entrap and eagerness to destroy?"

The question has been asked, What can the States do, supposing them to be divided—separated into distinct subdivisions or independent sovereignties? Allow me to answer that question in the words of one of the most eminent men whom my State has ever produced: a man of clear and comprehensive intellect, of a sound heart and enlarged and ardent patriotism, who shed a glory around his native State, and whose name is held in just veneration by every one who acknowledges himself a North Carolinian. At another period of our history the same question was asked. In the years 1831 and 1832 it had become an inquiry, a subject of disquisition in my State, and the late Judge Gaston, in an address delivered in 1832 before the Literary Societies of the University, thus treats of the subject:

"Threats of resistance, secession, separation, have become common as household words in the wicked and silly violence of public declaimers. The public ear is familiarized with, and the public mind will soon become accustomed to, the detestable suggestion of disunion. Calculations and conjectures —what may the East do without the South, and what may the South do without the East?—sneers, menaces, reproaches, and recriminations—all tend to

the same fatal end. What can the East do without the South? What can the South do without the East? They may do much; they may exhibit to the curiosity of political anatomists, and the pity and wonder of the world, the *disjecta membra*—the sundered, bleeding limbs of a once gigantic body instinct with life, and strength, and vigor. They can furnish to the philosophic historian another melancholy and striking instance of the political axiom, that all republican confederacies have an inherent and unavoidable tendency to dissolution. They will present fields and occasions for border wars, for leagues and counter leagues, for the intrigues of petty statesmen and the struggles of military chiefs, for confiscations, insurrections, and deeds of darkest hue. They will gladden the hearts of those who have proclaimed that men are not fit to govern themselves, and shed a disastrous eclipse on the hopes of rational freedom throughout the world. Solon, in his code, proposed no punishment for parricide, treating it as an impossible crime. Such, with us, ought to be the crime of political parricide—the dismemberment of our 'fatherland.'"

To me, sir, these sentiments convey a just representation of what will be the future and unavoidable result of a separation of the people of this great country into distinct and independent confederacies. And when I look at the prospect before us it is one so dark, filled with such horrid forms of dread and evil, that I willingly close my eyes upon it, and desire to believe that it is impossible it should ever be realized. * * * * * * * *

Nor, Mr. President, must I forget that, in considering the effect which this proviso [the Wilmot Proviso] is likely to have upon the condition of the

Southern mind, we must look to what has been said by Northern gentlemen in connection with this subject. Permit me to call the attention of the Senate to a very brief extract from a speech delivered in the other end of the Capitol:

"In conclusion, I have only to add, that such is my solemn and abiding conviction of the character of slavery, that, under a full sense of my responsibility to my country and my God, I *deliberately* say, better disunion, better a civil or a servile war, better anything that God in His providence shall send, than an extension of the bounds of slavery."

SEVERAL SENATORS. Whose speech is that?

A SENATOR. Mr. Mann's.

MR. BADGER. We have heard much, Mr. President, of the violence of Southern declamation. I have most carefully avoided reading the speeches of Southern gentlemen who were supposed to be liable to that charge. I happened, however, in the early part of this session, and before the other house was organized, to be in that body when there were some bursts of feeling and denunciation from Southern gentlemen, which I heard with pain, mortification, almost with anguish of mind. But, sir, these were bursts of feeling; these were passionate and excited declarations; these had everything to plead for them as being spontaneous and fiery ebullitions of men burning at the moment under a sense of wrong. And where, among these, will you find anything equal to the cool, calm, deliberate announcement of the philosophic mind that delivered in the other house the passage which I have read: "Better disunion, better a civil or a servile war, better anything that God in His providence shall send, than an extension of the bounds of slavery?" In other words, it is the

deliberate, settled, fixed opinion of the honorable gentleman who made that speech, that rather than the extension of the bounds of slavery *one foot*—yes, sir, there is no qualification, *one foot*—he would prefer a disunion of these States, he would prefer all the horrors of civil war, all the monstrous, untold, and almost inconceivable atrocities of a servile war, he would pile the earth with dead, he would light up heaven with midnight conflagrations; all this—yea, and more—all the vials of wrath which God in His providence might see fit to pour down on us he would suffer, rather than permit, not one man who is now free to be made a slave—that would be extravagant enough—but rather than permit one man who now stands upon the soil of North Carolina a slave, to stand a slave upon the soil of New Mexico!

Yes, sir, here is a sacrifice of life and happiness, and of all that is dear to the black and white races together, to a mere idealism—a sacrifice proposed by a gentleman who claims to be a philosopher, and to speak the language of calm deliberation, a sacrifice of our glorious Union proposed by a patriot, not rather than freemen should be made slaves, not rather than the condition of even one human being should be made worse than it now is, but rather than one man shall remove from one spot of the earth to another without an improvement of his condition, without passing from slavery to freedom! Sir, after that announcement thus made, which I beg to say, sir, I did not seek—for the speech I have never read—the extract I found in one of the newspapers of the day—after that announcement, talk not of Southern violence, talk not of Southern egotism, talk not of our disposition to sacrifice to our peculiar notions and our peculiar relations the peace and happiness,

the growing prosperity, and the mutual concord of this great Union. Now, sir, if that announcement goes abroad into the Southern country, attended by this wanton application of the Wilmot Proviso, an irritating commentary upon that patriotic announcement, what can be expected? What but the deepest emotions of indignation in the bosoms of those born and brought up where slavery exists, and taking totally different views of the institution from those which are taken by the honorable gentleman who has placed himself in this cool and deliberate, humane, and philosophical position!

Sir, we know, with regard to two or more of the Southern States, emphatic pledges have been given, through their Legislatures, that *some* mode of resistance to this proviso will be adopted. Now, what is to be the result of the Nashville Convention which has been called for June next, should that body assemble and find matters in their present condition? If no bill shall have passed to do us justice by affording, as far as the law can afford it, the effectual restoration of fugitive slaves; if a bill shall have passed, or be likely to pass, with the insult of the Wilmot Proviso causelessly and wantonly inserted in it, after the announcement made in the extract of the speech which I have just read, and after that made by the Senator from New York that so far from there being an obligation to restore to us our fugitive slaves, the duty of hospitality requires that they shall be received, kept and retained from us and that the constitutional law which requires their restoration to us is contrary to the law of God, and not binding in conscience; and, still more, after the settled policy is fully realized that those who visit our shores, coming under the protection of the American flag within our

jurisdiction, and, in violation of our laws, seduce our slaves from us, and carry them to the North, shall not be surrendered up as fugitives from justice, because the same high and overruling law which puts the Constitution down, and makes it a nullity, has converted what we call a crime into a high and meritorious act of duty, what will be the result of this convention, meeting under such circumstances, what may be, what probably will be, the consequence? I say it not because I wish it, I do not wish it; the conviction has been forced upon my mind by evidence reluctantly received; and therefore I wish my friends around me to give, for that reason, the more credit to what I say—if that convention shall meet under such circumstances, in my judgment the Union is from that day dissolved. I do not say that dissolution will follow instantly; I do not say but that a connection, an external Union, may not be maintained, and linger on for a few years longer: but the meeting of that convention will be to our institutions, in the language of Napoleon, "the beginning of the end"; it will be the initiative step in such a course of measures, North and South, as will result in convulsing us so far that the ills to which we fly, cannot, in our judgment, exceed those we bear; and thus will be put upon the people of the South the necessity, the painful, hard necessity, of a dissolution, a final separation. Now, sir, why do I take this view? In the first place, the meeting of the Nashville Convention is, upon its face, a step towards a separate and distinct organization of the Southern States. The very movement separates them for a time, in purposes and intent, from the great mass of the population of the country. They meet there for what purpose? To consider, to deliberate, to debate —what? What course of action shall, by mutual

agreement, be taken by the States whom this convention will represent, what manner of resistance, what mode of redress? Now, sir, in all matters of this kind, in all revolutions, in all dissolutions of the ties which bind us together, the first step is the great difficulty. It is so even in social and private life; it is so in the married state. The first wanton and public outrage on the part of one towards the other of the parties is easily followed by such steps as end in total and thorough estrangement. Well, then, suppose no measures are proposed which look to a separation of the Union, as I have no reason to suppose that any will be proposed looking to that as an object, I fully believe that that convention in Mississippi which terminated its session in the call for this convention was influenced by high and patriotic motives, seeking to preserve and not to destroy the Union. If I wanted anything to satisfy me of that (besides other reasons which I have), the very fact that the convention was presided over by the venerable and venerated Chief Justice Sharkey, a most learned jurist and patriotic gentleman, would be sufficient for me. But when we have ascertained what people design by any particular movement, we are far, very far, from having ascertained what they may accomplish by it. Now, suppose this meeting should resolve that, by a common concurrence of the States represented, laws should be passed, police regulations be adopted, in those States, of the most irritating and offensive kind towards the Northern portion of the Union: such a course will not appear surprising, if we bear in mind the fact that slaves are constantly taken from our ports by vessels that visit them for the purpose of commerce; that, thus taken, they are withheld from us, and their seducers are neither discountenanced at

home, nor restored to us for punishment; and that a flagrant wrong on one side naturally provokes to measures at once of protection and retaliation from the other. But, Mr. President, the moment these States, by mutual compact and agreement, have come to a resolution to adopt a particular course of measures upon this subject, they have left the platform of the Constitution; they are no longer upon it, because the Constitution expressly forbids a State to enter into any compact or agreement with another State without the consent of Congress. When this first step is taken, the process is easy and need not be traced to a final dissolution of our present Union: and, therefore, in the event of the meeting of this convention, with the slavery question in the situation I have mentioned, I have, I repeat, gloomy apprehensions of what may be, and most probably will be the result upon the destinies of our country. Force, Mr. President, cannot keep the States of this Union together, cannot preserve the constitutional Union. I distinctly admit what has been said by the honorable Senator from Massachusetts [Mr. Webster], that no State has a *right* to secede from this Union. I distinctly admit that the Constitution, looking to perpetuity, makes no provision directly or indirectly, for the separation of its parts. But, in point of fact, from the very nature of our institutions, the States cannot be kept in union by force. The majority, or the most powerful portion, may conquer and reduce to subjection the other; but when this is done, the States are not in union, the constitutional connection is not restored. It is but the spectacle of a conquered people submitting to superior power; and no ties of affection, no cooperation in a common government, no *American* Union can reasonably be hoped between the conquerors and the conquered.

Believe me, sir, if ever the unhappy hour should arrive when American blood is shed in a contest between the States—some desiring to secede, and the others endeavoring to compel them by force of arms to remain in the Union—whenever that hour comes, our connection is immediately broken, to all beneficial purposes, for the happiness or prosperity of the country.

Now, Mr. President, with regard to my own State. Should this proviso be adopted, and should satisfaction not be given in the other particulars which I have mentioned, will North Carolina join in resisting, in any mode, the action of this government? Will she unite in measures for secession, for revolution, or for retaliatory legislation? I am so far, sir, from undertaking to speak upon this subject for the South, which I wish to be understood now and always as disavowing, that I do not feel myself even empowered to speak what will be the judgment and conduct of my own State. As was well said the other day by my friend and colleague [Mr. Mangum], in presenting some resolutions to the Senate, disunion is a question which we cannot discuss here as one for Senatorial action. We are sent here to represent the State under the Constitution, and to discharge ordinary legislative and executive duties, which presuppose the Constitution to be entire and in full force. We of course have no delegated authority to speak the views of North Carolina upon any such question as that which I have just stated. Last year the Legislature of my State passed a series of resolutions, in which, after expressing in very strong and decided terms the sense felt by the people of that State of the wrong of the Wilmot Proviso, and other kindred

measures, they nevertheless adopted an extract from the Farewell Address of Washington, embodying the sentiment that we were not to look upon the Union as *in any event* to be abandoned. Making all proper modifications of that large and most comprehensive expression, "in any event," it could have no less interpretation than this, that none of the events alluded to by the preceding resolutions would furnish ground for the abandonment of the Union. Since that time this matter has been much discussed in North Carolina; primary meetings have been held; different resolutions have been passed by those meetings, some discountenancing and declining to be represented in the Nashville Convention, others approving the call, and resolving to send delegates; and one meeting, with a somewhat singular inconsistency, while protesting against a government of unlimited powers, solemnly pledged itself to adhere to, abide by, and support whatever the Nashville Convention shall determine. I hope, sir, that North Carolina will not concur on account of the passage of the Wilmot Proviso, in any measures for the dissolution of the Union or resistance to the Government. My own opinion is that it would furnish no sufficient ground for such a procedure. I say that here; I shall say it at home when the proper time arrives, if a time shall ever arrive when it shall be necessary to say it. But this I say, also, that I shall feel, if such an event as the adoption of the proviso should happen, that a serious indignity has been offered to us; not, perhaps, designed—I will not charge any with a deliberate design to insult—but yet an indignity, because such must be the wanton adoption of an objectionable and useless measure, after distinct notice that it will be considered in that light. And rely upon it, sir, that whatever may be the

result in regard to any external action of the people of the Southern States, if something satisfactory is not done respecting fugitive slaves, and if the application of this Wilmot Proviso is insisted upon, there will be left in the hearts of our people a rankling sense of injustice and offense. They will have less of hope in the future operation of the Constitution. They will feel, to a certain extent, a painful conviction that the large majority of the inhabitants of the free States have not that sympathy with their feelings and regard for their rights, that justice and moderation in the exercise of the known powers, and that abstinence from the needless exercise of doubtful and questionable ones which are so essential to keep the mind of the country united; and, unless our minds are united, the forced association of reluctant communities, who stay together, not to obtain good from their connection, but to avoid evils of separation, does not deserve the name of Union.

Mr. President, I am sorry that I have occupied the Senate so long. I will endeavor to draw the few remaining remarks I have to make to a speedy close. I have submitted with entire frankness the views which I entertain. I believe, conscientiously believe, that there is in the Northern States of the Union a sincere attachment to the Constitution, a firm adherence to the compromises of the Constitution, and a just consideration for the rights and feelings of their Southern brethren. And I have a strong hope, an abiding confidence, that these sentiments will, on every proper occasion, be manifested by the great body of inhabitants in the free States. If I thought otherwise, I should be without hope, and should be inclined to consider my birth an event to be deplored, as imposing upon me the necessity of

witnessing the utter destruction of my country. But, sir, let a proper bill for the recapture of fugitive slaves be passed, let this Wilmot Proviso be dropped (and, if possible, sink into insignificancy and oblivion), and I will be willing to deal with every question before the Senate in the utmost liberality of compromise. Yes, sir, I have no objections to compromise. The Union sprung out of compromise. The Union is supported by legislative compromise, a compromise incorporated in the fundamental law, the Constitution. Springing out of compromise, this Union can only be preserved and made to promote the great and good ends designed by and hoped from it, by our carrying on the government habitually in the spirit of compromise. In that view, sir, I am willing to withdraw all objection to the admission of California, with or without an alteration of her limits as settled by her constitution. And when I say that, Mr. President, permit me to say that I make a great sacrifice. Sir, I occupy the same position with regard to California now as I did at the last session. The honorable Senator from Mississippi, now in his seat [Mr. Davis], knows that I was with him upon a committee charged with the subject of admitting those Territories as States. I announced to him at once that I was totally and absolutely opposed to their admission in any form, and with any subdivision of territory. I have heard nothing to remove the objections I then entertained; but, in the manner of the organization of the government there, I find additional objections, strong in themselves, and giving additional force to those which I had before. And if I could believe that the views expressed by the Senator from New York [Mr. Seward], the other day, upon this subject, are the views entertained by the people of California, or by

the gentlemen who are sent here to represent them, my objections would rise almost to an insurmountable repugnance, to a perpetual opposition; for that Senator has not hesitated to tell us, in substance, that we have no choice about admitting California; that she is a State, and a State she will continue, irrespective of any act of Congress; that she comes here and demands admission into this Union, and, if not admitted here, our authority will be cast aside, and she will be an independent republic upon the Pacific. But, sir, I cannot believe, and do not believe, that such an insolent dictation to us is designed by the people of California. And I personally know the two gentlemen whom she has selected as Senators, and am sure they would be the first to disown and renounce the position assumed by their patron upon this floor.

The honorable Senator from New York [Mr. Seward], seems to consider the admission of California as a matter beyond all price and all value, to be attained at every hazard and every sacrifice, and therefore, notwithstanding the opinion he has expressed with regard to slavery, though he considers it a high, hospitable duty to entertain the fugitive slaves from the South, and to keep them from their masters, though he has a holy horror of the extension of slavery into the Territories now free, and considers every obligation imposed by the Constitution in reference to slavery overborne and annulled by the supreme law of God—he tells us, that so all-important is the admission of California, under the circumstances, that he would have voted for her admission with an express recognition by her constitution of the right to carry slaves into her territory. An allusion to this subject seems to have a strange effect upon the Senator from New York. He is

carried back at once to the last session, when certain measures were pending here for the purpose of organizing some temporary government for California and New Mexico; and alluding to the gentleman who is now the source of power and patronage in this Government, he thus expresses himself:

"May this republic never have a President commit a more serious or more dangerous usurpation of power than the act of the present eminent Chief Magistrate, in endeavoring to induce the legislative authorities to relieve him from the exercise of military power, by establishing civil institutions, regulated by law, in a distant province. Rome would have been standing this day if she had had such generals and such tribunes."

Yes, sir, if Rome had been blessed with a Zachary Taylor for commander of her armies; if Rome had been blessed with a Zachary Taylor for a tribune, the Goths, the Vandals, and the Huns, Attila, and all his hordes, would have poured upon the empire in vain —they would have been repelled, overcome upon the embattled plain, and driven back to their fastnesses in the North, and Rome would stand this day proud mistress of the world! Now, sir, whether the President of the United States can swallow such an adulation as this, I will not undertake to decide; but such is my estimate of his intelligence and his merit, of his modesty—a just modesty, which usually accompanies true merit—that I believe he has no powers of deglutition sufficient to get it down.

I have said, Mr. President, that I should make a great sacrifice in my vote for the admission of California; yet I will make the sacrifice, not grudgingly, but cheerfully; and, as said by the

Senator from Michigan [Mr. Cass], the other day, if asked "What would I do to restore harmony to the country, and make this still a united and happy people," I would answer like him, "I scarcely know what I would *not* do to accomplish such an end."

Mr. President, I feel the importance of this great subject, and my utter want of power to treat it as it deserves. I wish to excite or to irritate the angry feelings of no section of this country; I am conscious, in my own bosom, of no sentiment towards any portion of my countrymen, except one of respect and cordial attachment. But I may be permitted to except from this general declaration those mischievous associations in the Northern part of the United States, which, to our injury, and to the great and permanent injury of the unfortunate slaves among us, have been, with an unholy pertinacity, agitating the subject of this domestic institution of ours for the last fifteen years. Towards them, even, I trust I have no feeling of hatred. For every portion of the American people, I care not whether in the East or West, the North or South, I have the heart and hand of a brother. There is no gentleman upon this floor, among my immediate associates around me, no gentleman upon the other side of the chamber, for whom I have not always manifested a proper personal consideration and kindness; but I wish to make our Northern friends aware of the danger to which we are exposed. My own views have never been extreme, my position has ever been moderate; and I trust some credit will be given me when I declare my deliberate judgment, that consequences the most serious, even the most calamitous, may follow a particular disposition of this subject by the present Congress. If it should be believed throughout the Southern country that sentiments which we have

heard here uttered, are the sentiments of the whole body of the North, every desire to remain together would sink in Southern hearts. We would be together, then, not for love or affection, not from the hope of happiness or improvement; and if we would remain united at all, it would be solely from dread of the greater and darker calamities that might follow our separation. If this subject is met in a proper spirit, it can be easily settled and adjusted. So far as I am concerned, I am willing to meet upon any reasonable ground. I am willing to yield much that I wish, to do much for which I have a strong and serious repugnance.

I call upon every conservative gentleman in this body, every one from a free State who desires to perpetuate the institutions of his country in their true spirit and character, who wishes not to convert our Union into an association of discordant and discontented parts, held together by dread or force, but to preserve us one people, united in heart and affection, I call upon him to meet us upon the ground of kindness, compromise, and conciliation. I say to him, drop this odious proviso, a measure powerful for evil and impotent for good; let it not have an immortality of mischief; give us security for the restoration of our fugitive slaves; admit California as you wish, and if you choose to abolish in the District of Columbia this foreign slave-trade, this conversion of the seat of government into a general mart for the slavedealers of the surrounding States, I say abolish it. My colleague [Mr. Mangum] and myself both stand ready to vote for it. Permit me, sir, to say to our Northern friends, that if they suppose Southern gentlemen to be wedded to any of the adventitious evils or abuses of slavery, to be unwilling to correct excesses, or disposed to support cruelty or to

patronize inhumanity, they do us great injustice. Upon the rights of property we stand—these we consider sacred—and from our support of them we cannot be moved. But, saving these, make what regulations of police the occasion may require, and I will not only submit, but will give them my hearty concurrence and approbation.

Mr. President, it cannot be—I will not believe it—nothing but demonstration, nothing but the accomplished fact shall satisfy me, that we have so degenerated from our sires of the Revolution as not to be able harmoniously to adjust the questions before us. It cannot be that the true spirit of concession and compromise has fled; that idealisms have taken the place of constitutional obligations and kindly feelings; that fanaticism has dethroned reason, and the Union, the work of our noble fathers, just as it has well commenced its onward progress to a future of real glory and power, is to be broken to pieces by the rude hands of agitation, by cabals abroad or intrigues at home, contrary to the general sentiment and earnest wish of the great mass of the people. Sir, we have had offerings made here for the preservation of this Union from every quarter of this chamber. Often and nobly have they been made by the distinguished Senator from Michigan [Mr. Cass]; firm, steady, constant, and true in this cause has my friend from New York, on the other side of the chamber [Mr. Dickinson], at all times been. The distinguished Senator from Kentucky [Mr. Clay], in his late earnest and patriotic efforts, has added another laurel to the immortal chaplet that binds his brow; and but a few days since, the great expounder of the Constitution [Mr. Webster], that man of mighty mental and moral power, closed the list of great names engaged in this holy cause, in a speech

so clear in expression, so comprehensive in patriotism, so noble in self-devotion, that could we doubt the success of these united efforts for harmony and conciliation, we must needs believe that, for some inexpiable crime, God has visited us with judicial blindness, preparatory to the outpouring of his indignation upon our country. Sir, I will not believe this, I do not, I will not despair of a cause so good. On the contrary I trust that we shall yet come together on a common basis of harmonious cooperation, and find ourselves able to adopt, as the expression not only of a patriotic wish, but of an assured and confident hope, the sentiment made immortal by the great Senator from Massachusetts, "*Liberty and Union, now and forever, one and inseparable*."



DAVID L. SWAIN.

DAVID L. SWAIN.

BY Z. B. VANCE.

That great range of mountains, extending from the St. Lawrence to the plains of Alabama, called by De Soto Appalachian, and by the Indian tribes, Alleghanies, which, in their tongue, signifies the endless, attains its greatest elevation in the Black Mountain group in the western part of this State.

This group lies partly within the counties of Yancey, McDowell and Buncombe; and the tallest peak of the cluster, and of all the peaks east of the Rocky Mountains, is Mt. Mitchell. From its dominating summit there is thrown off a ridge which runs west, south and southwest, in a zigzag shape, alternated with deep gaps, tall summits and frightful precipices, until it melts away in the peninsula of the plain which is enclosed by the waters of the Swannanoa and the French Broad, in the county of Buncombe.

In this range, about seven miles from where these waters meet, there is a little gorge-like valley scooped out of its western slope, which spreads its narrow bosom precisely in the face of the setting sun. The tall dome of Mt. Mitchell literally casts its shadow over this mountain-cradled vale as the sun first comes up from the eastern sea. Great ridges hem it in on either side, gradually melting on the south into the sloping hills on which stands the town of Asheville. A bold fresh brook from springs high up in the heart of the mountain ripples through the bottom

of this vale, reenforced by a hundred smaller streams pouring from the ravines on the right and left, and empties its bright, fresh floods into the French Broad five miles below the county-seat. Near the very head of this valley is a charming little homestead, consisting of fertile bits of meadow on the brook-side, above which are open fields swelling upwards to the skirts of the mountain forests. In the midst of these fields, where the ground slopes gently towards the brook, there stood, about the beginning of this century, an old-fashioned log-house of the kind familiarly known to our mountain people as a "double-cabin." An orchard of a growth and fruitful luxuriance peculiar to that region surrounded the house and curtilage, imparting that air of rustic beauty and abundance which constitutes a special charm in simple country homes.

This spot, at the period indicated, was the home of an honest, upright, and intelligent man, whose name was George Swain; and here, on the 4th day of January, 1801, was born the child who became the man to whose memory we desire to do honor this day.

David Lowrie Swain was the second son and child of George and Caroline Swain. His father was of English descent, and was born in Roxboro, Massachusetts, in 1763. He came South and settled in Wilkes, now Oglethorpe county, in Georgia, served in the Legislature of that State five years, and was a member of the convention that revised the Constitution of Georgia. His health failing, he removed to Buncombe county, North Carolina, in 1795, and was one of its earliest settlers. He was for many years Postmaster at Asheville, and until within two years of his death; becoming insane a year or

two previous to that event. Soon after his settlement in Buncombe he was married to Caroline Lowrie, a widow, whose maiden name was Lane, a sister of Joel Lane, the founder of the city of Raleigh, and of Jesse Lane, the father of General Joe Lane, late United States Senator from Oregon, and Democratic candidate for Vice-President on the ticket with General Breckinridge in 1860. This lady had three children by her first husband, one of whom, the late Colonel James Lowrie, of Buncombe county, lived and died a citizen of most excellent repute. By her last husband she had seven children. All of these are now dead.

George Swain was by trade a hatter, but like all the thrifty men of his day, he combined farming with his shop, and was a successful man in both, as success was then measured. Whilst his hats were famous all the county over, his little farm on Beaver Dam, the name of the stream on which it was located, was considered a pattern in that period of rude agriculture. His apple-trees, under the shade of which young David was born and reared, were the product of cuttings brought all the way from Massachusetts—a great and tedious journey then—and some of the varieties which he thus imported still remain in that region by the names which he gave them.

He was a man of some learning and much intelligence, mixed with a considerable degree of eccentricity. Like all New Englanders, he believed much in education, and struggled constantly to impart it to his children. He was possessed of a most wonderful memory, and I have heard it said by a lady who, as a girl, was intimate in his house, that he often entertained her and other visitors for hours

together with the recitation of poems without book or manuscript.

In this humble but instructive home, secluded from anything that could be termed fashionable society, but trained to industry, and instructed in the ways of integrity, young David Swain's early youth was passed. I cannot subscribe to the phrase so usually employed in describing such biographical beginnings as this, when it is said that the subject of the memoir was "without the advantages of birth." The fact that a child is born amid such surroundings, and with such blood in his veins as coursed through those of young Swain, constitutes the very highest advantages which could surround the birth and bringing up of a young man who is to fight his way in a country like ours.

The surest elements of success are commonly found in the absence of indulgences in youth, and the most successful warriors against fate are those who are taught by stern necessity to fight early.

Governor Swain was fond of recurring to the scenes and influences of his early life, and always felt that he had been fortunate in possessing a father to whom he could look with respect and confidence. He maintained a close and confidential correspondence with him from the time he left his roof to make his own way, and often referred to it as having had a most beneficial influence upon him.

In the summer vacation of 1852 he visited Buncombe, and I accompanied him out to Beaver Dam to see once more the place of his birth, then and now in the possession of the Rev. Thomas Stradly. On a spot not very far from the house he stopped and told me that near this place was the first time he ever saw a wagon. This wondrous vehicle, he said, belonged to Zebulon and Bedent Baird,

Scotchmen by birth, who came to North Carolina some time previous to 1790, by way of New Jersey. There being no road for such vehicles, this wagon had approached the house of Mr. George Swain, he said, in the washed-out channel of the creek, and the future Governor of North Carolina stood in the orchard waiting its approach with wonder and awe, and finally, as its thunder reverberated in his ears, as it rolled over the rocky channel of the creek, he incontinently took to his heels, and only rallied when safely entrenched behind his father's house. He enjoyed the relation of this to me exquisitely. As a palliation of his childish ignorance, however, he added that this was the first wagon which had crossed the Blue Ridge.

With healthful labor at home, and healthful instruction by the fireside, the days of his early childhood passed, till he attained the age at which his careful father thought he should be placed under other instructors. At the age of fifteen he was accordingly sent to the school near Asheville, called the Newton Academy. Its founder and first teacher was the Rev. George Newton, a Presbyterian clergyman of good repute, who was succeeded by Rev. Mr. Porter, another Presbyterian clergyman, and then by the late William Smith, of Georgia, familiarly known as "*Long Billy*." This academy was justly famous in that region, and educated, in whole or in part, many of the prominent citizens of that country beyond the Blue Ridge, and elsewhere. Governor B. F. Perry and Hon. Waddy Thompson, of South Carolina, M. Patton, R. B. Vance, James W. Patton, James Erwin, and many others of North Carolina, were classmates of young Swain at that school. A lady who is now living, and was also a schoolmate of his there, tells me he was a most exemplary boy and

diligent student, soon and clearly outstripping all his associates in the acquisition of knowledge. This superiority was doubtless due to the aid of an exceedingly strong and tenacious memory which he inherited from his father, and which characterized him through life. Mr. M. Patton informs me that young Swain taught Latin in the same school for several months.

I am not aware that he attended any other school till he came to the University in 1821; in that year he entered the junior class, but only remained some four months. Want of means most probably prevented him from graduating. In 1822 he entered upon the study of the law in the office of Chief Justice Taylor, in Raleigh. He obtained license to practise in December, 1822; and referring to that event in his address at the opening of Tucker Hall, August, 1867, forty-five years afterwards, he gives a most entertaining picture of the Supreme Court which granted his license, and of the great North Carolina lawyers who at that time were practicing before its bar.

Returning to the mountains, with his license in his pocket and a sweetheart in his eye, he went hopefully to work, and became almost immediately in possession of a lucrative practice. The good people of his native county were quick to perceive his talents and integrity, and in 1824 he was elected a member of the House of Commons from Buncombe. So great was the satisfaction which his conduct in that capacity gave to his constituents, that they continued him as their member by successive elections until 1829.

In his character as legislator he was most distinguished for his industry and attention to

details, especially in the department of statistics and taxation, in which he soon became the highest authority in the body of which he was a member. He was prominent in getting the bill passed for the building of the French Broad Turnpike, a measure which revolutionized the intercourse between Tennessee, Kentucky, and South Carolina, bringing an immense stream of emigration, travel, and trade through western North Carolina, and adding greatly to his own popularity among the people of that region.

In 1829 he was elected, by the Legislature, Solicitor of the Edenton Circuit, a circumstance remarkable in our legal annals, both on account of his extreme youth at the time of his election to so important an office, and because the Edenton Circuit was in the most distant part of the State from his residence, and it had been the custom to select for that office a lawyer residing in the district for which he was elected. This compliment to his learning and ability was conferred upon him without solicitation, under the following circumstances: A bitter contest had sprung up between two candidates for that position, one of whom was the notorious Robert Potter, and the friends of neither consenting to give way, by common consent both sides agreed to take young Swain.

He rode only one circuit, when the next Legislature elected him a Judge of the Superior Court over Judge Seawell, then an able and eminent practitioner at the Raleigh bar. Swain was at that time the youngest man ever elevated to the bench in this State, except Judge Badger, who was elected at the age of twenty-six. He had ridden four circuits as judge with great acceptance, when in 1832 he was

elected by the Legislature to be Governor of the State over several competitors, and was inaugurated on the first day of January, 1832. Under the Constitution of 1776 the term of Governor was only one year, and Governor Swain was reelected in 1833 and 1834 successively. Just previous to the close of his official term in 1835 he was elected President of the State University, under the following circumstances: It is said that he would have continued in politics if the way had then been clear for him to go to the United States Senate; or that he would have continued in the law, could he then have returned to the bench. But the way to neither being at that time open to him, he had no desire to return to the practice of law, or to continue further in State politics, in which he had already attained the highest honors which his State had to bestow. Under these circumstances, he turned his eyes towards the presidency of the University, vacant since January, 1835, by the death of the venerable and lamented Dr. Joseph Caldwell. But great as was his reputation as lawyer and politician, his character as a scholar was by no means so established, nor had public attention been directed to him as a fit person to take charge of an institution of learning. He one day called his friend, Judge Nash, into the executive office and told him frankly that he desired to be made President of the University; and seeing that the Judge did not express much approbation of the project, he asked him to consult with Judge Cameron, and if they two did not approve of it, he would abandon the idea. Nash promised to do so, and on meeting Judge Cameron gave him his opinion that Swain would not do for the place. Cameron, however, dissented at once, saying that Swain was the very man; that though it was true he was not a

scholar, yet he had all the other necessary elements of success; and that the man who had shown he knew so well how to manage men could not fail to know how to manage boys. So, at the next meeting of the Board of Trustees, Judge Cameron nominated him and secured his election to the Presidency. This closed his political and judicial career.

I have omitted to mention, however, in its chronological order, a most important part of that career. In 1835, whilst Governor, he was elected a delegate from the county of Buncombe to the convention of that year which amended the Constitution. Perhaps no portion of his political service was of greater importance to the State than that which he rendered as a member of that convention. His sagacity, liberality, and profound acquaintance with the statistics of the State, and with the history of the constitutional principles of government contributed very largely to the formation of that admirable instrument, the Constitution of 1835, a more excellent one than which, our surroundings considered, was never framed by any English-speaking people. Few men in our annals have risen in life more rapidly than he, or sooner attained the highest honors in every branch of the government, legislative, judicial and executive. In making an estimate of his character and capacity in these offices, we shall be compelled, beyond doubt, to conclude that it required very substantial abilities to enable him thus to reach and sustain himself creditably in them all.

His practice as a lawyer was a very lucrative one to have been acquired at so early an age. As an evidence of the esteem in which his abilities and learning were held, he was, at the age of twenty-

seven, when he had been a lawyer but four years, retained as counsel for the State of North Carolina, with George E. Badger, in a most complicated mass of litigation, involving the title to more land than was ever sued for under one title in our State (except, perhaps, that instituted by the heirs of Lord Granville in 1804). Several hundred thousand acres of land had been granted to William Cathcart, Huldeman, and Elseman, citizens of Pennsylvania, lying in the counties of Burke, Buncombe, Haywood, and Macon. Subsequently, these same lands, in great part, were sold in smaller lots to settler citizens by the State, under the belief that when patented originally by Cathcart and others they were not subject to entry, for the reason that they were within the boundaries which had been reserved to the Indians by various treaties. One hundred suits in ejectment were brought against these settlers in the Circuit Court of the United States by the heirs of Cathcart. All these actions were dependent on similar facts, and each one involved the validity, accuracy, and definite character of various surveys made at sundry different times during a period of nearly half a century previous thereto, under treaties between the State and the Cherokee Indians, and between the United States and the same Indian tribe. The State resolved to defend the titles it had given to its citizens, and employed Badger and Swain to contend with Mr. Gaston, who was for the plaintiffs—a very high compliment to both of them. Here was a field wherein Governor Swain had no superior, and where his peculiar talents came specially into play. A complicated maze of long-forgotten facts was to be resurrected from buried documents, dimly traced surveyors' lines and corners through hundreds of miles of tangled mountain forests were to be

established, partly by the evidence of old grey-haired woodmen and partly by the fading outlines of the rude maps and indistinct field-notes of the surveyors of that day; and old treaties and musty statutes were to be brought out of the dust and made to speak in behalf of the rights of our people. In such a work his soul delighted, and to his faithful labors and indefatigable energy must the final success of the State be mainly attributed. For though he was put on the bench, and from the bench was made Governor before the test case was tried in 1832, and the victory won, he never ceased his labors in this behalf, and his official letter-book of that period is filled with evidences of his zeal and research. Judge Badger, who was as generous as he was great, and who followed the case up to the Supreme Court of the United States, where he was assisted by Mr. Webster, frankly acknowledged that the cause was won mainly by the careful preparation of Swain. Another circumstance connected with this litigation, worth the mention in these days is, that notwithstanding the vast amount of valuable work he had done already, yet because the cases were not concluded when he was made a judge, Governor Swain voluntarily returned half of his retainer into the treasury. All of which goes to show that in selecting him out of so many able and older lawyers to assist Mr. Badger, the State had chosen wisely indeed.

There were giants in those days, and the giants were honest!

During his service in the Legislature no great or exciting issues were before the people, and his career there displays no extraordinary effort in any direction. He soon acquired, however, a high

reputation for learning and industry in dealing with the practical questions of the day, among which then was the very vexed one of the ratio of representation in the Legislature between the East, where were many slaves, and the West, where there were few. This finally forced the calling of the Convention in 1835. It was, however, an era of great political importance, viewed in the light of subsequent events. The great political parties—Whig and Democratic—which have shaped the destinies of these United States for full half a century, were then crystallizing from the confused and crude opinions of our early American politics. All thinking men began about this period to range themselves with one or the other of the schools which undertook to construe the Constitution of the United States, to ascertain its meaning and its powers, and to define its relations with the States. A gigantic, and, as it would seem, an endless task indeed. Swain sided with Adams, Clay, and Webster, whose followers began to be called Whigs. Of the prominent men of that day, who agreed with him, or with whom he agreed, were Gaston, Morehead, Badger, Mangum, Cherry, Graham, Stanly, Moore, Miller, Outlaw, and Rayner. Of those who adhered to the school of Jefferson and Calhoun, were the venerable Macon, Ruffin, Haywood, Saunders, Branch, Edwards, Seawell, Shepherd, Donnell, Fisher, Craige, and Venable. It is not practicable to enumerate all the mighty men of that day who controlled our affairs and gave tone and character to our society. No State in the Union had a larger list of very able citizens, and we can pay no higher compliment to Governor Swain than to say that he rose up among such, and was the peer of them all.

As before stated, he rode but four circuits as judge.

From all his decisions during that time there came up but eighteen appeals. Of these, thirteen were sustained by the Supreme Court, consisting of Ruffin, Henderson, and Hall, and in one other he was sustained by the dissenting opinion of Chief Justice Ruffin, leaving but four in which he was unanimously overruled. This, says Mr. Moore, who is now our highest living authority in matters relating to the law, is an evidence of judicial ability more satisfactory than could elsewhere have been furnished among our judges, and no higher compliment could have been paid him. Mr. Moore also informs me that Swain was very popular as a judge, even in those days when the only road to popularity in that office was the honest and able discharge of its exalted duties. In the contest for judge, when he was elected over Seawell, he first acquired a nickname which stuck to him till after he retired from politics. Repeated attempts with various candidates had been made to defeat Seawell, who was obnoxious to the party to which Swain belonged, but all these efforts had failed until Swain's name was brought forward. "Then," said an enthusiastic member from Iredell, "we took up old '*warping bars*' from Buncombe, and warped him out." After the Governor became President of the University he lost this humorous and not ill-fitting *sobriquet*, and acquired from the college wits the geographical *descriptio personae*, "Old Bunk," which adhered to him through life.

The official letter-book of Governor Swain during his administration shows that his time and labors were principally devoted to the questions of constitutional reform; the coast defenses of North Carolina; the claims of the State against the general government; the removal and settlement of the

Cherokee Indians, the adjustment of land titles in the West, and other matters of domestic concern.

During this time, however, many letters of literary and historic importance were written by him. There is found on those pages a letter written by Mr. John C. Hamilton, of New York, son of Alexander Hamilton, propounding eleven inquiries relating to the history of North Carolina; more particularly with regard to the system of her colonial and early State taxation; and the reasons of the action of her convention in regard to the adoption of the Federal Constitution, and kindred topics. Governor Swain's replies to these queries show a wonderful amount of information and research into the minuter sources of our early history, clearly indicating that he was possessed in a high degree of those peculiar talents which constitute the true historian. Most of his literary labor throughout his life was in this department, and his collections were especially rich in the early history of North Carolina. Who is there left now in our State able to use the material for its history which he had been accumulating through so many years? To this great work he had intended to devote the closing years of his life. What stores of information perished with him! He was the special vindicator of that much-abused and much-misunderstood class of men, the Regulators of our colonial times. No man in the State has done so much to clear their fame—few have been so competent. The papers contributed by him to the *University Magazine* on the subject would form a volume, if collected, and their great value is indicated by the numerous inquiries instituted for them by men in various States of the Union. His lecture before the Historical Society in 1852 may be said to have settled the question of the merits of the

Regulators and their service to liberty.

As Governor of the State, in 1833, he laid the cornerstone of the present capitol amid imposing ceremonies; a building designed with perhaps as pure and simple taste as any in America, and as solid and enduring as any in the world.

On the 12th of January, 1826, he was married to Miss Eleanor H. White, daughter of William White, Secretary of State, and granddaughter of Governor Caswell, a union productive of great domestic happiness to a man so fitted as he, by nature and by a life of unsullied purity, to appreciate the ties of home and the love of wife and children. By this lady there were born to him several children, of whom but three, two daughters and a son, ever reached maturity. His oldest son, David, who died in childhood, was a boy of great promise. His eldest child and daughter, Anne, died unmarried in 1867. The second daughter, and now only surviving child, Eleanor Hope, married General S. D. Atkins, of Freeport, Illinois, where she now resides. The son, Richard Caswell, was killed a few years since, near his home in Illinois, being crushed to death by falling between two railroad cars while in motion. There is now no male representative of the name surviving.

From the time that Governor Swain entered upon his duties as President of the University his career is marked by few notable events of which his biographer can make mention. Although the work he did here was undoubtedly the great work of his life, it is impossible for us to compute it. As with the silent forces of nature, which we know to be the greatest that are exerted in this world, but which yet elude the grasp of our senses, so is it impossible for us to measure the power of the able and faithful

teacher. The connections between moral cause and effect are much more difficult to trace than those between physical cause and effect, but although in either case the lines are dim the wise do not fail to see that they are there, and that the results are powerful. It is conceded that the imperceptible and benign force of light and heat which lifts the mighty oak out of the earth, and spreads its branches to the skies, is infinitely greater than that of the noisy whirlwind which prostrates it in the dust.

Says Mr. Herbert Spencer: "In every series of dependent changes a small initial difference often works a marked difference in the results. The mode in which a particular breaker bursts on the beach may determine whether the seed of some foreign plant which it bears is or is not stranded, may cause the presence or absence of this plant from the flora of the land, and may so affect for millions of years, in countless ways, the living creatures throughout the earth. The whole tenor of a life may be changed by a single word of advice, or a glance may determine an action which alters thoughts, feelings, and deeds throughout a long series of years."

We know that the moral tone of a community is the mainspring of its glory or its shame; that that tone is to a great extent imparted by its educated men; we know, too, that no man has ever lived in North Carolina whose opportunities for thus influencing those who control her destinies have been greater than Governor Swain's were; and I am quite sure that no man ever more diligently and earnestly improved those opportunities. There is this, too, further and better to be said, that in the whole course of his contact with the young men of North Carolina and of the South at the University for a

third of a century, the whole weight of every particle of influence which he possessed was exerted in behalf of good morals, good government, patriotism, and religion. The sparks of good which he elicited, the trains of generous ambition which he set on fire, the number of young lives which his teachings have directed into the paths of virtue and knowledge, and colored with the hues of heaven—who but God shall tell? If we could see events and analyze destinies as only the Most High can, how wondrous would appear the harvest of David L. Swain's sowing! How many great thoughts worked out in the still watches of the night; how many noble orations in the forum, stirring the hearts of men; how many eloquent and momentous discourses in the pulpit; how many bold strokes of patriotic statesmanship; how many daring deeds and sublime deaths on bloody fields of battle; how many good and generous and honest things done in secret; how many evil things and sore temptations resisted; in short, how much of that which constitutes the public and private virtue of our people, the prosperity, the honor, and the glory of our State might not be traced to the initial inspiration of David L. Swain! Say what you will for the mighty things done by the mighty ones of earth, but here is the truest honor and renown. For whether there be prophecies, they shall fail; whether there be tongues, they shall cease; whether there be knowledge, it shall vanish away; but he that helps to shape an immortal soul, and fit it for the service of heaven and humanity, verily his memory shall endure until that which is perfect is come!

How well do I remember the many occasions during my sojourn at the University, when he as my preceptor, esteeming such influences of greater importance to the class than the texts of the lessons,

would for the time give his whole soul to the stirring up of these generous and emulous sentiments in the hearts of his pupils. The very first recitation in which I ever appeared before him was one such. I shall never forget it. In 1851 I entered the University, and joined the senior class as an irregular. The first lesson was in constitutional law. A single general question was asked and answered as to the subject in hand, and then he began to discourse of Chancellor Kent, whose treatise we were studying; from Kent he went to Story, from Story to Marshall, repeating anecdotes of the great Americans who had framed and interpreted our organic law, and touching upon the debate between Hayne and Webster. From these, he went back and back to the men and the times when the great seminal principles of Anglo-Saxon liberty were eliminated from feudal chaos, and placed one by one as stones, polished by the genius of the wise, and cemented by the blood of the brave, in the walls of the temple of human freedom. He told us of the eloquence of Burke, of the genius of Chatham; he took us into the prison of Eliot and went with us to the death-bed of Hampden; into the closet with Coke and Sergeant Maynard; and to the forum, where Somers spoke; to the deck of the *Brill*, where William, the deliverer, stood as he gazed upon the shores of England; to the scaffolds of Sidney and of our own glorious Raleigh. Warming as he went with the glowing theme, walking up and down the recitation-room, which was then the library of the "old South," with long and awkward strides, heaving those heavy passionate sighs, which were always with him the witnesses of deep emotion, he would now and then stop, take down from its shelf a volume of some old poet, and read with trembling voice some grand and glowing words addressed to

man's truest ambition, that thrilled our souls like a song of the chief musician. A profound silence was evidence of the deep attention of the class, and the hour passed almost before we knew it had begun.

I afterwards learned that this lecture was intended for my benefit, as I was a stranger to the class and had entered it under some disadvantages, and in his kindness of heart he supposed I needed some encouragement. But such were frequently given us. Nor were these digressions from the chief business of the hour always of a serious nature. The gayest wit and brightest humor often illumined the moments when, not content with putting forth his own conceits, he exerted himself to draw forth those of the class, and if he succeeded sometimes in bringing forth a repartee that struck *pat* upon his own head, no one enjoyed it more than himself. Like a true humorist and story-teller, he enjoyed the taking as well as the giving with the utmost good fellowship.

From the day that Governor Swain became the chief officer of the University his life was literally devoted to its interests. The same traits of character which had hitherto secured his success in life were especially needed here. His prudence, his cautious far-reaching policy, his constructive ability, his insight into character, and remarkable faculty for suggesting valuable work to others and setting them at it, his forbearance, charity, self-control—these were all brought into play with marked results. The reputation of the institution, and the number of its students steadily and continually increased. In 1835 there were not over ninety in attendance. In 1860 there were nearly five hundred.

Governor Swain was eminently a progressive man. He loved to suggest, and to see his suggestions taken

up and carried out. What a number of improvements the record of his management shows that he inaugurated at the University! The excellent system of street-draining in the village of Chapel Hill, by stone culverts, the planting of elms, the enclosing of the college grounds, and their improvement and ornamentation with shrubbery—all these were planned by him, and executed under Dr. Mitchell's superintendence. He first employed a college gardener. He was the founder of the State Historical Society. He established, and assisted largely to support, the *University Magazine*, and was himself one of its most regular and valued contributors. He was one of the foremost friends of the North Carolina Central Railroad, and offered to be one of a number to take the whole stock at once. He first introduced the study of the Bible into college, and of constitutional and international law. He was always deeply interested in the prosperity of the village of Chapel Hill, believing, and justly, that its welfare was identical with that of the college. Circumstances since his death have amply proved the truth of this. He had ever a kind word, and a charitable estimate for every man, woman, and child in the place.

Thirty-three years of his best days and the sincerest labors of his existence were spent at our University in the training of young men. As yet no monument has been erected in its grounds to commemorate his virtues and his labors. The valley of humiliation—nay, of the shadow of death—through which our beloved institution has passed, in which she was despoiled of everything but her glorious memories, and, I trust, her gratitude, is the apology which can be offered for this seeming, but not real, neglect. A simple tablet to his memory might well be inserted in any of its walls, and fitly

written thereon might be the words found in the epitaph of Sir Christopher Wren in the crypt of St. Paul's:

Lector, si monumentum requiris,
Circumspice!

In very truth the University may be looked upon as his monument. It emerged from swaddling clothes under President Caldwell; it passed through a vigorous youth into a splendid manhood under President Swain. But whilst the stranger stands upon the earth and beholds the monument of the great architect in the magnificent pile whose tall fane overtops the loftiest domes and spires of the greatest city in the world, he who would fully comprehend the great work of David Swain's life would have to stand upon the battlements of heaven and survey the moral world with an angel's ken.

I know of no man of his day, surrounded by so many inducements to return to the paths leading to highest distinction in active public life, who so completely put them all away, and adhered so strictly to his accepted work. As we have seen, his career as a politician and a lawyer had been remarkably successful while he was yet at a very early age, and if he had desired further honors he had all the qualities which are supposed to fit men for the attainment of these objects. Had he been possessed of a passion to accumulate wealth, almost any other course in life would have fed this desire more than the presidency of the University. From all these fields of distinction and of wealth, the public sentiment of his time desired that the officers, and especially the chief officers, of the University should be isolated. This expectation Governor Swain filled, and more than filled. For the good of the institution,

he not only laid aside whatever of ambition he may have had in the directions usually chosen by able men, but he subordinated many cherished convictions, and refrained from doing many things which he, no doubt, most ardently desired to do. In the nature of things, this course, so essential to the success of an institution entirely dependent on popular favor, begot many misconceptions of his character. It has been said that he was undecided in his opinions, and timid in the expression and maintenance of them. I believe such an impression does his memory great injustice. His nature was essentially gentle, his manners mild, his temper was cautious; but I cannot believe that he was either timid or undecided. I had the honor—and I consider it both an honor and a happy fortune—to be on terms of confidential intimacy with him from my first entrance into the University until his death. We were in the utmost accord on all questions pertaining to church and state, and during my subsequent career, especially in those troublous years of war, I consulted him more frequently perhaps than any other man in the State, except Governor Graham. So affectionately was his interest in my welfare always manifested that, many people supposed we were relatives, and I have frequently been asked if such were not the fact.

This state of our relations gave me ample opportunity to know him well, and I believe I can say with entire truth that whilst his course of life and surroundings necessarily made him tolerant and even liberal towards those who disagreed with him, he was as positive in his opinions, religious and political, and as firm in his adherence to them, as any man of my acquaintance. The unpopularity of which he was afraid, and which produced that

cautious habit which some men mistook for timidity, pertained to the institution which he had in charge, and not to himself. And as the State reaped the benefit of his prudence in the increased prosperity of the University, the injustice of charging this to a defect of character becomes all the more apparent.

The remarkable character of his memory served him in good stead in many ways through life. As a lawyer it had been invaluable, not only enabling him to cite cases with great readiness to the court, but in trials before juries, without taking notes, he could repeat the testimony of all the witnesses examined, no matter how many, nor how long the trial continued.

Perhaps he was more thoroughly versed in biography than any man who has ever lived in America; certainly North Carolina never produced his equal in this respect. His wonderful memory, combined with great industry, was stimulated by a genuine love of genealogical studies. Almost the first question he would ask a student on meeting him, if indeed he did not already know, was, "Who is your father?" On being told, by a few quick questions he would possess himself of the boy's lineage, and would never forget it. Generally, however, the boys would be utterly astounded on presenting themselves, to find that the Governor knew more of them and their families than they did themselves. It was equally so with all strangers whom he met, and frequently ludicrous scenes resulted from his insatiable desire to trace pedigree. Whilst a delegate from this State to the Montgomery Convention, which organized the Confederacy in 1861, he was introduced to a distinguished gentleman, and without letting go his hand, which he took to shake,

he stopped in the midst of the flow of ceremonious speech, and, to the no small amusement of the bystanders, said: "Sir, was not your mother's maiden name Jones?" I doubt if there is a single family on the Atlantic coast, whose members have borne any prominent part in the affairs of the country, in regard to which he did not have more or less of information—at least, he could have told all about its leading representatives. With a very little help indeed he could have supplied a "Doomsday Book" of North Carolina, more accurate by far than that of the Conqueror. It was generally understood at Chapel Hill that if you wanted to know *what anything was*, you went to Dr. Mitchell; if you wanted to know *who anybody was*, you went to Governor Swain.

And as he never forgot face, or name, or lineage of the man once known to him, so he never forgot a kindness or a favor once done to him or his, and loved to continue such memories, and extend the chain of friendship to second and third generations. "Thine own, and thy father's friend forsake not," was one of his favorite maxims. He was utterly incapable of resisting an appeal for mercy, or a tale of distress. This was, I believe, the only objection urged against his conduct on the bench—his leniency to criminals. So too arose the only serious trouble he ever had with the Trustees of the University. Stringent measures had been resolved upon by the Board towards dissipation and insubordination among the students, which were not rigidly enforced by Governor Swain. So great was his forbearance with the hot blood of youth, and so strong his faith that time would cure these early follies, and enable the better natures of the young men to assert themselves, that he suffered the Draconian code of the Trustees to lie dormant, whilst he lectured, reproved, and

exhorted. He shrank from branding the opening years of a young life with sentence of dismission or expulsion, and would condescend to an erring boy while there remained the last hope of reform. In such cases his judgment not unfrequently came into conflict with the opinions of other members of the faculty, and finally so irritated the Trustees that they passed a resolution of censure upon him, which was publicly read from the platform of the chapel by no less a personage than Governor Iredell. Quite a scene was excited on this occasion, and when Governor Swain arose and replied in his own vindication, it was with much emotion, not unmingled with indignation; "More," says Mr. Cameron, who was present, "than I ever knew him to exhibit on any occasion, before or since."

The lapse of time has shown this policy to have been the best and wisest not only for the young men themselves, but for the institution, and for his own fame. Who of all the hundreds to whom he thus stood in the attitude of a father, kind, and long-suffering, and hopeful, but now recalls him with affection and gratitude; how many a one remembers his college-life at Chapel Hill as the turning point of his career, where he was won by undeserved kindness to paths of honor, not repelled by judicial severity, and feels in his heart that under God he owes all that he has of fortune, friends or fame to the University and its wise head!

While the Governor remained in political life his extraordinary memory of persons and names and events gave him a wonderful advantage. There is no more successful way of making one's self agreeable to the multitude than by knowing men when you meet them, and calling them by name. Not to

recognize a man who has stood your friend, and fought your battles at the polls, is always an omission of evil omen in his eyes, and a bad memory for names will not always apologize for what seems to be neglect. Many and many are the shifts of the politician to avoid this fatal predicament. But I venture to say that Governor Swain was never caught in such a way. Once being introduced, he never forgot his man, nor his family connections. After the surrender of General Lee in 1865, when General Sherman had begun his march upon Raleigh, at the earnest request of Mr. B.F. Moore and Mr. Kenneth Rayner, I sent an embassy to meet the federal commander, and obtain what terms were possible for the surrender of the capital of the State.

Having confidence in their firmness and discretion, I selected Governors Swain and Graham, who left in a few moments after their appointment, on a special train, accompanied by Dr. Edward Warren, Surgeon-General of the State. I remarked, after their departure with my letter, as one reason for selecting him, that I had no doubt Governor Swain would find plenty of acquaintances in the enemy's camp, or at least would prove that he knew the fathers of many of the officers. And so it was; on his arrival at headquarters, he not only claimed General Sherman as an old correspondent, and fellow-college-president, but immediately seized upon two or three members of the staff whose parents and pedigree he knew, and was soon at home among them.

And here perhaps it is not improper in me to correct a statement made by General Sherman in his memoirs in relation to this embassy. Referring to it, that General says: "They had come with a flag of truce, to which they were not entitled; still, in the

interests of peace, I respected it, and permitted them to return to Raleigh with their locomotive, to assure the Governor of the State and the people, that the war was substantially over, and that I wanted the civil authorities to remain in the execution of their office till the pleasure of the President could be ascertained. On reaching Raleigh I found these same gentlemen with Messrs. Bragg, Badger, Holden and others, but Governor Vance had fled, and could not be prevailed on to return, because he feared arrest and imprisonment." This statement is uncandid, not to say untruthful, by implication at least. These gentlemen *had* a right to the flag of truce, for it was sent with the consent and by permission of General Hardee, commanding the Confederate forces in the absence of General Johnston, and should not have been permitted to enter the enemy's lines if the bearers were not entitled to carry it. It was *not* respected, for it was fired upon by Kilpatrick's men, and "captured," as they claimed, and the gentlemen composing the embassy were promptly and skillfully robbed of their surplus personalty, and were conducted as "*prisoners*" to General Sherman's headquarters. They were *not* permitted promptly, as the statement implies, to return with their locomotive, with assurances of peace and protection, but were detained there the entire day and night after their arrival within Sherman's lines, until he no doubt knew that Raleigh was entirely uncovered by Johnston's troops. Of course, all the officers of the State government who did not wish to surrender at discretion, left with the Confederate troops, for, the embassy not returning, and no news of its fate, except that it had been captured, and no reply to my letter being received, they had no assurance of protection. Governor Swain states in his address at

the opening of Tucker Hall that on the return of the embassy that memorable morning, but a few minutes in advance of the Federal troops, the city was shrouded in silence and gloom, except for the presence of a few marauding stragglers from Wheeler's cavalry, showing conclusively that the city was uncovered when he arrived with Sherman's message. It was some days afterwards, and at Hillsborough, when I learned from Governor Graham the result of his mission, and it was then far too late for me, consistently with other duties, to accept of Sherman's offer of protection, had any one convinced me that it was best to do so, which indeed no one did. My inclinations, I confess, were to be with that little army, fully one-third of whom were North Carolinians, until they laid down their arms. I am happy to reflect that I shared their fate to the last.

This much to vindicate the truth of history. Throughout this whole transaction, as many gentlemen have testified to me, Governor Swain's bearing was, in the highest degree, courageous, discreet, and manly.

During the war his efforts had mainly been directed to keeping the college alive, for such was the impetuosity with which the call to arms was obeyed, that of the eighty members, of which the freshman class consisted in 1860, but *one* (in delicate health) remained to pursue his studies. (Of the senior class of that date not one had remained out of the army, and fully one-fourth of them fell in battle.) Seven members of the faculty volunteered, and of them *five* returned no more.

Governor Swain appealed to the Confederate Government more than once to prevent the handful of college boys left from being drafted. President

Davis himself seconded these efforts in the earlier years of the war, declaring that "the *seed-corn* should not be ground up." But as the exigencies of the country increased, this wisdom was lost sight of, the collegians were again and again called upon, till at the time of Lee's surrender there were but about a dozen here, still keeping up the name and forms of a college. But even while the village and University were occupied by four thousand Michigan cavalry, the old bell was rung daily, prayers were held, and the University was *kept going*. The Governor took a pride in this, and hoped that he was to tell it many years after. But this long and useful life, devoted to the best interests of his country and his age, was nearing its close. Only three years yet remained to him, and these were devoted by him to earnest, unceasing endeavors to reinstate the University pecuniarily, and to recall its former patronage. Darker days, however, were in store for it, which he in the good providence of God was not to be permitted to see.

In the summer of 1868, the State passing under a new Constitution, and an entire change of government, the University also fell into new hands, whose first action was to request the resignation of the president and faculty, most of whom had grown grey in service to the State. A guard of negroes were sent to take possession, and these halls were closed. Governor Swain was then preparing for a visit to Buncombe. On the 11th day of August, while driving in the neighborhood of Chapel Hill, with Professor Fetter, he was thrown from the buggy, and brought home painfully, but as was then supposed, not seriously injured. Confined to his bed for about two weeks, he appeared to be recovering, when on the morning of the 27th he suddenly fainted, and expired

without pain.

He was in the full possession of all his faculties up to the last moment, and died at peace with all the world; a fitting close to a life of beneficence and integrity. There is a melancholy coincidence in the manner of his death with that of his two oldest friends and colaborers in the faculty who had preceded him over the river, and were "resting under the shade of the trees." Dr. Elisha Mitchell perished by falling down a precipice in the cataracts of the Black Mountain, June 27, 1857. Dr. James Phillips sank down suddenly on the rostrum while in the act of conducting morning prayers, and died without a struggle, March 14, 1867. Thus all of these eminent men, worthy servants of Christianity and civilization, died suddenly, or with some degree of violence.

A just estimate of the talents and character of Governor Swain, for reasons already indicated, is not easily made plain to popular apprehension. By the world the term "great" is variously applied, and misapplied. It is often withheld when it is mostly richly deserved; not, because of the injustice of contemporaries, for personal prejudice rarely outlives a generation, but because men rarely appreciate the full extent and character of the labors of a lifetime. And especially is this true when that life has been mainly spent in the planting of moral seeds below the surface, which, perhaps for years, make no great show of the harvest which is sure to come. Generations are sometimes required to elapse before the world can see the golden sheaves which cover and adorn the landscape, the result of that patient and judicious planting.

They who in life are followed by the noisy plaudits of the crowd, who fill the largest space in the eyes of

their contemporaries, and seem to tower far above their fellows, are not always found to have their reputation built on the securest foundations, nor to have left their mark on the age in which they lived. Erasmus was esteemed by his generation a much greater man than Luther. He was one of the most remarkable men of his century, few indeed have equaled him in keenness of intellect, and in depth and extent of learning. Yet, viewed now in the light of their labors, and the value and significance of their impression on the world, what a veritable shadow he was by the side of the plainer, less learned, but downright monk! Erasmus is known to the scholars who search for his name and works in the cyclopædias; the name and the spirit of Luther pervade and affect the civilization of the whole world.

On the 21st of February, 1677, there died in a small house in the Hague a man whose greatness could not be measured, says his biographer, until humanity had moved to the proper prospective point at the distance of more than a century. The view enlarged as time rolled on, as it does to men climbing high mountains; in 1877, the world agrees to number him among the undoubted sons of genius, and benefactors of mankind. His admirers erect a monument to his memory just two hundred years after his death in the same city where he was persecuted, excommunicated, and his works destroyed. His name was Spinoza. Modest, and pure, and upright, he had the misfortune to live two hundred years before his age, and to put forth fruits of genius which his fellows could not comprehend, and so they stamped him and them into dust as being unorthodox. Two centuries of progress have brought the world up to where Spinoza died, and it builds

him a monument. At last, his work is seen.

The Earl of Murray, Lord Regent of Scotland, was not esteemed a great man in his day. His behavior was modest, his abilities were apparently but moderate, and for more than two hundred years he has figured in history as an ordinary man, overlaid by the more violent and intriguing spirits of his time, and his character obscured and distorted by the glamour which surrounds the name of his beauteous but abandoned sister and murderess, Queen Mary. And yet when two centuries afterwards the spirit of philosophic history comes to trace cause and effect, and to show the result of his life's work upon Protestant Christianity, and what he contributed to the domination of the English-speaking races, we agree at once with Mr. Froude that he was in truth one of the best and greatest of men, a benefactor of mankind.

And so it may be said of Bunyan, of Wesley, and of many more, whose beginnings were esteemed but of small account, but whose fame has continually grown brighter and brighter, as the world has been forced to see how wisely they builded.

In many senses of the term Governor Swain was not a great man. As an author, though a man of letters, he neither achieved nor attempted anything lasting. As a politician, though he rose rapidly to the highest honors of his native State, he did not strikingly impress himself upon his times by any great speech, nor by any grand stroke of policy. In this respect he was inferior to many of his contemporaries who constituted, perhaps, the brightest cluster of names in our annals. As a lawyer and a judge, he occupied comparatively about the same position; and as a scholar he was not to be

distinguished, being inferior to several of his colaborers in the University. But in many things he was entitled to be called great, if we mean by that term that he so used the faculties he possessed that he raised himself beyond and above the great mass of his fellows. In him there was a rounded fullness of the qualities, intellectual and moral, which constitute the excellence of manhood, in a degree never excelled by any citizen of North Carolina whom I have personally known, except by William A. Graham. If there was in Swain no one grand quality of intellect which lifted him out of comparison with any but the demigods of our race, neither was there any element so wanting as to sink him into or below the common mass. If there were in him no Himalayan peaks of genius, piercing into the regions of everlasting frost and ice, neither were there any yawning chasms or slimy pools below the tide-waters of mediocrity. He rose from the plain of his fellow-men like the Alleghanies, in whose bosom he was born, by regular and easy gradations—so easy that you know not how high you are until you turn to gaze backward—every step surrounded by beauty and fertility—until he rested high over all the land. If there be those who singly tower above him in gifts, or attainments, or distinctions, there are none whom as a whole we can contemplate with more interest, affection, and admiration; none whose work for North Carolina will prove to be more valuable, or more lasting, or more important to future generations; none to whom, at the great final review, the greeting may be more heartily addressed: "*Servant of God, well done!*"

No estimate of Governor Swain's walk through life should omit the consideration of his Christian character. It was especially marked by catholicity of

feeling towards all good men of whatever name. He was accustomed to refer this to the circumstances of his bringing up. He would say: "My father was a Presbyterian elder, and an Arminian; my mother was a Methodist and a Calvinist, who loved and studied Scott's commentary. Their house was the home for preachers of all sorts west of the Blue Ridge. Bishop Asbury blessed me when a child. Mr. Newton, a Presbyterian, taught me when a boy, and Humphrey Posey, a Baptist, used to pray for me when a youth. So I love all who show that they are Christians."

On his death-bed he spoke often of the communion of saints with, one another, and with their Head. He was a decided Presbyterian, however; he admired what he called "the symmetry" of the ecclesiastical system of his church; he dwelt on its history with great delight, and was accustomed to find support for his soul in times of deep distress in its interpretations of the Bible. He was a praying man, and not ashamed to be known as such. He first introduced the practice of opening the regular meetings of the faculty with prayer. The night before he died he said of the Lord's Prayer: "The oftener I use it the more precious it is to me; it contains a whole body of divinity."

In private life he was most upright, kind, social, and hospitable. An excellent financier, he left a handsome estate, even "after the war." He had a proper conception of the value of wealth, and all his life practiced a judicious economy, but he knew well both how to lend and how to give. His conversation was delightfully interesting and instructive, replete with anecdote, genial humor, historical incident, or literary quotation. Few men of his associates equaled him in these respects, even after the infirmity of deafness had cut him off from much social

enjoyment.

His remains lie buried in Oakwood Cemetery, near Raleigh, and close beside the sleeping soldiers of the Confederacy. The soil of our State holds the dust of no son who loved her more or served her better. Peaceful be his rest, as he waits for the clear breaking of the day over the brow of the eternal hills.

The daisies prank thy grassy grave,
Above, the dark pine branches wave;
Sleep on.
Below, the merry runnel sings,
And swallows sweep with glancing wings;
Sleep on, old friend, sleep on.
Calm as a summer sea at rest,
Thy meek hands folded on thy breast,
Sleep on.
Hushed into stillness life's sharp pain,
Naught but the pattering of the rain;
Sleep on, dear friend, sleep on.

EARLY TIMES IN RALEIGH.

ADDRESS BY D. L. SWAIN.

There were few more exciting topics in ante-revolutionary times than the location of the seat of government.

The first General Assembly, in relation to which we have much authentic information, met at the house of Captain Richard Sanderson, on Little River, in the county of Perquimans, in 1715, and revised

the whole body of the public statute law.

The style of enactment is characteristic of the times and of the proprietary government: "Be it enacted by his Excellency the Palatine and the rest of the true and absolute Lords Proprietors of Carolina, by and with the advice and consent of this present General Assembly, now met at Little River, for the northeastern part of this province."

From Little River the seat of legislation was transferred in 1720 to the General Court House at Queen Anne's Creek, in Chowan Precinct, and in 1723 to Edenton.

In 1731 the Proprietary was succeeded by the Royal Government, and in 1734 the legislative will assumed a form of expression worthy of eastern despotism: "We pray that it may be enacted, and be it enacted by his Excellency, Gabriel Johnston, Esq., Governor, by and with the advice and consent of his Majesty's council in the General Assembly of this province."

In 1741 the General Assembly met at Wilmington, but returned the following year to Edenton. From 1745 to 1761, with the exception of a single session at Bath, it convened at New Bern. In 1761 it met again at Wilmington, and from that time keen rivalry was maintained between New Bern and Wilmington for metropolitan distinction, until quieted by the Act of 1766, authorizing the construction of Governor Tryon's viceregal palace at New Bern. This edifice, completed in 1770, dedicated to Sir William Draper —and the subject of his muse in an attempt at Roman versification—was pronounced on good authority, in 1783, superior to any structure of the kind in British or South America.

During the Revolution the General Assembly met somewhat in accordance with the exigencies of the times, at New Bern, Kinston, Halifax, Smithfield, Wake Court House, Hillsborough and Salem.

In 1782 and 1783 the Legislature convened at Hillsborough, and in 1784 and 1785 at New Bern, in 1786 at Fayetteville, in 1787 at Tarborough, and in 1788 returned to Fayetteville.

In 1787 the General Assembly had resolved that it "be recommended to the people of the State to authorize and direct their representatives in the convention called to consider the Federal Constitution to fix on the place for the unalterable seat of government."

The convention met at Hillsborough in August, 1788, and resolved that "this convention will not fix the seat of government at one particular point, but that it shall be left to the discretion of the Assembly to ascertain the exact spot, provided always, that it shall be within ten miles of the plantation whereon Isaac Hunter now resides, in the county of Wake."

The following editorial article is copied from the *Fayetteville Chronicle* or *North Carolina Gazette* of the 29th of November, 1790:

"On Thursday last the bill for carrying into effect the Ordinance of the Convention held at Hillsborough in 1788 for holding the future meetings of the General Assembly, etc., came before the House of Commons, when the question was put, Shall this bill pass? The House divided, and there appeared fifty-one for it and fifty-one against it, whereupon the Speaker [Mr. Cabarrus] gave his own vote, and pronounced the passage of the bill. It was then sent to the Senate, when that House divided, and there

appeared an equal number of votes for and against the passage of the bill, whereupon the Speaker [General Lenoir] gave the casting vote against its passage, and the bill was rejected."

In 1791, however, the General Assembly met at New Bern, and in compliance with the positive constitutional injunction, passed an act to carry the ordinance of 1788 into effect. The act provides that ten persons shall be appointed to lay off and locate the city within ten miles of the plantation of Isaac Hunter, and five persons "to cause to be built and erected a State-house sufficiently large to accommodate with convenience both houses of the General Assembly, at an expense not to exceed ten thousand pounds."

In the following year (1792) a majority of the commissioners, to wit: Frederic Hargett, Willie Jones, Joseph McDowell, Thomas Blount, William Johnson Dawson, and James Martin, met on the 4th of April, and on the following day purchased of Colonel Joel Lane one thousand acres of land, and laid off the plan of a city, containing four hundred acres, arranged in five squares of four acres and two hundred and seventy-six lots of one acre each: Caswell Square (the site of the Institute for the Deaf and Dumb and the Blind), the northwestern; Burke (the site of the Raleigh Academy) [now the Governor's Mansion], the northeastern; Nash, the southwestern; Moore the southeastern, and Union, on which the State-house stands, the central square.

The names of the towns towards which the principal streets ran gave them their designation, and the names of the commissioners and other prominent citizens were applied to the others. New Bern, Hillsborough, Halifax, and Fayetteville streets were

ninety-nine, and all the other streets sixty-six feet in width.

In December, 1794, the General Assembly met in the new State-house for the first time.

In 1802 an act was passed requiring the Governor to reside at the seat of government, and a plain two-story frame building, painted white, and an office on the corner, were provided on lot No. 131. This first gubernatorial mansion was subsequently the residence of the late James Coman. The First National Bank of North Carolina now occupies the site from which the first executive office and Mr. Coman's brick store were successively removed.

In 1813 the General Assembly appointed Henry Potter, Henry Seawell, William Hinton, Nathaniel Jones, Theophilus Hunter, and William Peace, commissioners to erect on the public lands near the city of Raleigh a convenient and commodious dwelling-house for the Governor, at a cost not to exceed five thousand pounds, to be derived from the sale of lots which they were authorized to lay off, and from the sale of lot No. 131, referred to as the residence, at successive periods, of Governors Turner, Alexander, Williams, Stone, Smith, and Hawkins.

The site selected for the new gubernatorial residence, in common parlance the "Palace," was near the terminus of Fayetteville street, directly south of and fronting the capitol, and just beyond the southern boundary of the city. The edifice was completed during Governor Miller's administration, from 1813 to 1816, and he was the first occupant.

In 1819, Duncan Cameron, John Winslow, Joseph Gales, William Robards, and Henry Potter were

authorized to sell all or any part of the lands purchased of Joel Lane, with the exception of the stone-quarry, in lots to suit purchasers. The Governor was authorized, from the proceeds of the sale, to improve the State-house under the direction of the State architect, and in conformity with a plan which he had prepared and submitted to the General Assembly.

The old State-house, which is believed to have been constructed from the net proceeds of the sales of city lots in 1792, was described by a writer of the time as a huge, misshapen pile. In form it was substantially, so far as the body of the building was concerned, though on a smaller scale, very similar to the present edifice. It was divided by broad passages on the ground floor from north to south and from east to west, intersecting in the center at right angles. The offices of the Secretary, Public Treasurer and Comptroller were on the lower floor. The Senate chamber and hall of the House of Commons, with the offices appurtenant, above, as at present. The executive office, as has been stated, was contiguous to the palatial residence. The passages and halls of the first State-house supplied all, and more than all, the accommodation to the public contemplated by the founders of this less extensive, but better furnished, and more finely finished edifice [referring to Tucker Hall]. Here divine worship on the Sabbath, balls on festive occasions, theatrical representations, sleight-of-hand performances, and last but not least, fourth-of-July orations and fourth-of-July dinners, all found their places, and their votaries for a time. The construction of the dome, the erection of the east and west porticoes, the additional elevation and covering of stucco given to the dingy exterior walls, the improvement of the interior, and especially the

location of the statue of Washington, from the chisel of Canova (a noble specimen of a noble art, commemorative of the noblest of men), in the rotunda at the point of intersection of the passages directly under the apex of the dome, converted the renovated capitol into a sightly and most attractive edifice. There were but few of the better class of travelers, who did not pause on their passage through Raleigh, to behold and admire it. The improvements were designed by, and executed under, the supervision of Captain William Nichols, then recently appointed State architect, and completed early in the summer of 1822. He was a skillful and experienced artist, and made the public greatly his debtor for a decided impulse given to architectural improvements throughout the State, in private as well as in public edifices.

It was my lot on the 21st of June, 1831, to stand a helpless spectator, when that noble edifice, adorned with the statue of the father of his country, was a sheet of blinding, hissing flame, and to hear, amidst the almost breathless silence of the stupified multitude around it, the piteous exclamation of a child: "Poor State-house, poor statue, I so sorry." There were thousands of adults present as sorrowful and as powerless as that child.

It was my lot as Chief Magistrate of the Commonwealth, on the fourth day of July, 1833, to lay the corner-stone of the present capitol, supposed on its completion to be the most magnificent structure of the kind in the Union.

It was my lot on the morning of the 13th of April, 1865, as the friend and representative of Governor Vance, to find, on approaching the southern front of the capitol, the doors and windows closed, and a

deeper, more dreadful silence shrouding the city than during the sad catastrophe to which I have referred. I met at the south front of the capitol, however, a negro servant, who waited on the executive department, the only human being who had dared to venture beyond his doors. He delivered me the keys, and assisted me in opening the doors and windows of the executive office, and I took my station at the entrance, with a safe-conduct from General Sherman in my hand, prepared to surrender the capitol at the demand of his approaching forces. At that moment a band of marauders, stragglers from Wheeler's retiring cavalry, dismounted at the head of Fayetteville street, and began to sack the stores directly contiguous to and south of Dr. Haywood's residence. I apprised them immediately that Sherman's army was just at hand; that any show of resistance might result in the destruction of the city, and urged them to follow their retreating comrades. A citizen, the first I saw beyond his threshold that morning, came up at the moment and united his remonstrances to mine, but all in vain, until I perceived, and announced, that the head of Kilpatrick's column was in sight. In a moment every member of the band, with the exception of their chivalric leader, was in the saddle, and his horse spurred to his utmost speed. He drew his bridle-rein, halted in the center of the street, and discharged his revolver until his stock of ammunition was expended in the direction, but not in carrying distance of his foe, when he too fled, but attempted to run the gauntlet in vain. His life was the forfeit at a very brief interval.

The remains of this bold man rest in the cemetery, covered with garlands and bewept by beautiful maidens, little aware how nearly the city may have been on the verge of devastation, and how narrowly

the fairest of their number may have escaped insult and death from this rash act of lawless warfare. The bones of the old North Carolinian, the founder of the city thus imperiled, moulder in the midst of other unrecorded dead, beneath the shade of a mulberry on his ancient domain, about as far west as those of the young Texan east of the capitol.

About three o'clock in the afternoon, in company with Governor Graham, who had risked life and reputation in behalf of this community to an extent of which those who derived the advantage are little aware, I delivered the keys of the State-house to General Sherman, at the gubernatorial mansion, then his headquarters, and received his assurance that the capitol and city should be protected, and the rights of private property duly regarded.

May I be pardoned in connection with this narrative, for a brief reference to an incident in my personal history, illustrative of the character of one of the purest, as well as the wisest, men I have ever known. At our first interview after I was elected Superior Court Judge in 1831, Mr. Gaston, who was then at the bar, and who, from our earliest acquaintance, had treated me with the kindness of a father, after cordial congratulations on my elevation to the bench, took occasion to advise me most earnestly never to permit myself, except under an overpowering sense of public duty, to be seduced into a return to political life. He said he was growing old, and endeavored, as much as possible, to withdraw attention from the threatening aspect of public affairs, but there were sleepless hours, when he could not avoid reflection on the utter heartlessness of party politicians, and the difficulty of preserving a conscience void of offense, when

mingling in political controversies—that he had always endeavored to place country above party, and that yet, on a calm review of his whole course of life, too many instances presented themselves, when he convicted himself of having been influenced to an extent of which he had no suspicion at the moment, by other than purely patriotic considerations. In addition to all this, it had been his fate on repeated occasions to be most loudly applauded for what, in his own conscience, he regarded as least praiseworthy, and to be bitterly reviled for what he considered to have been the purest and most discreet acts of his public life.

In 1812, and along about that time, the only newspapers in Raleigh were *The Raleigh Register* and *The Star*, both published weekly. *The Minerva* had been discontinued.

From 1792 until the publication of *The Raleigh Register*, in the autumn of 1799, *The North Carolina Journal* was the great advertising medium for the portion of the State north and west of Halifax.

Conspicuous among the merchant princes of that day were the brothers, Joseph and William Peace. They occupied a one-story frame building, perhaps 20x24, nearly opposite to W. C. and R. Tucker. The junior partner informed me many years ago that he had ordinarily purchased goods twice a year, always for cash, and always at ten per cent. discount, and that the advantage thus obtained over those who bought upon credit was the nucleus of the large estate he had realized. He was kind enough in October, 1822, as soon as I was able to travel, after recovering from severe illness, to drive me from Raleigh to the hospitable mansion of the late General Calvin Jones, the present site of Wake Forest College.

On the way he related various incidents in his personal history, which interested me. Referring to the success of an eminent lawyer and statesman, as estimable in private as distinguished in public life, he stated that that gentleman, who was licensed to practice law during his minority, applied to him shortly thereafter for a suit of clothes upon credit; that he had always made it a rule to meet such requests with such prompt compliance as to impress the applicant with a grateful sense of the confidence reposed, or, with so blank a denial as to shield him from future annoyance. In this instance he admitted that he hesitated. The appearance and manner of the applicant impressed him most favorably, but he was very young as well as very needy, and the Captain had learned from previous experience that the young lawyer's prospects were a contingent remainder, which required a particular estate of freehold to support them. It afforded him great gratification to remember that his kind impulses prevailed, and that he cut off the goods with great seeming cheerfulness.

I had no suspicion until three months afterwards that the story could point a moral in relation to myself. At the close of a casual interview, after the recovery of my health, he said: "Mr. Swain, perhaps it is convenient for you to pay for that suit of clothes now." "What suit, Captain?" "The suit you purchased some time since." I replied, "I never bought anything of you in my life but one bandanna handkerchief, and I paid for that when I got it." He turned to his book and showed me an account for a full suit of black, dated September 10. "On that day, Captain, I was sick in bed, and my life despaired of by my physicians." "Oh! I remember it was F—— got the clothes." He was sent for, and in reply to my inquiry whether he ever got a suit of clothes for me, replied

he did. "Had you any order from me to do so?" "No, sir; but you were expected to die every hour, I knew you had no burial suit, and thought it my duty, as your tailor, to provide one." "Where are the clothes?" "When I found you were getting well I sold them." "What right had you to consider yourself my tailor?" "I made a pair of pantaloons for you last spring." At the close of the dialogue the Captain remarked: "I claim nothing from you, Mr. Swain." The tailor left the store under the decided impression that his best interests would be served by a prompt settlement of the account. Had I died, a punctual but not opulent father, would have paid the bill upon presentation without inquiry.

The late William Boylan, the first editor of *The Raleigh Minerva*, and the immediate successor of Colonel Polk as President of the State Bank, was a gentleman sedate and grave in manner to a degree that to a stranger might have been taken for austerity. Traveling from Raleigh to Pittsborough about 1800, he and Mr. Peace, on reaching the election ground at Brassfields, found a multitude assembled engaged in dancing and other rural sports, in the free-and-easy manner characteristic of the time and place. Mr. Peace was comparatively at home. Mr. Boylan stood aloof until a rowdy approached and invited him to enter the ring with the dancers. On his declining, a dozen came forward, prepared to coerce the submission of the proud aristocrat. In an instant Mr. Peace, with great solemnity, beckoned the leader of the band aside, and whispered: "My friend, be careful how you act. Bless your life, that is Mr. Boylan, the man who made the almanac, and can foretell eclipses and thunder-storms." The reference to the almanac-maker secured at once the most deferential respect for the

distinguished visitor.

The late William Glendennin (one of the old merchants) resided and did business during many years in the house nearly opposite the old State Bank, the recent residence of Colonel William J. Clarke. He built a meeting-house at his own expense at a very early period in the history of the city, and during a series of years previous to the erection of any other church, ministered in his peculiar manner at his own altar, without earthly fee or reward, to all who chose to hear him. His deserted tabernacle was pointed out to me, when I first knew Raleigh, standing a little south of the corner, at the intersection of Morgan with Blount street. I remember to have seen, in my early boyhood, his autobiography, recounting numerous conflicts, spiritual and physical, with the arch-enemy of the human race. His little volume is probably out of print. It would be a rare curiosity, at the present time, in many respects. Notwithstanding these vagaries, he was shrewd and systematic in business, and in due time accumulated a handsome fortune for that day. His eccentricities increased, however, to such an extent that a guardianship became necessary, and Mr. Boylan was selected as the person possessing the requisite nerve and tact to control and manage him.

As soon as Glendennin was apprised of the arrangement his confidential clerk, the late Robert Harrison, was dispatched to invite Mr. Boylan to his house. When he entered, Glendennin requested him to take a book from the mantelpiece, which proved to be the Bible, and it disclosed, at opening, a fifty-dollar bill. "The foul fiend was here last night and told me that he had come for the soul of old ——. I

obtained a year's respite for fifty dollars, and the fiend is to take the money from that book at midnight." Glancing his eye inquiringly at Mr. Boylan, "I understand that you are my guardian, and I wish to know how I am to act, and what I am to do?" Mr. Boylan intimated that as little change as possible would be made in the management of his affairs. "Mr. Harrison will keep the keys, sell goods, and collect debts, as heretofore." "Am I to be master of my own house?" "Certainly." "May I invite any one I choose into my house?" "Oh, yes; just as heretofore." "May I order a man out, when I don't want him here?" No sooner had Mr. Boylan given an intimation in the affirmative than Glendennin, with a frenzied glare, stamping his foot, and clenching his fist, cried out: "Then, sir, get out of my house; get out of my house, this instant!"

The poor old gentleman died in the summer of 1816, leaving a very pretty property for two nieces in Scotland.

The recent abstraction of records from the executive and other public offices, by persons acting under the authority of the Federal Government, renders it impossible to give as minute an account of an interesting event as I would like to present. As I must relate the circumstances entirely from memory, after the lapse of more than thirty years from the time the records were at my command, allowance must be made for a want of precision, especially as to dates.

During Governor Ashe's administration, embracing the years 1796, 1797, and 1798, it was ascertained that numerous frauds had been perpetrated in the office of the Secretary of State and the offices of John and Martin Armstrong, in the entry and survey

of western lands, and active exertions were made to discover and arrest the offenders in this State and Tennessee. It was, I think, in 1797, that a confidential messenger was sent by Judges Tatum and McNairy from Nashville to the Governor to warn him of a conspiracy to burn the State-house, in order to destroy the records, the production of which upon the trial was indispensable to the conviction of the offenders. A guard was armed and stationed around the capitol for the next two months. The communication from Nashville requested the Governor, immediately on its receipt, to erase from the despatch the name of the messenger who bore it, as any discovery of his connection with it would lead to assassination. This was done so carefully as to elude every effort on my part to restore and ascertain it, thirty years ago, and I have not at the present moment the slightest suspicion of the agent who overheard the plot of the conspirators in Knoxville and was sent from Nashville to Raleigh on this secret and dangerous mission.

The earliest letter I ever saw from General Jackson was in relation to this affair. With his instinctive hatred of fraud, he tendered his service to the Governor in any effort that might be necessary to arrest the offenders who were supposed to have sought refuge in the then Spanish domains in the direction of Mobile. This letter was on file in the executive office in 1835.

In 1797, according to my remembrance, on the night when the ball was given at Casso's hotel to the bridal party, very shortly after the second marriage of the Public Treasurer, the festivities were interrupted by the hasty entrance of a servant, with the information that some one was forcing an

entrance into the window of the office, where the trunk containing the records in question was deposited. He was caught, was ascertained to be the slave of one of the persons charged with fraud, was convicted of burglary, and executed.

In 1799 the General Assembly passed the act directing the Judges of the Superior Courts to meet together to settle questions of law and equity arising upon their circuits, and to provide for the trial of all persons concerned in the commission of frauds in the several land offices. This act was carefully and skillfully drawn, consisted of fifteen sections, and, voluminous as it was, contained more than met the eye of the ordinary observer: the germ of the present Supreme Court, notwithstanding the proviso in the closing section, "that this act shall continue in force from its commencement only for two years, and from thence to the end of the next succeeding General Assembly" was contained in that act.

Under the provisions of this act Colonel James Glasgow, the Secretary of State, was indicted for a misdemeanor in the fraudulent issue of land-warrants. The four judges of the Superior Courts were John Haywood, Spruce Macay, John Louis Taylor, Samuel Johnston. Blake Baker was Attorney-General, and Edward Jones, Solicitor-General. The latter seems to have been mainly relied on to conduct the prosecution.

The commission under which the court was held was drawn by Judge Haywood. While on his way to Raleigh to meet his brother judges he accepted a fee of one thousand dollars, resigned his seat upon the bench, and undertook the defense of Glasgow.

There has rarely convened from that day to this, even after the resignation of Haywood, an abler

tribunal, on any occasion, or for any purpose, than that which tried and convicted the distinguished culprit. In relation to the advocate the late Judge Hall remarks in a judicial opinion delivered in 1828: "I shall not treat with disrespect the memory of the dead nor the pretensions of the living, when I say that a greater criminal lawyer than Judge Haywood never sat upon the bench in North Carolina." The General Assembly in anticipation of the judgment of the court, in 1799, changed the name of the county of Glasgow, erected in 1791, to the county of Greene.

Duncan Cameron, at the early age of twenty-three, was the clerk, and immediately after the close of the trial reported and published the decisions of the court in an octavo of one hundred and eight pages. As I have the only copy I have ever seen of this brochure, the earliest, with the exception of *Martin* and *1 Haywood*, in the entire series of North Carolina Reports, I give for the benefit of legal antiquarians an exact copy of the title-page: "Reports of cases determined by the Judges of the Superior Courts of law and Court of Equity of the State of North Carolina, at their meeting on 10th of June, A. D. 1800, held pursuant to an act of the General Assembly for settling questions of law and equity arising on the circuit, by Duncan Cameron, attorney at law, Raleigh. From the press of Hodge & Boylan, printers to the State, 1800."

In 1800 an act was passed to continue in force the Act of 1799, three years longer. The sessions of the court by the former act were limited to ten days; they were now extended to fifteen days (Sundays excepted) if the business of the court should so require. The third section of the act is in the following words: "And be it further enacted that no

attorney shall be allowed to speak or be admitted as counsel in the aforesaid court." The General Assembly must have entertained a high opinion of the ability and purity of the bench, and serious misgivings in relation to the cunning and crafty bar of which John Haywood was the leader.

The late Judge Hall told me that he was present when Joshua Williams, senator from Buncombe, called upon Governor Turner for advice in relation to the extension of the lease of life to this high tribunal. The Governor urged the continuance of the court until the other offenders could be arrested and tried, and the remaining questions of doubt and difficulty in the law be put finally at rest. My good senator, and there were few as good men as he in any age of the commonwealth, assented, under the entire conviction that a little longer time was necessary to enable the judges to render the law so clear and certain, that no perplexing questions would arise in the future. He was probably more confident of a consummation so devoutly to be wished, since the court was neither to be annoyed nor perplexed by the arguments of such lawyers as Haywood.

Iredell, the greatest of Haywood's compeers was in his grave. Moore was Iredell's successor on the Supreme Court Bench of the United States, and Davie had on the 24th of December, 1799, been appointed Envoy Extraordinary and Minister Plenipotentiary of the United States to the French Republic as successor of Patrick Henry, who had been compelled to decline on account of bodily infirmity.

In 1804, the court, which since 1801 had been styled the Court of Conference, was made a court of record, the judges required to reduce their opinions to writing, to file them "and deliver the same *viva*

voce in open court." In the following year (1805) the name was changed from the Court of Conference to the Supreme Court of North Carolina, and converted from a temporary to a permanent, I hope immortal, tribunal, in fame as in duration.

The senator from Buncombe, and the great advocate Haywood, removed to Tennessee no great while afterwards. The former lived long enough in the midst of the legal strife which abounded in that young and rising commonwealth to find that the end of controversy, like the end of the rainbow, was not easily reached; and the latter to reap golden harvests of fame and fortune from the "glorious uncertainty of the common law."

When I first saw the Supreme Court in session in June, 1822, Chief Justice Taylor, the Mansfield of North Carolina jurisprudence, Judge Hall, proverbial for integrity, amiability and sound common sense, and Judge Henderson, who in genius, judgment and power of fascination in social intercourse, was without his peer, were the three judges. William Drew, standing on the thin partition which divides great wit and frenzy, was the Attorney-General. Francis L. Hawks, who had not yet attained the 25th year of his age had already given favorable promise of future eminence as a member of the New Bern bar, the representative of that town in the General Assembly, was the reporter. Hawks was destined however to a much wider celebrity in a very different sphere, and for many years previous to his death, as a brilliant writer and eloquent speaker, had a higher transatlantic reputation than any other American divine.

The bar in attendance in those days was much less numerous than at present. He was a young man of

rare self-complacency, who would imperil a rising reputation in a contest with the sages of the profession before that tribunal. I well remember the remark of a gentleman, second as an advocate in the Superior Courts to no one of his contemporaries, that he never rose in the Supreme Court without trembling, and never ventured to do more than simply to suggest the principles, and give the names of the cases and authorities upon which he relied.

Of those in attendance, Gaston, from the east, was *facile princeps*, Archibald Henderson, probably the most eloquent and successful advocate in criminal defenses who ever appeared at the bar in North Carolina, was the great representative of the middle, and Joseph Wilson of the extreme west, Judge Murphy and Judge Ruffin represented Hillsborough, and Judge Seawell, Gavin Hogg and Moses Mordecai, the Raleigh circuit. Mr. Badger was just attaining the fulness of fame while the youngest of the Superior Court judges, and Peter Browne, the head of the bar, before Mr. Gaston assumed his position, was deciding cases with unprecedented facility and despatch as chairman of Wake County Court.

Mr. Devereux was the District Attorney for the United States. James F. Taylor, with the most brilliant prospects, died six years afterwards, Attorney-General of North Carolina at the early age of 37.

With the present organization of the Supreme Court, in January, 1819, commenced a gradual change in the length of time consumed in the management of causes, in that and the subordinate tribunals which continues to increase in an accelerating ratio, and which ought to be diminished.

The Act of 1799, limited the sessions of the Court of Conference to ten days, the Act of 1800 extended them to fifteen days exclusive of Sundays. At one time, as we have seen, no arguments were allowed, and throughout the entire existence of the court discussions were of necessity commendably brief.

Peter Browne, with an ample fortune and very high reputation, relinquished his professional pursuits at the comparatively early age of fifty-five. Selling the Lane residence, and his well-selected library to his friend, Mr. Boylan, in the summer of 1818, he returned to Scotland to spend the evening of his life amidst the romantic scenes of his native country. An absence of three years proved that the ties which bound him to Raleigh were stronger than those which bound him to his birthplace. He came back and resided here until his death in November, 1832. In 1821, he accepted the appointment of justice of the peace, and was during several years chairman of Wake County Court.

I remember to have heard him complain of the dilatory proceedings of the courts, and especially of the time lawyers were permitted to consume in argument, as a grievous innovation on ancient usages, and to asseverate most solemnly that there was one court in North Carolina where no such indulgence would be allowed. All who remember his administration, will admit that few and brief were the arguments heard in Wake County Court in his day.

My professional experience of ten years, eight at the bar, and two upon the bench, closed in December 1832. During this period I rode the Morganton, Hillsborough, Raleigh, and Edenton Circuits, and met at intervals nearly every eminent lawyer in the State.

I can recall no instance when more than a day was occupied with the trial of a cause.

Judge Cameron, the immediate successor of Mr. Browne as president of the State Bank, was, during the last twenty years of his life, a citizen of Raleigh. He came to the bar at the age of twenty-one in 1798, was appointed judge in February 1814, resigned December 1816, engaged immediately in agricultural pursuits, and the performance of all the duties which properly devolved on eminent citizens in private life, and preeminent among these was the discharge of the duties of presiding magistrate of the County Court of Orange.

He had not attained his fortieth year when he retired from the bench of the Superior Court.

During the fifteen years that he practiced law, his professional emoluments were probably greater than fell to the lot of any other North Carolina lawyer, at so early a period of life, and to none were honors and emoluments more justly awarded.

Mr. Badger, alike eminent as a jurist and a statesman, following Mr. Browne, was, during a series of years chairman in Wake; and Chief Justice Ruffin (a citizen of Raleigh from 1828 to 1834), simultaneously with Mr. Badger's services here, was chairman of the County Court in Alamance.

Of the eminent lawyers who have appeared at our bar during the present century, to no one living or dead has greater length of days, crowned by more brilliant success in all walks of life, been accorded, than to the four great men who closed their professional career by the gratuitous, graceful, able, and impartial discharge of the important duties pertaining to the office of justice of the peace.

While I can make no positive averment, I am very confident in the opinion that during the time that Judges Badger, Cameron, and Ruffin presided on the Superior and County Court bench, no case tried before them ever occupied more than a single day.

Mr. Browne, as appears from the graveyard record, died at the age of sixty-seven. Mr. Badger had entered upon his seventy-second, and Judge Cameron his seventy-sixth year. Chief Justice Ruffin, in the possession of unimpaired intellectual strength, is an octogenarian.

In 1806, five years after the conviction of Glasgow, the great case of Lord Granville's heirs *versus* Governor Davie and others, which threatened a more extensive confiscation than that menaced in our time, was argued before the Federal Court in this city by Gaston and Harris for the plaintiffs, and Cameron, Woods, and Baker for the State of North Carolina. Potter, District Judge, charged the jury; Marshall, Chief Justice, from personal considerations, peremptorily declining to sit upon the trial.

Marshall is the only Revolutionary Titan I have ever seen. With fair opportunities to judge of him as he appeared upon the bench, and in social intercourse sixteen years afterwards, I can pronounce with emphasis, that I never expect to look upon his like again.

I sometimes feel apprehensive that I will become old myself before a great while, when my memory recurs to the time when Chief Justice Ruffin was one of the promising young men of my day. In 1822, when a student in Chief Justice Taylor's office, occupied by Mr. Gaston during the sessions of the Federal and Supreme Courts, Ithiel Town, the architect who planned the present capitol and who

had an important suit pending in the Federal Court against the Clarendon Bridge Company, inquired of Mr. Gaston whether Mr. Ruffin would be acceptable to him as associate counsel. He replied: "No one more so; Mr. Ruffin is a very promising young man, and if he lives ten years longer will be at the head of the profession." The prediction was fully verified at an earlier date.

Rarely since the completion of the Pentateuch has full historic justice been meted out to woman. The character of the great father of the human race is not more fully and clearly delineated by Moses than that of its beautiful mother. The termagant Sarah received quite as much attention as the father of the faithful. Hagar is the heroine of an episode, the most beautiful in the annals of history, with the single exception of the narrative of the maternal tenderness of Naomi, and the filial love and devotion of Ruth, the fascinating little widow, whose charms dissolved the obdurate celibacy of the sage, opulent and stately Boaz. The crafty and managing Rebecca is finely contrasted with the confiding Isaac; and the beautiful Rachel, from the moment that Jacob gave his first kiss "and lifted up his voice and wept," as a bride, and a mother with Joseph at her side in his little coat of many colors and his stainless virtue, constitutes in life and in death, the most charming picture on the historical canvas of any age or country.

Why are not similar pictures presented in modern times? Moses was inspired. Subjects are not wanting worthy of historic inspiration. Has an abler monarch than Elizabeth, or a more estimable sovereign than Victoria ever given character and strength and grace to the British throne? Was "the man of destiny" superior to Josephine? Is the Empress of France

inferior to Napoleon III.?

We are told that the heroic Wolfe while passing down the St. Lawrence on his way to "glory and the grave," closed the recitation of the inimitable "elegy" with the remark that he would gladly exchange all the renown he had acquired or hoped to achieve for the fame of the authorship of those verses, and yet Gray makes no reference to the spot where all the mothers of the hamlet sleep.

I have recently wandered through your cemetery, pausing and lingering here and there, at the tombs of familiar acquaintances and intimate friends, and realized the truth, that if I could summon the departed around me, I would stand in the midst of more numerous friends than I meet at the present day in the crowded streets of your living city.

I trust I shall be suspected of no want of gallantry to the living if I venture to intimate that among the nymphs that illuminate the page of memory and imagination, I find pictures of beauty and grace and refinement quite equal to the best specimens of modern times, or even, in poetic hallucination, "some brighter days than modern days, some fairer maids than living maids."

Captain Peace reposes by the side of his aged brother without as yet a stone to tell his name. He was, I suppose, at the time of his death, the oldest citizen of Raleigh, as well as the oldest man who has passed from the living city to the city of the dead. I have never yet met with a man whom I supposed to be a hundred years old. Various colored persons have represented themselves of greater age, but their computations would not bear scrutiny. The late William Henry Haywood, the elder, died at the age of eighty-seven, and Mrs. Haywood in her ninetieth

year.

The honored name of their only son, the late Senator in Congress, was given at the baptismal font to the senior proprietor of Tucker Hall, in admiration of early promise, by a discerning father. The suit of clothes presented to the child by the Senator in acknowledgment of the compliment, is in a state of perfect preservation, and will be kept as an interesting illustration of the habits and customs of other days. We are to be instructed by grave lecturers in every department of science and art; shall we not have a miniature museum, a portrait gallery and a niche for the preservation of specimens of the antique, among which the best *bib* and *tucker* of earlier times may find an appropriate place?

John Rex was one of the earliest citizens of Raleigh. My acquaintance with him was slight. In appearance he was said to bear striking resemblance to John Quincy Adams. He was a grave, sedate, quiet, retiring, modest man, not unlike in character to his worthy contemporary William Peck. By long years of industry, economy and thrift in the management of the first tannery established in Raleigh at Rex's spring, near the railway station, he accumulated a handsome estate, and like Mr. Peace, atoned for his failure to build up a family, by a liberal provision for the children of misfortune and want. He manumitted all his slaves at the close of life, and bequeathed the remainder of his estate to the endowment of a hospital, the construction of which is understood to be in early prospect.

The Rex Hospital and Peace Institute, the latter far advanced towards completion, will constitute the appropriate and enduring monuments of these public benefactors. Mr. Rex died January 29, 1839, aged

seventy-four years.

As scant justice is done to the memory of the ladies who repose in the cemetery, as is accorded to their sex on the page of modern history. The memorials are few, and the information given comparatively meagre.

Of the eighty-nine counties in North Carolina, nearly all perpetuate the names of men. Two only, Wake and Jones, are graced with the maiden names of women, the wives of Governor Tyron and Governor Nash. There are not less significant indications of the want of liberality from the sterner towards the gentler sex. Four-fifths of the wills that I have had occasion to construe, give to the "dear wife" a portion of the estate pared down to the narrowest limit that the law will allow, "during life or widowhood." So universal and inveterate is this phraseology, that a somewhat famous parson in the county of Gates, some years ago at the funeral of her husband, poured forth a most fervent supplication, that the bereaved wife might "be blessed in her basket and her store during life or widowhood."

I know but a single instance, the will of a distinguished American statesman, Gouverneur Morris, which provides a largely increased annuity to the widow in case of a second marriage.

Jacob Marling was the first portrait and landscape painter, and various specimens of his art are now extant, among others a picture of the State-house as it was anterior to the fire of 1831. It graces the parlor of Dr. F. J. Haywood.

The following narrative of the celebration of the thirty-third anniversary of American Independence, is from the pen of General Calvin Jones, one of the

most useful men of his day. A careful examination of all the details will present to the mind a more life-like picture of what your city was in all the aspects of society in 1809 than can possibly be produced by the most elaborate attempt at description by a modern pen. Compare and contrast it with the scenes exhibited and the events which occurred on an anniversary fifty-eight years thereafter, and in due time make suitable preparation for the proper observance of a day still dear to every patriotic bosom.

"The thirty-third anniversary of American Independence was celebrated in this city in the usual manner on the 4th inst. At 12 o'clock a procession of citizens and strangers, with Captain Willie Jones' troop of cavalry at the head, formed at the court-house, agreeable to previous arrangements, and directed by Captain Scott, proceeded up Fayetteville street to the State-house, during the ringing of the State-house, court-house, academy and town bells, and firing of cannon. Being seated in the Commons' Chamber, an ode in honor of that day, composed for the occasion, was sung by a choir of about seventy voices, conducted by Mr. Seward, accompanied by a band of instrumental music.

"The Rev. Mr. Turner then rose and delivered an oration on the merits of which we shall at present forbear to speak as we intend to solicit a copy for publication, and hope in our next to present it as a very acceptable treat to our readers. At the conclusion another patriotic ode was sung.

"At 3 o'clock the company sat down to an excellent dinner prepared by Mr. Casso at the State-house, at which Colonel Polk and Judge Potter presided. Seventeen appropriate toasts were drunk, among

which we notice the following: 'The President of the United States, may his administration close as it has commenced, with the applause and general approbation of the people.'

"'George Washington, the hero, patriot, statesman, friend and father of his country, the memory of his inestimable worth and service will never cease to be revered by the American people.'

"'Literature, the arts and sciences, the precursors of national greatness and universal happiness.'

"'The University of North Carolina, may the people see and fully understand the great interest they have in this institution, and before it is too late duly foster and endow it.'

"'The Constitution of North Carolina, the happy, wise and revered work of our ancestors, long may it remain sacred and inviolate.'

"'The social circles of life, may no discordant interests or variant opinions be suffered to destroy their harmony.'

"The Supreme Court of the State being in session, the celebration was honored with the presence of the judges, gentlemen of the bar and many other characters of respectability from almost every part of the State.

"In the evening a ball was given to the ladies."

Of all the joyous throng that crowded these streets at that national jubilee fifty-eight years ago, whose bosoms thrilled responsive to the patriotic sentiments of the orator of the day, or who gathered round the festive board—of all the gallant men and beautiful women who united in the exultant song or chased the flying hours in that evening's dance, there is

probably not one present now, not one to contrast the spectacle then presented of a great, free, united, and happy people, with their discordant, dissevered relations in 1867!

"A King sat on his rocky throne
Which looked on sea-born Salamis,
And ships by thousands lay below
And men and nations;—all were his!
He counted them at break of day,—
And when the sun set, where were they?

And where are they—and where art thou,
My country? On thy voiceless shore
The statesman's tongue is silent now,
The heroic bosom beats no more!"

Let us hope that when we meet here on the 4th of July, 1868, Southern voices will again have been heard in the halls of Congress, and that millions of Southern hearts, as in former days, will be prepared to respond, "Liberty and Union, now and forever, one and inseparable."

I heard Governor Vance deliver his address on Swain, which I have called a sketch, at the Chapel Hill Commencement of 1877. I well remember the low melancholy and the effortless pathos of his voice.

Governor Swain was his friend, and fortunate is he indeed to have had such a kind and able hand to sketch his life.

The foregoing estimate of Swain's character and

methods does not receive the unanimous endorsement of all who knew him. He was thought by some to have been guilty of favoritism, to have lacked nerve for discipline, and to have shown too great partiality for families of wealth and influence. But he rendered a service to the State in writing and preserving some memorials of her history. He held the most important position she could bestow for many years, and until his death; and his regime illustrated the defects of a system which prevented the University from being directly and entirely dependent on the people for its support.

Vance put him among the distinguished men of North Carolina, and for this, if for no other reason, I could afford to put him in this book. Posterity will not lightly overrule the verdict of its greatest commoner, even though rendered in the partiality of affection.

Although no sketch of Vance is in this book (his life, in a more extended form, having been lately written), yet Bryan's estimate of him, spoken in the House of Representatives, February 25, 1895, is not an inappropriate introduction of the man who has contributed to history the foregoing sketch of Swain —if indeed there be any part of the Union where he needs an introduction, even from the lips of one who has canvassed the whole country. Besides, it would be offensive to North Carolinians if I should even begin a list of our distinguished dead without according to Vance his well-won place among the foremost.

W. J. BRYAN'S ESTIMATE OF VANCE.

MR. SPEAKER: We are called upon on these occasions to speak of the virtues of many different types of men. Sometimes one is taken from us who has spent the most of his days in private business and has come to these halls to crown with public honors a busy life. Sometimes we are called to mourn a man taken from us in the very beginning of his career, and consider what he might have accomplished had he lived. But it is seldom that, in either of these halls, we find a man whose life was so completely given to public service as was the life of Senator Vance. He began his public career when a young man barely of age, and he has been a public servant from that time, almost without pause, until his earthly life was ended. In the history of our country I think we shall find few men as remarkable. When a man is elected once or twice and disappears, we may attribute his success to circumstances; but when he begins, as Mr. Vance began, a young man, and retains the confidence of those whom he served for a generation, we must conclude that his success is due to something more than a chance or accident.

Senator Vance was a "leader among men." Few in our day, or in our history even, have better earned that distinction. He was a leader among men—and naturally so. He had those characteristics which could not fail to make him a leader, not self-appointed, but chosen by common consent. He was a wise man. He was able to estimate causes and calculate effects. He was able to foresee what would come to pass, because he understood men—that is necessary in a leader. We rely upon the Infinite because we are finite. We feel the limitations of our own knowledge, and we long to find some one who

knows more and can see further than we. Among men, we naturally turn to the one who can foresee events, as a child turns to a parent for advice. It was not the experience of age which he possessed, it was a sort of intuitive judgment, an instinct for truth, that made him see in advance what others only found out afterwards.

It has been mentioned here to-day that when the late civil war was about to break out he was able to survey the whole ground and see what would be the necessary result, and that he told his people what that result would be. He did this, too, when a young man—younger than any of us who are on this floor to-day—and time proved his wisdom. So, coming on down, as each new crisis arose, as each new force began its work upon society, he seemed to be able to calculate what was coming, and every time his judgment was justified by events his hold upon popular confidence increased.

When the Fifty-third Congress was convened in extra session in August, 1893, no man in this country more clearly foresaw the course of events and more clearly predicted the results of the proposed financial policy. He talked with his associates; he wrote to his people, he told them just what the effect would be upon the party with which he was identified, and whose name he loved.

Not only was he wise, but he was courageous. And courage is a characteristic, too, in a leader of men. He had the courage to assume responsibility. He shirked no duty. What he believed he said, and he was willing to stand or fall by the correctness of his conclusions. Jefferson, in speaking of some man, said that he had not learned the sublime truth that a bold, unequivocal virtue is the best handmaid even unto

ambition. Zebulon B. Vance had learned that sublime truth. He knew, while trimming one's sails to catch a passing breeze may help temporarily, there is nothing which is permanently of aid to a public man except standing by his convictions. I have no doubt he had ambition; but from what I have been able to read and learn of him, it was a laudable ambition which every man in this country may well possess, an ambition to do his duty everywhere, an ambition to deserve well, to have what he deserved and nothing more.

He had more than wisdom and courage; he had that without which wisdom and courage would have boon of no avail: he loved the people whom he would lead. And it was no condescending love either. It was no stooping down to some one beneath him. He really believed in the equality of men, and that those among whom he associated were his brethren. He shared their hopes, their aims, and their ambitions. He felt their woes and he knew their joys. He was one of them, and the people loved him because they knew that he loved them. They trusted him because they knew that he trusted them. In building upon the affections of the people he built upon the only sure foundation.

It has been said that the most sincere tribute that can be paid to a man is that which is paid at his grave. Some may fear him while he lives, and therefore show him attention; or others may desire to court his favor. When we see apparent friendship for the great we do not always know what motives may be behind it. But when a man is dead and is impotent longer to injure or to aid, when men gather round his grave and manifest their love, then we know that their affection is disinterested. And I believe it can be

said that no man in this country ever enjoyed the sincere affection of a larger proportion of the people whom he served than Mr. Vance.

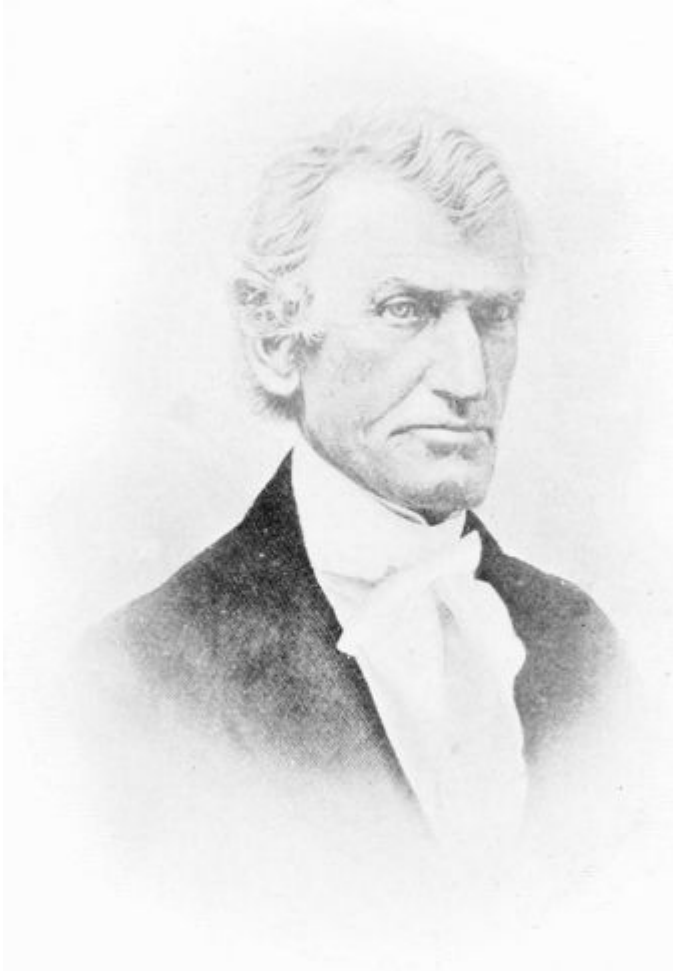
But he was not only a leader of men, he was an orator of great influence. Not that, on dress parade, he was the best man to put up for a public speech, but he was one of the great orators because he possessed two of the characteristics of the orator; he knew what he was talking about when he talked, and he believed what he said. He who believes what he says will move others; and he who knows what he is talking about will convince others. Not only did he impart knowledge surcharged with earnestness, but he possessed rare ability in making the truth pleasant to receive.

He was a statesman as well as a leader of men and an orator. As a statesman he was devoted to his work and was prepared to make every sacrifice for which his position called. As a statesman he was ready to give to every call that conscientious response which duty required. As a statesman he was pecuniarily honest. There is nothing in the life of Mr. Vance that I prize more than the fact that with all his ability, with all his knowledge, with all his influence, no person can say that he ever sold his influence, his ability, or his support for money. No person can say that on any occasion he ever surrendered the interests of the people, as he understood those interests, for hope of gain.

Sometimes people speak sneeringly of legislators. Sometimes they speak as if there were no such thing as honesty among them. Some people talk as if every man has his price, as if all that is necessary is to offer enough money, and the influence of any man who is serving in official position can be purchased. I do not

believe that the worst enemy that Mr. Vance ever had would say of him that any amount of money, however great, could have purchased his vote, his voice or his influence. And that a man with his commanding ability, whose official life began at the very dawn of manhood, and continued through all the conspicuous positions within the gift of his countrymen, should successfully resist all pecuniary temptation and die poor, is, I think, one of the proudest of his achievements.

Mr. Speaker, there are things in this life more valuable than money. The wise man said three thousand years ago, "A good name is rather to be chosen than great riches, and loving favor than silver and gold." We struggle, we sacrifice, and we toil in order to leave to our children a fortune; but I believe that Senator Vance has left to his widow, and to his children a greater, a more valuable heritage than could possibly have been left had he given to them all the money which one man ever accumulated in this world. When he left to them a name untarnished, when he left to them a reputation such as he earned and bore, he left to them that which no wealth can purchase. I am not skilled in the use of obituary adjectives, and did not rise to give a review of his life, but I beg to place on record my tribute of profound respect for a public servant who at the close of his career was able to say to the people for whom he toiled, "I have lived in your presence for a lifetime; I have received all my honors at your hands; I stand before you without fear that any one can charge against me an official wrong." I say, to such a man I pay my tribute of respect.



THOMAS RUFFIN.

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BY WM. A. GRAHAM.

The patriotic people of the county of Rockingham, in a public assemblage at their first Superior Court after the death of Chief Justice Ruffin, in which they were joined with cordial sympathy by the gentlemen of the bar at that court, resolved to manifest their appreciation of his talents, virtues and public usefulness, by causing to be pronounced a memorial on his life and character. Such an offering was deemed by them a fitting tribute from a people among whom his family first settled, upon their arrival in North Carolina, and with whom he had been associated as a planter and cultivator of the soil from his early manhood till his decease. The Agricultural Society of the State, of which for many years he had been a distinguished president, subsequently determined on a like offering to his memory at their annual fair. The invitation to prepare such a discourse has been by both bodies extended to the same individual. The task is undertaken with diffidence and a sense of apprehension that amid the multiplicity of other engagements its fulfillment may fail in doing justice to the subject of this memoir.

Thomas Ruffin, the eldest child of his parents, was born at Newington, the residence of his maternal grandfather, Thomas Roane, in the county of King and Queen, in Virginia, on the 17th of November, 1787.

His father, Sterling Ruffin, Esquire, was a planter in the neighboring county of Essex, who subsequently transferred his residence to North Carolina, and died in the county of Caswell. Ardent in his religious sentiments, and long attached to the Methodist Episcopal Church, he very late in life entered the ministry, and was for a few years prior to

his death a preacher in that denomination.

His mother, Alice Roane, was of a family much distinguished in Virginia by the public service of many of its members, and was herself first cousin of Spencer Roane, the Chief Justice of that State, in the past generation, whose judicial course, connected as it was with questions of difficulty and importance in constitutional law, gave him high professional, as well as political, distinction; but it may well be doubted whether, in all that constitutes a great lawyer, he had preeminence over the subject of our present sketch, his junior kinsman in North Carolina, then but rising into fame, and destined to fill the like office in his own State.

His father, though not affluent, had a respectable fortune, and sought for the son the best means of education. His early boyhood was passed on the farm in Essex, and in attendance on the schools of the vicinity. Thence, at a suitable age, he was sent to a classical academy in the beautiful and healthful village of Warrenton, in North Carolina, then under the management of Mr. Marcus George, an Irishman by birth and education, a fine classical scholar and most painstaking and skillful instructor, especially in elocution, as we must believe, since among his pupils who survived to our times we found the best readers of their day, within our acquaintance. His excellence in this particular was probably attributable to his experience on the theatrical stage, where he had spent a portion of his life. He made his first appearance in the State at Hillsborough, during the Convention of 1788, which rejected the Federal Constitution, and being in search of employment as a teacher, he was engaged by the Warren gentlemen then in attendance, and many years subsequently

was still at the head of a flourishing school, in which our student entered. The system and discipline of Mr. George conformed to the ancient regime, and placed great faith in the rod; and he being a man of much personal prowess and spirit, did not scruple to administer it on his pupils, when sloth, delinquency or misbehavior required, without regard to age, size or other circumstances. Yet he secured the respect of his patrons and the confidence of the public, and inspired the gratitude and affection of his pupils in a remarkable degree.

This turning aside from our subject, to pay a passing tribute to his old preceptor, is deemed to be justified not only by the long and useful labors of Mr. George, in the instruction of youth in the generation in which Mr. Ruffin's lot was cast, but because he himself entertained the highest appreciation of the profession of an instructor, accustoming himself to speak of it as one of the most honorable and beneficent of human employments. Throughout his laborious and well-spent life he often acknowledged his obligations of gratitude for the early training he had received under the tuition of this faithful, but somewhat eccentric, son of Erin. And it may well be doubted whether Lord Eldon, in the maturity of his wisdom and great age, retained a more grateful and affectionate recollection of Master Moises of the High School of New Castle, than did Chief Justice Ruffin of Master George of the Warrenton Male Academy.

At this institution were assembled the sons of most of the citizens of eastern North Carolina, and of the bordering counties of Virginia, who aspired to a liberal education. And here were formed friendships which he cherished with great satisfaction throughout life. Among his companions were the late

Robert Broadnax, of Rockingham, subsequently a planter of large possessions on Dan River, among the most estimable gentlemen of his time; and Cadwallader Jones, then of Halifax, but afterwards of Orange, an officer at different periods in the navy and in the army of the United States, a successful planter, and a model of the manners and virtues which give a charm to social intercourse. Here, too, he found Weldon N. Edwards, of Warren, subsequently distinguished by much public service in Congress and under the government of the State, thenceforward his lifelong friend, with whom the bonds of amity seemed to be drawn more closely as others of his contemporaries dropped from around him. Of these four youths of the Warrenton Academy, in the beginning of the nineteenth century, Mr. Edwards alone survives. Long may he live to enjoy the veneration and respect due to a life of probity, honor, and usefulness.

From the Warrenton Academy young Ruffin was transferred to the College of Nassau Hall, at Princeton, New Jersey. It is believed that his father, who was a deeply pious man, was controlled in the selection of this college in preference to that of William and Mary, in Virginia (next to Harvard University the oldest institution of learning in the United States), not only by a desire to guard his son's health, which had suffered from the malaria of tide-water Virginia, but to secure him as well against the temptations incident to college life in an institution where, as he supposed, the discipline was too lax for the sons of affluence who matriculated there. He entered the freshman class at Princeton, and graduated at the commencement in 1805, the sixteenth in a class of forty-two members, "being the first of the second division of intermediate honors."

The late Governor James Iredell, of North Carolina, was in the class succeeding his own, and for nearly the whole of his college course his room-mate. Thus commenced a friendship between these gentlemen in youth which was terminated only by the death of Mr. Iredell. Among others of his college associates who became distinguished in subsequent life, there were Samuel L. Southard and Theodore Frelinghuysen, of New Jersey, Joseph R. Ingersoll, of Philadelphia, the Cuthberts and Habershams, of Georgia, Christopher Hughes of Maryland, and Stephenson Archer, of Mississippi.

Returning home with his bachelor degree, Mr. Ruffin soon afterwards entered the law office of David Robertson, Esq., of Petersburg, as a student of law, and continued there through the years 1806 and 1807. Here he was associated as a fellow-student with John F. May, afterwards Judge May, of Petersburg, and Winfield Scott, afterwards so highly distinguished in arms, and the only officer, down to his time, except General Washington, who attained the rank of Lieutenant-General in the army of the United States. General Scott, in his autobiography, describes their preceptor, Mr. Robertson, as a Scotchman, a very learned scholar and barrister, who originally came to America as a classical teacher, but subsequently gained high distinction as a lawyer, and was the author of the report of the debates in the Virginia Convention which adopted the Federal Constitution, and of the report of the trial of Aaron Burr for high treason. In a note to the same work, General Scott mentions his chancing to meet Judge Ruffin in New York in 1853, while the latter was attending as a delegate the Protestant Episcopal Convention of the United States, after a separation of forty-seven years, and recurs to their association

together with Judge May, as law students, and to the conversation in which they then indulged, with manifest pride and pleasure. He also refers to their subsequent intercourse in the City of Washington, in 1861, while Judge Ruffin was serving as a member of the Peace Congress, and expresses the opinion that if the sentiments of this good man, always highly conservative (the same as Crittenden's), had prevailed, the country would have escaped the sad infliction of the war, which was raging at the time he wrote.

Sterling Ruffin, the father, having suffered some reverses of fortune, determined to change his home, and removed to Rockingham county, North Carolina, in 1807. His son soon followed, a willing emigrant. It was in North Carolina he had received his first training for useful life: here was the home of most of his early friends, and here he confidently hoped to renew his associations with Broadnax, Jones, Edwards, Iredell, and other kindred spirits.

He doubtless brought with him a considerable store of professional learning from the office of Mr. Robertson, in which he had been more than two years a student, but on his arrival in North Carolina he pursued his further studies under the direction of Hon. A. D. Murphy, until his admission to the bar, in 1808. Early in 1809, he established his home in the town of Hillsborough, and on the 9th of December in that year he was united in marriage to Miss Ann Kirkland, eldest daughter of the late William Kirkland, of that place, a prominent merchant and leading citizen.

The twenty years next ensuing, during which his residence was continually in Hillsborough, comprehends his career at the bar and on the bench

of the Superior Courts. In 1813, 1815 and 1816 he served as a member of the Legislature in the House of Commons from this town, under the old Constitution and filled the office of Speaker of the House at the last mentioned session, when first elected a judge, upon the resignation of Duncan Cameron. He was also a candidate on the electoral ticket in favor of William H. Crawford for the Presidency of the United States in 1824. But his aspirations, tastes, and interests inclined him not to political honors, but to a steady adherence to the profession to which his life was devoted. He found at the bar in Orange and the neighboring counties several gentlemen, his seniors in years, who were no ordinary competitors for forensic fame and patronage, of whom it may be sufficient to name Archibald D. Murphy, Frederick Nash, William Norwood, Duncan Cameron, Henry Seawell, Leonard Henderson, William Robards, Nicholas P. Smith, of Chatham, and later of Tennessee. His first essays in argument are said not to have been very fortunate. His manner was diffident and his speech hesitating and embarrassed. But these difficulties being soon overcome, the vigor of his understanding, the extent and accuracy of his learning, and the perfect mastery of his causes by diligent preparation, in a short time gave him position among these veterans of the profession, secured him a general and lucrative practice, and an easy accession to the bench in seven years from his initiation at the bar.

His reputation was greatly advanced and extended by the manner in which he acquitted himself in this office. The wants, however, of an increasing family and an unfortunate involvement by suretyship forbade his continuance in a situation of no better income than the salary which was its compensation.

He resigned to the Legislature of 1818, and immediately returned to the practice. Mr. Ruffin had kept up habits of close study of his profession before his promotion to the bench, and he eagerly availed himself of the leisure afforded by the vacations of the office for the same object. He came back to the bar not only with his health renovated, which had never been very robust, but with a brightness in his learning and an increase of fame which, in the Supreme Court, then recently established on its present basis, and in the Circuit Court of the United States, as well as on the ridings in the State courts, brought to him a practice and an income which has hardly ever been equaled by any other practitioner in North Carolina. For forty-three weeks in the year he had engagements in court, and despite all conditions of the weather or other impediments to traveling in the then state of the country, rarely failed to fulfill them. He held the appointment of Reporter of the decisions of the Supreme Court for one or two terms, but relinquished it on account of the engrossment of his time by his practice; and his labors are embraced in the first volume of Hawks. Mr. Archibald Henderson, Mr. Gaston, Mr. Seawell, Mr. Murphy, Mr. Moses Mordecai, Mr. Gavin Hogg, and Mr. Joseph Wilson, all men of renown, were, with Mr. Ruffin, the chief advocates in the Supreme Court at that period, Mr. Nash and Mr. Badger being then upon the bench; and according to tradition, at no time have the arguments before it been more thorough and exhaustive. The late Governor Swain being, part of this period, a student of the law in the office of Chief Justice Taylor, in a public address at the opening of Tucker Hall, mentions a prediction in his hearing by Mr. Gaston to one of his clients in 1822, that if Mr. Ruffin should live ten years longer

he would be at the head of the profession in North Carolina. By the same authority we are informed that only a year or two later Judge Henderson declared that he had then attained this position of eminence.

In the summer of 1825, upon the resignation of Judge Badger, Mr. Ruffin again accepted the appointment of Judge of the Superior Courts. His recent successes had relieved him of embarrassment, and supplied him a competent fortune; his health demanded relaxation and rest; and he considered his duties to his family, now quite numerous, required more of his presence at home than was consistent with the very active life he was leading. He therefore relinquished his great emoluments at the bar for the inadequate salary then paid to a judge, and virtually closed his career as an advocate. By the bar and the public he was welcomed back on the circuits, and for the three following years he administered the law with such universal approbation that it was generally understood he would be appointed to the bench of the Supreme Court.

The reputation he had established by this time, however, did not merely assign him capabilities as a lawyer, but ascribed to him every qualification of a thorough man of affairs. It was conceded, at least, that he could teach bankers banking and merchants the science of accounts.

In the autumn of 1828 the stockholders of the old State Bank of North Carolina, at the head of whom were William Polk, Peter Browne, and Duncan Cameron, owing to the great embarrassment of the affairs of the institution, involving disfavor with the public and threats of judicial proceedings for a forfeiture of its charter, prevailed on him to take the presidency of the bank, with a salary increased to the

procurement of his acceptance, and with the privilege on his part to practise his profession in the city of Raleigh. In twelve months, with characteristic energy, mastering the affairs of the bank with a true talent for finance, making available its assets and providing for its liabilities, and inspiring confidence by the general faith in his abilities and high purpose to do right, he effectually redeemed the institution, and prepared the way to close out in credit the remaining term of its charter.

At this period, also, another place of high political eminence was at his choice, but was promptly declined. A vacancy having happened in the Senate of the United States by the appointment of Governor Branch to the head of the Navy Department, and Hon. Bartlett Yancey, who had been the general favorite for the succession, having recently died, Mr. Ruffin was earnestly solicited to accept a candidacy for this position, with every assurance of success. But his desire was, as he himself expressed it among his friends, after the labor and attention he had bestowed upon his profession, to go down to posterity as a lawyer. Irrespective, therefore, of his domestic interests, and the care and attention due to his family, of which no man ever had a truer or warmer conception, he could not be diverted from his chosen line of life by the attractions of even the highest political distinction.

While assiduously employed in the affairs of the bank, to which was devoted the year 1829, his services were still demanded by clients in the higher courts, and his reputation at the bar suffered no eclipse. Upon the death of Chief Justice Taylor, in this year, the executive appointment of a successor was conferred on a gentleman of merited eminence

in the profession, and of a singularly pure and elevated character; but the sentiment of the majority of the profession, as well as public opinion, had made choice of Mr. Ruffin for the permanent office, and he was elected a Judge of the Supreme Court at the session of the Legislature in the autumn of 1829. In 1833, upon the demise of Chief Justice Henderson, he was elevated to the Chief Justiceship, in which he won that fame which will longest endure because it is incorporated in the judicial literature of the country, and is coextensive with the study and administration of our system of law.

Of Mr. Ruffin's arguments at the bar no memorials have been preserved save the imperfect briefs contained in the causes that have been reported. His nature was ardent, his manner of speech earnest and often vehement in tone and gesticulation. Though versed in *belles-lettres*, and with tastes to relish eloquent declamation, it was a field into which he did not often, if at all, adventure. His reliance was upon logic; not upon rhetoric; and even his illustrations were drawn from things practical rather than ideal. Analyzing and thoroughly comprehending his cause, he held it up plainly to the view of others, and with a searching incisive criticism exposed and dissipated the weak points in that of his adversary; and all this in a vigorous, terse and manly English, every word of which told. Few advocates ever equaled him in presenting so much of solid thought in the same number of words, or in disentangling complicated facts or elucidating abstruse learning so as to make the demonstration complete to the minds of his hearers. These capacities he doubtless gained by severe culture, a part of which, as I learned from an early student in his office, resulted from his daily habit of going carefully over the demonstration of a

theorem in mathematics. Thus habituated to abstract and exact reasoning, he delighted in the approach to exactness in the reasoning of the law, and no student could more truly say of his professional investigations: *Labor ipse est voluptas*. The accuracy thus attained in his studies gave him great eminence as a pleader in causes both at law and in equity; and the office of framing the pleadings was usually conceded to him by his colleagues in the causes in which they were associated. It also gave him rank among the great counsellors of the time whose opinions were not the result of cramming for an occasion, or a fortunate authority, but the well considered reflections of gifted minds imbued with law as a science. The full development of his forensic character does not appear to have been manifested until after his return to the bar subsequently to his first service on the bench. But from this period till his second retirement, in 1825, he had hardly a rival in the bar of the Supreme Court of the State or the Circuit Court of the United States, except Archibald Henderson and Gaston, and he had a command of the practice in all the State courts he attended. As a Judge of the Superior Courts he exhibited equal aptitude as for the practice at the bar. With an energy that pressed the business forward, a quickness rarely equaled in perceiving and comprehending facts, patient and industrious habits of labor, and a spirit of command which suffered no time to be lost, he dispatched causes with expedition, but with no indecent haste. Whilst he presided it was rare that any cause before a jury ever occupied more than a single day, and none is remembered that extended beyond two. He dismissed a suit brought to test a wager at the cost of both parties, and remarked that it was on account of leniency that he did not

imprison them.

In administering the criminal law, in which the extent of punishment generally depended on the discretion of the judge, his sentences were such as to inspire evil-doers with terror, but eminently tended to give protection to society and confidence to honest and law-abiding men.

His accession to the bench of the Supreme Court was a source of general satisfaction to the profession, and to the people of the State, by whom his enlightened labors in the circuits had been witnessed with admiration and pride. He at once took a conspicuous part in the proceedings of this high tribunal, and for the twenty-three years that he continuously sat there, probably delivered a greater number of the opinions than any judge with whom, in all this long career, he was associated. These opinions are found through more than twenty-five volumes of the Reports, and form the bulk of our judicial literature for a full generation. They have been cited with approbation in the American courts, State and national, by eminent legal authors, and in the judicial deliberations of Westminster Hall; and the North Carolina lawyer who can invoke one of them as a case in point with his own generally considers that he is possessed of an impenetrable shield. It has been rare in England that a judge or advocate has reached high distinction in the courts both of common law and equity. The student of the judicial arguments of Chief Justice Ruffin will be at a loss to determine in which of these branches of legal science he most excelled. To the votary of the common law, fresh from the perusal of the black letter of the times of the Tudors and early Stuarts, and captivated with its artificial refinements and

technical distinctions, he would appear to have pursued his professional education upon the intimation of Butler, in his reminiscences, that "he is the best lawyer, and will succeed best in his profession, who best understands Coke upon Littleton"; or, advancing to the modern ages of greater enlightenment and freer intercourse among nations, that he had made a specialty of the law of contracts, bills of exchange and commercial law generally; whilst his expositions of equity causes will satisfy any impartial critic that he was at least equally a proficient and master of the principles and practice of the jurisprudence of the English Chancery, and would induce the belief that, like Sir Samuel Romilly or Sir William Grant, his practice at the bar had been confined to this branch of the profession.

During his chief-justiceship it cannot fail to be remarked that there was a great advance in the accuracy of pleadings in equity cases, and in general extension of the knowledge of equity practice throughout the circuits. And the precision and propriety of entries in every species of procedure were brought to a high state of perfection, mainly by his investigations and labors, in conjunction with those of that most worthy gentleman, and modest but able lawyer, Edmund B. Freeman, Esq., late Clerk of the Supreme Court, whose virtues and public usefulness, connected as he was for so many years in close and friendly association with the immediate subject of our remarks, now likewise gone down beyond the horizon, I am gratified the opportunity serves to commemorate.

Judge Ruffin's conversancy with political ethics, public law, and English and American history seems

to have assigned to him the task of delivering the opinions on constitutional questions which have attracted most general attention. That delivered by him in the case of *Hoke* vs. *Henderson*, in which it was held that the Legislature could not, by a sentence of its own in the form of an enactment, divest a citizen of property, even in a public office, because the proceeding was an exercise of judicial power, received the high encomium of Kent and other authors on constitutional law; and I happened personally to witness that it was the main authority relied on by Mr. Reverdy Johnson, in the argument for the second time in *Ex parte Garland*, which involved the power of Congress, by a test oath, to exclude lawyers from the practice in the Supreme Court of the United States for having participated in civil war against the government; and in which, its reasoning on the negative side of the question, was sustained by that august tribunal.

The singular felicity and aptitude with which he denuded his judgments of all extraneous matter, and expounded the principles of the case in hand, usually citing authority only to uphold what had been demonstrated without it, is the most striking feature of his numerous opinions. His style of writing was elevated and worthy of the themes he discussed. His language was well selected, and exhibited a critical acquaintance with English philology. A marked characteristic in his writings, as it was also in his conversation, was the frequent, dextrous, and strikingly appropriate use he made of the brief words of our language, usually of Saxon derivation.

In the autumn of 1852, while in the zenith of his reputation, and not yet pressed with the weight of years, Chief Justice Ruffin resigned his office and

retired, as he supposed forever, from the professional employments he had so long and with so much renown pursued. But on the death of his successor and friend, Chief Justice Nash, in December, 1858, he was called by the almost unanimous vote of the General Assembly, then in session, to fill the vacancy, and sat again as a Judge of the Supreme Court until the autumn of 1859, when failing health rendered his labors irksome, and he took his final leave of judicial life. Six years of rest in his rural home had induced nothing of rust or desuetude: he wore the ermine as naturally and gracefully as if he had never been divested of its folds; his judicial arguments at this time evince all that vigor of thought and freshness and copiousness of learning which had prompted an old admirer to say of him that he was a "born lawyer." It is not improbable that this preservation in full panoply was, in some degree, aided by the circumstance that in a desire to be useful in any sphere for which he was fitted, he had accepted the office of a justice of the peace in the county of Alamance, in which he then resided, and had held the County Courts with the lay justices during this period. Though near ten years later, and when he had passed the age of eighty, in a matter of seizure, under the revenue laws, in which he took some interest for a friend, in the Circuit Court of the United States, a branch of practice to which he had not been habituated by experience, I had occasion to observe that he was as ready with his pen in framing the pleadings, without books of authority or precedent, as any proctor in a court of admiralty.

At an early period he became the proprietor of an estate on Dan River, in Rockingham, on which he established a plantation at once, and gave personal direction to its profitable cultivation from that time

until near the time of his death. Carrying his family to Raleigh for a sojourn of twelve months, upon assuming the presidency of a bank, as already stated, he removed thence to Haw River, in Alamance, in 1830, and there, under his own eye, carried on the operations of a planter with success until the year 1866, when the results of the war deprived him of laborers and he sold the estate and removed again to Hillsborough. The law has been said by some of its old authors to be a jealous mistress, and to allow no rival in the attentions of its votary. Chief Justice Ruffin, however, while diligently performing the duties of his great office, and keeping up with the labors of his contemporaries, Lyndhurst, Brougham, Tenterden, and Denman, in England, and the numerous courts exercising like jurisdictions in America, found leisure to manage his farm at home as well as to give direction to that in Rockingham. And this, not in the ineffective manner which has attended like efforts of some professional men, but with present profit and improvement of the estates. From early life he appeared to have conceived a fondness for agriculture, including horticulture and the growing of fruit-trees and flowers, which his home in the country seemed to have been selected to indulge. Here, for thirty-five years during the recesses of his courts, he found recreation in these pursuits and in the rearing of domestic animals; the result of which was the most encouraging success in orchards, grapery, garden, cereals, flocks and herds. Combining a knowledge of the general principles of science, with fine powers of observation, and the suggestions of the most approved agricultural periodicals, he was prepared to avail himself in practice of the highest intelligence in the art. It was therefore no empty compliment to a great jurist and

leading citizen when the Agricultural Society of North Carolina, in 1854, elected him to its presidency after his retirement from the bench. He was continued in this distinguished position for six years, when declining health demanded his retirement; and at no time have the interests of the Society been more prosperous, its public exhibitions more spirited; and it may be added that on no occasion did he ever manifest more satisfaction than in the reunions of its members.

The liberal hospitality that he dispensed throughout life was a most conspicuous feature in the period thus devoted to practical agriculture. His nature was eminently social, his acquaintance in his high position extensive, his dwelling near one of the great highways of travel through the State in the old modes of conveyance, easy of access, and the exuberance of his farm, garden, orchards and domestic comforts were never more agreeably dispensed than when ministered to the gratification of his friends under his own roof.

The cordiality and ease with which he did the honors of an entertainer in an old-fashioned Southern mansion is among the pleasant recollections of not a few between the Potomac and the Mississippi. It was here, indeed, surrounded by a family worthy of the care and affection he bestowed upon them, relaxed from the severe studies and anxieties of official life, in unreserved and cheerful intercourse, that, after all, he appeared most favorably.

By his industry, frugality and aptitude for the management of property, he accumulated in a long life an estate more ample than usually falls to the lot of a member of the profession in this State; and

although much reduced by the consequences of the civil war, it was still competent to the comfort of his large family.

Judge Ruffin was, until superseded by the changes made in 1868, the oldest trustee of the University of the State, and always one of the most efficient and active members of the board. For more than half a century on terms of intimate intercourse with its Presidents, Caldwell and Swain, and the leading Professors, Mitchell, Phillips and their associates, he was their ready counsellor and friend in any emergency; whether in making appeals to the Legislature in behalf of the institution for support and assistance in its seasons of adversity, or in enforcing discipline and maintaining order, advancing the standard of education or cheering the labors both of the faculty and students. His criterion of a collegiate education was high, and he illustrated by his own example the rewards of diligent and faithful study. He retained a better acquaintance with the dead languages than any of his compeers we have named except Gaston, Murphy, and Taylor. In ethics, history, and the standard British classics his knowledge was profound. In science and in natural history, more especially in chemistry, and those departments pertaining to agriculture, horticulture, pomology and the like, his attainments were very considerable, as they were also in works of *belles-lettres*, poetry, taste and fiction, at least down to the end of the novels of Scott and Cooper. He worthily received the honorary degree of Doctor of Laws from the University of North Carolina in 1834, and the like honor is believed to have been subsequently conferred by his alma mater at Princeton.

His style and manner in conversation, in which he

took great delight and bore a distinguished part in all companies, abounded in pleasantry, but exhibited the same wide range of thought and information as his public performances, and was full of entertainment and instruction to the young. His temperament was mercurial, his actions quick and energetic, and his whole bearing in the farthest possible degree removed from sloth, inertness, and despondency. In political sentiment he accorded with the school of Jefferson, and for more than forty years was a constant reader of the *Richmond Inquirer*, the editor of which, Mr. Ritchie, was his relative, though no one entertained a more exalted reverence for the character, abilities, and patriotism of Marshall, with whom he cherished a familiar acquaintance while in practice before him at the bar, and after his own elevation to the bench. Later in life he formed a like kind and admiring acquaintance with Chancellor Kent.

In the winter of 1861 the Legislature of North Carolina, having acceded to the proposition of Virginia, on the approach of the late rupture between the States of the Union, to assemble a body of delegates in the City of Washington to consider and recommend terms of reconciliation, Judge Ruffin was appointed one of the members in the "Peace Conference," and is understood to have taken a conspicuous part in its deliberations and debates. We have the testimony of General Scott, in his autobiography, already quoted, that his counsels in that assembly were altogether pacific. President Buchanan, in his work in defense of his action in that important crisis, makes assertion of the same fact. After the failure of the efforts at adjustment, and the war, in his opinion, had become a necessity, Judge Ruffin accepted a seat in the State Convention of

1861, and threw into its support all the zeal and energy of his earnest and ardent temper; one of his sons, a grandson, and other near connections taking part in the dangers and privations of its camps and battle-fields. When defeat came he yielded an honest submission and acquiescence, and renewed in perfect good faith his allegiance to the government of the United States. Too far advanced in years to be longer active in affairs, his chief concern in regard to the public interests thenceforward was for the conservation of the public weal, and that the violent convulsion, of which we had felt the shock, and the change, might be permitted to pass without any serious disturbance of the great and essential principles of freedom and right which it had been the favorite study of his life to understand and illustrate.

With the close of the war, his farm about his mansion having experienced the desolation of an army encampment, and its system of labor being abolished, he felt unequal to the enterprise of its resuscitation and culture, and therefore disposed of his estate and again took up his abode in Hillsborough. Here, in occasional occupation as a referee of legal controversies, in directing the assiduous culture of his garden and grounds, in desultory reading, in which he now and then recurred to his old favorites among the novels of Scott, in the duties of hospitality and the converse of friends, in the bosom of his family, he passed the evening of his days. In the sense of imbecility or decrepitude he never grew old, but was blessed with the enjoyment of a remarkable intellectual vigor and fine flow of spirits almost till his dissolution. And, in anticipation of death, in his last illness he laid an injunction on his physician to administer to him no

anodyne which should deprive him of consciousness, as he did not wish to die in a state of insensibility.

On the 15th of January, 1870, after an illness of but four days, though he had been an invalid from an affection of the lungs for a year or more, he breathed his last, in the eighty-third year of his age. His end was resigned and peaceful, and in the consolation of an enlightened and humble Christian faith. For more than forty years a communicant of the Protestant Episcopal Church, he was one of its most active members in the State, and more than once represented the Diocese in the Triennial Conventions of the Union.

The venerable companion of his life, a bride when not yet fifteen, a wife for more than sixty years, yet survives to receive the gratitude and affection of a numerous posterity and the reverence and esteem of troops of friends.

This imperfect offering is a memoir, not a panegyric. It contains not history, but *particulas historae*—scraps of history, which it is hoped may not be without their use to the future student of our annals, for the character we contemplate is destined to be historical. His life was passed in public view, in the most important public functions, in contact with the most gifted and cultivated men of the State for half a century; it ran through two generations of lawyers. It was given to a profession in which were engaged many of the first minds of other States, and I can call to recollection no judge of any State of the Union who in that period has left behind him nobler or more numerous memorials of erudition, diligence, and ability in the departments of the law he was called to administer. The study of his performances will at least serve to correct the error of opinions

prevailing with many at the North, that the intellectual activity of the South delights itself only in politics.

It has been remarked by one of the British essayists, as "a saying of dunces in all ages, that men of genius are unfit for business." It is perhaps a kindred fallacy, to which pedantry and sloth have given as much countenance on the one hand as blissful ignorance upon the other, that high culture and erudition, as in the case of the learned professions, are incompatible with success in practical affairs in other departments. We have before us the life of one who demonstrated in his own person that it is possible for a great and profound lawyer to take a leading part and become a shining light in practically promoting the first and greatest of the industrial arts, and although there be no natural connection between these occupations, that the same well directed industry, patience, and energy which had achieved success in the one, was equal to a like triumph in the other; whilst in high probity, in stainless morals, in social intercourse, in the amenities of life, and the domestic affections and duties, his example will be cherished in the recollection of his friends, and may well be commended to the imitation of our youth.

OPINION IN EX PARTE BRADLEY.

BY THOMAS RUFFIN.

This opinion of Judge Ruffin, taken at random to illustrate his style, is not above his average.

His great opinions are too long and technical to be of interest to the general reader. He thoroughly understood "the language of the law," and used it with the utmost precision.

His discussion of the question at issue throws a side-light on times fifty years agone, and will awaken memories in the old and inquiry in the young.

Badger and Iredell applied to the Chief Justice for a writ of *habeas corpus* in behalf of William Bradley, who had been imprisoned for assault and battery.

OPINION.

Ruffin, C. J. At the last term of Anson Superior Court, William Bradley was convicted of an assault and battery, and was sentenced to pay a fine of one dollar, and "to be imprisoned in the public jail of Anson county for twelve months, and thereafter until the said fine and costs should be paid." He was committed to the custody of the sheriff of the county, and has been kept a close prisoner ever since, but has recently tendered to the sheriff a bond with sureties to keep within the rules of the prison (which have been laid off by the County Court, and contain six acres), and demanded of the sheriff to be let out of prison. This was refused by the sheriff, upon the ground that he was required by the sentence to keep this person within the public jail.

Upon an affidavit and petition of Bradley, stating those facts, he has applied for a *habeas corpus*, that he might be brought up and an order made for his enlargement, according to his application to the sheriff. His counsel, however, does not desire that he should be put to the expense and trouble of the writ, unless it should be thought that he is entitled to the liberty of the rules bounds. As I had an opportunity

of consulting my brethren on the subject, I have availed myself of it, and I now give our unanimous opinion, that the sheriff is bound to keep the applicant a close prisoner. The application is founded on the Act of 1741, Rev. St., c. 90, s. 11. It enacts, that, "For the preservation of the health of such persons as shall be committed to the county prisons, the court shall have power to mark out such a parcel of land, as they shall think fit, not exceeding six acres, adjoining the prison, for the rules thereof; and every prisoner not committed for treason or felony shall have liberty to walk therein, out of prison, for the preservation of his or her health."

If there were no other objection to this application but its novelty, that would be sufficient. It is the first that has been made, as far as we have heard, since the act passed, which is now more than one hundred years. If this were an absolute right of all persons committed under sentence for misdemeanors, there can be no doubt that it would have been long before claimed and constantly exercised. But we think the construction of the act is plainly against it. It seems to have been made in reference to a known usage and regulation respecting prisons in the mother country. There, by "rules" of the several courts, debtors and prisoners for misdemeanors have the liberty of walking in the prison yards, or within such other limits as the courts prescribe for their respective prisoners, at such hours and on such days as "the rules" may designate. Those "grounds" came in time to be called the "rules of the prison" because they were laid off and the prisoners had liberty of exercise therein by rule of court for that prison. In the same manner and for the same purpose the grounds are to be laid out adjoining our prisons. The courts "shall have the power," that is to say, they

may lay off ground, little or much, but not to exceed six acres, adjoining the prison, for the rules thereof. These last words, "for the rules thereof," show, that with each court it was left to make such rules respecting the prisoners committed by it as to the extent, periods and durations of enlargement out of close prison for exercise and health, as the situation of the prison, the season of the year, the danger of escape or the character of the prisoners, or the enormity or mildness of their offenses might suggest to the court, restraining them, indeed, from allowing more than six acres in space to any prisoner, and from extending the liberty to traitors and felons, or persons committed as such. Hence, also, the expression that the prisoner may have liberty "to walk therein for the preservation of his health," which shows that the courts had the power to allow the prisoners merely the "liberty of walking," at particular hours, and require them still to have their abode in the prison. Such, at first, was no doubt, the practice. But in laying out the bounds the rules of the court in modern days practically exempt persons committed in execution for debt from any imprisonment within the jail, by allowing them to walk, not for particular hours, but at all times of the day and night within the rules. As they are not required to eat or sleep within the prison, they are, in effect, allowed to live out of the walls, provided they do not go out of the rules.

But with regard to persons committed under sentence for crimes, no rules have ever been passed. At least, we have known of none; and the applicant does not state that there is any such rule for Anson Superior Court. We do not say that it might not be proper, in some cases, to grant to minor offenders the liberty of exercise and fresh air at reasonable

times and for a moderate period. But that is, necessarily, as each court may order in regard to its own prisoners; for as the imprisonment itself and its duration are within the discretion of the court, so must the degree of its vigor be, at least, as to the power of mitigating it within the extent allowed by the statute. The reason why no *regula generalis* has been adopted by the court, doubtless has been, that our courts are not in the habit of sentencing convicts to imprisonment, unless in those cases in which the courts think that, for the purposes of correction and example, there should be actual imprisonment during the whole period. But if there be any general rule upon the subject in any court it would be under the control of that court, whether each prisoner should or should not be allowed the indulgence, and the sentence on this person is, "that he *shall* be imprisoned *in* the public jail of Anson for twelve months." Of course, this prisoner cannot demand an enlargement out of prison, as a matter of right.

As I should be under the necessity of remanding the prisoner, if brought up on *habeas corpus*, I decline issuing the writ at all, according to the suggestion of his counsel.



THOMAS BRAGG.

THOMAS BRAGG.

BY PULASKI COWPER.

Thomas Bragg was the son of Thomas and Margaret Crossland Bragg, and was born in the town of Warrenton, in Warren county, on the 9th day of November, 1810. His father was a carpenter and contractor, a man of strong will, good judgment, and hard common sense, who devoted the fruits of his labor to the education of a large family of children. John, an older brother of Thomas, was a distinguished judge of Alabama, and a member of Congress from the Mobile District, in 1852, but declined a renomination. General Braxton Bragg, whose military reputation is familiar to the country, was a younger brother. Alexander J. was an architect of high standing in Alabama. Dunbar was a leading merchant in Texas; and William, the youngest brother, died near Chattanooga, July 25, 1863, from wounds received in battle. Mrs. Mary L. Cuthbert, widow of the late James E. Cuthbert, a sister, and the last of the children, died recently in Petersburg, Va.

Thomas Bragg received his preliminary schooling at the Academy in Warrenton and his education was completed at Captain Partridge's Military School, in Middletown, Connecticut, where he remained about two and a half years. Soon after returning from Middletown he commenced the study of law under the late Judge Hall, of Warrenton, one of the judges of the Supreme Court, and, on obtaining his license to practice in the courts of the State, he started out,

with a horse and stick gig and fifty dollars, for Jackson, the county-seat of Northampton county, N. C., which place he made his home in the spring of 1833. This was all the assistance he had, but his paying practice was immediate, and he never needed aid from any other quarter.

Shortly after settling in Jackson, Benjamin B. Blume, who was County Attorney, resigned the office and removed to Petersburg, Va., selling his library to the subject of our sketch, who was elected County Attorney, beating his opponent, Colonel Samuel B. Spruill, the office then being worth about five hundred dollars. He was a strong and vigorous prosecuting officer, discharging the duties in strict conformity to his oath, and showing neither favor to a friend nor resentment to an enemy. His execution of the office was so rigid that it affected his popularity; evidence of which was visible, in some quarters, even up to the time he assumed the office of Governor. Upon one occasion, after he had spoken in the prosecution of a citizen of considerable prominence, Mr. B. F. Moore, who was counsel for the defendant, made strictures upon his course, and charged that his zeal was the result more of feeling and spite than of his conceived duties under his oath. He was seen to bow gracefully, but determinedly, to Mr. Moore, as he proceeded with his speech. Immediately after the adjournment of court, a note was borne from him to Mr. Moore by Colonel Spier Whitaker. It was with some difficulty that the matter was settled, but friends interposed, and it was satisfactorily adjusted to both parties; and these men were not formal in their subsequent intercourse, but, on the contrary, their relations were always cordial and friendly. Mr. Moore's strong and feeling speech in the Supreme Court-room, the day after Governor

Bragg's funeral, clearly shows this.

It was not long after he had been at the bar when an important case was begun in Hertford county, *Beale* vs. *Askew*. It was a suit for damages for libel. A. J. Askew was charged with sending to the Norfolk (Va.) *Herald*, then edited by Thomas G. Broughton, Esq., a notice of Beale's marriage to a woman in Winton of infamous character. The case was moved to Chowan and tried in Edenton. Bragg and William W. Cherry, then very young men, appeared for Askew, and Judge Augustus Moore and Mr. Kinney, at that time the leading Eastern lawyers, were the opposing counsel. Governor Bragg alluded in his speech to his youth and to his being a stranger as working to his disadvantage before the jury. Mr. Kinney, in his kindest manner, complimented in his speech these young men for their able conduct and management of their case, and predicted their future usefulness and distinction. Mr. Cherry died when quite a young man. He possessed a powerful intellect, and was unquestionably, the most brilliant speaker the East ever had.

On the 4th day of October, 1837, Bragg was united in marriage to Miss Isabella M. Cuthbert, of Petersburg, Va. He first met her in Jackson while on a visit to her sister, Mrs. Starke, whose husband was at that time engaged in business in Jackson. Their associated lives were long and happy, and marked by the most devoted attention on his part, and cemented by a mutual affection and tenderness. She only survived him a few years.

Bragg was a close and hard student. Except when called away on business, he was rarely out of his office; and he left his house at night only when urgent engagements compelled it, which was

infrequent. So closely did he confine himself to study and to the full preparation of his cases, and so fully was his time occupied, that he seemed estranged from the community. These seclusive habits, together with strongly drawn party lines, destroyed to a degree that social interchange which a more general intercourse would naturally have engendered. He was not what might be considered a popular man of the town, but his high moral worth and his honorable and commendable course of life accorded him the highest consideration and respect.

His daily course was to smoke his pipe and read his newspapers for about half an hour after breakfast, then repair to his office, which was near to his house and on his lot, read law, and prepare his cases, smoking a good deal of the time, until dinner. After dinner he would devote another half-hour to newspaper-reading and his pipe, and then go to his office, resuming his law studies and duties until late in the evening, when he would either take a ride or a walk with his wife. After supper he would take his smoke and read newspapers, magazines or other literary works until about ten o'clock, his usual bedtime. He rarely read law at night, except sometimes shortly before attending the Supreme Court, when it might be necessary for him to do so to prepare cases for argument there. Such was his regular course of life at Jackson, and he was as regular in it as clockwork. He was not an early riser, usually rising just before breakfast, which was about nine o'clock in winter and about seven in summer. He never slept in the afternoons, and during the warm summer evenings he would occasionally lie down on a lounge, or sofa, which he kept in his office, and read his law books, but he would never take an evening nap. During his two terms as

Governor he would, when he had taken his after-dinner smoke, go direct to the executive office, and remain there until late in the evening, and if alone, it was rare for one to enter and find him not engaged in either reading or writing. He was an inveterate smoker, and followed the habit so persistently that he could not relinquish it, and he carried his pipe to his courts as regularly as he did his law books. His constitution was, no doubt, though not perceptibly, affected by it, and the late gifted Dr. Charles E. Johnson, his family physician, was fully impressed that it shortened his life and precipitated the disease of which he died.

Bragg practiced law, regularly, in the Courts of Northampton, Halifax, Hertford, and Gates counties up to the time he became Governor. When employed in special cases, he would attend the courts of Chowan and Washington counties. He had a large and controlling practice, appearing in nearly every important case, yet but twice did his practice amount to four thousand dollars a year, and it was brought to that figure by these special courts, the highest fee being three hundred dollars, which was the largest single fee he ever received before the war. He was a diligent and faithful worker, and a moderate charger. One of his greatest efforts at the bar, before the war, probably, was made in the case of the *State* vs. *Garrett*. Garrett was tried for murder in Northampton county, before Judge Bailey, about 1853. He was defended by Bragg and Mr. B. F. Moore, and the case occupied two days in taking the testimony. Both of these gentlemen made strong speeches, but Bragg's speech was particularly strong. He was deeply interested in the case and bestowed much labor upon it. He believed his client not guilty. The State was represented by M. W. Ransom, it being his first

appearance as Attorney-General at Northampton court. He was a young man, and, having such able lawyers to confront, much sympathy was felt by the audience in the court room for him. He, however, did not need it. He saw the necessity for the full development of all the tact, brain power, and legal knowledge at his command. During the whole trial he took not a note, and he concluded the argument alike to the astonishment and admiration of the court, jury, and spectators, the very culmination, beyond doubt, of the greatest legal effort of his life. Garrett was convicted of murder, but before the day appointed for his execution he broke jail and was never afterwards captured or heard from.

It is by some supposed, and has been by some remarked, that Bragg developed as a lawyer after the war, and that up to that time he was merely a fair lawyer, with a good local reputation. This is a very great mistake. Though he may not have achieved an extended State reputation, yet he was recognized by the bar of the State as a strong lawyer, and he was accepted before the war by the people of the East as one of the leading, if not the leading, lawyer of that section.

In 1842 he was elected to the Legislature—House of Commons—defeating Thomas J. Gatling, a brother of the inventor of the Gatling gun. In 1844 he was defeated for the Legislature by Judge David A. Barnes, who had just before this come to the Northampton bar and had settled in Jackson. After this he sought no office, but was an active worker in the county political campaigns. In 1844 he was Presidential Elector on the Polk and Dallas ticket for the First District, his opponent being William W. Cherry, Esq., of Bertie county. In 1848 he was again

elector for the First District on the Cass and Butler ticket, his opponent being the Hon. Kenneth Rayner, of Hertford county, one of the strongest political speakers of his day, and a man much to be dreaded in debate. At this time Bragg was not widely known in politics, and it was considered by the Whigs that Mr. Rayner would have a "walk-over." Their first meeting was at Rich Square, in Northampton, twelve miles from Jackson. Mr. Rayner's friends in Jackson (and the town was about all Whig) said they were "going out to see Rayner eat Bragg up," but the "eating up" was not done at that time, and they came back not so exhilarated as they went. Mr. Rayner had met his match, and Bragg had fully satisfied his Democratic hearers on that occasion. This campaign was exciting and ably conducted; and after it was ended Mr. Rayner was frequently heard to say that Thomas Bragg was the ablest debater and the strongest opponent he had ever met on the stump.

In 1852 he was again Elector for the Ninth District on the Pierce and King Presidential ticket, his opponent being Hon. David A. Barnes, of Northampton county. Judge Barnes was a ready and effective speaker. They had often crossed political swords. This campaign was marked by courtesy and ability.

In 1854 the Whig party nominated for Governor General Alfred Dockery, of Richmond county, and at that time Governor Bragg's name was prominently mentioned as the Democratic candidate. General Dockery opened his campaign at Gatesville, in Gates county. Bragg was there attending court, and he was called on to reply, which he did very successfully. It is said that he made a speech that much gratified and pleased his party friends. The week following the

General spoke at Edenton, during court, and Bragg again replied with equal effect. Soon thereafter the Democratic convention assembled in Raleigh, and Bragg was unanimously nominated for Governor. He accepted this nomination with reluctance, and for a little while considered it. He had a good practice, amounting to about thirty-five hundred dollars a year. His home was comfortable and attractive, and his manner of life was quiet and contented. It was natural that a man thus situated and surrounded, and not beset by the disquietude of political strife and commotion should hesitate before disrupting such congenial associations. Upon reflection, however, he accepted, and when his courts were ended, joined General Dockery, and entered upon one of the most remarkable campaigns ever had in the State. General Dockery had been canvassing without any regular opponent, but the training incident to his having been pitted against some of the best Democratic talent in the State, as he went along, had developed him into a dangerous antagonist even for Bragg. The campaign waxed hotter and hotter, up to the day of the election, and, in all probability, had the election been a month later, Dockery would have been victorious.

An incident of the campaign may afford passing amusement. Dockery, in one of his speeches, had characterized his opponent as the aristocratic candidate, and said that he drove a fine horse, rode in a high sulky, and wore kid gloves. Bragg, in his rejoinder, stated that he was not at all an aristocrat, but only a hard-toiling lawyer, and the son of a plain carpenter, who had exhausted his means in educating his children. "But, fellow-citizens," said he, "General Dockery himself is in fact the aristocratic candidate, for he lives in the only brick house in the

whole county of Richmond." At this juncture the General rose right up behind him, and, raising up his hands before the crowd, exclaiming in a loud voice: "Yes, and these old yaller hands made all the bricks that went into it, and toted them up thar, too." The effect was crushing, the crowd yelled, and Bragg was afterwards heard to say he wished he had left the old brick house alone. He defeated Dockery by a majority of two thousand and eighty-five votes, and was inaugurated Governor of North Carolina on the first day of January, 1855.

In 1856 he was again nominated for the second term, his opponent this time being Hon. John A. Gilmer, of Guilford county. Mr. Gilmer had a high reputation both as lawyer and politician. He was looked upon as the strongest man of his party, but Governor Bragg made it at once manifest that he was his equal in this admirably conducted campaign. Being desirous at their first joint discussion to have their positions clearly and correctly put before the people of the State, Governor Bragg carefully prepared a full account of their first meeting, which took place at Murphy, in Cherokee county, and sent it to a friend to be published in the Raleigh *Standard*. It was known only to his friend and the editor, and so impartially was it done that no one suspected its authorship.

In this campaign with Mr. Gilmer, Governor Bragg, though he confined himself to the record, was quite severe on the course of Mr. Rayner, who had espoused the "Know-Nothing" cause. The published accounts of these references so irritated Mr. Rayner that for a long time bitterness existed, and their intercourse became entirely estranged. During the State Fair of 1858, Mr. Rayner met an intimate friend

of the Governor at the corner of Fayetteville street, where stood the old North Carolina Book Store, and said to him: "I have a high regard for Bragg; our estrangement is not well founded, and I desire to renew our former relations." This was told the Governor a few moments afterwards in the executive office, who simply bowed his head, making no reply. That day, seeing Mr. Rayner on the fair grounds, he went straight to him and offered his hand. These men were good friends afterwards.

Governor Bragg defeated Mr. Gilmer by a majority of twelve thousand six hundred and twenty-eight votes, and was the second time inaugurated Governor of North Carolina on the first day of January, 1857.

In his judicial appointments he exercised sound judgment. He was impressed with the belief that young men of promise and of good and studious habits would make the best judges, as they would subject themselves to greater application. Under this view he appointed Jesse G. Shepherd, of Cumberland, and Samuel J. Person, of New Hanover, Judges of the Superior Courts, and they adorned the bench and were among our most efficient judges. In this connection, in 1855, he conferred the appointment of Attorney-General upon Hon. Joseph B. Batchelor, then a young man, and now one of the leading lawyers of the State.

In the fall of 1856, and about the time of the State Fair, the Governors of the Southern States were called to meet in Raleigh to consider such action as might become necessary in the event of Frémont's election to the Presidency of the United States in November following. Governor Wise, of Virginia, Governor Adams, of South Carolina, and Governor

Bragg, of North Carolina, were the only Governors present. An informal meeting was held in the parlors at the executive mansion. Among others present were General L. O'B. Branch, Governor Holden, Wesley Jones, A. M. Lewis, M. A. Bledsoe, Joseph A. Engelhard, and Pulaski Cowper. The *Raleigh Register*, then edited by Major Seaton Gales, a vigorous and ready writer, charged that this meeting of Governors was a step to break up the Union, and was quite severe in its criticisms. Governor Wise was warm and determined in his views, and favored immediate resistance, by fighting in the Union, in the event of Frémont's election, and that his election should be accepted as the overt act. Governor Bragg's position was quite conservative, his views being calmly stated. His sound reason, prudence, and wise counsel produced a deep impression, and was the subject of much favorable comment the next day. Owing to the small number of Governors present, nothing definite was outlined, but this may be characterized as the first secession meeting ever held in the South.

In the Legislature of 1858 Governor Bragg was elected United States Senator. He took a high stand in the Senate, and made a noted speech on the bill providing for the Florida Claims. He also took an active part in the discussion of other important measures of that time.

When the war had commenced, and the State had seceded, he resigned his seat in the Senate and returned to Raleigh. Upon the death of Governor Ellis, which occurred in June, 1861, Hon. Henry T. Clark, of Edgecombe county, by virtue of his office as Speaker of the Senate, became Governor. Governor Clark, under the law giving him power to appoint three persons to act as his military council,

appointed Governor Bragg, Colonel Spier Whitaker, and General D. M. Barringer to compose this board. Governor Bragg held this position for only a short time, when he resigned.

Though not openly opposed to the war, and sensible of the just grounds that the South had to resist the unconstitutional encroachments of the North, yet he did not believe the South could establish her independence. He thought the preponderance of the North's population, together with wealth and resources, easy access to aid from the outside world, advantage of retaining the government and its possession of the entire navy, were too great odds against us. He saw that the spirit of our people was too high, their determination of resistance too united to take kindly any suggestions of doubt or difficulty. He therefore kept his opinions within his own breast. He said to a friend on his front porch, in July, 1861: "Our people are excited, and do not consider, I fear, the strength of the enemy; they look upon it as an easy job, and they believe the war will soon be over; but, in my opinion, it will be of long duration, and hotly contested on both sides. When our ports are blockaded and the gunboats come up our rivers, as will be the case, and our people encounter the hardships that will follow, I fear their spirits will weaken and dissension will come. I do not think we will succeed; but I will say this only to you." Continuing, he said: "I shall do all in my power to secure our success. I will stand by the old State, and if the worst shall ultimately come, as I very much fear, I will go down with her, and when all is over I will do what I can to save what is left of her."

After the removal of the Confederate Government

to Richmond, Va., Mr. Davis, in 1863, tendered to him the position of Attorney-General of the Confederate States, which he accepted. He held this high office but a few months, when he resigned. Some speculation obtained as to the cause of his early retirement. Suffice it to say, that his reasons for doing so were cogent and well-founded, as all of his conclusions were. They were of a private nature, and need not be related in this sketch.

Upon his acceptance of the place of Attorney-General he rented out his residence in Raleigh and removed his family to Petersburg, Va. In the spring of 1864 he returned with his family to Raleigh, where he was residing when the war ended.

The conclusion of the war found him, like a large number of the people of the South, wasted in substance, without means or prospects, and bereft of all save a shelter from the winds and the cold. He was reluctant to return to the practice of the law, and had determined not to again resume it. He had been out of the practice from 1855 to 1865, and had entirely neglected its study during that time. He said he was rusty, and had about forgotten all the law he ever knew, and nothing but a dependent family could induce him to take it up again. He did resume it, and gave to it his former labor and endurance, and the eminence and success he attained is well known to the bar and people of the State.

Beyond doubt the greatest forensic effort of Governor Bragg's life was his speech in the Johnston will case tried before Judge A. S. Merrimon, at Edenton, in February, 1867. Probably so large and able an array of counsel was never before engaged in any suit in North Carolina. The late Mr. James C. Johnston, the wealthiest man in the State, had

devised his estate to the late Mr. Edward Wood and his (Mr. Johnston's) three overseers, neither of whom were related to him. The next of kin sought to break the will, alleging mental disqualification. The case occupied twenty-three days in the trial, and the best legal talent in the State was engaged in it. The attorneys representing the will were B. F. Moore, W. N. H. Smith, R. R. Heath, H. A. Gilliam, P. H. Winston, Edward Conigland, John Pool, and T. H. Gilliam; those representing the contestants were Bragg, Graham, Vance, Augustus Moore, William Eaton, James W. Hinton, of Norfolk, Va., and William F. Martin. Governor Bragg was the leader on his side, and Mr. Moore was the leader on the opposite side. Dr. Hammond, of New York, the distinguished specialist, was introduced as a witness, and presented as an expert to show the want of mental capacity of the testator. His examination, by the counsel of both sides, was most searching, and it is said that his cross-examination by Mr. B. F. Moore was as fine, if not the finest, professional work of the kind ever done in the State. Judge Merrimon presided with great ability, patience and impartiality, and well sustained the high reputation he had for being one of our ablest Superior Court Judges; Governor Bragg spoke seven hours, making the greatest speech of his life before a jury. Chief Justice Merrimon, referring to this speech, said: "Upon an issue of fact it was the strongest speech I ever heard." Judge Gilliam said: "Governor Bragg was at his greatest (he was a very great man), and by his ability and his preëminent tact in the management of his side of the case for a long time put in peril the integrity of a will which should never have been questioned." The will was established. An appeal was taken to the Supreme Court, but the decision of the

court below was affirmed.

The *habeas corpus* cases in 1870 are well remembered. The history of those times and the incidents arising have not been forgotten by the people of the State. That the great writ of *habeas corpus*, issuing from a properly constituted authority, should have been entirely disregarded, was a blow at the rights of the individual and a significant stride towards executive usurpation and the overthrow of the rule of law. That there should be no presumption of innocence until the contrary was shown, and that the surest and quickest avenue of establishing innocence of crime should have been obstructed by a usurped military despotism, betokened that the liberty of the citizen was fast vanishing, and he was soon to become helpless indeed. Governor Bragg was among the foremost in vindicating the law and in maintaining and preserving its supremacy. He made a strong appeal for the defense of right and justice, and protested, in burning eloquence, against the least infringement of the citizen's security, so watchfully guarded by the Constitution. His memorable words are engraven in the hearts of the people.

While Governor Bragg was making his forcible appeal for constitutional law and liberty, the late venerable Judge Battle was listening with marked interest and attention. As the speaker extolled the past lustre of North Carolina for the maintenance of law and liberty, and contrasted her former power and renown with the impending destruction of her people's highest privilege and greatest boon—their mighty writ of right and safety—the brightest jewel that ever decked the vesture of the English law—heeded for centuries, and ever granted when fitly craved—this eminent and pure judge, thoughtful of

his State's honor, could not restrain his emotion, and tears trickled down his whitened cheeks. When the speech was concluded Judge Battle said that it was the most eloquent and powerful argument he had ever heard in that court room. This was a compliment indeed; because, with honorable distinction, for many years, he had sat upon the bench of that high Court, and had heard the arguments of the State's brightest legal luminaries, whose broad intellectualism was the wonder and the admiration of the time, and whose lives and reputations have done so much to mould and to make the Court's past and present history.

The last great effort of Governor Bragg was in the Holden impeachment trial, the history of which is fresh in recollection. He appeared for the State, and pressed with fervor the impeachment. He made a long, close, and exhaustive argument, was listened to with the deepest and most marked attention, and his speech was considered by many among the best of his life. When he concluded Mr. Conigland, one of Governor Holden's counsel, walked over to where he sat, and, taking his hand, said: "Governor, you have made a grand speech, but it does not equal your Johnston will speech." Mr. Paul C. Cameron, who was his schoolmate and drillmaster at Captain Partridge's military school, a man ripe in years, and yet riper in intellect, judgment, and learning, said that he had observed Governor Bragg from his early manhood to his death, and he had never known any one who had better sustained himself before the people in every capacity; and that though he was confronted in this trial by the strongest lawyers in the State, whose reputations were without limit, he considered that his speech was the most complete

and exhaustive of any delivered on that occasion. General Thomas L. Clingman, a statesman of the old school, pronounced this speech as "overwhelming and unanswerable."

Governor Bragg was a well-fledged and thorough lawyer, and he made himself so by constant application and close study. He was a man of vigorous intellect and strong common sense. He was one among the few lawyers who studied thoroughly his adversary's case and anticipated the points he would most likely present, and was generally ready to meet and combat them. In conducting the examination of a witness he exhibited great tact and skill. This faculty of cross-examination, so effective in conducting suits, was a potent element in his practice, and gave him no little advantage in the trial of cases.

He was an open and frank practitioner, never taking a "nigh cut," but was just and magnanimous, and was possessed of the confidence and esteem of the profession throughout the State. He was as well-rounded a lawyer as the State ever had.

Just thirteen months prior to his death he associated with him Judge George V. Strong, a leading lawyer of the Goldsboro bar. This was an able combination, and promised the utmost success, for during the term of their connection their practice amounted to over nineteen thousand dollars.

Probably no two men were more generally pitted against each other in the courts which they attended than Governor Bragg and the late Chief Justice Smith. Their style of speaking was different. Governor Bragg's was simple, strong, and engaging; Judge Smith's was easy, forceful and very fluent. Their temperaments were also diverse. If an

important case went adversely to Governor Bragg he dismissed it from his mind, and was not depressed about it; but Judge Smith was for the time keenly sensitive, and took to heart the loss of his case. Their intercourse, however, notwithstanding these frequent conflicts, was genial and their friendship true; but Judge Smith accepted it not graciously that Governor Bragg should have come down into his district and taken part against him in his campaign for Congress against Doctor Shaw. In a previous campaign with Colonel Outlaw, Doctor Shaw did not feel that Governor Bragg, who then resided in the district, had taken a sufficiently active part in his behalf, and being now hard pressed by Judge Smith, and the party needing all help at hand, Governor Bragg yielded to the general request and made several speeches in the district. But this spasmodic feeling soon vanished, this circumstance was forgotten, and these men left behind them lives alike well spent and distinguished and memories equally honored and revered.

When the Holden impeachment trial took place Governor Bragg had begun to fail, but not very perceptibly. The severe struggle, mental and physical, which he underwent during that trial hastened his end. He began soon after its conclusion rapidly to decline, and it was visible to all that his "last of earth" was fast approaching. It was painful to see the pallor of his countenance increase day by day, but he did not give up and it may be said that he worked in the harness up to his death.

On Friday, the 19th of January, 1872, he took his bed, never again to arise from it. He knew he was going to die, but he was calm and composed, exhibiting not the slightest fear of death. He said:

"For the benefit of my family I would like to live ten years longer, but apart from that the matter of death gives me no concern."

His will was in his own handwriting, and in these words: "I give and bequeath to my wife, Isabella M. Bragg, all my real and personal estate of every description whatsoever. She knows my wishes, and I know she will carry them out." He was kept alive for a day or two with whiskey and gruel, and when this was given to him he would ask, "How much whiskey, and how much gruel?" Being told, he said, "You see the whiskey predominates. This is done to keep me alive for a little while, when I know I cannot live. I do not want it done. There is no use in keeping me alive in this way and giving you all the trouble of waiting on me. I protest against it."

On the evening before he died the door-bell rang. He saw his friend Mr. Cowper go to the door, and on his return he asked who it was, and being told that it was Governor Graham, said: "I have a high regard for him, and I regret very much that he was not asked in. I want you to go down to his room and tell him I am very sorry he was not brought in to see me, and that I should be pleased to see him." Governor Graham was much impressed and deeply moved when the message was delivered to him.

On Saturday evening he called his family to his bedside, and in beautiful language of wisdom gave them counsel and advice. In the midst of sorrow which such a solemn occasion would naturally bring, his eye was not moistened, his voice did not falter, and as calmly as if he were going on a short journey, he imparted to them words of advice "like apples of gold in pictures of silver." "My children," said he, "I wish to impress one thing upon you: always stand

together, comfort and assist each other, consider that no necessity can arise by which you could feel justified in raising a hand or uttering a word one against the other."

Shortly before his death he uttered these words: "I have no doubt that I have my sins and transgressions to account for. All men must so account. I have endeavored to lead an exemplary life. I have never seen the time that I felt I could be induced, through fear, favor, affection, reward, or the hope of reward, to do otherwise than my conscience would dictate to me as right and proper. The future has always been to me, and is now, a deep, dark mystery."

A little while before day on Sunday morning, while resting quietly, but not sleeping, he heard the sound of wood being put on the fire in the adjoining room, and remarked: "It must be near day; I hear them making a fire in the next room." A few minutes after this he straightened himself in bed, placed his head on a line with his body, folded his arms across his breast, and in a little while was dead. It was on Sunday morning, January 21, 1872, about the hour of five o'clock, that he thus peacefully passed away in the sixty-second year of his age. He left a wife and seven children—three sons and four daughters. The wife and two sons have since "passed over the river" and entered the vale of the future and into the "deep, dark mystery."

He was buried the next day in Oakwood Cemetery, near the city of Raleigh. Both Houses of the Legislature and the Superior Court of Wake, then in session, adjourned for the day, and all the business houses of the city closed their doors to show their respect for his character and worth. On the following day a large meeting was held in the Supreme Court-

room to do further honor to the life and services of the distinguished dead.

He was a man of kind heart, tender sympathies and noble impulses; a devoted husband and an indulgent father; and though he was not demonstrative, yet his friendship was valuable, because it was consistent and true. He was as true a man as ever trod the soil of his native land.

The younger members of the bar will recall with pleasure his courteous bearing to them, the delight it seemed to give him to render them assistance, and the painstaking aid he would bestow when his legal advice was solicited. The older members will long remember his quiet and dignified demeanor, his social intercourse, his manliness of character and his integrity, merit and worth.

He possessed those qualities which adorn and elevate society and exalt and ennoble human character. He has left a high and noble name, a reputation unspotted and untarnished—a priceless legacy to his posterity, and an enduring heritage to his State and country. It will not be dimmed as time proceeds.

The account of the discussion at Murphy, Cherokee county, previously referred to, is reproduced, and appended hereto, as interesting matter, showing the impartiality with which it was done, and calling to mind some of the issues of former and better days. This was Mr. Gilmer's first appointment, and Governor Bragg, seeing it announced in the *Raleigh Register*, went there to meet him. Desiring to put him on record, and have the East apprised of his position,

he wrote the account of the discussion as given in the *Standard* of May, 1856, and sent it to the writer to deliver to Mr. Holden, with request that no intimation be given as to the writer of the article. No mention of this was made until after Governor Bragg's death, and upon the publication of this sketch.

The Bragg and Dockery campaign closed on the day of election at Murphy in August, 1854, and the Bragg and Gilmer campaign opened there in May, 1856.

ACCOUNT OF A POLITICAL DISCUSSION. (From the *North Carolina Standard* of May, 1856).

MURPHY, CHEROKEE CO., May 9, 1856.

Editors of the North Carolina Standard.

Gentlemen:—The discussion between the gubernatorial candidates opened here yesterday, and I propose to give you the points made and the substance of what was said on that occasion. There were probably two hundred persons present, and there would have been more had it been generally known that both candidates would be present. Until Governor Bragg arrived it was doubted whether he would attend, as the *Standard* announcing his intention to do so did not reach us until the day of his arrival.

Mr. Gilmer opened the discussion by informing the people that his name was John A. Gilmer—that he was a candidate for the office of Governor, and had

come among them for the purpose of presenting his claims for their suffrages. He said he had found the country beautiful and romantic far beyond his expectations—never having before been on this side the mountains—and that when he was in the Legislature he voted for the measures introduced for their relief and for the improvement of their section.

He said that a short time ago he had no intention of becoming a candidate—that he had not now, nor ever had, any political ambition, but that he had listened to the importunities of friends, and had yielded rather to feeling than to his better judgment.

He said the organ of the party to which his opponent belonged had said that he had a bad political record, and it had referred to many of his votes and addresses to show that he was a Western man. Well, he was ready to defend these votes and addresses; they were brought forward to injure him in the East. He was then justified in making an appeal to the people of the West to sustain him as a Western man. First, he was charged with having voted to distribute the school fund according to white instead of federal population. He said it was true and asked if he had not done right in so doing. He referred to the first law introduced and passed under the auspices of Bartlett Yancey, Esq., to raise the fund and distribute it among the white children of the State. In 1838-'39 it was submitted to the people and accepted on that basis. In 1842, when the Democrats got into power, they altered the law to the federal basis, the effect of which was to give to a child in the East five or six times as much as to one in the West. This was unjust, and was a violation of the original agreement upon which the fund was raised. He further said that had Western men been

true to themselves, Governor Reid never could have been elected, occupying the position he did upon this question; that *party* was allowed to overcome their rights and true interests; for, taking the counties favoring the present mode of distributing the fund and those against it, there would be found a majority of fourteen or fifteen thousand in the latter. In the vote he had given he had carried out the will of his constituents, and he put it to them to say if it was fair to charge him with being a Western man with a view to injure him. He hoped, if such was the case, the West would stand by him. Next, as to free suffrage. He had been charged with being opposed to that. This was not true. He was always for it, provided it could be passed in a proper manner and with such guards and qualifications as, in his opinion, ought to go with it. He preferred a convention. He could not see why the West was disturbed on that question, willing as she was to go into convention on the federal basis. There all things could be settled. They could elect their justices of the peace by the people, and establish cheap justices' courts for the trial of petty offenses, and thus keep them from the courts; that it was important that justices should be elected by the people, as they laid the county taxes.

He said he voted against the present free-suffrage bill because there was no provision in it to prevent the undue taxation of land; that the Senate, as now constituted, was a check on such taxation; but, abolish the freehold qualification for voters, and where would the check be; that he had offered an amendment himself which, had it passed, he would have voted for the bill, and waived his objection to the legislative mode of amendment; that the object of this amendment was to provide simply a protection

to lands by requiring land, the slave poll and white poll to be taxed alike; that, in his opinion, something ought to be adopted to protect the landholder.

He said that the *Standard* had called him the "shin-plaster candidate." It was true that his face appeared upon the bills of a small bank in his town, but he was in no way concerned in the same, and had no interest in the institution. He was, however, opposed to the law, and would make war upon any law which undertook to do away with small notes. Why take away small notes, the only currency which a poor man could get? The rich could get large bills, but they were beyond the reach of a poor man. (Here Mr. Gilmer entered into a rather elaborate argument to sustain the policy of small banknotes, and read the *Bank Note Reporter* and other authorities to show that true policy required their free circulation, and that the worst consequences had followed their discontinuance in some of the States.)

He next shadowed forth a project for a new bank, to be owned in part by the State and part by individuals. For every one hundred dollars the State owns in railroad stock he would have her own a like amount in stock in the bank, and the same as to individuals; something was said also as to State bonds forming a part of the basis, but the writer did not clearly catch the idea.

It was insisted, however, by Mr. Gilmer, that such a bank would be very profitable, and that the State would realize enough from the profits to pay the interest of the State debt, and relieve the people from taxation; and the plan was, he said, for the bank to issue mostly one and two dollar notes for currency, as in South Carolina.

He was, too, in favor of having our State bonds,

and the interest on the same, payable in North Carolina, and not in New York, and thus keeping the money of our people at home. He said the national debt of England, being due to her own people, strengthened her, while ours acted as a continual drain to pay interest in New York.

After speaking one and a half hours, Mr. Gilmer said he desired, before he closed, to say something on Federal politics, and the principles of the American party, of which he was a candidate.

He said when Mr. Fillmore left the Presidency all was quiet. He had approved of the Compromise measures; and when Boston had rebelled against the fugitive-slave law, he declared he would enforce the law or burn the city, and it was enforced. We had extremists at both ends of the Union. Formerly, the Nashville Convention said the Union should be dissolved unless the Missouri Compromise line should be adopted. Now, the black Republicans said it should be dissolved unless it was restored.

Mr. Fillmore, in his message, said the existing laws were a finality on the subject of slavery—both the great parties said so in 1852, and agreed to abide by it. Did they do it? No; hence the troubles we now have. He had no doubt but that Mr. Pierce had acted honestly, but he had appointed freesoilers from the North and fire-eaters from the South, in order to reconcile all; but this had not been the result, and the country could only be saved by the honest men of both parties. He, therefore, advocated the principles of the American party—that Americans should rule America—that the influence of foreigners was great—that it gave the North a preponderating increase of population—that it ought to be checked, and that foreigners ought to remain here twenty-one

years before voting, and that Catholics who owed allegiance to the Pope ought not to be allowed to hold office; that no one could insist that this was persecution; that the charge that it was was false and unfounded, and it was known to be so.

He then asked who was the founder of the American party. Said it was George Washington, and read from several of his letters to show it. He also read from a speech of Mr. Buchanan as to foreign influence, etc., and, after justifying the course of his party as to the Catholics, he closed, having spoken two hours and ten minutes.

Governor Bragg arose, and said: Two years ago this summer he closed the canvass with his then competitor. It had pleased a majority of the people of the State to elect him Governor. He had acted as such since the first of January, 1855. He had endeavored to discharge all his duties faithfully. The people, however, would be the judges of that. He would say, however, that he was not aware of any charges against him for not doing so; and if there was no just ground for complaint, then he submitted to all fair-minded men whether he had not now some right to ask at their hands a liberal and generous support in the present contest.

He said he concurred with Mr. Gilmer as to the beauty and fertility of their country, and as to what he had said in relation to its improvement, and hoped to see the day when its now comparatively hidden and locked up resources would be laid open and developed.

He said that he was surprised to hear his competitor to-day enter into the discussion of some matters which he had not supposed would be brought into this canvass, and he was still more

surprised to see the manner in which he had treated them. His competitor complained that the *Standard* had assailed him for his vote some years ago as to the distribution of the school fund. This was a mistake. The *Standard* had never, to his knowledge referred to it at all. It may have been done in some other paper, but his competitor would find, as *he* had done in a former contest, that it was useless to notice attacks of that kind. If he did, he would have his hands full. But, from the course of his competitor, he rather thought he was availing himself of this matter to get votes in this section. He had made an elaborate argument to show the gross injustice of the present mode of distributing the school-fund, and had undertaken to show that the Democratic party was responsible for it; that the original pledge for distributing the fund had been violated; that the West had not been true to her own interests, or she would have defeated Governor Reid; and he had made a strong appeal to the people here as a Western man.

Now, said Mr. Bragg, I claim not your support either as an Eastern man or a Western man, but as one who intends to discard all sectional questions, looking to the interests and wishes of the whole State. But Mr. Gilmer is in error as to one thing—the fund chiefly for common schools was not raised by Mr. Yancey's bill, but came from the General Government as part of the surplus revenue under General Jackson's administration. Nor did the Democrats of 1842 introduce the present mode of distribution by a repeal of any other law, but it was done before that time—it was not a party vote, but it was one about which there was difference of opinion and contest without the slightest regard to party. Time and again the matter was brought before the

Legislature, but for several years past the question had ceased to be raised. It was considered as settled. In the last contest it was so considered between him and his competitor, and he regretted that Mr. Gilmer had deemed it proper to reopen it. It would do no good; it would again lead to sectional strife; it would retard the public improvements of the State, and nothing practical would come of it, because experience had shown that it could not be changed. It would even injure the common schools which were now doing well and improving under the efficient management of our State Superintendent. Governor Bragg said that he had no wish to conceal his own opinions on this subject. He was against disturbing the matter. He would say so in the West; he would say so in the East. And now, said he, turning to Mr. Gilmer, I want my competitor to state his position. He has said a great deal about the matter, but has not told you what he will recommend in case he should be elected.

(At first Mr. Gilmer declined to answer, but before the discussion closed he said that the opinions advanced by him were his *private* opinions; but if elected Governor he would not recommend any change, but would acquiesce in the present law, whatever his own opinions might be.)

Then, said Governor Bragg, there is practically no difference between us. But my competitor makes a public argument in order to express his private opinions, and makes it in such a way as he thinks will get him votes here. I hope, said Governor Bragg, he will take the same course all over the State.

As to free suffrage, Governor Bragg said that his competitor professed to be a great free-suffrage man, but somehow always voted against it. Formerly, we

were told that it was wrong to pass it by the Legislature; that it must be done by a convention. That was the objection two years ago. He had then told the people that it was idle to talk about a convention; that the action of the several Legislatures for years past had shown it to be so; that we must take things as they are, and act accordingly. Now he would remind the people of what he said, and would ask if it was not true, for, if they would examine the journals of the last General Assembly, they would find that the convention bill, when offered in the Senate, received the votes only of some sixteen out of the fifty members, and in the House of Commons never received, in any of the different shapes in which it was offered, more than forty out of one hundred and twenty members, thus showing, conclusively, that there was a large majority—two to one—against a convention in the Commons, in which house the West has a majority opposed to the call of a convention; whilst upon the passage, in the same House, of the free-suffrage bill, there were only fifteen votes against it, the members from Cherokee and most of the mountain counties who had voted for a convention voting for the bill. But his competitor, as already stated, had in every case voted against the bill, and says he is yet against it, unless an amendment offered by him, or some other, could be adopted; and, as that cannot be done now, the bill having passed through one Legislature, and to amend it would be to destroy it, of course his competitor was opposed to it. Governor Bragg said that the opponents of this measure were always finding some objection to it. First, it was to be done by an open convention, then by a restricted convention, and now it seems his competitor falls back upon an old objection always urged by those in

favor of keeping things as they are, that there is danger that the landed interest would be burdened unduly with taxes. This was altogether chimerical—such had not been the case in other States. It was the largest and most powerful interest in the State, and members of the Assembly could not do such a thing and sustain themselves at home. Nor was it likely they ever would attempt it, inasmuch as they themselves must be landholders, and would suffer as well as other land proprietors. The thing was preposterous. Let the freemen of the State, then, be true to themselves, and the measure would be passed. But let them be on their guard. Every effort will be made by open enemies and pretended friends to defeat it.

As to the tempting bait held out to them of having cheap courts and trials of petty offenses before justices of the peace, and thus keeping such matters out of court, no one know better than Mr. Gilmer that the Legislature had power to do that without a convention; and if he thought it expedient, he ought to have done it when in the Legislature.

As to Mr. Gilmer's bank notions, in relation to which he wished to know Governor Bragg's opinion, he, Governor Bragg, stated he should have it whenever he would set them out with such plainness as to enable him to see what they were.

His competitor made brave promises, however, to the people that it would pay the interest on the State debt, and save them from taxation. He would say this —he did not believe that interest, debts, and taxes could be paid by any such legislative *hocus pocus*. As to small notes, the Governor said that the matter was not one of a party character; that he had no wish to follow Mr. Gilmer into that discussion, as it would

consume all his time, and he much preferred to discuss what the Know-Nothing platform called the "Paramount Principles of Americanism"; and he would proceed to that after saying a word as to Mr. Gilmer's idea that our State bonds and the interest thereon should all be payable in North Carolina. Had he seen as much of this matter as I have done, said Governor Bragg, since I went into office, he would change his opinion. He said it would all be well enough to have our bonds paid here, if they could be sold here in sufficient quantities. But our public works would have stopped had they depended on sales in North Carolina, and our Treasurer and railroad presidents would tell him so; and moreover, that bonds payable here could not be sold in New York.

The Legislature had not taken the view of his competitor, and he thought they had acted wisely.

Governor Bragg said that he thought that the allusion of Mr. Gilmer to Mr. Fillmore and his execution of the fugitive-slave law was exceedingly unfortunate. In that case the negroes were allowed to be taken away from the United States authorities and carried off. In the case of Mr. Pierce, Anthony Burns, by the aid of the whole power of the Government was returned to his owner.

His competitor talked a great deal about the peace and quiet of Mr. Fillmore's administration, and charges Black Republicans and Democrats with causing all the excitement and danger of the existing troubles, and he stands upon a platform, said Governor Bragg, which denounces the administration for having recklessly and unwisely repealed the Missouri Compromise—a pretty platform for a Southern man to stand upon, especially when

adopted in place of that of the year before. He read from the speech of Mr. Badger to show that all the Whig Senators from the South supported the Kansas-Nebraska Bill, except one, and that the measure was passed by Northern and Southern Democrats and Southern Whigs, and that Mr. Badger said it was right and proper that it should pass.

Governor Bragg then gave the history of the Missouri Compromise line—showed how unjust it was to the South originally, that the South had, however, shown every disposition to abide by it, and had time and again sought to have it extended over the new territory to the Pacific, while the North repudiated that line. The South was, therefore, not properly chargeable with any breach of faith, and was right to get rid of the odious act. Now, he said, there were questions of vital importance growing out of that matter, and he wished to know where our Know-Nothing opponents stood with regard to them. But no one could tell. What was Mr. Fillmore's opinion upon any one of these questions? Nobody knew. He had said nothing while at home, and at the last accounts, strange as it might seem to Know-Nothing ears, he was in the city of Rome partaking of the hospitalities of the Pope. When the matter is pressed, we are told that the party eschews all sectional questions, state and national, in order that the "Paramount Principles of Americanism" may have full play, thus raising the question only, who shall hold the offices of the country, and not, in what manner our government shall be administered. Can it be possible, said Governor Bragg, that the people will be thus humbugged and trifled with when the country is in danger?

Governor Bragg said he would then examine the

claims of this new party. He went into a full examination of its principles; stated what had been its history North and South; what had been its fruits in different sections; how it sent nothing but abolitionists and freesoilers to Congress, and challenged his competitor to point to one solitary Northern national man of his party in either house of Congress; gave the history of the election of Speaker of the House of Representatives, and how not one of them voted for Aiken when the contest was between him and Banks, although five of them had voted for him the day before, including their candidate Fuller.

He then examined into its origin, and traced out the machinery of the whole thing; showed that it was a monstrous attempt to subvert the plan of government adopted by our fathers, and to substitute in its stead these worse than midnight Jacobin clubs. But I am unable to follow the Governor through this part of his speech without too much prolixity.

He exposed their constitutions, rituals, obligations and oaths, some of which he read. Said they had been hunted from their dark places in this State, and now profess to have done away with all this—how and in what way does not appear—while at the North these councils, as appears from their last national platform, are still kept up.

He concluded by saying that such a party did not deserve support of a free people, nor did he believe they would receive it. He was willing to go before the people of North Carolina on this subject, and should do so confident of success.

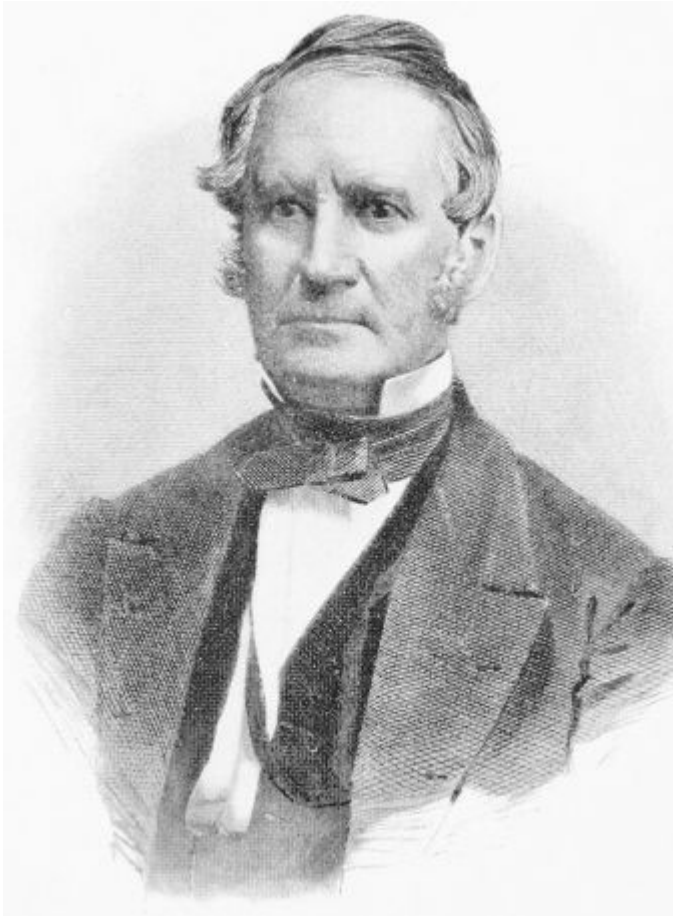
Mr. Cowper himself selected Governor Bragg's

account of the discussion above given as illustrative of his judicial fairness of mind, and I have adopted it for all purposes. Of course there is nothing in it to show Bragg's strength of intellect. The discussion as reported is interesting, however, as a side-light on those times.

Bragg was essentially a lawyer. His practical sagacity and hard common sense, however, as well as his wide political reading, made him a success both in politics and law, a rare combination.

His speech in the Holden impeachment would give a better idea of his talents, but it is too long for the scope of this work; and all the facts and speeches of every trial should be published together in justice to the accused.

This sketch was written in 1891, and is here given in a slightly abbreviated form.



WILLIAM A. GRAHAM.

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BY MONTFORD McGEHEE.

William Alexander Graham was born on the 5th day of September, 1804, in the county of Lincoln. He was fortunate alike in the race from which he sprang and in his own ancestry. The race was that which, by a change of residence from Scotland to Ireland, anterior to its immigration to this country, acquired, as it were, a double nationality and name, to wit: Scotch-Irish.

The ancestry of Mr. Graham were deeply imbued with the spirit of this people. His maternal grandfather, Major John Davidson, was one of the signers of the Mecklenburg Declaration, and acted a conspicuous part in the Revolution. The name of his father, General Joseph Graham, is one of the best known in our Revolutionary annals. The biographical sketch incorporated into *Wheeler's History* is a brief but noble record.

His mother was distinguished for her personal beauty—distinguished as well for her sense, piety and many amiable virtues. But death deprived him of her fostering care before he had attained his fourth year, and he was then consigned to the care of an elder sister. The tender affection and respect with which he always referred to this sister, attests how fully she discharged a mother's duty.

He received the rudiments of his education in the common schools of the country. He commenced his

classical education in the academy at Statesville, then under the care of the Rev. Dr. Muchat, a scholar of good repute. Mr. Graham verified the apparent paradox of Wordsworth,

"The child is father of the man."

He was noted, from his earlier years, for his industry, his thirst for knowledge and his aptitude to learn. One who knew him well testifies that from his childhood he was no less remarkable for his high sense of truth and honor than for his exemption from the levities and vices common to youth. At this academy he applied himself to his studies with the most exemplary diligence. A classmate at that time says of him, "He was the only boy I ever knew who would spend his Saturdays in reviewing the studies of the week."

An incident which occurred about this time affords a striking proof of his early force of character. General Graham was a pioneer in a branch of industry yet but little developed in this State—the manufacture of iron. Upon his removal to Lincoln he established a furnace and forge, which, at the time now spoken of, had become quite extensive. From some cause the works were left without a superintendent. The General installed his son William, though then but a boy, and wholly without experience, at the head of the establishment; and the energy and judgment with which he conducted it, obtained his father's entire approval. He was next sent to the academy at Hillsborough.

From this academy he went to the University of the State, where he was matriculated in the summer of 1820. His course throughout his college life was admirable in every way. He appreciated the scheme of study there established, not only as the best

discipline of the intellect, but as the best foundation for knowledge in its widest sense. He mastered his lessons so perfectly, that each lesson became a permanent addition to his stock of knowledge. The professors rarely failed to testify by a smile, or some other token, their approval of his proficiency. On one occasion, Professor Olmstead (who has achieved a wide reputation in the field of science) remarked to one of his classmates that his lecture on chemistry came back as perfectly from Mr. Graham as he had uttered it on the previous day.

Some thirty years after, the same professor in a letter to Mr. Graham (then Secretary of the Navy) uses this language: "It has often been a source of pleasing reflection to me, that I was permitted to bear some part in fitting you, in early life, for that elevated post of honor and usefulness to which Providence has conducted you."

His high sense of duty was manifested in his conscientious deportment under the peculiar form of government to which he was then subject. His observance of every law and usage of the college was punctilious; while, to the faculty, he was ever scrupulously and conspicuously respectful.

His extraordinary proficiency was purchased by no laborious drudgery. The secret of it was to be found in the precept which he acted upon, through life: "Whatsoever thy hand findeth to do, do it with thy might." His powers of concentration were great, his perceptions quick, his memory powerful, prompt, and assiduously improved. By the joint force of such faculties, he could accomplish much in little time. Hence, notwithstanding his exemplary attention to his college studies, he devoted much time to general reading. It was at this time, no doubt, that he laid up

much of that large and varied stock of information upon which he drew, at pleasure, in after life.

Intent upon availing himself to the full, of every advantage afforded him, he applied himself assiduously to the duties of the Literary Society of which he was a member. He participated regularly in the debates and other exercises of that body. For all such he prepared himself with care; and it is asserted by the same authority, to which I have already referred—a most competent judge—that his compositions were of such excellence that, in a literary point of view, they would have challenged comparison with anything done by him in after life.

His engaging manners brought him into pleasant relations with all his fellow-students. He lived with them upon terms of the frankest and most familiar intercourse. In their most athletic sports he never participated, but he was a pleased spectator, and evinced by his manner a hearty sympathy with their enjoyments. His favorite exercise was walking, and those who knew him well will recollect that this continued to be his favorite recreation while health was spared him. With his friends and chosen companions he was cordial and easy, and always the life of the circle.

The class of which he was a member was graduated in 1824. It was the largest up to that time; and, for capacity and proficiency, esteemed the best. It was declared by Professors Olmstead and Mitchell, that Yale might well have been proud of such a class. It embraced many who afterward won high distinction in political and professional life.

No one could have availed himself to a greater extent than Mr. Graham did, of the opportunities presented in his collegiate career. "His college life, in

all its duties and obligations," says the gentleman before quoted, "was an epitome of his career upon the stage of the world." He adds that on the day when he received his diploma, he could, with his usual habits of study, have filled any chair with honor to himself and acceptance to his class. Such is the emphatic testimony of one who himself graduated with high distinction in the same class. Might we not subjoin, building upon the above remark, that his career in after life was, in great part, the logical result of the discipline and training to which he submitted himself, so conscientiously, in his college life?

After graduation he made an excursion to some of the western States, which occupied a few months. While at Lexington, he heard Mr. Crittenden address the jury in a great slander or libel case. The speech, which was worthy of the great advocate's fame, made a profound impression upon Mr. Graham. It may have had some influence in determining his choice of a profession, or in fixing it, if already made. From this tour he returned in 1824, and entered upon the study of the law in the office of Judge Ruffin.

He obtained his County Court license in the summer of 1826. At August term of the court he appeared at the Orange bar. The rule then required, between the admission to practice in the County Court and the admission to practice in the Superior Court, a novitiate of one year. This period he spent in Hillsborough that he might continue to profit by the instruction of his learned preceptor. At the end of the year he received his Superior Court license. It was now a question where he should establish himself for the practice of his profession. The

counties of Mecklenburg, Cabarrus and Lincoln were filled with his blood relations, connections and friends. They were among the most distinguished for their wealth, intelligence and Revolutionary service. Their combined influence would give him command of all the important business of those counties, and place him at the outset in the position of a leader of the bar. The prospect in Orange and the adjoining counties was widely different. In these latter counties he would have no adventitious advantages. The business of these counties, moreover, was engrossed by an able and a numerous bar. At the first court which he attended after he obtained his Superior Court license they mustered to the number of twenty-six. A large proportion of these were young men recently admitted to practice; but after deducting these, and many more of longer standing and respectable position, there still remained a bar which for learning, abilities and eloquence was never surpassed in this State. Of resident lawyers there were Thomas Ruffin, Archibald D. Murphy, Willie P. Mangum, Francis L. Hawks and Frederick Nash; of lawyers attending the court, from other counties, there were George E. Badger, William H. Haywood and Bartlett Yancey. What recollections of renown connected with the forum, the Senate, and the church flood the mind as we recall these names! Fain would I pause to contemplate the career of these illustrious men, by which the character of North Carolina was so much elevated in the consideration of the world, and so much of honor brought to the State. But other subjects press upon me—subjects of more immediate interest.

Notwithstanding this formidable competition—a competition which might well dismay one at the outset of professional life—Mr. Graham resolved to

fix his residence at Hillsborough. Two reasons were assigned by him for this conclusion: first, an unwillingness to relinquish the foothold he had gained in the county courts of Orange, Granville and Guilford; second, a reluctance to sever the associations formed with his professional brethren at those courts. Another reason, quite as potent, probably, was a well-grounded confidence in his own abilities, and in his knowledge of his profession. Against such men he entered the lists, and against such he had to contend; not indeed all at the same time, but all within a period of two years. It may be mentioned as an instance of the vicissitudes of human life, that five years from the August of that year—1827—not one of those illustrious men remained at that bar.

His first case of importance in the Superior Court was one which, from peculiar causes, excited great local interest. It involved an intricate question of title to land. On the day of trial, the court room was crowded and the bar fully occupied by lawyers—many of them men of the highest professional eminence. When he came to address the jury, he spoke with modesty, but with ease and self-possession. His preparation of the case had been thorough, and the argument which he delivered is described as admirable, both as to matter and manner. When he closed Hon. William H. Haywood, who had then risen to a high position at the bar, turned to a distinguished gentleman, still living, of the same profession, and inquired who had prepared the argument which Mr. Graham had so handsomely delivered. The answer was, "It is all his own;" to which Mr. Haywood replied with the observation, "William Gaston could have done it no better."

Mr. Graham knew none of that weary probation which has been the lot of so many able men. His argument in the case just mentioned at once gave him a position of prominence. It was not long before he attained a place in the front rank of his profession. Here, with the large stores of professional knowledge which he had laid up, it was easy to sustain himself. His high mental qualifications, his habits of study, his perseverance, his unalterable faith in his cause, brought to him a constantly increasing business, and a constantly widening reputation. He was early, for so young a man, retained in the most important causes in the courts in which he practiced, and his associate counsel generally gave him the leading position in the trial.

In 1833 he was elected a member of the General Assembly from the town of Hillsborough. His first appearance on the floor has an interest from the relations subsequently existing between him and the distinguished man to whom the motion submitted by him had reference. He rose to move the sending of a message to the Senate to proceed to the election of a Governor of the State, and to put in nomination Governor Swain. A day or two after he had the satisfaction of reporting that that gentleman—who was ever afterward united to him in the closest bonds of friendship—had received a majority of votes, and of being named as first on the committee to inform him of his election. He took, from the beginning, an active part in the business of the House relating to banks, law amendments and education.

I record an incident which attests the high consideration which he had already acquired in the country, and the importance attached to his opinion.

Judge Gaston had been elected in 1833 to a seat on the Supreme Court Bench by a majority of two-thirds of the General Assembly. He had been brought up in the Roman Catholic faith—the faith of his fathers—the faith in which he died. The thirty-second section of the old constitution declared incapable of holding office all those who "deny the truth of the Protestant religion." Some dissatisfaction had been expressed at his accepting a judicial office under a constitution containing this clause, which in the opinion of some, excluded him. For some time he did not deem it necessary to advert to the matter. In 1834—November 12—he addressed a letter to Mr. Graham, enclosing a written paper, in which he stated succinctly, but with great clearness and force, the reasoning by which his acceptance had been determined. In the conclusion of his letter he referred it to Mr. Graham's judgment, to determine what degree of publicity should be given to the paper. Whether it was ever published we do not know; but when we consider Judge Gaston's high station and great name in the country, and that the purity of that name was in a measure at stake, the incident must be regarded as a singular tribute to the character which Mr. Graham had thus early established. It is well known how Judge Gaston availed himself of his place in the Convention of 1835 to set forth to the world the reasons by which his decision had been influenced—reasons so cogent and conclusive as to satisfy every mind. It is known, too, that the object of the great speech delivered by him then—an object happily accomplished—was to bring about such a modification of the obnoxious clause as to deprive it of all sectarian intolerance.

Mr. Graham was again a member from

Hillsborough in the year 1835. In the organization of the committees the post of chairman of the Committee on the Judiciary was assigned to him, and the journals bear testimony to the diligence with which its duties were discharged. It was through him, in his capacity of chairman, that the various reports of the commissioners to revise the statute laws of the State—the *Revised Code* being then in progress—were submitted to the House.

From the abilities displayed and the high position held by him in the Legislature, we should naturally expect to find him in the Constitutional Convention of 1835. It has been well said that the county of Orange has been to North Carolina, what Virginia has been to the Union, the mother of statesmen. On this occasion, by one of those caprices which sometimes seize upon communities as well as individuals, the noble old county seemed to care little for her ancient renown. There seems to have been no action by the county to secure delegates worthy of her former reputation. We learn from the remarks of one of the delegates in the Convention, that there were ten candidates in the field, and that the successful candidates were returned by so small a vote as to call forth a taunt from a member of the Convention. In such a contest Mr. Graham had no desire to enter the field; indeed, whenever he offered himself for the suffrages of his countrymen, it was as the chosen champion of the principles of a great party.

He again represented the county of Orange in the Legislatures of 1838 and 1840, in both of which he was elected Speaker. This withdrew him from the arena of debate, and we learn little more of him from the journals of those sessions than the uniform

punctuality and universal acceptability with which he discharged the duties of that high trust.

A revolution in the politics of the State brought about a vacancy, in 1840, in the representation from North Carolina in the Senate of the United States. Mr. Strange, under instructions, had resigned his seat; the term of the other Senator was near its end. There were thus two terms to be filled by the Legislature of 1841. Mr. Mangum was elected for the full term, Mr. Graham for the unexpired term. This election was considered by Mr. Graham as the most emphatic testimonial of the confidence and favor of the State which he received during his life. Mr. Mangum and he were residents of the same county, and of the many able men who might justly advance claims to the other seat Mr. Graham was the youngest. Certainly an election under such circumstances constituted a tribute of peculiar significance and value.

He was among the youngest members of the Senate when he took his seat; but he soon commanded the esteem and respect of the entire body. That, it has been truly said, was preëminently the age of great men in American parliamentary history, and of such he was regarded as the worthy compeer. "He never rose to speak," says a distinguished gentleman (Mr. Rayner), who was himself a member of Congress at that time, "that he did not receive the most respectful attention. When the Senate went into Committee of the Whole he was usually called upon to preside. Reports from him as chairman of a committee almost invariably secured the favorable consideration of the Senate." From the same authority we learn that the relations existing between him and Mr. Clay were of the most kindly

and intimate character, and that Mr. Clay "regarded him as a most superior man, socially and intellectually."

The period during which Mr. Graham was in the Senate was one of the most stormy in our political annals. The Whig party had just achieved a great victory, and Harrison and Tyler had been elected by an immense majority. That party reckoned confidently that it would now be able to carry out those great principles of government, for which it had so long contended, and which had been so signally approved in the recent election. In the midst of these patriotic anticipations, General Harrison died, and Mr. Tyler succeeded to the Presidential chair. Mr. Tyler had adopted the platform of the Whig party, and in his address, upon assuming the duties of his high office, he did not intimate the least change of policy from that which his predecessor had announced in his inaugural. He had, moreover, retained the same constitutional advisers. The statesmen of the Whig party now set to work to redeem the pledges which had been made to the country. A great financial measure was passed; this was vetoed by the President. A second measure of the same kind, framed in conformity to the views indicated in his veto message, was passed, which was vetoed in like manner. A tariff bill was passed, but this shared the same fate. Efforts were made to pass these bills over the President's veto, but in every instance the veto was sustained by the opposite party. The result of these repeated disappointments was that all hope of united and efficient action in carrying out the great principles of the Whig party was finally abandoned.

The administration of Mr. Van Buren had largely

exceeded the revenues. Provision for this deficiency had to be made by the incoming administration. To meet an emergency so pressing a bill was introduced, known as the "Loan Bill." It was strongly opposed, among others, by Mr. Calhoun, in a speech of characteristic force and compass. So far as the Whigs were concerned it was an appeal by the administration for aid, to a party which it had betrayed. Mr. Graham only recollected that the good of the country was involved, and gave it his support. "I will not," said he, "stop the action of the government by denying it the means of going on, no matter who may be in power." The speech which he delivered on this bill was eminently able and statesmanlike. He demonstrated the necessity of the measure; he traced out the cause of the deficiency, and pointed out the remedy. The subject has little interest to the general reader at this day, yet in that speech there are passages of such profound reflection and philosophic scope as will give it a value to the political student at all times.

When the Apportionment bill in 1842 was under consideration, very strong opposition, headed by Mr. Buchanan, of Pennsylvania, and Mr. Wright, of New York, was made to the districting clause. Mr. Graham, on June the 3d, addressed the Senate in support of the clause. In a calm, condensed, weighty and conclusive argument, he demonstrated that the district system of electing Representatives to Congress, was in conformity to the true theory of representative government, and was the one contemplated and expected by the framers of the government; that it was sanctioned by usage almost unanimous in the old States, and by the usage of two-thirds of the new; that the general ticket system was fraught with evils, public and private; nay, with

dangers to the Union. There was a passage in that debate which so forcibly illustrates the high moral plane upon which he discussed public affairs that I cannot pass it by. It was objected by Mr. Woodbury, of New Hampshire, that if the act were passed by Congress, it had no means of enforcing it. He wished to know whether an armed force or a writ of mandamus would be sent to the State Legislatures to compel them to lay off the districts. In reply Mr. Graham showed that if, notwithstanding the law, a State should return members according to general ticket, the House of Representatives, as judge of the election of its members, could pronounce such election a nullity. "But the duties of the States under our Constitution," said he, "are not to be determined by their liability to punishment, but by the covenants into which they entered by that instrument. It is faith, honor, conscience, and not the 'hangman's whip,' on which, at last rest the blessings of this noblest human institution which has ever been devised for the security, the welfare and happiness of man." In this exclamation, he unconsciously announced those great principles by which his own conduct through life was regulated, and to whose slightest behest he ever yielded an unhesitating obedience.

A short time after—July 25, 1842—he received the following letter from Chancellor Kent: "I thank you for your speech on the districting clause of the Apportionment bill. I have read it carefully, and I deem it in every respect logical, conclusive, and a vindication of the power assumed by the bill, in language clear and specific, tempered with due moderation and firmness. The district system is essential to check and control the cunning machinery of faction."

After the expiration of his term—March 3, 1843—Mr. Graham resumed the practice of his profession.

In 1844 he was nominated by the Whig party of North Carolina for the office of Governor. He had not sought the nomination; nay, would have declined it if he could have done so consistently with his high conceptions of the duty of a citizen. In 1836 he had married the daughter of the late John Washington, Esq., of New Bern, a lady of rare beauty and accomplishments—a union which brought to him as much of happiness as it is the lot of man to know. From this union a young and growing family was gathering around him. His patrimony had not been large, and the requirements of his family demanded his constant professional exertions. He was now at the summit of his profession, and his emoluments would be limited only by the nature of the business in an agricultural State, where commerce existed to only a small extent, and manufactures were in their infancy. His attention had been much withdrawn from his profession during his senatorial career, and besides the expense and loss of time in a State canvass, he would, if elected, be entirely precluded from the exercise of his profession during his term of office. The salary of the office was small, and a residence in the capital as Chief Magistrate would render necessary an increased scale of expense. On the other hand were considerations of great weight. Letters came to him from many gentlemen of high standing in various parts of the State, pressing his acceptance by every consideration that could be addressed to an elevated mind. Moreover, he was not unmindful of the honors which had been conferred upon him, and not ungrateful. He held, too, that the circumstances must be very exceptional which could justify a citizen in withholding his services when

called to a public station by the general voice of the people. To determine his duty cost him much anxious reflection; but the latter consideration proved decisive. The decision once made, he acted with his accustomed energy.

His nomination was hailed with satisfaction throughout the Union. Among other letters which he then received, giving expression to this feeling, was one from Mr. Clay. In conclusion he thus expressed himself: "Still, I should have preferred that you were in another situation, where the whole Union would have benefited by your services."

His opponent was Colonel Mike Hoke. He was born in the same county with Mr. Graham, and was nearly of the same age. He was a gentleman of fine person, of fine address, of considerable legislative experience, and of high position at the bar. The canvass was well contested on both sides; on the part of Mr. Graham it was conducted with surpassing ability. When it came to the vote he led his competitor by several thousand majority.

He was inaugurated on the 1st of January, 1845, the oaths of office being administered by Chief Justice Ruffin. The *Raleigh Register* of that date remarks, that "the audience which witnessed the ceremony, for everything that could make the occasion imposing, has never been surpassed within our recollection. The lobbies and galleries were crowded with strangers and citizens, and a brilliant assemblage of ladies."

His first term was so acceptable that he was elected to the second by a largely increased vote. His two terms embrace that period, during which North Carolina made the greatest progress in all her interests. The messages of his very able predecessor,

Governor Morehead, followed up by his own, drew the attention of the whole State to the subject of internal improvements, and a powerful impulse was given to that great interest.

In a letter, Mr. Webster writes as follows: "The tone which your message holds, in regard to the relations between the State Government and the General Government, is just, proper, dignified and constitutional, and the views which it presents on questions of internal policy, the development of resources, the improvement of markets, and the gradual advancement of industry and wealth, are such as belong to the age, and are important to our country in all its parts." His earnest recommendation of a geological survey elicited from Prof. Olmstead, a letter commending his views expressed in that regard, in which he said: "There is no State in the Union which would better reward the labor and expense of a geological survey than North Carolina."

In 1849 he delivered the address before the literary societies at Chapel Hill. His subject was a cursory view of the objects of liberal education. This address stands out in wide contrast to those which have been customary on such occasions, and is solid, sterling, practical. It is a vindication of the University curriculum.

Public honors have been coy to most men; it was the reverse in his case. They waited around him with perpetual solicitation. In 1849, Mr. Mangum, one of the confidential advisers of the President, wrote to Mr. Graham that he might make his election between the Mission to Russia and the Mission to Spain. Subsequently the Mission to Spain was tendered to and declined by him.

Upon the accession of Mr. Fillmore to the

Presidency, a seat in the Cabinet was tendered to Mr. Graham. In the letter addressed to him by the President, informing him of his appointment, he said: "I trust that you will accept the office, and enter upon the discharge of its duties at the earliest day. I am sure that the appointment will be highly acceptable to the country, as I can assure you, your acceptance will be gratifying to me." In a letter couched in proper terms, dated July 25, he communicated his acceptance.

In a letter dated the 19th of February, 1851, Mr. Benton wrote as follows: "I have just read a second time, your report on the Coast Survey. I consider it one of the most perfect reports I ever read—a model of a business report, and one which should carry conviction to every candid, inquiring mind. I deem it one of the largest reforms, both in an economical and administrative point of view, which the state of our affairs admits of."

He resolved, being strongly supported by the President, to send an expedition to Japan and bring that empire within the pale and comity of civilized nations. The command was assigned to Commodore Perry. The event showed what statesmanlike sagacity was exercised in planning the expedition and in the selection of its leader. Everything that was contemplated was accomplished. The success of that expedition constitutes one of the principal claims of Mr. Fillmore's administration to the admiration of the country and of posterity. Its success constitutes, indeed, an era in the history of the world. Its results have been great and cannot but be enduring. It has placed our relations with Japan upon a just and honorable basis. It has given a new direction to much of the commerce of the world—pouring its fertilizing

tide through the heart of the American continent. Its effects upon Japan are but beginning to be seen; yet already they exceed what would have been brought about in the ordinary course of affairs in a thousand years. No people have ever availed themselves of the light of a superior civilization as the Japanese have. In that light they have seen the unfitness of many of their old institutions and have abandoned them; they have seen the unfitness of their language for foreign intercourse, and are preparing to substitute the English language. The changes thus made are harbingers of progress which will justify the most lively anticipations for the future. The friends of humanity and religion, especially, hail the prospect with delight. They see in what has been already done, the prospect of an entire change in the institutions of that land. They hope, at no distant day, to see liberal institutions introduced there. They hope to see a universal recognition of popular rights, where the bonds of caste have been so inexorable; to see equal laws take the place of a despot's will, and to see the Christian religion again introduced, never more to be disturbed in its peaceful reign.

Another expedition was sent out in 1851 under the direction of the Navy Department. The object was the exploration of the valley of the Amazon in the interests of commerce. The instructions to Lieutenant Herndon—to whose charge the expedition was confided—contained in the letter of Mr. Graham, of February 15th, were full and particular. They embraced the position of the country—the navigability of its streams—its capacities for trade and commerce—and its future prospects. In February, 1854, the report was published by order of Congress. It contains the most ample information upon all the points embraced in the instructions. In

the London *Westminster Review* of that year, it was noticed with just credit to the author, and due recognition of the enlightened policy which projected the expedition.

A part of the triumph of the compromise of 1850 belongs to North Carolina. Her favorite statesman was then in the Cabinet, and shared in the counsels by which these results were brought about. During the progress of these measures he was in constant conference with their author, and to the opinion of none did their author pay greater deference.

His labors as Secretary of the Navy were brought to a sudden termination. The Whig party met in convention on the 16th of June, 1852, and put in nomination for the Presidency General Scott, and for the Vice-Presidency Mr. Graham. Mr. Graham's preference for the Presidency was Mr. Fillmore, and without a distinct declaration of principles, and an approval of the course of his administration, he would not have permitted his name to be placed on any other ticket. This declaration was made, and in terms as explicit as he could wish; with that declaration, it became a mere calculation of chances which was the candidate most acceptable to the country. Under these circumstances he accepted the nomination. Immediately on his acceptance, with a view as he expressed it, "to relieve the administration of any possible criticism or embarrassment on his account in the approaching canvass," he tendered his resignation. The President "appreciating the high sense of delicacy and propriety" which prompted this act, accepted his resignation with expressions of "unfeigned regret."

In Mr. Stephens' history of the United States, it is said that in accepting the nomination tendered him

by the Whigs, General Scott "cautiously avoided endorsing that portion of the Whig platform which pledged the party to an acceptance of and acquiescence in the measures of 1850." If avoidance there was, it was because he deemed it unnecessary to pledge his faith to measures with which he was so intimately identified. He was acting Secretary of War during the pendency of these measures. "No one," says Mr. Graham in a letter to a friend, "more deeply felt the importance of the crisis, or cooperated with us more efficiently in procuring the passage of the compromise measure, or rejoiced more heartily in the settlement thereby made." With a soldier's sentiment of honor, General Scott rested on his record, which was open to all the world. But the charge of unfaithfulness to those measures was made against him, and urged with fatal effect. And so it came to pass that the two candidates who had exerted all their abilities, and used all their influence, official and other, to secure the passage of the compromise measures, were beaten upon the charge alleged against one of them of unfaithfulness to those measures.

After his retirement from the cabinet, and in the same year—1852—he delivered the sixth lecture in the course, before the Historical Society of New York, in Metropolitan Hall, in the city of New York. "The attendance," we are told in the *Evening Post* of that date, "was exceedingly numerous." Ever anxious to exalt his State, and set her before the world in her true glory, his subject was taken from the history of North Carolina. It was the British invasion of North Carolina in 1780 and 1781.

It is known what scant justice has been done to our State by the early historians of the country. This

injustice Mr. Graham, as far as a lecture would admit, undertook to redress. Though his subject confined him to the events of less than two years, and took up the story five years after the first blood had been shed at Lexington, and four years after the Declaration of Independence, he presents a rapid and graphic sketch of what was done in North Carolina down to the year 1780. He depicts the advanced state of opinion in North Carolina before the war; he recounts the military expeditions sent out by her in support of the common cause; and shows that "from New York to Florida, inclusive, there were few battle-fields on which a portion of the troops engaged in defense of the liberties of the country were not hers." He then places before us in strong colors, the period just before Lord Cornwallis commenced his famous march—that period so justly designated as the dark days of the Revolution; when Georgia and South Carolina had been over-run and subjugated; when the army of the South had been nearly annihilated by the disastrous battle of Camden and the catastrophe of Fishing Creek. He relates the bold measures—measures which call to mind those of Rome, at similar crises of peril—with which the State of North Carolina prepared to meet the impending shock. He then enters upon a narrative of the different operations of the American and British armies under their respective commanders, Greene and Cornwallis, and a finer narrative it would be difficult to point out. A bare recital of the incidents of that campaign would not want interest in the hands of the dryest historian, but in this narrative it is brought before us in vivid colors. By his brief but striking delineation of the principal actors; by his rapid touches in which the relative state of the Whig and Tory population of that day is brought to view;

by his sketches of the scenery of the Piedmont country—the theater of that campaign; by his notices of individual adventure; above all, by his masterly recital of the incidents of the retreat of General Greene and the pursuit of Lord Cornwallis—a retreat in which the hand of Providence seemed from time to time, so visibly interposed—the grand procession of events passes before us with the interest of an acted drama. We experience a feeling of deep relief, when at length, the army of Greene is placed in safety. After taking breath, which we had held as it were, during the quick succession of events in that celebrated retreat, we retrace our steps and the interest culminates in the battle of Guilford. "The philosophy of history," says Mr. Benton in his *Thirty Years' View*, "has not yet laid hold of the battle of Guilford; its consequences and events. That battle made the capture of Yorktown. The events are told in history, the connections and dependence in none." The future historian will find the task done to his hand in this lecture. Its decisive character is there appreciated and set forth.

The lecture closes with some reflections on the "Act of Pardon and Oblivion," passed by the Legislature, after the proclamation of peace, at its first session in 1783. "An act," says Mr. Graham, "of grace and magnanimity, worthy of the heroic, but Christian and forbearing spirit which had triumphed in the struggle just ended." The words have a peculiar and melancholy significance to us, who recollect how long after the war, he stood among us as an alien and a stranger, deprived of the commonest right of citizenship; and how by mistaken party spirit he was debarred the enjoyment of those senatorial honors, with which a grateful people would have cheered and crowned the evening of his

life.

This lecture will, I think, be regarded as the maturest of his literary efforts. It presents the events of the time of which it treats in new combinations, and sheds upon them new lights from original investigations. The style is always clear, forcible and harmonious. Classic ornament is introduced to an extent rare for him; for though he retained his classical learning to the end of his life, his sense of fitness led him to employ very sparingly what any one might be disposed to attribute to ostentation. Altogether it is the most valuable contribution yet made to the history of North Carolina at that era. It sets the State in a juster light than anything on record. It particularly commends itself to all who cherish in their hearts the sacred flame of State love and State pride; to all who hold in honor the renown of their ancestry; to all who would catch

"Ennobling impulse from the past."

Mr. Graham was again a member of the Legislature in 1854-'55. The great question of that session was what was popularly known as "Free Suffrage." Its object was to abolish the property qualification for the Senate, and extend to every voter the same right of suffrage, whether for the Senate or the House. To this extension of suffrage *per se* he made no objection. He contended, however, that the constitution was based upon carefully adjusted compromises of conflicting interests, and that an amendment of the constitution confined to this single point—as it must necessarily be if carried out by the Legislative method—would disturb those compromises and thus destroy or greatly impair the harmony of that instrument. He, therefore, advocated the calling of a convention, that all the

questions embraced in these compromises might be duly considered, and other parts re-adjusted to suit those which might be changed. These views were presented in a speech, memorable for its ability. In the former part he discusses the question at issue, and here will be found some of the finest examples of his skill as a dialectician; in the latter part he gave an exposition of the subject in all its constitutional bearings—an exposition learned, lucid and conclusive.

The administration of Mr. Buchanan drew to its close amidst signs ominous for the future tranquillity of the country. These signs awakened the fears of all who loved and valued the Union, and the trusted statesmen of the country made arrangements to meet for conference, and to give expression to their views. The executive committee of the Constitutional Union party determined early in January, 1860, to issue an address to the people of the United States upon the grave exigencies in national politics. A committee of seven, all men of the highest national distinction, among whom was Mr. Graham, was appointed to prepare the address. Mr. Crittenden notified him of his appointment in a letter of January 24th, and urged his attendance at the meeting of the committee. In his answer, Mr. Graham had left it doubtful whether the pressure of his engagements would permit his attendance, and requested that another might be appointed in his place. Accordingly Governor Morehead was appointed. But Mr. Crittenden wrote again, and to show the importance attached to his judgment and action, I subjoin an extract from his letter: "The crisis is important, and fills the public mind with expectation and anxiety. It is earnestly to be desired that the character of our

convention should be conspicuous and equal to the occasion. We have good reason to feel assured of the attendance of many of the most eminent men of the country, and it is by the great weight of the moral and public character of its members that the convention must hope to obtain for its acts or counsels, whatever they may be, respect and influence with the people. We cannot do without your *assistance* and *name*. All the members of the committee, who were present when your letter was read, united in wishing me to write and to urge your coming to the convention. Your absence will be a positive *weight* against us."

A number of eminent statesmen, among whom was Mr. Graham, met in Washington City, in February, to consult together upon the dangers which menaced the country. The result was the convention which nominated the Constitutional Union ticket for the Presidency, in behalf of which he canvassed the State. Upon the election of Mr. Lincoln he made public addresses, and exhorted the people to yield due obedience to his office.

But the tempest had long been gathering, and was now ready to burst. No human power could avert it. The people of South Carolina, and of the other States of the far South, had been educated in the doctrine of secession, and there were few in those States who did not hold that doctrine as an undeniable article of political faith. The time was come when this doctrine was to be tested. The election of Mr. Lincoln constituted the cause in the minds of the people of South Carolina. On the 20th of December, 1860, that State held a convention, and declared her connection with the United States dissolved, and proceeded to put herself in an attitude to make good her

declaration. In this action she was followed by States to the south of her, and on similar grounds.

The doctrine of secession met with little favor in North Carolina. As a right deduced from the Constitution, and to be exercised under its authority, it was believed by Mr. Graham, and the school of statesmen to which he belonged, to be without foundation. The Legislature of North Carolina directed the question of a convention to be submitted to the people. The question was discussed, in the light of recent events, by the press of the State, and numerous meetings of the people were held in every part. These meetings were addressed by our ablest men. Amongst these a monster meeting was held at Salisbury, which was addressed by Governor Morehead, Mr. Badger and Mr. Graham, who, as well for the exalted positions they had held as for their commanding abilities, were looked to for counsel in this emergency. The people at the polls pronounced with great unanimity against a convention.

But events were marching on with rapid strides. On the 13th of April, 1861, Sumter surrendered to Confederate guns. On the 15th, Mr. Lincoln issued his call for 75,000 troops. This call was made without authority, and was the first of that series of public measures culminating in the unauthorized suspension of the "Habeas Corpus Act" on the 10th of May, under the shock of which the public liberties of the North for a time went down.

By these events the aspect of things was wholly changed. The question of secession as a right, whether the election of Mr. Lincoln was a just cause for the exercise of that right or not, had drifted out of sight. War was inevitable. Virginia had followed the example of the Southern States, and North

Carolina was now girdled with seceded States. All that was left her was a choice of sides. The language of Mr. Graham at this crisis was the language of all thoughtful men; nay, it was the language of the human heart. And looking back upon all that we have suffered—and there are none, even in the Northern States, but say we have suffered enough—if a similar conjuncture were to arise, the heart would speak out the same language again. Speaking the voice of the people of North Carolina, as he, from the high trusts confided to him in his past life, and from the confidence always reposed in him, was, more than any other, commissioned to do, in a public address at Hillsborough, in March, 1861, he expressed himself as follows:

"Ardent in their attachment to the Constitution and the Union, they had condemned separate State secession as rash and precipitate, and wanting in respect to the sister States of identical interests; and as long as there was hope of an adjustment of sectional differences, they were unwilling to part with the Government, and give success to the movement for its overthrow, which appeared on the part of some, at least, to be but the revelation of a long cherished design. But the President gives to the question new alternatives. These are, on the one hand, to join with him in a war of conquest, for it is nothing less, against our brethren of the seceding States—or, on the other, resistance to and throwing off the obligations of the Federal Constitution. Of the two, we do not hesitate to accept the latter. Blood is thicker than water. However widely we have differed from, and freely criticised, the course taken by these States, they are much more closely united with us, by the ties of kindred, affection, and a peculiar interest, which is denounced and warred upon at the North,

without reference to any *locality* in our own section, than to any of the Northern States."

Under the influence of these counsels, so wisely and temperately expressed, a convention of the people of North Carolina, was called. On the 20th of May, a day memorable in the annals of the State and of the world, the convention passed the ordinance of secession.

For this ordinance the vote was unanimous. But though the vote indicated an entire unanimity among the members, it was unanimity only as to the end to be accomplished. The views of Mr. Graham, and the statesmen with whom he acted, had, in regard to secession as a constitutional remedy, undergone no change. To set forth their views, Mr. Badger offered a series of resolutions in the nature of a protestation—an exclusion of a conclusion. These resolutions asserted the right of revolution, and based the action of the convention on that ground; but the minds of men had been wrought to such a pitch of excitement that the distinction was unheeded, and the resolutions failed.

On the 20th of June the convention passed the ordinance by which the State of North Carolina became a member of the Confederacy. To this measure Mr. Graham offered a strong but fruitless opposition. In the perilous career upon which we were about to enter he was unwilling to surrender the sovereignty of the State into the hands of those whose rash counsels had, in the judgment of the people of North Carolina, precipitated the war. He wished the State to hold her destinies in her own hands, that she might act as exigencies might require. Those who realize the delusive views under which the government at Richmond acted during the

last months of the war will see in this opinion another proof of his wise foresight.

The progress of the war which now broke out with such fury demonstrated that there were here, as at the North, those who conceived that the public peril had merged the constitution and the laws. Early in the session "an ordinance to define and punish sedition and to prevent the dangers which may arise from persons disaffected to the State," was introduced.

On the 7th of December Mr. Graham addressed the convention in opposition to this ordinance. The speech which he delivered on this occasion was, perhaps, the noblest effort of his life. It breathes the true spirit of American freedom. It is the product of a mind deeply imbued with the great principles of civil liberty, and which had devoutly meditated upon all those safeguards which the wisdom of successive generations had thrown around it. His wide acquaintance with history had made him familiar with every device by which liberty may be sapped and undermined; his exalted estimate of its value and dignity had developed this acquaintance into a special sense by which he could detect any design hostile to it, under any pretense or subterfuge, however specious or skillful.

From the beginning of the war the current of power set steadily from the Confederate States to the Confederate Government; and with each year of the war, the current flowed on with increasing tide. Within its just bounds, no man yielded a heartier allegiance to that government than Mr. Graham; but on the other hand, no man stood ready to oppose a firmer resistance when that government overstepped those bounds. The war had been begun and was then

prosecuted for the maintenance of great principles, and it was his fixed purpose that civil liberty should not, at the South as at the North, be engulfed in its progress. In the year 1862 a minister of the gospel—a man of learning and of irreproachable character—was arrested in the county of Orange, under a military order, sent to Richmond, and cast into prison. He was not in the military service of the Confederate States, and therefore not amenable to military law. As a proceeding against a citizen, such an arrest, without charge made on oath and without warrant, was in violation of all law; while his deportation beyond the limits of the State, for trial by military tribunal, was in contempt of the dignity and sovereignty of the State. Mr. Graham, being then Senator from Orange, introduced a resolution demanding a return of the prisoner to the State, which was passed at once. On introducing the resolution, he expressed the opinion that the proceeding was without the sanction of the Confederate Executive, or of the Secretary of War. The sequel proved this supposition to be correct. The prisoner was sent back with a disavowal of any knowledge of the proceeding on the part of the President or the Secretary, until the confinement of the prisoner in the military prison at Richmond. The Secretary frankly admitted the erroneous nature of the arrest and imprisonment, and disclaimed all intention to interfere with the rightful jurisdiction of the State. On the 22d of January, 1863—upon the incoming of the message with the accompanying documents, touching the case—Mr. Graham paid a merited tribute to the enlightened comprehension of the relations existing between the Confederate Government and the States, evinced by these sentiments, and in the further remarks submitted by

him, he took occasion to re-state the great principles of personal liberty—daily more and more endangered in the course of the war—and to impress them upon the public mind by apt comments upon the case to which the public attention was then so strongly directed. This was the first, and is believed to have been the last case, in which military power was used to override civil law.

In December, 1863, Mr. Graham was elected to the Confederate Senate by a majority of two-thirds of the Legislature. He took his seat in May, 1864. There was then need of the best counsel. The brilliant successes which had crowned our arms in the early years of the war, had been replaced by a succession of disasters. The battle of Gettysburg and the fall of Vicksburg had brought us apparently to the brink of ruin. As the year 1864 rolled on, the prospect became darker and darker, and at the end of the year the situation was to the last degree critical. Our territory had been cut in twain, and we were beleaguered by land and by sea. Within the area which acknowledged the Confederate Government, there was great exhaustion of all kinds of military supplies, and a like exhaustion of all the elements for the support of human life. General Lee was only able to oppose the front of General Grant by extending his line until it was ready to snap from excessive tension. To strengthen his force from the white race was impossible; conscription there had reached its limit. General Sherman had swept through Georgia, and the broad track of desolation which he left behind him too truly told the story of our helplessness. It was known that each Confederate soldier was opposed by as many as five Federal soldiers; the former scantily fed, clothed and shod; the latter supplied with every comfort and many luxuries. (The

odds were seven to one, says *Stephens' History of the United States*.) It was plain there was no longer any hope of a successful prosecution of the war. In the midst of a dense gloom which shrouded the country on every side, a ray of light dawned in the proposed peace conference at Hampton Roads. Mr. Graham had endeavored to reach this form of intercourse from the commencement of the session. He was not without hope of a peaceful termination of hostilities; not so much from his estimate of the statesmanship of President Davis and his Cabinet, as from the extremity of the case which left no other alternative. The conference took place on the 3rd of February, 1865. The terms offered by Mr. Lincoln were, that the seceded States should return to the Union under the Constitution, in the existing state of affairs, with slavery as it was, but liable to be abolished by an amendment to the Constitution. He pledged himself to the utmost exercise of the executive powers in behalf of the South. The demand of the Commissioners was for independence. There could be no middle ground, and the conference ended. Upon the return of the Commissioners, Mr. Davis and Mr. Benjamin made public speeches in Richmond, to fire the Southern heart anew; but the event proved how little sagacity they brought to the direction of affairs at that supreme hour. The speeches fell still-born. [French intervention in Mexico was the South's opportunity; Seward's object in the Hampton Roads Conference was to ascertain if Southern statesmanship knew how to play its advantage.—*Ed.*]

One principle had actuated Mr. Graham from the beginning of the war; to sustain the Government in its struggles for independence until it should be demonstrated that our resources were inadequate for that end; and when that should be seen and

acknowledged, to seek, if possible, a peaceful solution. How well he sustained it is matter of history. He sustained it in every way in which his talents and his means could be made available. He sustained it by his counsels in the State and in the Confederate Government. He sustained it by blood more precious in his eyes than his own—all his sons, five in number, who had attained the age of eighteen, entered the army, and were in the army to the end.

The inadequacy of our resources, particularly of the population from which our soldiers were drawn, had now been demonstrated. It was known to Congress; it was admitted by General Lee in his proposition to conscribe slaves; it was proclaimed from the steps of the Capitol by Mr. Benjamin: "Unless the slaves are armed," he said, "the cause is lost." Every expedient had been tried; the extremest measures had been put in operation; "by means of conscription, impressment laws, and the suspension of the *habeas corpus*, the whole population, and all the resources of the country, had long before been placed at the command of the President for prosecution of the war." All had been found unavailing.

One resource, in the opinion of some, remained—the conscription of negroes. A bill for this purpose was introduced into Congress. It was opposed by Mr. Graham upon the ground that it was unconstitutional, as well as inexpedient and dangerous. His sagacious mind saw that this was a measure, not of safety, but a measure born of the wild promptings of despair. On the 21st of February it was indefinitely postponed, though it was subsequently taken up and passed.

If ever negotiation was to be resorted to, it was clear the time had come. We know but little of what passed in the Confederate Congress at that time. Its proceedings were had in secret session; nor is it now known whether the journals of the body escaped destruction. All that we know is derived from what was published by the members after the fall of the Confederate Government. Among these publications is a paper contributed by Mr. Oldham, then Senator from Texas, to *DeBow's Review*, in October, 1869, which gives us some information of the proceedings of the Senate at that time. A few days after the conference at Hampton Roads, he informs us, a committee consisting of Messrs. Orr, Graham and Johnson, was appointed to confer with the President, and ascertain what he proposed to do under the existing condition of affairs. In a few days they made a verbal report through Mr. Graham. "Among other things," I quote Mr. Oldham's words, "they stated that they had inquired of the President his views and opinions in regard to proposing to the United States to negotiate for peace upon the basis of the Confederacy returning to the Union, and that he had answered that he had no power to negotiate a treaty upon such a basis; that his authority to make treaties was derived from the Constitution, which he had sworn to support and that such a treaty would operate as an abrogation of the Constitution, and a dissolution of the government; that the States alone, each acting for itself, in its sovereign capacity, could make such a treaty. Mr. Graham said, he gave notice that he would, in a few days, introduce a resolution in favor of opening negotiations with the United States upon the basis of a return to the Union by the States of the Confederacy; that he did not give the notice at the instance or under the instruction of the

committee, but upon his own responsibility. The notice was received in such a manner that he never offered his resolution."

I never saw the paper from which the foregoing quotation is made, and was a stranger to this passage of Mr. Graham's life until within the last forty days. I read it with a feeling of profound relief. I have ever regarded him from my earliest years, with the warmest admiration and the most affectionate respect; but his failure, as I thought, to take some action looking to peace after the Hampton Roads conference—when the plainest dictates of humanity so clearly demanded it—left upon my mind the painful impression that he had been wanting to himself in that, the most important, crisis of his life. There is a deep-seated conviction that the blood which was shed after that conference might have been saved. That the waste of the fruits of past centuries of toil—a waste which consigned so many of the present and future generations to want and misery—might have been avoided. It is with gratitude I reflect that not a tittle of responsibility for this bloodshed and waste lay at his door. And when the inevitable hour came to him, I doubt not the thought that he had done what he could to arrest a war attended with such terrible and useless sacrifice, was one of the sweetest reflections of his whole life.

Congress adjourned about the 16th day of March. Impressed with the imminence of the emergency, Mr. Graham stopped but one day at home—that day being the Sabbath—and on Monday proceeded to Raleigh to confer with the Governor. The conference was long and earnest. Mr. Graham laid before the Governor the views of the President, the state of the armies, and earnestly recommended that the

Legislature should be convened. He sustained his advice by the opinion of General Lee, and that of many good and able men with whom he had been associated. He ended by telling him that Richmond would fall in less than thirty days, and that event would be followed probably by a rout or dispersion of General Lee's army for want of food, if for no other cause. The Governor was surprised by his statement of facts, and incredulous in some degree as to his conclusions. He agreed to consider the subject, and convened the Council on that day week. Hearing nothing of their action, in a few days Mr. Graham visited Raleigh again. The Governor informed him that on the day appointed, a bare quorum of the Council attended, and being equally divided, he had not summoned the Legislature. He said that Mr. Gilmer, with whom Mr. Graham had advised him to consult, had suggested to him to solicit an interview with General Sherman on the subject of peace. Mr. Graham remarked that if such an interview were held, Mr. Davis should be apprised of it. To this the Governor at once assented. Mr. Graham suggested further that if that course were taken, he (the Governor) should be in a condition to act independently of the President, and convene the Legislature. To this proposition the Governor manifested reluctance; but finally agreed to call the Council of State again. But while negotiation halted, the march of General Sherman's army decided events. In a few days no resource was left but an unconditional surrender. With the part borne by Mr. Graham at that trying time, a gifted authoress of North Carolina has made the public already familiar in the captivating pages of her work, *The Last Ninety Days of the War*.

There is no part of Mr. Graham's life in which the

calm wisdom, for which he was so distinguished, shone more conspicuously than in the closing months of the civil war. When independence was demonstrated to be hopeless, he sought peace; but even then, only in channels admitted to be in accordance with the great principles of our government.

In his opinion, that peace ought to be sought by the State after the failure of the conference at Hampton Roads, he was sustained by our entire delegation in Congress, and a large proportion of the leading citizens of the State. Yet so anxious was he not only to avoid any appearance of conflict among the Confederate States, but to conform to all that the most punctilious deference for the Confederate Government might require, that he did not move in the matter until after a conference with the President, and then only in the track pointed out by him. The President disclaimed all power of making a treaty, which would abrogate the Government, and declared that the "States alone, each acting in its sovereign capacity, could make such a treaty." In the line of action here indicated the State could not be put in a false position; nay, her honor would be put beyond all cavil. It was known that we had no power to arrest General Sherman's march. General Johnston confronted him, and all felt convinced that whatever his great military genius could accomplish would be done. But it was also known that his gallant army was outnumbered six to one. A surrender in a few days would be inevitable. Burning capitals, desolated homes, famine and destruction of life, followed Sherman's march. Was it not worth the effort to put a stop to such frightful calamities? What Mr. Graham urged was that the people might be allowed to determine their fate for themselves. Such a course

was in strict conformity to the fundamental principles of our Government. A convention of seven Governors had precipitated the war when peace counsels seemed to be in the ascendant. Was not Mr. Graham justified in the opinion that executive powers which had been so destructively exerted in the beginning, might be beneficently exerted in the end?

In an address delivered by Governor Vance before the Southern Historical Society, at White Sulphur Springs, West Virginia, August 18th, 1875, occurs the following statement:

"Soon after the failure of the Fortress Monroe or Hampton Roads conference, I was visited by Governor Graham (whose death we so recently deplore) who was then a Senator of the Confederate States. After giving all the particulars of that conference which had not appeared in the papers, and the prevailing impressions of congressional circles, about Richmond, etc., he informed me that a number of leading gentlemen there, despairing of obtaining peace through Mr. Davis, and believing the end inevitable and not distant, had requested him to visit me and urge me, as Governor of North Carolina, to take steps for making separate peace with Mr. Lincoln, and thus inaugurate the conclusion; that he agreed to lay their request before me without promising to add his personal advice thereto. I asked who those gentlemen were, and, with some reluctance, he gave me their names, chiefly Senators and Representatives in the Confederate Congress. I asked why these gentlemen did not begin negotiations in their own States with the enemy, and if they would come out in the papers with this request to me. He said they could not take the

initiative, they were so surrounded at home, and so trammeled by pledges, etc., as to render it impossible! I declined the proposition of course."

It is with reluctance that I advert to this statement. Had it been given to the press with a sponsor less entitled to consideration, I should have been disposed to let it float with the tide. But it presents itself under imposing circumstances; it proceeds from one who, at the time referred to, was at, the head of the government in North Carolina; it is contained in an address made before a society whose object it is to preserve the memorials of that time. The statement thus passes into history. It will not be waived. It peremptorily challenges attention.

[Mr. McGehee here enters into a rather labored argument to show that Vance was mistaken; it would have been sufficient simply to have published Graham's letter to Swain, written shortly after the conversation, and therefore a better exponent of what actually took place. It appears that Graham as Confederate Senator had far better means of knowing the real condition of the Confederacy than Vance had, and he, doubtless, as was his duty, gave him the whole truth. Even without the vindication of his letter, I should be very slow to believe that he ever advised Vance on his own responsibility to undertake separate negotiations with the enemy. For the consideration of a matter so delicate, serious, and dangerous, doubtless, he, as well as Vance, would wish the assembled wisdom of the State. And what he really advised, as his letter shows, was to call the Legislature together, so that, in secret session, upon full information, it might consider if the State and the several States of the Confederacy should as States make any propositions to the enemy.—ED.]

After the Hampton Roads conference he had no longer any hope of a peaceful solution through the action of President Davis; from thenceforth he turned his thoughts to the accomplishment of the same end through the action of the States. The subject is often recurred to, but not an intimation can be found of any plan, except that of the States acting in conjunction. Very soon united action on the part of all became an impossibility; conquering armies had dismembered the Confederacy—had left indeed but two States that could act in concert. But his plan still embraced these two. March 26th, he writes as follows to Governor Swain: "I went to Raleigh to have an interview with the Governor on the subject-matter referred to in your letter. The result was a convocation of the Council of State to assemble to-morrow. The Legislature of Virginia has taken a recess until the 29th instant, and I think it very important that that of North Carolina should be in session as early as possible. The war is now nearly reduced to a contest between these two States and the United States!" In his letter of the 8th of April, which contains, as I think has been shown, the true account of the interview between Mr. Graham and Governor Vance, Mr. Graham says: "I told him I should attend the session of the General Assembly, and, if desired, would address them in secret session; that I had confidential conversations with a committee of the Virginia Legislature, which had taken a recess for ten days, and that it was important to act in concert with that body."

The surrender left the State under the control of the Federal generals and under the military law. According to the theory of the administration, all civil government had ceased; all the offices were vacant. The government, for a time, was such as a

conquering army administers in a subjugated country. At length, to inaugurate a civil government the precedent for the admission of territories was partially adopted. A provisional Governor was appointed with power to call a convention. In execution of his powers the Governor made appointments to the vacant offices and issued a call for a convention. Mr. Graham was nominated for the convention; but it being announced by the executive, that persons unpardoned would not be allowed to take their seats, he withdrew from the canvass.

A constitution—the old constitution with some alterations—was adopted. Mr. Graham opposed its ratification. From his action at this time many of his best friends dissented. They admitted with him that a convention called, not by the people, but by a power *ab extra* and under limitations of suffrage unknown to the constitution, was an anomaly in American institutions. But certain changes were regarded as inevitable after the war, and, if the administration, then wielding supreme power over us, should rest satisfied with the changes thus made, it was conceived by them to be the wiser course to raise no question as to the manner in which the convention was called. But in Mr. Graham's view many of the ablest men in the State concurred, and the constitution was defeated. Certainly it seems more in accordance with the spirit of a great patriot to make continual claim, even if ineffectual, in behalf of the principles of government established by our fathers. Any mitigation which an abandonment of those principles might have obtained would have been but temporary; the principles themselves were for all time.

The Reconstruction measures were now passed.

The former government was swept away. The whole power over the question of suffrage, that question which lies at the foundation of all representative government, and which, under the old constitution belonged to the States, save that Congress might pass uniform naturalization laws, was assumed and exercised by Congress. Suffrage was adjusted upon a new basis; all the black race was enfranchised, and a large portion of the white race was disfranchised. Under this adjustment, a new convention was called, and a new constitution adopted, the constitution under which we now live.

These measures, so extreme in their nature, were regarded while they were yet in progress by a large part of our people with a feeling little short of consternation. The government seemed wholly changed; the constitution irrevocably wrenched, if not destroyed. A profound apathy fell upon the minds of the people. A vast number ceased to take any cognizance of public affairs. They seemed to regard them, as removed forever beyond their control. In this state of things a convention of the conservative party of North Carolina was called. It met on the 5th of February, 1868, in Tucker Hall, in the city of Raleigh, and was presided over by Mr. Graham, who made the principal speech of the occasion.

The effect of this speech cannot be estimated. It aroused the people from their despondency; it animated them to new efforts; it went further, it infused into them the spirit with which the speech itself was instinct. From that day the Conservative-Democratic party dates its existence in this State as a regularly organized party; within a short time thereafter it gained possession of the Legislature and

has held it to the present time.

The Convention of 1865 had directed that the Legislature should be convened. An election was accordingly held and the Legislature met in the winter of that year. Mr. Graham was unanimously elected for the county of Orange, but, being unpardoned he did not offer to take his seat. It was the universal desire of the people that he should represent the State in the Senate of the United States, when restored to its old relations. It was felt that North Carolina had no one more competent to vindicate her action or represent her interests. It was felt that she had no one who, by his balanced judgment, his temperance of feeling, his urbane bearing, would do more to mitigate the asperities which had been provoked by civil strife. He was elected by a large majority. Upon his election he repaired to Washington and presented his credentials. They were laid upon the table. He presented to the Senate a manly and respectful memorial; but he was never permitted to take his seat. The spectacle presented by the exclusion from public affairs of a man of his antecedents, while so many who had an active agency in bringing on civil strife had been promoted to high station, arrested attention everywhere. Many of the most eminent men in the Northern States used their best efforts for the removal of his disabilities, without effect. Political persecution, set on foot by parties in his own State, pursued him until it was placed beyond all human probability that he should ever enjoy the honors for which the State had destined him. When that had become a certainty, to wit, in 1873, his disabilities were removed. What reflections arise, as we recur to this passage of his life! Mr. Graham had clung to the Constitution until the rising tide of

secession had flowed around and completely insulated his State; to this ancient ark of our fathers he again clung when after the war the waves of political enthusiasm inundated the country and the constitution. Yet he was left stranded, while many of those who had fanned the tempests of both found secure anchorage. But we look beyond to-day. The things seen are temporal in more senses than one. The impartial tribunal of posterity rises up before us. Then, when the actors of to-day are weighed in even scales; when the influence of passion and prejudice is unknown, then will the consistent devotion to principle, by which his conduct was always actuated, receive its due meed of admiration and applause.

In the year 1875—upon the 4th of February—he presided over a meeting held in Charlotte to take steps for the proper celebration of the centennial of the Mecklenburg Declaration of Independence. Some writers of ability had seized upon that event, and in that spirit of historical skepticism so rife in our days, had undertaken, out of a few minor discrepancies, to deny the genuineness of the Declaration, or that any meeting was held on the 20th of May. Mr. Graham had been often solicited to place that event upon its proper basis. He had heard it often talked of at his father's fire-side; he knew all the traditions connected with it; he had known and talked with many of the subscribers of that declaration; he was well acquainted with public opinion regarding it, in that section where the event occurred, down to the date of its publication in 1820. For a long time motives of delicacy, growing out of his connection with some of the principal actors, restrained him. But at that time, all the actors had passed away; they could no longer be heard; and a just regard for their fame urged his acquiescence. He embodied his

vindication in the form of an address which he delivered on this occasion. No fair synopsis of that address is possible; it is a solid, compact argument which would be greatly impaired by any attempt at abridgment. Let it suffice to say that the evidence is arrayed in the spirit of the philosophical historian, and with the skill of a lawyer. It will not put to silence the mere caviller; no amount of evidence will, on this or any other subject; but the candid inquirer will rise from its perusal with the conviction that few events in history rest upon a firmer foundation than the Mecklenburg Declaration of Independence.

Mr. Graham left behind many literary essays, but none which were prompted by mere desire for literary distinction. His efforts of this kind were all the result of passing events; all the fruit of hours snatched from an absorbing profession. Yet if collected together they would form a considerable volume; and if we consider their contents they give a high idea of the intellect which could find its relaxation in such labors. The dominant feeling of his life was loyalty to the State and her institutions; hence the subjects usually selected by him were drawn from her history.

Among these was a lecture delivered at Greensboro, in 1860. The citizens of that section of country, of which Greensboro is the centre, contemplated the erection of a monument to commemorate the services of General Greene in the Revolutionary struggle. This lecture was delivered in aid of the enterprise, and embraced a life of Greene and a history of Revolutionary events in this State. A copy was solicited for publication, but from some cause it was never published. It remains in manuscript, full and entire, as if prepared for the

press. Here may be mentioned two Memorial Addresses—the one upon the life and character of Hon. George E. Badger, and the other of Hon. Thomas Ruffin.

This record would be most imperfect did it fail to bring into the most prominent relief the services of Mr. Graham in his office of trustee of the University. He regarded the University as the best ornament of the State, and no one of all its sons nursed it with a more devoted or wiser care. He attended all its commencements, and was most active in watching over all its interests. No one labored with more zeal for its restoration to the control of the true sons of the State. For many years he was a member of the executive committee, and at the time of his death he was the chairman of that committee. It was to him, finally, that Governor Swain, in the last years of his successful administration, looked for direction and support in all its trials and embarrassments.

"It is not unusual for men of eminence," said Judge Story, "after having withdrawn from the bar to find it difficult, if not impracticable, to resume their former rank in business." Mr. Graham experienced no such difficulty. Though often called from his profession to public station, at the first court at which he appeared after his term of office expired, he was retained in all important causes, and business flowed in upon him thenceforth as if he had never been absent. In common with all the people of the South, his resources had been somewhat impaired by the war, and when civil government was restored he resumed the practice of his profession with more than his wonted ardor. He returned to all the courts of his former circuit, the business of which had greatly increased by the general settlement of all previous

transactions which took place after the war. The business of the circuit and district courts—both of which he regularly attended—had been greatly enlarged by the new system of revenue laws and other changes introduced by the war, but, above all, by the bankrupt laws then recently enacted. These with appeals to the Supreme Court of the State, and appeals to the Supreme Court of the United States, increased his labors, protracted his absences from home, and left him few intervals for repose. It was felt by his friends that he was overtaxing his strength by these great exertions, but there was no abatement of his energies until about a year before his death. Symptoms then appeared which inspired deep apprehensions. It seemed but too certain that disease had fixed itself upon some of the great organs of life. He now gave up attendance upon courts, but still watched over the progress of his causes, and labored in the preparation of briefs—the causes themselves being argued by his son, Maj. Graham. He was preëminently a worker and he continued to work to the end. At length the symptoms became more distressing, and he repaired to Philadelphia to consult the eminent physicians of that city. The result confirmed the opinion before entertained that his malady was disease of the heart. Upon his return home he continued his labors in his office. It was only under physical exertion that his malady gave him trouble; when in repose he was capable of as great mental efforts as ever.

At this period of comparative inaction that fortunate destiny which presided over his life was constant to him still. The pain, which was incident to his malady, was only felt at intervals, and then was not severe. Apart from this, there was every possible compensation. Besides the department of

professional labor still left to him, he had the boundless resources of literature, ancient and modern, which in the busiest periods of his life he had always cultivated and justly prized. Every day, moreover, brought to him in the visits of friends, or through the mails, in newspapers and letters, some new testimonial of esteem and regard, public or private. But above any and all of these, he could now enjoy without interruption those pleasures, in which, amidst his most brilliant successes, he ever found his chief happiness, the pleasures of home and its sweet endearments.

Mr. Graham had been nominated by acclamation by the people of Orange for the constitutional convention which sat in September, 1875, but the state of his health rendered it impossible for him to undergo the labors of the canvass. This was not needed on his own account, but his absence from the hustings was regretted on account of the convention cause. He published, however, a strong address to his constituents; which was widely circulated, and had an important influence on the result.

A meeting of the commissioners to determine the boundary between Virginia and Maryland had been arranged to take place at Saratoga Springs, in the State of New York, in the month of August, 1875. Thither Mr. Graham accordingly went, accompanied by Mrs. Graham and his youngest son. For many days he appeared to be in his usual health; but a great change was at hand. After an evening spent with his friends, whose society he enjoyed with more than his wonted zest, he retired a little beyond his accustomed hour. Soon after the symptoms of his disease recurred in aggravated form. Physicians were summoned who ministered promptly, but

ineffectually. Meantime the news of his situation spread, and messages of inquiry and offers of personal services testified to the general and deep concern. But all that science and the most affectionate solicitude could suggest proved unavailing. He expired at 6 o'clock on the morning of Wednesday, the 11th of August, 1875.

It had long been believed, by those who knew him best, that Mr. Graham was at heart a Christian. It is with inexpressible gratification, I am able to add, that when approached on this subject during the last days of his life, he freely expressed his hope of salvation through our crucified Redeemer.

The intelligence of his death was transmitted by telegraph to every part of the country. All the great journals responded with leading articles expressive of the national bereavement. Numerous meetings were held—meetings of the bar, meetings of citizens, meetings of political opponents, for political enemies he had none—to give their estimate of the illustrious deceased, and to speak their sense of his loss. The States of Virginia and Maryland, with that high sense of delicacy which marks all their public acts, took care that the remains of one who had stood in such honored relations to each, should be conveyed with due honor across their bounds. At the borders of our State they were received by a committee appointed by the bar of Raleigh, by a committee appointed by the mayor and common council of that city, and by a committee from Hillsborough, and were conveyed by special train to Raleigh. There they were received by appointed committees—by the Raleigh Light Infantry, by the Raleigh Light Artillery (of both of which companies he was an honorary member), by the United States troops from Camp Russell, and

accompanied by a great concourse of the citizens, conveyed to the capital. There the remains were deposited in the rotunda, which was draped in mourning for the occasion. Late in the afternoon of the same day they were conveyed with similar ceremonies to the central station. From thence, attended by the Raleigh companies, and by special guards of honor, appointed by cities and towns of the State, and by the family of the deceased, they were conveyed by special train to the station at Hillsborough. From thence they were escorted, with the addition of the whole population of the town, to his mansion, where they lay in state till the noon of Sunday, the 15th. At that hour they were conveyed to the Presbyterian Church, and, after appropriate funeral services, were interred with solemn ceremony, amid an immense concourse, gathered from many counties, in the graveyard of that church.

The place which will be awarded him in the rank of orators will not be the highest. Indeed at oratorical effects, purely as such, he never aimed. There is no doubt but that he might have employed the resources of oratory, other than the very highest, to a much greater extent than he did. All who have heard him in capital trials, and on other occasions when great interests were at stake, were persuaded that he possessed reserved resources of this kind to which he did not give play, and which he could have called into requisition at will. That he refrained was matter of deliberate judgment. He preferred to address himself to the understanding. He relied wholly upon argument, disdaining the adjuncts of mere rhetoric. He knew that the triumphs of reason are more durable than those which are the offspring of excited feeling. Reaction and change follow the latter; the former leave full, permanent conviction.

As a parliamentary speaker and as an advocate he stood in the first rank. His style was that which finds so much favor among eminent English statesmen, that style in which the results of thought and research are given with the warmth and ease of animated and unpremeditated conversation.

In addition to his high intellectual endowments, nature had to him been profuse in external gifts. In person he was the ideal of the patrician. His features, regular and classic in their outline, would have satisfied a sculptor. The habitual expression of his face was one of blended thought, refinement and quiet will. His form was noble and commanding; cast, indeed, in nature's finest mould. These advantages were set off by a dress always scrupulously neat, and sufficiently conformed to the prevailing mode to escape observation. The advantages, thus slightly touched upon, were singularly calculated to impress favorably the mind of any audience. If we add that he appeared before every audience with the prestige of a character, which calumny itself would own to be without a blemish, the causes of his uniform success are easy to discern.

He possessed in many respects the temperament of a great commander. As difficulties thickened around him his courage seemed to rise, and his resources to develop. No man ever fought a losing cause with more courage and constancy. When in important cases the tide of testimony unexpectedly turned and flowed dead against him there was nothing in his look or manner that betrayed the change. His attention would be redoubled, but in all else there was so much of calm composure that lookers-on, inattentive to the evidence, have left the court house

under the impression that he would gain the cause. He preserved, under all circumstances in the trial of causes, the lofty tenor of his bearing. He was never betrayed into an altercation with witnesses. It may be that awe of his character, and a consciousness of his practiced sagacity and penetration constrained witnesses, when in his hands, to an unwonted utterance of the truth. This impression may have been assisted, and probably was, by the fairness and integrity observable in his whole bearing. But whatever the cause, it is certain he never resorted to boisterous tones or a browbeating manner. Equally removed was his manner from all the arts of cajolery. In his examination of the most refractory witness his mien was calm, his look observant and penetrating, his voice never or but slightly raised above its ordinary tone. In such a contest, the contest between acute, disciplined reason, and cunning or obstinate knavery, the victory was always on the side of the former.

In his moral constitution he was complete on every side. All his conduct in life was regulated not only by the highest sense of honor, but by the most scrupulous sense of duty. This supreme sense of duty in everything that he did, whether great or small, was his distinguishing characteristic. From his cradle to his grave not a shadow of a shade ever rested upon him. Esteeming a stainless character as the highest of all earthly possessions, he exercised the most scrupulous caution in his judgment of others. Few men were more often in the public arena. He took part in all the political canvasses of his time; in many of which partisan feeling was inflamed to the highest pitch. Yet he never assailed the motives of his opponent and never left any feeling of personal injury rankling in his bosom. He always contended

for principle, and disdained to use any argument which reason would not sanction.

In debate he was a model of candor, and whoever might be his opponent he would always accept Mr. Graham's statement of his position. In all his intellectual conflicts, whether at the bar, on the hustings or in the Senate, under no provocation was he ever excited to an unseemly exhibition of temper. "Although," said a gentleman of high distinction, who knew him long and well (Hon. S. F. Phillips), "I have been present at the bar, and upon other public occasions when he must have been greatly tried, I have never seen his countenance degraded by an expression of passion. His look may at times have been stern and high, but at all times it could with advantage have been committed to marble or canvas."

It was the opinion of that eminent lawyer, Archibald Henderson, that public men should mingle much with the people—that there is to be found the true school of common sense. Either because he held the same opinion, but more probably from inclination, his intercourse with the people was constant and cordial. When in attendance on his courts it was his custom when the day was fine to repair, after the adjournment of court, to the portico of his hotel, or the lawn in front of it, and sit for an hour or two. This was often his custom after the evening meal, usually served in his circuit at hours primitively early. Here he became the centre of a group of citizens all of whom he received with courtesy. The talk on such occasions was free and general; and, whatever the topic, he listened to their views with attention, and in turn frankly gave his own. Thus his information in regard to all matters of

general interest was minute and particular. It was thus, too, that he became informed as to the current opinion in regard to public men and public measures. This intimate knowledge of the people was one of the great sources of his strength; it rendered his judgment of the probable fate of State and national questions of great value. His judgment upon such matters, in the counties in which his circuit lay, was almost infallible.

In his social relations Mr. Graham was one of the most attractive of men. Few had so wide a circle of friends, or friends so attached. His manner to all men was urbane; to his friends cordial and sincere. There was, except to a very few, and at times even to them, a shade of reserve in his manners; but there was nothing of pride; nothing expressive of conscious superiority. There was great dignity, tempered by unfailing courtesy. Perhaps this tinge of reserve made his subsequent unbending the more agreeable. In his social hours, in the long winter evenings at court, with the circle gathered around the blazing hearth—it is as he was then seen that his friends love best to recall him. For many years there met together at one of his courts a number of gentlemen of high intellectual gifts and attainments. These were Hon. Robert Gilliam, Hon. Abram W. Venable, the present Judge of the Seventh Circuit, and others less known. With such men there was no need that any limitations should be imposed on the conversation. Except in the field of exact science they were very much at home in all. The conversation ranged wide, law, cases in court, history, biography, politics—largely interspersed with anecdotes—formed the topics.

The moral dignity of man never received a higher

illustration than in the life before us. We admire the pure patriot in whose thoughts the State—her weal and her glory—was ever uppermost; the learned jurist who, from his ample stores informed, moulded the laws of his own commonwealth; the eloquent advocate who stood always ready to redress the wrong, whether of the individual or the community at large; the wise statesman who swayed the destinies of his State more than any of his generation. But we render the unfeigned homage of the heart to him, who by the majesty of his moral nature, passed pure and unsullied through the wide circle of trials and conflicts embraced in his life; and who, in his death, has left a fame that will be an incentive and a standard to the generous youth of North Carolina through all the ages that are to come.

The foregoing sketch is the main body of a memorial address on the "Life and Character of Governor Graham," delivered in Raleigh before the bench and bar of the Supreme Court, June 8, 1876.

Much of it has been omitted; for, while it was a labor of love (and there is much labor in it), it is too long for the scope of this work. If Mr. McGehee's power of condensation had been equal to his zeal and to his admiration and knowledge of Governor Graham's life and work this memorial would have been monumental.

As it stands now in its original form, or even as abridged in this book, in spite of some just criticisms which could be made against its style and method, it is an example of industry to those who seek to collect and preserve the facts which illustrate the lives of

distinguished North Carolinians.

Who now, after the lapse of twenty years, could and would write this life? Who has done a similar service in respect to the lives of Mangum, Pearson, and others perhaps equally worthy?

Mr. McGehee's sketch is, however, rather a panegyric. No great man needs to be bolstered up with compliments, and praise cannot preserve mediocrity from oblivion.

Nothing better illustrates the defects of Southern education than the glittering generalities with which we would whitewash our distinguished dead—as if they needed it—or as if flattery could "soothe the dull, cold ear of death." We must show, rather than say, our great men are great, and for this purpose works are more effectual than words. By their fruits ye shall know them.



BARTHOLOMEW F. MOORE.

BARTHOLOMEW FIGURES MOORE.

BY ED. GRAHAM HAYWOOD.

A great lawyer, a cherished and distinguished

citizen having fallen in our midst, in obedience to an honored custom, we turn aside from the ordinary pursuits and ambitions to pay this sad tribute to our illustrious brother.

Bartholomew Figures Moore having passed the age allotted to man by the Psalmist, in the midst of his friends and kindred, departed this life in the city of Raleigh, November 27, A. D. 1878. He was the son of a Revolutionary soldier, and born at the family residence near Fishing Creek in Halifax county, January 29, 1801.

Having prepared himself for college, he entered the University of the State in 1818, and in 1820 graduated with honor in a class of recognized ability.

Leaving the University, Mr. Moore read law with Hon. Thomas N. Mann, an able and distinguished lawyer of Nash county. After obtaining his license he entered upon the practice of his profession at the then flourishing village of Nashville, the county seat. His success for some years was not by any means flattering, yet the first five hundred dollars he received from his professional services he expended in traveling and familiarizing himself with his country.

In December, 1828, he married Louisa, a daughter of George Boddie, Esq., of Nash county, who lived only until the 4th of November, 1829. In April, 1835, he married Lucy W., likewise a daughter of George Boddie, who, having witnessed and shared his toils and triumphs, survives him, blessed with a large and estimable family.

He returned, in 1835, to Halifax, his native county, and while pursuing his profession, was elected successively to the House of Commons from 1836 to

1844, with the exception of 1838, when he was defeated in consequence of having voted to give State aid to the Wilmington and Weldon Railroad Company, of which he was a warm friend and an able advocate.

He was appointed Attorney-General of the State in 1848, and, upon the convening of the General Assembly in December, elected to the same position. This office he continued to hold and fill with great acceptability until he resigned it in consequence of being appointed a commissioner to revise the statute law of the State. To him was assigned the principal labor of arranging the matter and superintending the publication of the *Revised Code*.

While ample success crowned his professional career in Halifax county, yet in 1848 he removed to Raleigh, where he resided till the time of his death. Bringing with him his well-established reputation for research and ability, he continued to command an extended and lucrative practice in this and other parts of the State.

Mr. Moore early secured a high reputation as an able and profound lawyer by an elaborate brief in the celebrated case of the *State* vs. *Will*, a slave (*1 Devereux and Battle's Law*). It was a case that awakened a general and profound interest throughout the country and settled the true relations between master and slave in our State. It recognized the right of the slave to defend himself against the assaults of his master in the preservation of his own life. It is reserved to but few of the profession to so impress their views upon the courts, in advance of public opinion, and to prepare so admirable a collocation of the law and to establish so durable a reputation upon any one case.

Mr. Moore was a close and painstaking student; reluctant to appear in any case without careful preparation; yet when he entered the combat, the rich and fertile resources of his well-stored mind clearly manifested that nothing rusted in his intellectual armory.

His mind was logical, his manner forcible, his ideas, without undue ornamentation, were clothed in strong and graphic language. He seized at once the strong points of his case, and pressed them with skill and sagacity. Possessed of a strong mind and robust constitution, he was a fine exemplification of the *mens sana in corpore sano*.

In politics he was a Whig, and admired a strong and stable government; an ardent lover of civil liberty, he watched with jealousy all legislation tending to encroach upon the guaranteed rights of the citizen.

A bold and avowed Union man, while the States were engaged in an unremitting and unrelenting civil war, his high character and recognized integrity secured him, even amidst the clash of arms, a respectful hearing, for it was known that he sympathized with his own people in their unequal conflict, and that often his hasty expressions were the result of deep convictions. Recognized as a pronounced and outspoken Unionist, it was but natural that he should be sought for and consulted by the President of the United States at the termination of the war.

His respect, however, for the constitutional limitations of the General Government compelled him to oppose the whole reconstruction policy, for he was incapable of yielding to the intrigues of the

politician or the subservient traffic of a mere placeman.

He was a leading member of the State convention called by the President, and ably advocated the adoption of all such measures as were proclaimed as indispensably necessary to a rehabilitation of the State, believing that wise statesmanship required an early submission to the demands of the General Government.

Reared in a conservative school of politics, and devotedly attached to his State and the high character of her judiciary, he ever looked with distrust upon the election of judges for short terms and by popular ballot as an alarming inroad.

As a citizen, to the poor he was liberal and unostentatious, to his equals, frank and manly, to all, kind and just.

That he had his faults, none will deny; he was impatient of contradiction, at times impetuous and irascible, yet these were but the natural emotions of an ardent and sanguine temperament, and while they tended to obscure, did not infect those true and excellent qualities which lay beneath the surface.

He lived literally within the Augustan age of the profession in our State. With a Gaston, Daniel, and Ruffin on the bench, the logical and versatile Badger, the strong and rugged Saunders, the able, astute Haywood and their illustrious compeers as rivals at the bar, it is praise enough to say that he was ever equal to the emergency of any occasion.

He was the wisest man I ever knew. At his decease and almost for his whole life, though filling only a private station, he had come to be recognized as a distinct and efficient moral power in regulating the

social and political welfare of the State. He lived almost to the utmost limit of the span allotted by the Psalmist to man. Satisfied with only some very brief honorable rest in extreme old age, he spent all these years of his life in active, unremitting, assiduous labor, and finished his career without a taint upon his honor or a stain upon his reputation. His life covers many epochs in our State and national history, and among them, the most solemn and imperative political crisis through which State and nation have yet passed. For forty years he was a leader in the legal profession, and for perhaps a quarter of a century he was the very head of the bar —*facile princeps*. Of all the gentlemen who composed the Raleigh bar, when I was first admitted to practice, he was the last relict—Badger, the two Busbees, Husted, Jones, Manly, Mariott, Miller, Rogers, Saunders, Sheppard, are all gone, sunk down —down with the tumult they made!

His thorough and life-long devotion to the enforcement of the laws preserving civil liberty, distinguished him among his fellows. No circumstances of danger—no allurements of ambition —no fear of consequences—no regard for himself, his family, his fortune, his future—no specious arguments of expediency ever tempted him upon any occasion to refrain from boldly and perseveringly, in public and in private, urging and enforcing his objections, whenever, wherever and in whatsoever form the liberty of the humblest citizen was threatened or invaded.

For solid wisdom, penetrating foresight, invariable sagacity, he had no peer, and he has left behind none like him. He had nothing but observation, reason and a sense of duty to guide him, and these he obeyed

under trials and temptations which it is to be hoped, for the sake of public virtue, are not to become common. In the presence of such manly, unselfish, heroic virtue, I uncover my head and put the shoes from off my feet and lift up my heart to God in thankfulness for the example of this His faithful soldier and servant. According to his lights he did his duty—a hard and painful duty it was, and the event has proved that his lights were as true as the sun in heaven. Every man is to be judged, so far as human judgment is to be passed upon him at all, by the tenor of the motives which actuated him, and to which the main current of his life responded. Judged by this standard his course with reference to the late social war must command admiration even of those who most earnestly condemned his action.

I do not think Mr. Moore had genius, but his talents were great, his will imperative, his industry unbounded, and his habit of methodical and exhaustive analysis unequaled. He had no great oratorical gifts, except to those cultivated minds to which lucidity of arrangement and logical presentation of a subject are most pleasing and convincing. Even his voice when addressing an audience was harsh and unmusical. But he was the most successful lawyer we had, and I remember watching his mode of managing a cause with admiration and wonder, and studying it, as the most perfect model within my reach. In this respect his professional skill and acumen were, and to the very end continued to be, unapproachable.

On a more favorable occasion it is to be hoped that some person well qualified for the task will lay before the profession a full, critical and careful history and examination of some of the numerous

great causes in which he appeared and his arguments therein; in one or the other of which, as I verily believe, is exhibited every variety of intellectual excellence demanded for the elucidation and application of law in the courts of justice. His briefs in the *State* vs. *Will*, *Moye* vs. *May*, and *Walton* vs. *Gatling* are all models; each one has its distinct method and discloses a special excellence.

During the period I knew him, which extended through a quarter of a century, I never knew him to make a mistake of judgment. I do not mean that he never, upon some passing matter, erred in act or opinion, but in great crises when the waters of revolution were out and the files of political experience furnished no precedent for guidance—when all was on the hazard and he was called upon to use his wisdom in suggesting the best means applicable to the production of the best results, in predicting what results must follow from one course of action or another—he was almost infallible—his predictions were prophecies. His bare opinions had come to have in this community the weight of actual knowledge. "He was a man, take him for all in all, I shall not look upon his like again."

And in this connection let me say one word of a single episode in Mr. Moore's career, with which I have heard some thoughtless persons find fault. I speak of his well known hostility to secession and the Confederate cause. Surely those who impute blame to him have not considered his motives, his opinions, his conduct. Mr. Moore was by conviction a Federalist, both in politics and in the construction which, as a lawyer, he gave to the Constitution of the United States; he denied always, from first to last, the right of secession; he thought the only safety for

his people, for the State, for the nation, for civil liberty even, was in the perpetuation of the Union; with his far-seeing intellect he knew and foretold the fierce struggle to come, the bloodshed, the evil passions, the crime, the suffering which would accompany it, its failure, the dreadful consequences, the perils to all civil liberty and all rights of person and property which would result, many of which are not yet past. He made no secret of his opinions and his feelings at any time—he was constant, in season and out of season, in proclaiming them from the housetops, and in endeavoring to convert others to his views; to him the result—the failure—was always present in all its shocking and useless reality; and when the good opinion of his neighbors and friends (which he cherished as much as any man) was at stake, and his liberty, his future, his reputation, his very life, was on the hazard of a die—he yet stood steadfast as the Northern Star—"Of whose true, fixed and resting quality there is no fellow in the firmament."

Which of his faultfinders would have done as much under like circumstances? Which one of us, I pray you, oh! hot-blooded secessionists, Hebrew of the Hebrews, if we had had his prevision, would have obeyed the dictates of our convictions and have exhibited such courageous virtue?

But, in my opinion, the *Revised Code* is the greatest monument he has left of the excellent and rare endowments of his mind; especially does it illustrate his profound knowledge of the written law of North Carolina at the date of its preparation. Lord Coke said of Littleton's treatise on *tenures*, "I affirm, and take upon me to maintain, against all opposites whatsoever, that it is a work of as absolute

perfection in its kind, and as free from error, as any book that I have ever known to be written of any human learning"; and I venture to adopt his language as applicable to the *Revised Code*. Its great and surpassing excellence can only be fully perceived and appreciated by those who have studied it, and have long had occasion to apply it practically. They will have seen that it is far more than a bare compilation of statutes—far more than a codification of existing acts of Assembly, but that it has amended and perfected every such act in those particulars in which it has been proved by experience to be imperfect. It indicates a profound and exact knowledge of every principle which had been established, and every decision which had then been made by our courts, and an exhaustive, methodical analysis of the fundamental principles of the common law.

Having carefully arranged his affairs, and provided for the wife and children whom he loved, and disposed of his great estate, he retired to his chamber and folded his mantle about him to die as he had lived, with decency. Weary and worn, perhaps disappointed, certainly disenchanted, disillusioned of all the bright dreams of his green manhood—let us follow him there: be ye sure that sacred chamber was not haunted by memories of evil deeds, of sins that had sorrowfully come home at nightfall—with hopes that had borne no fruit, with resolves abandoned almost as soon as formed. His strength failed him more and more; painlessly he sinks into the lethargy of approaching death, while his children gather around his couch. What are the last feeble syllables which they hear from the dying lips of this gray-haired veteran—"I am tired now. I am going to my mother in Heaven."

Perhaps he knew that there were some heavy items underscored against him, but he also knew that the mercy of God can even outdo the hope He gives us for token and keepsake. A greater and a grander end, after a life of mark and power, might, to his early aspirations and self-conscious strength, have seemed the bourne intended. If it had befallen him—as but for himself it would have done—to appear more actively in official life, where men are moved by ambition and bold decision, his name would have been more famous in history—but perhaps also better known to the devil. As it was, he lay there dying, and was well content. The turbulence of his life was past, the torrent and the eddy, the attempt at fore-reaching upon his age, and the sense of impossibility, the strain of his mental muscles to stir the "great dead trunks of orthodoxy"—and then, the self-doubt, the chill, the depression which follow such attempts, as surely as ague tracks the pioneer—thank God, all this was over now—the violence gone—and the dark despair. Of all the good and evil things which he had known and felt, but two yet dwelt in the feeble heart—only two still showed their presence in his dying eyes and words. Each of these two were good—if two indeed they were—faith in the Heavenly Father, and love of the earthly children.

"When the young are stricken down, and their roses nipped in an hour by the destroying blight, even the stranger can sympathize, who counts the scant years on the gravestone, or reads the notice in the newspaper corner. The contrast forces itself upon you. A fair young creature, bright and blooming yesterday, distributing smiles, levying homage, inspiring desire, conscious of her power to charm, and gay with the natural enjoyment of her conquests

—who, in his walk through the world has not looked on many such a one; and, at the notion of her sudden call away from beauty, triumph, pleasure, her helpless outcries during her short pain, her vain pleas for a little respite, her sentence and its execution, has not felt a shock of pity? When the days of a long life come to their close, and a white head sinks to rise no more, we bow our own with respect as the mourning train passes, and salute the heraldry and devices of yonder pomp, as symbols of age, wisdom, deserved respect, merited honor—long experience of suffering and action. The wealth he has achieved is the harvest he has sowed; the title on his hearse, fruits of the field he bravely and laboriously wrought in. Around his grave are unseen troops of mourners waiting; many and many a poor pensioner trooping to the place; many weeping charities; many kind actions; many dear friends beloved and deplored, rising up at the toll of that bell to follow the honored hearse; dead parents waiting above, and calling 'come son,' lost children, heaven's foundlings, hovering around like cherubim, and whispering 'welcome, father.'"

"Here lies one who reposes after a long feast, where much love has been; here slumbers, in patience and peace, a veteran, with all his wounds in front, and not a blot on his scutcheon after fourscore years of duty well done in the fierce and ceaseless campaign of life."

"Oh, yet we trust that somehow good
  Will be the final goal of ill,
  To pangs of nature, sins of will,
Defects of doubt, and taints of blood;

"That nothing walks with aimless feet;

That no one life shall be destroy'd,
Or cast as rubbish to the void,
When God hath made the pile complete;

"That not a worm is cloven in vain;
That not a moth with vain desire
Is shrivel'd in a fruitless fire,
Or but subserves another's gain.

"Behold, we know not anything;
I can but trust that good shall fall
At last—far off—at last, to all,
And every winter change to spring.

"So runs my dream; but what am I?
An infant crying in the night;
An infant crying for the light;
And with no language but a cry."

This sketch is the best part of Mr. Haywood's address to the bench and bar of Wake county, delivered shortly after Mr. Moore's death. If he presents the character of his subject correctly, as far as he goes, he does not make a complete sketch.

Mr. Haywood had the reputation of having more learning than judgment, and his reading in law was very wide; he was not the man to go into details and marshal the facts requisite for a perfect sketch.

Mr. Moore feared lest his fellow-countrymen should misjudge the motives which made him a Union man during the war. He therefore inserted in his will an *item* which explains his views. No great man is ever careless of what his people and their

posterity may think of his conduct. The records of his adopted county will safely keep his eloquent words, and the originality of *his* method of preserving them will cause them to be republished from time to time.

Item 39 of Mr. Moore's will reads as follows:

"Prior to the late civil war I had been for more than thirty years much devoted to investigating the nature and principles of our Federal and State governments, and during that period, having been several times profoundly exercised as to the true and lawful powers of each—not as a politician, but as a citizen truly devoted to my country—I was unable, under my conviction of the solomn duties of patriotism, to give any excuse for or countenance to the Civil War of 1861 without sacrificing all self-respect. My judgment was the instructor of my conscience, and no man suffered greater misery than did I as the scenes of battle unfolded the bloody carnage of war in the midst of our homes. I had been taught under the deep conviction of my judgment that there could be no reliable liberty of my State without the union of the States, and being devoted to my State, I felt that I should desert her whenever I should aid to destroy the Union. I could not imagine a more terrible spectacle than that of beholding the sun shining upon the broken and dishonored fragments of States dissolved, discordant and belligerent, and on a land rent with civil feuds and drenched in fraternal blood. With this horrible picture of anarchy and blood looming up before my eyes, I could not, as a patriot, consent to welcome its approach to my own native land, and truly was I happy when I saw the sun of peace rising with the glorious promise to shine once more on States equal and free, honored and united. And although the

promise has been long delayed by an unwise policy, and I myself may never see the full-orbed sun of liberty shine on my country and every part of it as once it did, yet I have strong hopes that my countrymen will yet be blessed with that glorious light."

The argument of Mr. Moore, or *brief*, as it is called, in the *State* vs. *Will*, is the best thing of the kind in the law books of this State. I cannot prophesy much of a future in any field of public service for that young man who shall fail to be impressed and interested by this powerful production. I therefore give it entire.

ARGUMENT IN THE STATE *vs.* WILL.

BY B. F. MOORE.

The defendant was indicted for the murder of one Richard Baxter, and on the trial before Judge Donnell, at Edgecombe, on the last Circuit, the jury returned the following special verdict, viz.:

"That the prisoner, Will, was the property of James S. Battle, and the deceased, Richard Baxter, was the overseer of said Battle, and entrusted with the management of the prisoner at the time of the commission of the homicide; that early in the morning of the 22d day of January last, on which day the killing took place, the prisoner had a dispute with slave Allen, who was likewise the property of said Battle, and a foreman on the same plantation of which the deceased was overseer; that the dispute

between the prisoner and the said Allen arose about a hoe which the former claimed to use exclusively on the farm on account of his having helved it in his own time; but which the latter directed another slave to use on that day. That some angry words passed between the prisoner and the foreman, upon which the prisoner broke out the helve, and went off about one-fourth of a mile to his work, which was packing cotton with a screw; that very soon after the dispute between the prisoner and the foreman, the latter informed the deceased what had occurred, who immediately went into his house; that while the deceased was in his house, his wife was heard to say, 'I would not, my dear,' to which he replied in a positive tone of voice, 'I will'; that in a very short time after this the deceased came out of his house to the place where the foreman was, and told him that he, the deceased, was going after the prisoner, and directed the foreman to take his cowhide and follow him at a distance; that the deceased then returned into the house and took his gun, mounted his horse and rode to the screw, a distance of about six hundred yards, where the prisoner was at work; that the deceased came up within twenty or twenty-five feet of the screw without being observed by the prisoner; dismounted and hastily got over the fence into the screw-yard; that the deceased, with his gun in his hand, walked directly to the box on which the prisoner was standing, engaged in throwing cotton, and ordered the prisoner to come down; that the prisoner took off his hat in an humble manner and came down; that the deceased spoke some words to the prisoner which were not heard by any of the three negroes present; that the prisoner thereupon made off, and getting between ten and fifteen steps from the deceased, the deceased fired upon him; that

the report of the gun was very loud, and the whole load lodged in the prisoner's back, covering a space of twelve inches square; that the wound caused thereby might have produced death; that the prisoner continued to make off through a field, and after retreating in a run about one hundred and fifty yards in sight of the deceased, the deceased directed two of the slaves present to pursue him through the field, saying that 'he could not go far'; that the deceased himself, laying down his gun, mounted his horse, and having directed his foreman, who had just come up to pursue the prisoner likewise, rode round the field and headed the prisoner; that as soon as the deceased had done this, he dismounted, got over the fence and pursued the prisoner on foot; that as soon as the prisoner discovered he was headed, he changed his course to avoid the deceased, and ran in another direction towards the wood; that after pursuing the prisoner on foot two or three hundred yards, the deceased came up with him and collared him with his right hand; that at this moment the negroes ordered to pursue the prisoner were running towards the prisoner and the deceased; that the prisoner had run before he was overtaken by the deceased five or six hundred yards from the place where he was shot; that it was not more than six or eight minutes from the time of the shooting till the slaves in pursuit came to where the prisoner and deceased were engaged; that in a short time the said slaves came up, and being ordered by the deceased, one of them attempted to lay hold of the prisoner, who had his knife drawn, and the left thumb of the deceased in his mouth; that the prisoner struck at said slave with his knife, missed him and cut the deceased in the thigh. That in the scuffle between the prisoner and the deceased, after the deceased

overtook the prisoner, the deceased received from the prisoner a wound in his arm which occasioned his death; and that the deceased had no weapons during the scuffle. That soon after, the deceased let go his hold on the prisoner, who ran towards the nearest woods and escaped; that the deceased did not pursue him, but directed the slaves to do so; that the deceased soon recalled the slaves, and when they returned the deceased was sitting on the ground bleeding, and as they came up the deceased said, 'Will has killed me; if I had minded what my poor wife said, I should not have been in this fix.' That besides the wound on his thigh the deceased had a slight puncture on his breast, about skin-deep, and a wound about four inches long and two inches deep on his right arm, above his elbow, which was inflicted by the prisoner, and which from loss of blood occasioned his death, and that he died on the same day in the evening; that the prisoner went the same day to his master and surrendered himself; that the next day, upon being arrested and informed of the death of the deceased, the prisoner exclaimed, 'Is it possible?' and appeared so much affected that he came near falling, and was obliged to be supported. That the homicide and all the circumstances connected therewith took place in Edgecombe county.

"But whether upon the whole matter aforesaid the said Will be guilty of the felony and murder in the said indictment specified and charged upon him, the said jurors are altogether ignorant, and pray the advice of the Court thereupon. And if upon the whole matter aforesaid it shall appear to the Court that he is guilty of the felony and murder wherewith he stands charged, then, they find him guilty. If upon the whole matter aforesaid, it shall appear to the

Court that he is not guilty of the murder aforesaid charged upon him by said indictment, then the said jurors upon their oaths aforesaid, do say, that the said Will is not guilty of the murder aforesaid, as the said Will has for himself above in pleading alleged, but that the said Will is only guilty of feloniously killing and slaying the said Richard Baxter." Upon this special verdict, his Honor gave judgment that the prisoner was guilty of murder, and pronounced sentence of death; whereupon the prisoner appealed to the Supreme Court.

B. F. MOORE FOR THE PRISONER.—It is conceded that Baxter occupied the place of master, and, in his capacity of overseer, was invested with all the authority of owner, in the means of rendering the prisoner subservient to his lawful commands. With this concession, freely made, it is believed, that if the shot of the deceased had proved fatal, he had been guilty of murder, and not of manslaughter only. The instrument used, and the short distance between the parties, were calculated to produce death; and nothing but the want of malice could have deprived the act of any of the features of murder. The disobedience of running from his master on account of threatened chastisement, however provoking, does not justify the death of a slave. It is truly calculated to surprise the master into a sudden gust of passion, and, on this account, death inflicted during such a moment may well be mitigated to the offense of manslaughter. But it is only the surprise of the passions that will extenuate their transport. Divest the act of all idea of surprise, it then becomes deliberate, and in law, there will be no difference between shooting for the disobedience at the moment of running away, and many days thereafter. It is clear then, that if Baxter's shot had been fatal, he

had been guilty of murder and not of manslaughter. For, that he loaded his gun and proceeded to the cotton-screw with the intent to shoot the prisoner, if the latter should make off, is manifest from his whole conduct, and particularly so, from the fact of his directing the foreman to walk behind at a distance. If he had armed himself for defense, expecting a conflict with the prisoner, he would have summoned his aid and kept it at his heels ready for the encounter. The bloody purpose of shooting had certainly been formed, and the time given him for reflection and the calm concoction of his plans evince a settled design and perfect deliberation. He was not surprised into the act of shooting; it was deliberate; it was expected and intended beforehand, and, therefore, murderous.

It is further believed by the prisoner's counsel, that if on firing the shot, Baxter had rushed towards him in a threatening manner, and the prisoner had turned, being unable to escape, and slain the deceased, the act had been homicide *se defendendo*, and this upon the clearest principles of criminal law.

The prisoner's counsel contends:

First, That if Baxter's shot had killed the prisoner, Baxter would have been guilty of manslaughter at the least.

Second, This position being established, the killing of Baxter under the circumstances stated is but manslaughter in the prisoner.

The first position would seem too plain to be argued; but as an opinion appears to be rapidly pervading the public mind that any means may be resorted to to coerce the perfect submission of the slave to his master's will, and that any resistance to

that will, reasonable or unreasonable, lawfully places the life of the slave at his master's feet, it may be useful to attempt to draw the line, if there be any, between the lawful and unlawful exercise of the master's power. That there is such a line, though it may be difficult in all cases to find it and fix it with precision, is nevertheless true; and although the courts may resolve that in all cases short of homicide they will not look for it, yet, disagreeable and perplexing as the task may be, they cannot avoid the search so long as a master may be tried for the homicide of the slave, or so long as the slave may set up any defense for the homicide of his master.

It is not intended to combat the correctness of the decision in the *State* vs. *Mann*, 2 Dev., 263, though that case leaves the slave, when his life is spared, under the slender guardianship of the "frowns and execrations" of a moral community against cruelty. That decision is not understood by me as some have expounded it. In declaring that a master cannot be indicted for a battery on his slave, the Court is not to be understood to affirm that he cannot be indicted for any offense which necessarily includes a battery. I apprehend the substance of their decision to be that they will take no cognizance of any violence done to the slave by the master which does not produce death. It is true, there is a portion of the opinion of the Court which puts the slave entirely out of the pale of the law, and secures the master in a despotic immunity. On page 266 the Court says: "Such obedience is the consequence of only uncontrolled authority over the body; there is nothing else which can operate to produce the effect; the power of the master must be absolute to render the submission of the slave perfect. In the actual condition of things it must be so, there is no remedy; this discipline

belongs to the state of slavery; they cannot be disunited without abrogating at once the right of the master and absolving the slave from his obligation." These expressions, it must be admitted, are clear beyond cavil in their meaning, and that they were selected to convey, with great accuracy, the opinions of the learned judge who used them, may be well argued from the frank confession which he avows of their abhorrence. In truth, they do outlaw the slave and legalize his destruction at the will of his master. It is believed, however, that they were never intended to cover the entire relation between master and slave. If they were, it is humbly submitted that they are not only startling and abhorrent to humanity, but at variance with statute law and decided cases. Uncontrolled authority over the body is uncontrolled authority over the life; and authority, to be uncontrolled, can be subject to no question. Absolute power is irresponsible power, circumscribed by no limits save its own imbecility, and selecting its own means with an unfettered discretion. Absolute power is exempt from legal inquiry, and is absolved from all accountability for the extent or mode of its exercise.

During its operations it acknowledges no equal which may check its will, and knows no superior afterwards which may rightfully punish its deeds. The language of the Court does not strictly and precisely describe the relation of master and slave which subsisted in ancient Rome, and does now subsist in modern Turkey; a relation which this Court in the case of *State* vs. *Read* did most emphatically denounce as inhuman, unsuited to the genius of our laws, and unnecessary to protect the master in his legal rights. In that case Judge Henderson fixes the true boundary of the master's power. It extends, says

he, to securing the services and labors of the slave, and no farther. And he expressly declares that a power over the life of the slave is not surrendered by the law, because the possession of such a power is noways necessary to the purposes of slavery, and that his life is in the care of the law.

The idea of the perfect submission of the slave is in true accordance with the policy which should regulate that condition of life, wherever it may exist. But whether it will more certainly result from the absolute power of the owner than from a large but limited authority, is questionable indeed. More especially, if it be true, as argued in the opinion already referred to, that the absolute power of the master, although left unrestrained by law, is checked and fettered by what is stronger than law, the irresistible force of public sentiment. If that force is now setting in a counter-current against the license of absolute power, either it is to be deprecated and stopped, or absolute power is most clearly proved to be unnecessary to the ends of slavery. The courts of the country should foster the enlightened benevolence of the age, and interpret the powers which one class of the people claim over another, in conformity, not with the spirit which tolerates the barbarian who is guilty of savage cruelty, but with that which heaps upon him the frowns and deep execrations of the community. All domestic police power must be regulated by the feelings and views of those who dispense it. If it be true, then, that public sentiment will no longer tolerate the excessive cruelties from the master, as is said by Taylor, Chief Justice, in the *State* vs. *Hale*; by Henderson, Chief Justice, in the *State* vs. *Read*; and by Ruffin, Chief Justice, in the *State* vs. *Mann*; and if it be true, likewise, that the relation between master and slave

is to be discovered from the opinions and feelings of the masters, we cannot hear without surprise that it is necessary, in the actual condition of things, to clothe the master with an uncontrolled and absolute authority over the body of the slave. If such necessity now exists, the rhetorician hath spoken, and not the judge. If such necessity does not exist, the power is given for abuse, and not to accomplish the objects of slavery. It would seem really, that whilst the courts are lauding the Christian benevolence of the times manifested by the humane treatment of the slaves, they are engaged in investigating to what possible extent the master may push his authority without incurring responsibility. They feel shocked at the discovery they make themselves, but rise from their labor with the consolation that few are so abandoned to a sense of public indignation as to enjoy the revealed prerogative. If the expression could be divested of the appearance of sarcasm, some truth might, perhaps, be found in the assertion that the great result of their disclosure has been to teach the kind master how merciful and moderate he is in the midst of such plenitude of power, and the cruel one, how despised and desecrated he will be if he use its legal license. Good men will feel no pleasure in the revealment, bad men will be freed from the check of ignorance.

It is further said in the *State* vs. *Mann*, "That the slave, to remain a slave, must be made sensible that there is no appeal from his master; that his power in no one instance is usurped." The language here is equally explicit, and altogether as strong, as that before quoted. It denies to the slave the smallest attribute of a rational or feeling creature. It not only represses thought, and extinguishes all power to deliberate on any command of his master, however

repugnant to natural justice it may be, and whether its execution is to affect himself or others; but it professes to control into perfect tameness the instinct of self-preservation. It would be difficult, and if it were easy, it would be lamentable, to accomplish the former; but it would be impossible to effect the latter. Such insensibility to life would defeat the very object of its inculcation—the value of the slave. For we can never hope to regulate this powerful instinct of nature with an adjustment which will quietly yield all its love of life into the hands of a ferocious master and yet preserve it against the world beside. But if it were desirable so far to annihilate it, the task is beyond the reach of human ingenuity and not to be accomplished by the possession of absolute power, however fearfully enforced or terribly exercised. The relation of master and slave may repress all the noble energies and manly sentiments of the soul, and may degrade the moral being into a brute condition. And when this is done we shall not be astonished to see the moral brute exhibiting the instinct natural to the brute condition. How vain must it always be, when we shall have reduced humanity to its ultimate capability of degradation, to expect any embellishment of mind to adorn the wretched existence. If the relation require that the slave be disrobed of the essential features which distinguish him from the brute, the relation must adapt itself to the consequences and leave its subject the instinctive privileges of a brute.

I am arguing no question of abstract right, but am endeavoring to prove that the natural incidents of slavery must be borne with, because they are inherent to the condition itself; and that any attempt to restrain or punish a slave for the exercise of a right, which even absolute power cannot destroy, is

inhuman, and without the slightest benefit to the security of the master, or to that of society at large. The doctrine may be advanced from the bench, enacted by the Legislature, and enforced with all the varied agony of torture, and still the slave cannot believe, and will not believe, "That there is no one instance" in which the master's power is usurped. Nature, stronger than all, will discover many instances and vindicate her rights at any and at every price. When such a stimulant as this urges the forbidden deed punishment will be powerless to reclaim or to warn by example. It can serve no purpose but to gratify the revengeful feelings of one class of people and to inflame the hidden animosities of the other.

With great deference to the opinion already commented on, it would appear to me that a conclusion directly the reverse as to the necessity of the absolute power in the master should have been drawn from the premises. The slave can only expect to learn the law of the land as respects the power of the owner over him, from the manner in which it is generally, and almost universally, administered by the owner. If their treatment is now so mild or becoming so, as rarely to require the interposition of any tribunal for their protection, they will soon be taught by the conduct of their masters, if not already taught, that absolute power is not the master's right; and the consequence which may be expected will be that the slave will be prepared to resist its exercise when bad men attempt to commit the cruelties allowed by it. So important is it that the Court should, as far as possible, conform their exposition of the rights of men with those sentiments of the public which, by the Court themselves, are admitted to be wholesome and just. And especially should they do

so when those rights are constituted by public opinion and almost exclusively by that alone.

Whatever be the power, however, which the master may possess, it is given with the sole view to enable him to coerce the services of the slave, and all experience teaches us that a power over life is not necessary to effectuate that end.

The usual modes of correction are found to be altogether sufficient. Punishment short of death serves the end of the master both as a corrective and as an example. Power over the life of the slave, being therefore unnecessary, ought not to be conceded. The use of highly dangerous weapons in cases of simple disobedience is not tolerated by the law, because they are calculated to produce death.

If the deceased had been resisted a great degree of force might have been used, and the law would not have been scrupulous in determining the excess. If he had been chastising the prisoner in the ordinary mode and death had ensued, it would have been nothing more than an unfortunate accident. But the prisoner was neither resisting his master nor did the calamity grow out of any attempt to chastise. It is confidently contended that a master has not by the law of the land the right to kill his slave for a simple act of disobedience, however provoking may be the circumstances under which it is committed; that if a slave be required to stand, and he run off, he has not forfeited his life. This is conclusive, if the law will never justify a homicide except it be committed upon unavoidable necessity, and will never excuse one, except it be done by misadventure or *se defendendo*. There is no principle of criminal law which will justify or excuse the death that has been caused through the provocation of the passions alone.

This court has repudiated all idea of similarity between the relation of master and apprentice, as understood in the English law, and that of master and slave as understood in ours. I cannot perceive the propriety of such total repudiation. The foundation of both relations is the same, to wit, service; and although the slave may stand in a lower grade than the mere apprentice, and be more dependent on his master, yet it is submitted that the difference is in the degree and not in the nature of the authority which the master of the one or the other may exercise. This seems to have been the idea of Justice Blackstone, who, in speaking of homicide by parents and masters caused by immoderate correction, proceeds: "Thus by an edict of the Emperor Constantine, when the rigor of the Roman law began to relax and soften, a master was allowed to chastise his slave with rods and imprisonment; and if death accidentally ensued he was guilty of no crime; but otherwise, if he struck him with a club or a stone, and thereby occasioned his death, or if in any yet grosser manner (as by shooting), *immoderate suo jure utatur, tunc reus homicidii sit. 4 Bl. Com., 183.*"

It is not my purpose, however, to place the slave and apprentice on the same footing. It is freely conceded that there is a great difference between the two conditions, and that many cases of homicide committed precisely under the same circumstances would be murder of an apprentice, and only manslaughter of a slave. Thus the master has the right to beat his apprentice as well as his slave, but the principle is universal (with a solitary exception), that a man having the right, under a given provocation, to lay hand upon another, but using a weapon calculated to produce death, and death ensuing, is guilty of murder. The exception alluded

to is the slaying of an adulterer caught in the act. Now, if an apprentice disobeys and runs from his master in order to escape chastisement, and the master shoots and kills him, it is murder.

Surely the slaying of the slave under the same circumstances, after full allowance for the difference in their grade of life, can be nothing less than manslaughter. If the law, for the purposes of policy, will not permit the master to be called to account for batteries, however cruel or unjust, done on the body of his slave, as it does in the case of an apprentice, yet when it is obliged to examine the extent of the master's powers by reason of death, then it will apply the same reasonable rules in investigating the master's guilt and the slave's conduct and rights, which it applies in the case of slaying an apprentice, suiting the rule to the difference of condition. *1 Hawks*, 217. If, indeed, the master may not be called to account till the death of his slave, if he have this wide scope of authority, to be exercised upon his own discretion, it is highly reasonable that, when he is called to account, the examination should be rigorous, for it is the only protection which the slave can claim at the hands of the law, and, therefore, ought to be strict, in order that it may be the more efficient. It is here alone that the slave, in the eye of the law, ascends from the level of mere property, and takes an humble stand amid his species.

Here he is regarded as a rational creature. *Scott's case*, *1 Hawks*, 24; *State* vs. *Read*, *2 Hawks*, 454. The necessity of averring that he is property, and whose property, as is requisite in indictments for the batteries of slaves, is here dispensed with; and from this distinction alone it would appear that the courts, in the very form of the indictment for murder, have

not recognized the exemption of the master from the accountability, common to the world beside, for the death of a slave. *2 Dev.*, 264.

The prisoner was shot in the act of making off from his overseer who was prepared to chastise him. A master's authority to apprehend his slave cannot be greater than that of a constable or sheriff to arrest for a misdemeanor; and a constable may not kill in order to prevent the escape of one guilty of that grade of offense. The law has so high a regard for human life that it directs the officer to permit an escape rather than kill. If the officer act illegally, by abusing his authority, or exceeding it, resistance unto death is not murder. But if the master have greater authority to apprehend his slave than a law-officer hath to arrest, under a precept, for a misdemeanor, he certainly has not a greater than a sheriff, acting under a precept, hath to arrest a felon. Here the law again shows its tender and noble regard for human life and its detestation of the shedding of human blood. The officer is not allowed to kill a felon, a murderer, or a traitor, unless his escape be inevitable. "And in every instance in which one man can be justified in killing another, the abuse of his power makes him guilty of manslaughter." *Bevil*, 78. An officer, therefore, having the right to kill a felon in order to prevent his escape, and then doing so when the escape may be prevented by more lenient means, is guilty of manslaughter. This necessity must always be proven. It is never to be presumed. No such necessity appears in the finding of the jury. In legal contemplation, therefore, it does not exist.

The law enjoins it as a duty on the officer to kill a felon, rather than permit his escape, upon the presumption, I suppose, that if he do escape, he will

forever elude the penalty of his crime. Such is not the case with a runaway slave, who, in general, may be certainly recaptured. No one will be found to maintain that it is the duty of the master to kill his slave rather than suffer his temporary escape. The prisoner was in the act of disobedience and not of resistance, between which there is a substantial difference. Act of 1791, *Bevil*, 114. The deceased then greatly exceeded his authority; whether the prisoner is to be considered in the light of an apprentice, of one who had committed an aggravated misdemeanor, or even in that of a felon; and if death had ensued, I conclude that he would have been guilty of manslaughter at the least.

This brings us to the important question in this case. Was the prisoner justly so provoked by the shooting as, under the influence of ordinary human frailty, to cause his reason to be dethroned, and to be deprived of deliberation? Or, in the language of Judge Haywood, in Norris's case, "was not the prisoner thereby deprived of the free and proper exercise of his rational faculties, owing to the fury of resentment, not unreasonably conceived?" If he was, that ends the question. Was it such a provocation as, allowing for the disparity of the free and slave condition of men in this country, was well calculated, even in minds tolerably well regulated, to throw a man off his guard and excite a furious anger? If so, the *State* vs. *Merrill*, *2 Dev.*, 279 (Ruffin's opinion), determines the fate of the prisoner. An appeal to human nature in its most degraded state will answer, unhesitatingly, it was. No man can reason and respond otherwise. And it appears to me that an appeal to the principles of law, as founded in the nature of man and recognized for centuries, will leave not a particle of doubt. Can the prisoner be

guilty of murder? Who can review the circumstances of the case, and in candor pronounce that they carry in them "the plain indication of a heart regardless of social duty, and fatally bent on mischief?" If this case can be made to reach this standard definition of murder, what bosom is there which does not luxuriate in the poison of murderous thought? And in vain may nature plead her wrongs and the tempest of the passions to excuse the indiscretion of her fitful moments. It may be murder, but if so, it must find its guilt, not in the human disposition, but in a policy that knows no frailty and shows no mercy. That policy is yet to be declared; I will not suppose its intended application to this case, and I shall, therefore, for the present, take the liberty of discussing the defense upon the received principles which define murder and distinguish it from manslaughter.

Murder is the felonious killing of a human creature with deliberation. The act must have three intents. 1. An intent to kill or hurt. 2. An intent to kill or hurt unjustly. 3. The intent must be deliberate. It is only necessary in this case to consider the deliberation of the intent; for it is admitted that the intent of the prisoner was to kill or hurt, and that it was unjust; but it is denied that it was deliberate.

The intent is not deliberate if there be provoking cause.

The mischievous, vindictive disposition essential to constitute the crime of murder is implied from the want of legal cause of provocation. The greatest care should be taken not to confound a vindictive act with such an act as shows a vindictive disposition. Every case of manslaughter, perpetrated in anger, is a vindictive act, whilst every case of murder exhibits

the vindictive disposition. A vindictive act simply is the result of ordinary frailty; a vindictive disposition is the attendant of extraordinary depravity. The former comes of a surprise of the passions; the latter marshals, stimulates, and leads the passions.

Manslaughter wants one of the above intents which define murder. It implies an intent to kill or hurt, and that the intent is unjust, but supposes the absence of deliberation, or the presence of a justly provoking cause. But what is justly provoking cause? In our search for the meaning of the expression we cannot consult the vague notions of men as to insults. There would not only be no certainty in them as a guide, but they would strip men of all security for their lives. We must appeal to the common law as it has recognized excusable frailties. Its principles, being bottomed on human nature civilized by legal restraints and legal privileges, adapt themselves with a happy facility to all the changes and modifications of society, and to all the mutations in the relations of its parts. These principles, having discarded the idea of legal provocation from words, have resolved the foundation of their existence into the protection of the person.

Self-preservation, being a prime law of nature, and indispensable to the first and permanent interests of society, the instinct is fostered instead of being checked. The policy of the law to cherish it is what dispenses indulgence to an excess of force requisite to preserve it and palliates an unnecessary homicide. If human institutions could so blunt this sense as to effectuate a law which should forbid blow for blow not threatening death, the introduction of slavery, to a great degree, would be already prepared. If, however, the degradation should stop at this point,

still there would be a very ample scope for this powerful sense to act in, and a dangerous attack, or a blow menacing death, being out of the customary sufferance, would call up, in vigor, the unsubdued though mutilated sense, and surprise it into action. It is not the object of the law, in its regulation of the relation of master and slave, to destroy any portion of the instinct of self-preservation. On the contrary, it would be rejoiced to preserve it entire, but this is inconsistent with the subjection of the slave, without which he is valueless. If this instinct were permitted to be displayed by the slave as by a freeman, the authority of the master would be at an end. Hence it is that when it is not so essential to be curbed it is allowed to enjoy a wider range; as, in respect of strangers who have no right to assume any authority, it is permitted to turn many degrees toward the condition of freemen. Hence it is, too, that whenever the law, for the purpose of sustaining the relation of the several parts of society deemed essential to the peace and safety of the whole, tolerates its partial suppression, it provides the best possible security against any abuse likely to occur because of its required extinction. Thus it gives to the wife the protection of love and identity of welfare; to the child the shield of affection; to the apprentice the guaranty of a penal bond; and to the slave the guard of interest. In general, in proportion as these securities are weaker, that of the law itself ought to be stronger; and, in proportion as the subjection in the one or the other of these relations is required to be greater or less, so must the suppression of this instinct be greater or less. The subjection in the relation of slavery ought to be greater, and so ought the extinction of the instinct to be greater than in any of the other relations. It is the legal duty of all

who are subjects in any one of them to adapt and conform this instinct to the extent necessary to maintain the relation; and if any one do not, he shall not plead its want of subjection in excuse of a deed occasioned by his neglect of duty. If an apprentice, being under lawful correction, shall resist and slay his master, it is murder, and not manslaughter, because the law cannot admit that he was provoked. If a slave be under any correction, with or without cause from his master, provided it do not threaten death or great bodily harm, and he resist and kill his master, this is murder likewise, and for the same reason, as the law requires this degree of submission from him. But if the apprentice be unlawfully beaten and he resist and kill his master, it is not murder, because the law hath not required him to extinguish his instinct of preservation to such an extent, and therefore it admits that he was provoked; so, if a slave be beset by his master in a manner to threaten death and he slay his master, this cannot be murder, because the law hath not required him to extinguish his instinct to so great a degree, and, therefore, it admits that he was provoked. In a word, in those bounds within which the law has enjoined it as a duty to curb the instinct of self-preservation, we are not allowed to display it, and if we do, the law cannot hear the defense of provocation; but all display of it, out of these bounds, is admissible and is the effect of legal provocation. The law demands it as a duty that we should tame our passions to suit the conditions which it has assigned us. It supposes that this duty will become habitual and consequently easy of performance, and that we will conform ourselves to its requirements. This, and this alone, is the true foundation of all the distinction between the master and the apprentice, between the freeman and

the slave.

But having conformed ourselves to a given and required degradation, to an enjoined submission, we are ready by our very nature and habits to resist any degradation or submission greatly beyond that which we have learned to acquiesce in as a duty. When a slave is required to bare his back to the rod, he does it because it is usual; but when he is required to stand as a target for his master's gun, he is startled—no idea of duty sustains the requirement and the unquelled portion of his instinct rouses his passions to resistance.

Human institutions are inadequate to the task of settling a condition in society which shall impart to its members the highest perfection of philosophic fortitude and the lowest degradation of animal existence—which shall blend into harmony the reasonable man and the passionless brute.

When it is declared that a slave is a reasonable or human creature, and that he is the subject of felony at common law; that murder and manslaughter both may be perpetrated on his person, that himself may commit both, it would seem to result that he was acknowledged to possess the infirmities common to his species. That they must be palliated in some cases, even when the master is the victim, I hope I have satisfactorily shown. And now I come to the deliberate conclusion that the only difference caused by the relation consists in the fact that there are some acts of the slave which constitute provocation that would not if done by a freeman; some which would constitute provocation to the master which would not to a stranger; and on the contrary, that a slave is not permitted to be provoked at many acts done by a stranger freeman which would constitute a

lawful provocation if done by a fellow-slave; and that a great variety of acts done by the master shall not be sufficient cause of provocation which, if done by a stranger, would be so deemed, but that in not a single relation in which the slave is placed by law is he debarred in every case of violence to his person from feeling and pleading a legal provocation.

If I have been successful in showing that the deceased greatly abused his authority by shooting at the prisoner, and that the act was calculated to produce a resentment not unreasonably conceived, the inference in law is irresistible that if the prisoner, immediately on being shot, had turned and slain the deceased, it could not have been more than manslaughter; and the only important point now remaining to be discussed is whether the interval of time between the reception of the injury and the commission of the homicide enhances the guilt of the deed. The law would be vain and nugatory as a rule of action if it should allow that the passions may be justly provoked and yet refuse to allow a reasonable time for their subsidence. When it says that reason may be dethroned it is never guilty of the solecism of holding the judgment accountable till reason can be reseated. Whether there may have been sufficient time for that important operation of the faculties, is a question often dependent on the circumstances of the case. The continuance of the original exciting causes and the addition of subsequent stimulants being necessarily calculated to prevent the restoration of reason, may prolong the time till they cease to exist; nor even then, at the very moment of their cessation, does the law demand that the bosom shall return to its calm and tranquillity. Such an instantaneous repose is no more to be looked for, in the tempest of the passions, than it is in the storms of the ocean,

whose angry waves are often seen to run mountain high long after the dark cloud hath passed away, and the raving wind hath fled from the conflict, leaving its enraged victim heaving with agitation beneath a tranquil and sunny heaven.

The time in this case was but six or eight minutes, and the wound calculated to produce death. If the exciting cause of provocation had here ceased, it would be a rigid and unnatural rule, to require, at the expiration of this short period, the presence of a responsible judgment; for it is perfectly apparent, that in proportion to the severity of the injury received, will be the length of time which nature demands to adjust the shaken balance of the mind. The prisoner had much cause to suspect that his wound would prove fatal; and no man, either bond or free, laboring under the excitement incident to such a situation, could, so soon, have quelled his fury and recalled his scattered senses. But these few moments were not allowed to be moments of rest and thought to the wounded man. They were moments of flight and active pursuit; flight, by a man, dangerously shot, his wounds bleeding in profusion, and chafed into agony by the friction of his clothes and the motions of his body; pursuit by a man who had meditated and attempted a deadly injury; who called to his aid three more men, ready to execute his purposes, whatever they might be, and who was well aware of the mangled condition of his victim, and who, under the full conviction of his shot proving fatal, cheered his comrades of the chase, by the unfeeling exclamation, "He can't run far." Let it be remembered, too, that the prisoner, during this space of time, had run a distance of five or six hundred yards; that he was overtaken by a man who, in moments perfectly cool, when compared with

those in which he captured the prisoner, had not hesitated to shoot him at a distance of a few rods, and by what logic can we arrive at the conclusion, either that the prisoner had enjoyed opportunity to regain his judgment, or that he had not every reason to apprehend from the deceased the finishing stroke to his life? How could he be trusted, with every passion inflamed to madness, who in cooler times had violated every duty as a man, had deliberately prepared himself to take the life of his fellow-man, and, as a superintendent, had, for trifling cause, attempted to destroy valuable property entrusted to his care? In no part of the slave's conduct does he evince a disposition to seek a conflict. He takes every occasion to avoid it. When he is headed, he does not hesitate to turn his course, and flee from an encounter.

Upon the whole, I cannot bring my mind to the conclusion, that this case is of higher grade than manslaughter, if of that; and whatever may be the prisoner's fate, I am free to declare, and with the most sincere candor, that I do not recognize in his conduct the moral depravity of a murderer, nor any high degree of inaptitude to the condition of slavery. He was disobedient, it is true, and ran to avoid chastisement. Three-fourths of our slaves occasionally do this. He slew his overseer, it is true, after having been dangerously shot, pursued and overtaken. The tamest and most domestic brute will do likewise. And I feel that if he must expiate the deed under the gallows, he will be a victim, not of his own abandoned depravity, but a sacrifice offered to the policy which regulates the relation of slavery among us. But before he is sacrificed, it may be useful to inquire into that policy. The interests of society demand that it should be fixed, and

permanently fixed, that the master may know the extent of his authority, and the slave prepare himself to its accommodation.

No question can be more delicate, or attended with so many bad consequences if settled in error. It would be next to impossible for the judiciary to adjust this relation adversely to any strong and deliberate opinion entertained by the public mind. The momentum of this feeling, acting through the juries of the country and the spirit of the Legislature, would be too powerful, successfully to be encountered by the courts. And in whatsoever decided current it might run, it would, finally, bear into its channel all interpretations of the law.

By a timely and judicious administration of the law, however, in relation to this subject, the courts may effect much in the formation of public opinion, and at this time they may exert the opportunities afforded by their situation, in a most happy manner to impart fixedness and stability to those principles which form the true basis of the policy. They have of late frequently announced from the bench the progression of humanity in this relation, and their clear conviction that the condition of the slave was rapidly advancing in amelioration, under the benign influence of Christian precept and the benevolent auspices of improving civilization. It is believed that these convictions were founded in truth, and the various laws on the statute books bring ample testimony to the fact. As far as slavery has been the subject of legislation for the last ninety years, it has been undergoing a gradual revolution in favor of the slave, and it is confidently asserted, not adverse to the best interests of the master, or of the security of the public. In a popular government we can nowhere

look for more correct information of the state of the public mind, upon a subject deeply interesting to the people at large, than in their laws. The history of the legislation of the State for the last century on this subject, during which more than a dozen principal acts have been passed at intervals, is a history of a gradual progression in the improvement of the condition of the slave, in the protection of his person, his comforts, and those rights not necessary to be surrendered to his master. The length of time in which this evidence of a common sentiment has been continuing in one course, is irrefutable testimony of its being the true and deliberate sense of the community. Very lately the whole subject came before the Legislature; and though it was at a time when the public mind was inflamed and alarmed at a recent and yet reeking massacre, they did not relax the laws made for their protection, nor render their lives or persons less secure. From the Act of 1741, which put the life of the slave, on trial, in the hands of three justices and four freeholders, down to that of 1831, which secures, beyond doubt, the right of the slave to a jury of slave owners, there will be found, without a solitary retrograde, one continued, persevering, and unbroken series of laws, raising the slave higher and higher in the scale of moral being. To the period of 1794, the character of the acts, though they are not numerous, nor strongly marked with exclusive benefit to the slave, is evincive of an intent to afford protection, where before it was weak.

It is not possible that there can be found, anywhere, a plainer manifestation of a decided intent to raise the consideration and standing of the slave than is expressed in these acts of the Legislature. Will the Court disappoint this unequivocal intention? Will they rebuke the spirit of the age and strike back this

unfortunate race of men, advancing from the depths of misery and wretchedness to a higher ground under the shield of so much legislation enacted in their behalf?

Our laws furnish incontestable evidence of what is the enlightened sentiment of the State. The history of other nations affords a body of luminous information to instruct us what that sentiment should be; and I feel no small pleasure in believing that the legislative policy of our past and present day most fully accords with that course which the long tried experience of bygone ages has distinctly marked out as the wiser and better one.

Upon this subject the Baron Montesquieu has gathered the choicest materials of every age, clime, and nation. With a mind, formed in the mould of patience itself; strong by nature and enriched with a philosophic cultivation, he hath executed the task of analysis with the most profound and discriminating sagacity. With no object in view but the advancement of political knowledge, he hath unmasked all the forms of government, traced to the fountain the principles of their action, and exposed to the meanest capacity the deep-hidden reasons of all the diversified relations of man, and the true genius of the laws necessary to support them.

In his *Spirit of Laws*, Vol. I, p. 291 *et seq.*, to 298, he treats of the subject of slavery, and informs us as the result of his inquiries that in governments whose policy is warlike, and the citizens ever ready with arms in their hands to quell attempts to regain liberty, slaves may be treated with great rigor and severity without the hazard of servile wars; but that in republics, where the policy is essentially pacific, and the citizens devoted to the arts of peace and

industry, the treatment of slaves should be mild and humane; that the power of the master should not be absolute, and that the slave should be put within the keeping of the law. If that candid and ingenious writer be not deceived in his conclusions, he has given us a hint for the regulation of our domestic servitude, the neglect of which may lead to the most fatal sequel. Our government is perhaps the most pacific on earth, and the citizens most addicted to the pursuits of civilized life. How inconsistent, then, will it be in us to adopt a policy in relation to our slaves which must be either yielded up or must change the habits and character of our people, and ultimately our form of government, with the blessing of liberty itself.

We may not expect that the danger of servile wars will only operate to arm the citizens generally in their own defense. The recent insurrection may show, indeed, the formation of numerous companies of yeomanry for the purpose of being always ready to meet and vanquish the earliest movements of insurrectionary slaves; but a little observation at this time, so soon, too, after the panic that gave rise to these preparations, will serve to show that at the present moment there remains scarcely a single one of the many associations which were then formed. They grew up with the panic, and they have vanished with it. It must be apparent, then, if ever ready arms are necessary to our safety, they must be lodged in hands not filled with other occupations, but responsible to the public for efficiency and dispatch. In other words, if a display of force be requisite to chain down the spirit of insurrection or stop the bloody career of its actual march, a standing army, which will leave the great body of citizens to pursue their favorite occupations of peace in perfect

security, will be the loud demand of the community. How certainly such a permanent association of armed men, first formed to preserve the relations of our slavery, will ultimately introduce a civil slavery over the whole land, the experience of other nations, and the warning of our own Constitution, will most fearfully answer. I know it has been frequently said, and with some it is a favorite idea, that the more cruel the master, the more subservient will be the slave. This precept is abhorrent to humanity, and is a heresy unsupported by the great mass of historic experience. The despair of individuals cannot last forever; neither will that of a numerous people afflicted with common wrongs, and exchanging a common sympathy. Rome had no servile wars till her masters had outraged every feeling of justice and benevolence and made their slaves drink the cup of unmitigated cruelty to its last drop; nor had she any, that I remember, after the first Christian prince of the empire had relaxed the intolerable degradations of that unfortunate class of her people.

I feel and acknowledge, as strongly as any man can, the inexorable necessity of keeping our slaves in a state of dependence and subservience to their masters. But when shooting becomes necessary to prevent insolence and disobedience, it only serves to show the want of proper domestic rules, but it will never supply it; and never can a punishment like this effect any other purpose than to produce open conflicts or secret assassinations.

In adjusting the balance of this delicate subject, let it not be believed that the great and imminent danger is in overloading the scale of humanity. The courts must pass through Scylla and Charybdis; and they may be assured that the peril of shipwreck is

not avoided, by shunning with distant steerage, the whirlpool of Northern fanaticism. That of the South is equally fatal. It may not be so visibly seen, but it is as deep, as wide, and as dangerous.



J. JOHNSTON PETTIGREW.

JAMES JOHNSTON PETTIGREW.

BY MRS. C. P. SPENCER.

James Johnston Pettigrew, late a Brigadier-General in the army of the Confederate States, was born at Lake Scuppernong, in Tyrrell county, North Carolina, upon the 4th day of July, 1828. His family is of French extraction. At an early period, however, one branch of it emigrated to Scotland, where it may be traced holding lands near Glasgow about the year 1492. Afterwards a portion of it removed to the northern part of Ireland. From this place James Pettigrew, the great-grandfather of the subject of this sketch, about the year 1732, came into Pennsylvania, and, some twenty years afterwards, into North Carolina. About 1770 this gentleman removed to South Carolina, leaving here, however, his son Charles, who was a resident successively of the counties of Granville, Chowan, and Tyrrell. Charles Pettigrew was subsequently the first Bishop-elect of the Protestant Episcopal Church in this Diocese. He died in 1807, and his memory survives fragrant with piety, charity, and an extended usefulness. His son, Ebenezer, succeeded to his estates and reputation, devoting his life to the successful drainage and cultivation of the fertile lands which he owned and to the government of the large family of which he was the head. Mr. Pettigrew resisted every solicitation presented by his neighbors for the employment of his talents in public service. Upon one occasion alone was his reluctance overcome. In 1835 he was chosen by a very flattering vote to

represent his district in the Congress of the United States. At that election he received the rare compliment of an almost unanimous vote from his fellow-citizens of Tyrrell, failing to obtain but three votes out of more than seven hundred. He could not be prevailed upon to be a candidate at a second election. Mr. Pettigrew married Miss Shepard, a daughter of the distinguished family of that name seated at New Bern. She died in July, 1830, when her son James Johnston was but two years of age. Ebenezer Pettigrew lived until July, 1848, having witnessed with great sensibility the very brilliant opening of his son's career among the contemporary youth of the land.

After his mother's death the child was taken to the home of his grandmother at New Bern, and there remained until he was carried into Orange county to pursue his education. Owing to an unfortunate exposure whilst an infant, young Pettigrew became a delicate boy, but by diligent and systematic exercise he gradually inured his constitution to endure without harm extraordinary fatigue and the extremes of weather. He was a member of various schools at Hillsborough from the year 1836, enjoying the advantages of instruction by Mr. Bingham for about four years previous to becoming a student at the University. During this period the state of his health required him to be often at home for several months together. He was a member of the University of North Carolina during a full term of four years, graduating there at the head of his class in June, 1847. From early childhood young Pettigrew had been noted as a boy of extraordinary intellect. At all the schools he was easily first in every class and in every department of study. He seemed to master his text-books by intuition. They formed the smallest

portion of his studies, for his eager appetite for learning ranged widely over subjects collateral to his immediate tasks. Nor did they always stop here. His father was amused and gratified upon one occasion to observe the extent to which he had profited by his excursions among the medical books of an eminent physician at Hillsborough, of whose family he was an inmate at the age of fourteen. In the class-room at the University he appeared in reciting rather to have descended to the level of the lesson than to have risen up to it. Student as he was, and somewhat reserved in demeanor, he was nevertheless very popular with his fellows, and the object of their enthusiastic admiration.

Anecdotes were abundant as to the marvelous range of his acquirements, and the generosity and patience with which he contributed from his stores even to the dullest applicant for aid. Nor was it only in letters that he was chief. A fencing-master, who happened to have a class among the collegians, bore quite as decided testimony to his merits in fencing as he had obtained from the various chairs of the faculty respecting his proficiency in their several branches.

The commencement at which he graduated was distinguished by the attendance of President Polk, Secretary Mason and Lieutenant Maury of the National Observatory. Impressed by the homage universally paid to his talents and acquirements, as well as by the high character of his graduating oration, these gentlemen proposed to him to become an assistant in the Observatory. After spending some weeks in recreation, Mr. Pettigrew reported to Lieutenant Maury, and remained with him for six or eight months. In the occupations of this office he

fully maintained his earlier promise, but soon relinquished the position, inasmuch as the exposure and labor incident to it were injuriously affecting his health.

After an interval of travel in the Northern States, Mr. Pettigrew, in the fall of 1848, became a student of law in the office of James Mason Campbell, Esq., of Baltimore, where he remained for several months. At the close of this period, by the solicitation of his kinsman, the late James L. Petigru of Charleston, S. C., he entered his office with the design of being subsequently associated with him in the practice of his profession. Upon obtaining license, Mr. Pettigrew, by the advice of the kinsman just mentioned, proceeded to Berlin and to other universities in Germany, in order to perfect himself in the civil law. He remained in Europe for nearly three years. Two years of this time he devoted to study, the remainder he spent in traveling upon the Continent, and in Great Britain and Ireland. He availed himself of this opportunity of becoming acquainted with modern European languages so far as to be able to speak with ease German, French, Italian, and Spanish. During this tour he contracted a great partiality for Spanish character and history, having had considerable opportunity for studying the former, not only as a private gentleman, but also as Secretary of Legation, for a short while, to Colonel Barringer, then Minister of the United States near the Court of Spain. It may be proper to add here, that among the unaccomplished designs of Mr. Pettigrew, to which he had given some labor, was that of following Prescott in further narratives of the connection of Spain with America, and as a preliminary to this, he had made a collection of works in Arabic, and had made himself acquainted

with that language.

Mr. Pettigrew returned to Charleston in November, 1852, and entered upon the practice of law in connection with his honored and accomplished relative. He profited so well by his studies in Europe and by his subsequent investigations, that in the opinion of his partner, who was well qualified to judge, he became a master of the civil law not inferior in acquisition and in grasp of principle to any in the United States. His success at the bar was brilliant. In 1856 he was chosen one of the representatives of the city in the Legislature, holding his seat under that election for the two sessions of December, 1856, and December, 1857. He rose to great distinction in that body. His report against the reopening of the slave-trade, and his speech upon the organization of the Supreme Court, gave him reputation beyond the bounds of the State. He failed to be reelected in 1858.

Mr. Pettigrew persistently refused to receive any portion of the income of the partnership of which he was a member. Independent in property, and simple in his habits of personal expenditure, he displayed no desire to accumulate money. Noble in every trait of character, he held the contents of his purse subject to every draft that merit might present.

For some years previous to the rupture between the North and the South, Mr. Pettigrew had anticipated its occurrence, and believing it to be his duty to be prepared to give his best assistance to the South, in such event, had turned his attention to military studies. Like many other rare geniuses, he had always a partiality for mathematics, and so very naturally devoted much time to that branch of this science which deals with war. Even as far back as

1850 he had been desirous of becoming an officer in the Prussian army; and negotiations for that end, set upon foot by military friends whom he had made at Berlin, failed only because he was a republican. Afterwards he became aid to Governor Allston of South Carolina, and more recently to Governor Pickens. Upon the breaking out of the war between Sardinia and Austria, Colonel Pettigrew at once arranged his private business and hastened to obtain position in the army under General Marmora.

His application to Count Cavour was favorably received, but after consideration his offer was declined on the ground that the event of the battle of Solferino had rendered further fighting improbable. He was greatly disappointed, as his reception had inspired him with hopes of seeing active service in the Sardinian army with rank, at least as high as that of a colonel. Availing himself, however, of his unexpected leisure, he revisited Spain, and after a stay of a few months returned to South Carolina. The fruits of this second visit were collected by him into a volume entitled *Spain and Spaniards*, which he printed, for the inspection of his friends, in 1860. It will be found to be a thoughtful, spirited, and agreeable record of his impressions of that romantic land. At the opening of the present war, Colonel Pettigrew, as aid to Governor Pickens, took a prominent part in the operations at Charleston. He was at that time also colonel of a rifle regiment, in which he was much interested, and which became conspicuous amongst the military organizations around Charleston in the winter of 1860-'61. As commander of this body he received the surrender of Castle Pinckney, and subsequently held himself in readiness to storm Fort Sumter, in case it had not been surrendered after bombardment. Later in the

spring, having failed to procure the incorporation of his regiment into the army of the Confederate States, and believing there was little chance of seeing active service in South Carolina, he transferred himself to Hampton's legion as a private, and early in the summer accompanied that corps into Virginia. A few days afterwards he was recalled to the service of his native State by an unsolicited election as Colonel of the Twelfth Regiment of North Carolina volunteers, afterwards the Twenty-second Regiment of North Carolina troops. It had been Colonel Pettigrew's earnest wish to become connected with the North Carolina army, so he at once accepted the honorable position, and repaired to Raleigh, where his regiment was stationed in its camp of instruction. He devoted his attention to its discipline with great assiduity, and in the early days of August was ordered into Virginia. The fall and winter of 1861 were spent by him near Evansport, upon the Potomac. He gave his whole time and attention to perfecting his regiment in the duties of soldiers. He fully shared in every hardship that was incident to their situation. In this new position Colonel Pettigrew became conspicuous for another characteristic necessary to eminent success in every department, but especially in that of military life. He was an adept in the art of personally attaching to him the men under his charge. Their enthusiasm knew no bounds. Their confidence in his administration of the police of the camp was perfect, and their assurance of his gallantry and skill unqualified. He soon felt that he might rely upon his brave men for all that was possible to soldiers. Being offered promotion to the rank of brigadier, he declined it on the ground that it would separate him from his regiment. Sometime later, in the spring of 1862, an arrangement was made by which the

Twelfth Regiment was included in the brigade that was tendered to him, and he no longer felt any difficulty in accepting the promotion.

General Pettigrew shared in the march under General Johnston into the Peninsula, and afterwards, in the retreat upon Richmond. On the first day of June, 1862, in the battle of Seven Pines, he was severely wounded by a ball which passed transversely along the front of his throat and so into the shoulder, cutting the nerves and muscles which strengthen the right arm. This occurred in a charge which he led with great gallantry. He was left upon the field for dead, and recovered his consciousness only to find himself in the hands of the enemy. Some weeks later his exchange was effected, and being still an invalid, he was placed in command at Petersburg. The exigencies of the service having required his regiment to be transferred to another brigade, he found, upon his return, that it had been placed under the gallant, and now, alas! lamented, General Pender. By degrees a new brigade assembled around General Pettigrew, and such was his pains in its instruction, and such the desire among the North Carolina soldiers to make part of his command, that by the close of the year he was at the head of a brigade which, in point of quality, numbers, and soldierly bearing, was equal to any in the army. He commanded this brigade in repelling the Federal raid into Martin county, late in the fall of 1862, and again in General Foster's expedition against Goldsboro, in December, 1862, and although the quick dexterity of the enemy in falling back did not upon either occasion afford him and his associates an opportunity of trying conclusions with them, yet, upon both occasions the magnificent appearance of Pettigrew's Brigade tended greatly to revive the spirit

of a community recently overrun by the enemy. He was also with General D. H. Hill during the spring of this year, in his attempt upon Washington in this State; and in the very brilliant affair at Blount's Creek gave the public a taste of what might be expected from his abilities when untrammeled by the orders of a superior.

At the time of General Stoneman's raid on the north of Richmond, General Pettigrew was ordered to the protection of that city, and shortly afterwards took position at Hanover Junction. His brigade subsequently made part of the Army of Northern Virginia, and accompanied General Lee into Pennsylvania. At the battle of Gettysburg he was in command of Heth's Division, and won many laurels. His division was greatly cut up. The loss of his brigade in killed and wounded was so heavy as almost to destroy its organization. He himself was wounded by a ball which broke one of the bones of his hand. He regarded it so little as not to leave the field. Moving afterwards with General Lee to Hagerstown and the Potomac, it devolved upon General Pettigrew, on the night of the 13th and the morning of the 14th of July, to assist in guarding the passage of that part of the army which recrossed at Falling Waters. About nine o'clock in the morning of the latter day, having been in the saddle all night, General Pettigrew and other officers had thrown themselves upon the ground for a few moment's rest, when a party of Federal cavalry rode into their midst. In the *mêlée* which ensued, General Pettigrew was shot, the ball taking effect in the abdomen and passing through his body. When the enemy had been repulsed, he was taken up by his sorrowing soldiers and carried across the river some seven miles into Virginia, along the track of the army. Upon the next

day he was carried some fifteen miles further, to the house of Mr. Boyd at Bunker Hill, where he received every attention of which his situation allowed. Upon General Lee's expressing great sorrow for the calamity, he said that his fate was no other than one might reasonably anticipate upon entering the army, and that he was perfectly willing to die for his country. To the Rev. Mr. Wilmer he avowed a firm persuasion of the truths of the Christian religion, and said that in accordance with his belief he had, some years before, made preparations for death, adding, that otherwise he would not have entered the army. He lingered until the 17th, and then at twenty-five minutes after six in the morning, died, quietly and without pain. The expression of sympathy for his sad fate was universal. Private soldiers from other commands, and distant States, vied with his own in repeated inquiries after his condition. Upon its way to Raleigh, his body was received by the authorities and by the citizens everywhere with all possible respect and attention. On the morning of Friday, the 24th of July, the coffin, wrapped in the flag of the country, and, adorned with wreaths of flowers and other tributes of feminine taste and tenderness, lay in the rotunda of the Capitol, where, within the year, had preceded him his compatriots, Branch and Anderson. Later in the day the State received his loved and honored remains into her bosom.

It was a matter of great gratification to North Carolina when this son, after an absence of a few years, gladly returned to her service. She views his career in arms with a just pride. She will ever reckon him among the most precious of her jewels; and will hold him forth as the fittest of all exemplars to the coming generations of her young heroes. Chief among his triumphs will it be reckoned that in the

midst of his elevation and of the high hopes which possessed his soul, he so demeaned himself as to secure a place, hallowed by grief, in many an humble heart throughout North Carolina. His name is to be pronounced reverently and with tears by the winter fireside of many a hut; and curious childhood will beg to have often repeated the rude stories in which soldiers shall celebrate his generosity, his impartiality, his courtesy, and his daring. It is true that many eyes which flashed with enthusiasm as their favorite urged his gray horse into the thick of the battle, are forever dull upon the fatal hills of Pennsylvania; but this will render his memory only the more dear to the survivors; what of his fame was not theirs originally, they will claim to have inherited from the dead around Gettysburg.

If this story has been properly told, little remains to be said by way of comment. A young man of very rare accomplishments and energy, fitted equally for the cloister of the scholar and for the field of battle, has been snatched from our midst. Admirably qualified to be of assistance to the country as a soldier or as a statesman, General Pettigrew has been suddenly removed at the very commencement, as it were, of his career.

Ostendent terris hunc tantum fata, neque ultra
Esse sinent.

Although what he has achieved is sufficient for fame, that which impresses the observer most forcibly is that such vast preparation should, in the course of Providence, be defeated of an opportunity for display at all commensurate with what seemed its reasonable requirements. Under the circumstances, his death looks like a prodigious waste of material. It

adds a striking illustration to that class of subjects which has always been popular in poetry and in morals, whether heathen or Christian. It appears very clearly that the Ruler of all things is under no necessity to employ rare talents and acquirements in the course of His awful administration, but, in the crisis of great affairs, can lay aside a Pettigrew with as little concern as any other instrument, even the meanest.

Upon some fitting occasion, no doubt, his friends will see that the public is furnished with a more suitable and detailed account of the preparation he had made to do high service to his generation. It will then be better known that no vulgar career of ambition, and no ordinary benefit to his country, had presented itself to him as worthy of the aims and endowments of James Johnston Pettigrew.

Mrs. Spencer's sketch was written in 1863 and published in the *Fayetteville Observer*. It will also be found in her *Last Ninety Days of the War*, as an appendix. Other sketches since written may have added opinions, but very few facts.

The stranger may ask, What has this young man done that he should be placed by the side of Davie, Macon, Murphy, Badger, and Ruffin? In intellectual grasp he was the equal of any of them—probably the superior of all. As an original thinker, as a practical investigator in new and untried fields, it does not appear what he might have been.

He was on the crest of the highest wave of Southern valor and patriotism as it swept over the mountains of Pennsylvania.

In Longstreet's assault, in the third day's fight at Gettysburg (which some Virginia historians, with

amusing vanity, call "Pickett's charge"), Pettigrew's command, Heth's Division, bore the brunt of the enemy's resistance. Five of the North Carolina regiments following Pettigrew had more men killed than Pickett's fifteen. His own brigade (four regiments at Gettysburg) carried into Longstreet's assault about fourteen hundred and eighty men; its loss in killed and wounded was four hundred and forty-five.

This same brigade, Pettigrew in command, held the pivot of the first day's fight, but at a fearful cost. Out of the twenty-two hundred engaged it lost six hundred and sixty killed and wounded.

In this brigade was the famous Twenty-sixth North Carolina Regiment, under Harry K. Burgwyn, which lost in the first day's fight five hundred and eighty-eight men killed and wounded out of a total of eight hundred and in Longstreet's assault one hundred and twenty of the remnant, the greatest loss and the greatest percentage of loss of any regiment in either army in any battle during the Civil War. Its gallant colonel (Burgwyn) was among the last of fifteen color-bearers who fell with the flag in their hands.

In the first day's fight Pettigrew was engaged with the famous "Iron Brigade," in which was the Twenty-fourth Michigan, facing the Twenty-sixth North Carolina in the open field at close range, gradually getting closer as the Federals slowly retired through field and woods for an hour and a half, until finally, and before the Twenty-fourth broke, they were within one hundred feet of each other, at which range they continued for twenty or thirty minutes. Captain J. J. Davis (afterwards Associate Justice of our Supreme Court) was an eye-witness and participant. He says: "The advantage was everywhere

with the Confederate side, and I aver that this was greatly, if not chiefly, due to Pettigrew's Brigade and its brave commander. The bravery of that knightly soldier and elegant scholar, as he galloped along the line in the hottest of the fight, cheering on his men, cannot be effaced from my memory."

After this frightful day's work he was chosen to lead Heth's Division in Longstreet's assault. And though wounded in this assault by a grape-shot through his hand, he it was who, on the retreat of Lee's army, was chosen to command the rear guard, which consisted of his own shattered brigade and another. This was the duty that Napoleon assigned to Marshal Ney, "the bravest of the brave." And it was in the discharge of this duty that Pettigrew lost his life.

Dr. W. H. Lilly, of Concord, N. C., an eye-witness and the physician who was with General Pettigrew when he got his death-wound, at my request gives me a short account taken from his diary kept at the time:

"General Pettigrew was carrying his wounded hand in a sling.... On the night of July 13th we started on our march to the river. It was raining, and very dark, so that we proceeded very slowly. On the morning of the 14th, General Pettigrew, with his and General Archer's Brigades, was left as rear guard while the wagons and artillery were crossing the river on the pontoon bridge. While our men were lying down a large body of cavalry appeared in our rear. A squadron from the main body came riding up to our line. They were at first thought to be our men retiring before the main body of the advancing enemy. When near us a small United States flag was recognized, and they were in our midst before we

fired on them. General Pettigrew's horse threw him, as he had only the use of one hand. He then began to snap his pistol at one of them, who turned and shot him in the abdomen. The General's pistol did not fire, as the powder was wet from the heavy rain. Nearly the entire squadron was killed or captured. We put General Pettigrew on a stretcher and carried him over the river at once. I advised him to remain in a house, and assured him that his only chance for life was in his being entirely quiet. He refused, saying he would rather die than fall into the hands of the enemy. We brought him in an ambulance to Bunker Hill and put him into Mr. Boyd's house, where he died at 6:30 A. M. on the morning of July 17th."

Why was it that this young man (who rarely went into a fight that he did not get hit) was preferred for responsible and dangerous commands before the officers trained at West Point? He had the genius for war and the spirit of a hero-martyr.

In the blood of his crucified cause was written the mightiest protest ever filed for the judgment of posterity against the class legislation, the centralization and the aggrandizement of the General Government in copartnership with the preferred and protected States—a copartnership out of which has been spawned a still more unholy alliance with the corporations and moneyed institutions which have their roots in those States and in foreign countries.

Not in blood, we hope, but nevertheless bravely and patriotically, let the young men of this day and generation strive to free our Union from the domination of domestic traitors and entangling alliances with foreign foes.

I have selected two short extracts from his book, *Spain and the Spaniards*, as giving a hint of his style

and habits of thought. The book was intended for private circulation among his friends, and was written, doubtless, with the usual speed of young authors. It indicates considerable learning and research, but its arrangement is somewhat crude and its style not always sufficiently careful and clear. One might well wish that he had devoted his life to literature, but his talents were so varied and versatile it is hard to say where he would have most excelled.

THE CHARACTER OF THE BRITISH.

"All this talk (that our western civilization and government is nothing but a development of English ideas) is beginning to make the Europeans believe that we consider ourselves under some obligations to sympathize with and sustain Anglo-Saxonism, the real truth being that there is a far greater sympathy between the French and us than between their neighbors and us. We are essentially democratic; they abhor and detest the idea. The most miserable creature in England would spurn liberty if accompanied by equality; for he thinks there must be some poor devil, more miserable than himself, over whom he can tyrannize. We acknowledge and are in favor of securing to every one his just rights in the political system; whereas, exactly the contrary holds in the Anglo-Saxon, who follows the old parable of giving to him that hath and taking from him that hath not even that which he hath. The universal tendency is to yield power to those above and to keep the lower class pressed to the earth. I, therefore, see little to justify the attempt of Mr. Bright to transplant our institutions into England. He forgets

that the Americans—it is useless to investigate the causes why—are a race of higher and more delicate organization, and can be entrusted with liberty because they can appreciate it. The common Englishman would only covet the privilege of suffrage in order that he might sell his vote at its market value. He needs a sort of master, and delights in having one. Universal suffrage in England, with due submission, seems to me the craziest idea that ever entered into the brain of a statesman. But Mr. Bright has a meagre following, for the English people know themselves too well to indulge in such a Utopian experiment. Not content with this, they kindly volunteer to lecture us upon the errors of our system of society—for it is a difference of society as well as of government—and pronounce republicanism a failure because we prefer to confine government within the strictest limits necessary for the objects of its institution, and perhaps find King Log more suitable for the purpose than King Stork. Even Mr. Macaulay has favored us with a "preachment," founded upon such a strange confusion as to seem to belie the aphorism that history is wisdom teaching by experience, and that its votaries should consequently be the wisest of statesmen. England is a conglomeration of monopolies. The land is a monopoly of a few thousands; the government of a few hundreds. The whole number of capitalists does not exceed a few millions. All below is a toiling, ignorant, vicious, discontented multitude, who know not one week where they will find bread for the next. Such is their system, and were America like England, Mr. Macaulay would be justifiable in supposing the cause of republicanism hopeless. But what class in America enjoys a monopoly of the pleasures of life? Is not

every avenue open to the most unfriended capacity? Do not all receive the benefits of education? Can not, and have not, the poorest boys occupied the Presidential chair? Have our great statesmen, our millionaires, been, for the most part, the children of even competency? Owing to the equality which reigns throughout our ideas and institutions, is it not in the power of every honest laborer to make provision against the contingencies of old age, and do not most of them make such provision? Whence, then, is to come this army of grim, despairing, famished workmen, who, having nothing, hoping nothing, without past or future, are to wage an eternal warfare against the order of society? Is there, then, no middle ground between a savorless communism and the despotism of capital? Are there no checks and balances in nature? Do freedom, equality, education, an honorable inculcation of industry effect nothing? It is provoking to hear such solemn inconsequences from a really great man.

The disposition, too, to place a money value upon everything, the real cause of their difficulties, is peculiar to the Anglo-Saxons, and an anomaly in the present age of the world. In the military profession, where, of all others, individual merit should be the sole passport to distinction, commissions are still bought and sold. Throughout the country money is imperatively required for every position of eminence. The records of the House of Lords contain the strange case of a duke who was expelled for no other crime than his poverty. Men of the first abilities are deterred from accepting the peerage because they have not amassed money enough to save them from the humiliating and disgraceful position of a poor gentleman. We Americans like money, not because it is money, or because it brings position or respect, but

because it gratifies bodily desires. It would be thought an astonishing thing with us if the Presidential Electors were to inspect the pockets of the candidate rather than his head and his heart; or if, in 1848, Mr. Cass had been recommended on account of his wealth, or General Taylor had sold out his commission—things perfectly consonant with Anglo-Saxon ideas. Yet the greatness of England is due in considerable part to this very state of affairs, and any attempt to alter it may involve the downfall of her power. The natural rulers are the aristocracy—and the Anglo-Saxon gentleman is certainly one of the best qualified persons in Europe to govern Anglo-Saxons—but all below bear the impress of an inferior class, a strange combination of servility with tyranny. That there should be any real sympathy between the great body of the two nations is as little to be desired as expected.

Having thus spoken of the want of sympathy between us in the weaker points of character, justice requires me to confess that there is an equal absence of resemblance in the virtues. The Englishman certainly does possess bulldog courage. His officers may be ignorant of the science of war, but he, nevertheless, fights to the last, nor is he subject either to the exhilaration of success or the depression of defeat. He is conservative by nature and abhors humbugs and humbuggery. The middle classes, and particularly the country gentleman, are worthy of their position. The men of this rank are true and the women virtuous. Reserved in intercourse and unamiable toward their own countrymen, they seem to be courteous to foreigners and even to each other when the social barrier is broken through; but these do not compose the nation. In discussing national relations it is not the merits and demerits of one class

alone that are to be considered, but the bearing of the whole.

The increase of steam and the facility of communication and the little leaven of Anglo-Saxonism unfortunately left among us, has of late years caused many Americans to look up to England as the *mother country*, as the phrase goes. Though, perhaps, not one in ten of those who use the expression so frequently has any great amount of the much prized fluid in his veins. The manner in which the homage is received beyond the water depends very much upon the state of relations with France. As the one goes up, the other goes down. The difference between the conduct of the English toward America now, and its conduct in 1850, is astonishing. Then France was torn internally, scarcely able to maintain domestic tranquillity, and powerless for any offensive action. Europe was just beginning to stagger weakly along, as if from a bed of sickness. England and Russia, alone, of the great powers, had stood the storm unbent. Under this state of things America was a presumptuous youngster, to be snubbed upon every opportune occasion. The Yankees (as they persist in calling the whole nation) were described in Europe as lank, nasal-twanging barbarians, very good for accumulating money and manufacturing wooden nutmegs, but worthy only of a place in the kitchen of the civilized world. The Brussels-carpeted parlor, Christendom, was not to be defiled with their presence. The newspapers never wearied of ringing the changes upon American shortcomings. Our self-government and liberty were held up as empty bubbles on the point of bursting. The plain and unflattering truth being that the English have a profound contempt for us, and it is impossible to blame them for it, when we remember

the servility and utter abnegation of manhood that characterize so many of us in the presence of a live lord. They have eagerly embraced every opportunity of kicking and cuffing us, yet we whine at their feet; how could they do otherwise than despise us? Since that time, however, certain changes have taken place in the world. The distracted French Republic has given way to a powerfully organized empire, with a chief capable of planning, and an army and navy capable of executing any enterprise, however gigantic. The first warning given of this change was in 1851, on the Greek question, when the President of the French Republic checked Lord Palmerston, and gave England to understand that her course of proceeding in foreign domineering must be altered or a war with France would follow in a fortnight. We all remember the salutary effect of that warning, and Palmerston's capital "bottle-holding" speech. The doctrine of a balance of power upon the ocean as well as the land has been again spoken of in high places. The ghost of Waterloo, from being a source of unmingled pride and gratification and boasting, has come to cause as many terrors as that of Banquo. An unexpected consequence has been that the manner of speaking of America has altered apace. It is "our cousins beyond the water" now, and "Brother Jonathan." An American is appealed to and asked whether he will allow the "mother country" to be crushed, the "Protestant religion to be destroyed," etc. All this happened before, and if the government of Louis Napoleon were supplanted by a weak monarchy, the present good feeling of "our dear cousins" would disappear as rapidly as their fears.

In truth, opposition to the advancement of the United States, whether material or intellectual, is the normal condition of England. We have suffered from

it ever since the foundation of our government, and will continue to do so, except when the fear of invasion causes a temporary change in her policy; for selfishness, an utter, unholy and inconceivable desire to sacrifice the happiness and prosperity of every other country to her own even most trifling advantage, is her invariable rule of action. The English quarrel among themselves about the length of a bishop's gown, or the cut of a guardsman's hat, or great constitutional questions, but there is never a difference of action on this point; and any statesman who dared raise a voice in behalf of justice and honor in foreign relations could not be returned from a single constituency in England. Witness poor Bright and Cobden in the Chinese war. Woe to any nation that trusts her friendship.

AN EVENING AT SEVILLE.

About nine o'clock in summer, the whole of Seville issues forth to enjoy the evening air on the Plaza Isabel, which is the favorite promenade at that hour. So, following the current, I found myself in a large parallelogram, surrounded by stately buildings in the modern style, and half-filled with an innumerable throng of all classes, some seated, some walking. Most of the men were smoking and most of the women fanning themselves, with occasional intermixtures of conversation; but the great occupation of every one is to look and be looked at....

A public promenade is indispensable to every Spanish city, however small, and every Spaniard is

sure to pass there some portion of the week. Particularly is this the case in Andalusia and Valencia. The unbroken clear weather, continuing during a large part of the year, converts the occasional constitutional stroll into a daily habit, and an afternoon or evening walk is as much a matter of course as attendance at mass. Fortunately for strangers, they have thus, during spring and summer, an opportunity for seeing a considerable portion of the population without the necessity of resorting to letters of introduction, which involve the sacrifice of more time than a passing traveler can spare. Seville is the city where this, as all other national customs, is seen in its greatest perfection....

The night was Spanish, and who can describe the glories of a Spanish summer night on the banks of the Guadalquivir? The mellow lustre of the moon seemed to have overflowed the earth, and the blue vault of heaven had given even to the stone buildings around an appearance of liquid silver. It was as though the air itself had a visible tangible substance, and we were floating upon the bosom of an enchanted ocean. The lamps served but for ornament, and stood like little points of burnished gold. Not a cloud obscured the sky. Odoriferous breezes from the south wafted gently over, as if fearing to embrace too roughly the fair cheeks that sought their wooing. A quadruple row of chairs offered repose to the indolent or weary, and from time to time some young lady would take compassion upon a score of admirers, by remaining where all might approach within sound of her voice; but the more interesting part of the assemblage was generally to be found on the promenade.

The beauty of Spanish women has ever been a

subject of admiration to all who are endowed with a perception of the lovely. Yet, while acknowledging its irresistible power, there is nothing so difficult as to explain the fascination which it exercises; for, unlike the rest of their sex, the daughters of Andalusia owe nothing to those artificial processes which may be said to form a part of the female education elsewhere. Their taste in dress is excellent, when combined with simplicity, as is generally the case; for they have by nature very little disposition to the variety of colors, which appears to be the ruling passion of Parisian circles. The universal costume in winter, and the usual one out of doors in all seasons, is a dark colored skirt called a *basquiña*, fitting close around the waist and extending to the feet, which are thus concealed. It is sometimes kept in place by leaden pellets affixed to the border. The same innate sense of delicacy, or, perhaps, an intuitive knowledge of the weakness of men in believing no charms equal to hidden charms, preserves them from those fearful exposures of neck and shoulders, which so shocked the Japanese. A delicate satin slipper encases a foot that would not crush a daisy. From the top of the comb, if one be worn, gracefully fall the mantilla's folds across a gently budding breast, where it is confined by the fingers of the wearer's left-hand, or at times the veil is thrown forward over the face.

From the hair, massed above the temples, stealthily peeps a rose, as if hesitating to venture its humble beauties beside such loveliness. Two curls—*guedejas, caracoles de armor*—bear it company. A fan completes her costume. Thus armed, the maids of the Guadalquivir go forth to conquer the world.

The use of the black veil seems traditional in Spain, since it is mentioned by the Roman

geographers as a part of the ancient costume existing in those provinces which had not fully adopted the dress of the conqueror; and they describe it as frequently thrown forward over the face in the same style.... The mantilla is peculiarly becoming to the Spanish style of features, while the French hat presents the most odious and hideous contrast conceivable; the former lends additional attractions; the latter destroys those which already exist. One may be insensible to everything else, but the mantilla is irresistible. A *basquiña*, a Cinderella slipper, a mantilla or a veil, a rose and a fan, are all that any Andaluza needs to bring the world to her feet.

But the fan! the magic fan! who shall describe its wonderful powers? Who can sound the depths of its mysteries? Every movement of this potent wand is fraught with happiness or misery. In their hands it positively speaks, and its gentle recognitions are far more winning than any assertions of the tongue. It is said to have a language, a sort of alphabet of its own, but that is doubtful. Its utterances are of the magnetic character, which need no interpretation, and are felt rather than learnt. The art of managing it was always to me an unfathomable science, and though I embraced every opportunity of becoming a proficient, and actually took two formal lessons, I failed utterly of success. It must be said, however, that my instructor had learnt by intuition, but unfortunately was not able to teach by the same method. I was always told there was only one way of opening it, yet there are certainly five, for the theory is almost as difficult as the practice. But having, by dint of hard study, acquired, as you fondly imagine, the requisite theoretical knowledge, you desire to see it embodied in action. Your instructor shows how the fingers are placed. You are then told to do "so";

whirr! goes the fan, and it is all over before your eyes have caught the first movement. A gentleman present at my discomfiture, consoled me by saying that he would not respect a man who could acquire the art; that in men's hands it was a practical instrument for putting the air in motion. The ladies certainly do not so regard it.

I had been apprehensive lest this costume, rendered so poetical by the descriptions of travelers and the dreams of romancers, were not the true secret of the admiration which I had formerly carried away across the Pyrenees, and that it was a reflected, semi-poetic, semi-romantic, at all events, unsubstantial conception. Such is not the case. On the present occasion the prevailing color, in accordance with the season was white, and the mantilla was replaced by a simple lace veil, so that there is certainly some external attraction independent of dress. I attribute it to the combination of personal beauty, such as the world cannot surpass, with a grace of movement, an innate, inalienable elegance of manner, which no education can give and no words describe. An Andaluza is born, not made. Not too tall and never dumpy (horrible word), her person is so exquisitely proportioned that, without some measure of comparison, you would form no opinion as to her real size. An elegant fullness preserves her alike from the scrawny penury of the English or the corpulency of the Italians. Her lofty brow justifies her sparkling wit, and the delicate organization of her feelings and intellect is in harmony with the finely chiseled features. Luxuriant masses of dark glossy hair, parted slightly on one side, and nobly arched eyebrows, are a fit setting to a rich southern complexion, not of sickly yellow, but of a clear olive tinge, through

which the timid blood, with every emotion, mantles to the surface. The pride of her beauty is the large, lustrous, almond-shaped, velvety eye, half covered with silken lashes, as if to screen her admirers from the danger of being consumed; but when aroused into activity, flashing forth pride, interest, inexhaustible love, with a fire more irresistible than that of a thousand suns. Then it is that, with an imperious wave of the fan, she bids you plunge into a maelstrom of vipers, and you obey.

There is a widely diffused, but very erroneous belief among us that every Spaniard has perforce black eyes and a dark complexion. Such is far from being true, even in Andalusia. Ladies of the better class, who are not exposed to the sun or wind, have beautifully clear complexions, though brunette. In Ronda, blue eyes form the majority, and they are by no means uncommon in other provinces. But the Spanish blonde is still a Spaniard, and her type of beauty very different from the insipid combination which often passes under that name in the north. There is the same smothered fire, the same deep expression in the eye, the same richness of complexion, which, in union with raven tresses, form an exquisite picture. Light-haired persons, *rubias*, are rarer, and of course much admired to look at, though every one falls in love with their dark-haired rivals. Of the luxuriance and elegance of their hair the ladies are justly proud, and no pains are spared to render it as beautiful as possible. The time devoted to this object is sacred in all classes, and if, in response to an inquiry or request, the ominous reply is heard, "*hombre! estamos ocupadas con el pelo*," it is useless to remain. Nothing short of another invasion of the Moors could arouse them. During the civil war, Zumalacarregui, or Merino, for it is narrated of

both, placed death for the men and loss of their hair for the women, upon the same footing, and found them equally efficacious punishments.

Spanish girls are taught to walk gracefully, too, as all girls should be, and since the narrowness of the streets prevents the general use of carriages, and the arms of gentlemen are seldom offered, and never accepted, they avoid falling into the tottering shuffle, which is produced by the opposite customs. The walk of the Seville ladies is something peculiar to Andalusia. That they take steps is firmly believed because required by the anatomical construction of mankind, but in their case the belief is the result of induction, not of ocular perception. They glide over the earth as though supported by unseen hands, and disappear from your sight ere you can believe that they are actually moving.

The Andalusian foot is a marvel, both for size and beauty. A lady will wear with ease the slipper of an ordinary girl of fourteen. If any artificial means are used, the pressure must be very slight, as the appearance is perfectly natural, notwithstanding the fact that they seldom adopt any other means of locomotion. The development of the English *understanding* is a subject of perpetual wonderment on the Guadalquivir, where they are accustomed to compare its covering to a twelve-oared boat.

The graceful walk of the Sevillians is not more peculiar to them than the noble carriage of the head, due, doubtless, in some degree, to the absence of those fragile yet cumbrous ornaments which force others to assume a stiff and constrained position. It gives them an air of haughtiness by no means disagreeable, however, as you are quite ready to admit their unapproachable superiority before they

assert it. Every Andaluza has two points of beauty—fine eyes and hair. Then she may have a good complexion, and she is almost certain to be graceful. If to these she unite wit and cultivation, who are so daring as to deny her preeminence? Progress, perhaps mere change, is desirable in many things in Spain, but that Heaven may preserve her fair daughters from the hand of innovation is the prayer of native and foreigner alike. It is scarcely possible, that the best laid schemes of any power on earth could effect an improvement.



WILLIAM D. PENDER.

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BY W. A. MONTGOMERY.

Among the glorious number of heroic spirits who

laid down their lives for this pre-doomed undertaking [the secession of the Confederate States] not one was more conspicuous for courage and loyalty, and but few, if any, for skill and leadership, than the subject of this sketch, General William Dorsey Pender. He was born in Edgecombe county, N. C., on the 6th of February, 1834, at the country home of his father, James Pender, Esq. His paternal ancestry is of ancient English stock, the name being as old as English history itself. The first of the family to come to America was Edwin, who, in the reign of Charles II., settled near Norfolk, Virginia. A descendant of the same name, grandfather of General Pender, removed from Norfolk to Edgecombe, on Town Creek, where he owned and died possessed of large landed interests and slaves. On one of these plantations, inherited by his father, General Pender was born. His mother was Sarah Routh, a sister of the mother of the late Hon. R. R. Bridgers, and the daughter of William Routh, Esq., of Tidewater, Virginia.

General Pender lived where he was born until he was fifteen years of age, when he entered, as a clerk, the store of his brother, Mr. Robert D. Pender, in Tarboro. This employment was distasteful to him from the first. The martial spirit was already strongly developed in him, and the opportunity soon presented itself for him to begin a military education and training. He entered the Military Academy at West Point as a cadet on the first of July, 1850, having been recommended as a suitable candidate by the Hon. Thomas Ruffin, who was then the member of Congress from his district. The friendship of Mr. R. R. Bridgers, which lasted through life, procured for him the appointment. He was graduated in 1854, standing nineteenth in his class. In this class were G.

W. Custis Lee, Stephen D. Lee, J. E. B. Stuart and other distinguished military men. As cadet he was modest and unassuming in his intercourse with his fellows, respectful to his instructors and tractable to the discipline of the institution. Upon his graduation he was assigned to the First Artillery as Brevet Second Lieutenant and the same year was made Second Lieutenant of the Second Artillery. In the year 1855 he was transferred, at his own request, to the First Regiment of Dragoons, and in 1858 was promoted to a first lieutenancy. From the time he entered the dragoons he saw service in the field in all its phases, camp, frontier, and scouting; fighting in New Mexico, California, Washington and Oregon. He was engaged in many skirmishes, and in as many as three battles with the Indians—one of the engagements being with the Apaches at Amalgré Mountain, on March 20, 1856; another at the Four Lakes, September 1, 1858, and the other on the Spokane Plains, September 3, 1858. He took a conspicuous part in these engagements, and was mentioned with credit in the reports of them. Lieutenant Lawrence Kip, in his *Army Life on the Pacific*, narrates the following incident which occurred at the battle of Spokane Plains: "Lieutenant Pender, while in the woods, returning from the rear, where he had been on duty connected with ordering up the balance of the troops, was suddenly attacked by an Indian chief. To his dismay, the Lieutenant discovered that his sabre had become entangled in the scabbard and would not draw. Quick as thought one hand grasped the savage's arm, the other his neck, and in this manner, hugging him close and galloping into ranks, he lifted him from his horse and hurled him back among the men, who soon dispatched him." He was made Adjutant of the First

Dragoons November 8, 1860, and served with that rank, with the headquarters at San Francisco, until January 31, 1861, when he was detached and ordered to report at Carlisle, Pennsylvania, on recruiting service.

On the 3d of March, 1859, he had married Miss Mary Frances Shepperd, daughter of the Hon. Augustine H. Shepperd, at Good Spring, the country-seat of the bride's father, near Salem, North Carolina. Shortly after the marriage he returned to his command, then in Washington Territory, his wife accompanying him and remaining with him until they returned to the east, arriving at Washington in the latter part of February, 1861. There they remained a few days, and on the 3d of March, the day before Mr. Lincoln was inaugurated, they left for North Carolina. This short stay at Washington at this juncture was a crisis in the young officer's life. He had seen a sectional feeling arise in the army. He now found the people divided. The Confederate Government was already established; troops had been organized and drilled in the South and Fort Sumter invested. He was perplexed as to what he ought to do; whether to continue in the service of the United States or resign his commission; for in case of war he could not take part against the South, and this would be required of him if he held his commission in the army. He became satisfied, after considering carefully the situation and observing closely the tendency of affairs, that war was inevitable, and from his knowledge of the character and temper of the two sections he knew the war would be a terrible one. He determined to cast his lot with his people of the South, and on the 21st of March resigned his commission in the army, and immediately offered his services to the Confederate

Government at Montgomery. He was appointed captain in the artillery service of the provisional army, but was shortly afterwards sent by the government to Baltimore to take charge of the Confederate recruiting depot at that place.

The time has passed when the motives of the men who resigned their commissions in the armies of the United States and took service afterwards in the Confederate armies can be impugned. Impartial history has pronounced their conduct natural, consistent, and sincere. In this connection it is interesting to recall a sentence from the memorable address of Mr. Edmunds in the United States Senate in 1883, on the life and character of Senator B. H. Hill: "The notion of fidelity to one's own State, whether her cause be thought wise and right or not, is almost a natural instinct; and whether it be defensible on broad grounds or not, who does not sympathize with it?"

In the first week of May, 1861, when North Carolina began to organize her volunteer troops, Captain Pender returned and entered her service at the "Old Fair Grounds," near Raleigh, Governor Ellis appointing him to drill and instruct the officers of the companies of the First Regiment—the Bethel Regiment. After that regiment was dispatched to Virginia he was assigned to duty as Commandant of the Camp of Instruction at Garysburg, and, upon the formation there of the Third Regiment of Volunteers, was elected its colonel on the 16th of May, 1861. At this time he was twenty-seven years old, about five feet ten inches in height, well formed and straight; graceful in his carriage; with large, lustrous, dark eyes, dark-brown hair, an olive complexion, head almost faultless in shape, a mouth clear cut, and lips

firmly compressed, and a voice soft, low, and distinct. The combined dignity and ease of his manner charmed all who came about him. The sweet modesty of his unassuming bearing was so striking that it won all to him; and this characteristic is always mentioned, even now, by those who knew him, as one of his most attractive charms; and it underwent no diminution in after years when he had won such distinguished military honors. His modest and unassuming character was not always understood by those who did not know him well. The following is an instance: He had fought more than half a dozen pitched battles under General Jackson before the two ever met socially. One day General Jackson said to Major Avery, who was well acquainted with them both: "What sort of a man is General Pender? I'm embarrassed at his never having been to see me. I know he is a fine soldier, gallant and skillful on the field, and his troops are well disciplined. I never fail to be impressed with his camps; they are always clean, orderly and comfortable. I've made it a rule, though, never to recommend an officer for promotion unless I have a personal and social acquaintance with him, and this will some day embarrass me."

However, from the beginning of his career to the end of it he knew the value of discipline, and though of a kind and gentle disposition he was firm in the management of his men. Throughout the entire period of his service the camps of his troops always showed the marks of order and system and the men the effects of training and discipline.

General W. G. Lewis, in a letter to Mr. D. W. Gilliam, says, after noting a visit paid by himself to General Pender shortly after the battle of

Fredericksburg: "He received me most cordially and courteously, and I had a very pleasant visit and one of profit to me, as I saw plainly in his camps the results of true military discipline and careful attention from headquarters. His camp was a model of cleanliness, regularity and good order; his sentinels and guard saluted in strict military style; all officers wore the badges of their rank. I was particularly struck with this, as it was not, by far, universal in the Army of Northern Virginia." Discipline was enforced, as he often said, for the comfort and safety of his men, and because the fiery gallantry of the Southern soldier would be uselessly expended unless it was systematically and scientifically directed; and he used to say that discipline was a protection to the good soldier, in that it forced the doubtful one to the performance of his duty, and thus reduced the work and the peril of the former.

Colonel Pender, with his regiment, was near Suffolk, Va., until after the 15th of August, 1861, when he took command of Fisher's famous Sixth Regiment at Manassas. He was appointed colonel of the Sixth by Governor Clark, on the unanimous petition of its officers. That appointment, at that time, was the highest compliment that could have been paid to a North Carolinian. None but those who are old enough to remember those days can appreciate what honor it was to be accounted worthy to command the men whom Fisher led at Manassas; though that battle was full of all sorts of blunders, strategical and tactical, in the Confederate commanders, and turned out a barren victory, the troops behaved admirably, and this regiment as well as the best.

The Confederate army occupied about its original position near Manassas until March, 1862, when it was transferred, under the command of General Joseph E. Johnston, to the Peninsula to meet McClellan's "On to Richmond" from that direction. As the Federals advanced the Confederates retired upon Richmond, taking position on the south side of the Chickahominy, and from two to five miles on the east and north of the city. In the last week in May two Federal corps, Keyes' and Heintzelman's, crossed that stream and entrenched themselves across the Williamsburg stage road, near Seven Pines. General Johnston ordered the attack of the 31st May on the enemy's left. General Keyes, in his report of the battle, says: "The left of my line was all protected by white oak swamps, but the right was on ground so favorable to the approach of the enemy and so far from the Chickahominy that if Johnston had attacked an hour or two earlier than he did I could have made but a feeble defense, comparatively, and every man of us would have been killed, captured or driven into the swamps or river before assistance could have reached us." Owing to misunderstandings and jealousies between the Confederate general officers only five brigades of the twenty-three which were ordered for the attack on the enemy's left were used in that attack, and some of them fought knee and waist deep in mud and water in a white oak swamp trying to get at an enemy entrenched on high ground. There was great gallantry on the part of the Confederates, and the carnage was dreadful. General D. H. Hill, who made the morning attack with his division, after numerous repulses in and around the swamp finally carried the enemy's position from the front—Couch's Division of Keyes' Corps falling back northward to and beyond Fair Oaks, a station on the

Richmond and York River Railroad. From a point just outside Fair Oaks, on the north, there is an intersection at right angles of the Nine-Mile Road to Richmond and a road from Grape Vine Bridge on the Chickahominy to the station. On the Grape Vine Bridge road, about a thousand yards from Fair Oaks, Couch's Division halted and formed a line facing toward the south, information having been received that Sumner's Corps had crossed the river at Grape Vine Bridge and was advancing to the assistance of the Union troops. About 5 o'clock in the afternoon Colonel Pender, with his Sixth Regiment, arrived at Fair Oaks from toward Richmond, on the Nine-Mile road, in advance of Whiting's Brigade. Line of battle having been instantly formed facing to the south, the regiment, without support and under direct orders from either General Whiting or General G. W. Smith, went rapidly forward. After an advance of probably a third of a mile without coming up with the enemy, Colonel Pender discovered a large force of Federals in the act of forming a line from column by companies, near the Grape Vine Bridge road and well to his left and rear. They had seen him in his perilous position, and were preparing to capture or destroy him. There really seemed no chance of escape; but as quick as lightning, and with coolness equaling his bravery, the order "By the left flank, file left, double quick!" rang out in as clear and musical a voice as ever was heard on battlefield. The old regiment, the best drilled and disciplined in the army of Northern Virginia, moved as if on parade, and before the enemy had completed their formation it was upon them, pouring volley after volley into their very faces; and under the suddenness and fury of the attack the foe staggered and reeled, while the glorious soldier withdrew his men and rejoined his

brigade, which was just coming up. Our hero was here like Jackson in quickness of comprehension and promptness of decision; he was like Soult in his tactical skill; he was like Junot in his fiery onslaught. There never was a more courageous and skillful movement made on any field. In the attack by Whiting's Brigade, which almost immediately followed upon Colonel Pender's affair, the brigade was repulsed and the troops retired in great disorder. Colonel Froebel, of General Whiting's staff, who was present, in his report of the battle says that Colonel Pender reformed the broken regiments and restored the line by his courage and coolness. Mr. Davis was present and witnessed Colonel Pender's behavior, and said to him on the field, "*General* Pender, I salute you!" General Stephen D. Lee thus writes: "I was on the battlefield of Fair Oaks; saw him (General Pender) and conversed with him before and after the battle. He expressed his great satisfaction to me that he was literally made a general on the field of battle for gallant and meritorious conduct just performed, and said that it reminded him of such cases in European armies, where such recognitions of soldierly conduct were made."

Three days afterwards he was put in command of Pettigrew's Brigade (Pettigrew having been wounded and captured), which he led through the Seven Days' fight around Richmond. His commission as brigadier-general was handed to him July 22, 1862, to date from June 3. His brigade was composed of North Carolinians, the Thirteenth, Sixteenth, Twenty-second, Thirty-fourth, and Thirty-eighth Regiments, and General Pender commanded it until he was promoted.

General Johnston having been severely wounded

in the battle of the 31st, the command of the army was given to General Lee. Within less than a month he concentrated around Richmond the largest army the Confederacy ever had in the field, composed of the very pick and flower of the South. There was little discipline in that army, but there were the highest personal courage and the greatest individuality of character among the men. Its antagonist, the Army of the Potomac, under General McClellan, though possibly a little inferior in numbers, was thoroughly organized, drilled, and equipped. On the 23d of June General Jackson arrived at General Lee's headquarters, having left his troops on the route from the Valley to join General Lee in a contemplated attack upon McClellan's right. It was agreed between the two generals that at sunrise on the morning of the 26th Jackson's forces should attack the rear of the Federal position at Mechanicsville and Beaver Dam, while a part of Lee's army should make the attack there in front. On the 25th, the divisions of the two Hills moved out, A. P. Hill's down the Meadow Bridge and D. H. Hill's on the Mechanicsville road. Jackson was waited for until about 3 o'clock of the afternoon of the 26th, when, not being heard from, A. P. Hill impetuously began the attack from the front, General Pender with his brigade being the first to engage. He brushed back the enemy's advanced line to their main one just behind and along Beaver Dam creek. The position was entrenched and fortified with siege-guns, as well as light artillery, while the creek just in front was made hopelessly impassable by all manner of obstructions placed there for that purpose. The approach was over an exposed plain about three-quarters of a mile wide and down the slope to the creek, with no cover or protection. General Pender

and his brave North Carolinians swept over the plain and down the bottom under a murderous fire of artillery and musketry to the brink of the creek; nothing could live under that fire. The line wavered and staggered back. Mr. Davis, who was on the field, seeing the charge and the terrible repulse, ordered General D. H. Hill to send one of his brigades to his assistance, and Ripley was sent. About dark, Pender's lines having been reformed and joined by Ripley, a second advance was made. Though General Pender and his brave Carolinians knew what was before them, and had seen with their eyes that the position could not be carried, yet they went forward with a yell, many to their deaths, and many more to suffer from their bloody wounds and broken limbs. There was no chance for Pender to show his skill here, it was simply a forlorn undertaking. He obeyed orders. General D. H. Hill, in his article, "Lee's Attack North of the Chickahominy," in *Battles and Leaders of the Civil War*, writing of Pender's attack on Beaver Dam, uses the following language: "The result was as might have been foreseen, a bloody and disastrous repulse. None of us knew of the formidable character of the works on Beaver Dam. Our engineers seemed to know little of the country and nothing of the fortifications on the creek. The maps furnished the division commanders were worthless. The lack of knowledge of the topography was inexcusable. They had plenty of time. The Federals had been preparing for the movement all the winter, and McClellan's movements up the Peninsula indicated what position he would take up. The blood shed by the Southern troops was wasted in vain. They could have been halted at Mechanicsville until Jackson had turned the works on the creek, and all that waste of blood could have been avoided. Ripley's Brigade was sent

by me to the assistance of Pender by the direct order of both Mr. Davis and General Lee. The attack on the Beaver Dam entrenchments or the heights of Malvern Hill and Gettysburg were all grand, but of exactly the kind of grandeur the South could not afford."

The next morning only a line of skirmishers occupied the works on Beaver Dam, the scene of yesterday's slaughter, the main line, upon discovering Jackson's near presence on the night of the 26th, having retreated to another strongly entrenched position extending from Gaines's Mill to near Cold Harbor. The Confederates followed, Pender hugging the Chickahominy, and then turning off by the mill to one-half mile beyond Cold Harbor. Here Porter's Corps, being well entrenched and supported by two other divisions sent to his assistance, made one of the finest battles of the war, repulsing the Confederates many times, holding Longstreet and the two Hills and Jackson at bay until about night, when the lines were broken. A. P. Hill's Corps was the first to attack. General Pender and his brave soldiers did their full part there on that day, forgetting their terrible experience of the day before. He was also at Frazier's Farm—Glendale—on the 30th.

From Beaver Dam to Malvern Hill, inclusive, these battles were one continuous series of Confederate assaults upon entrenched Union positions with unparalleled slaughter of the attacking columns. The Southerners lost, in killed and wounded, nearly twenty thousand men, the Federals not much more than half that number. General Longstreet, in *Battles and Leaders of the Civil War*, writes: "General Lee's plans in the seven days' fight were excellent, but very poorly executed." General E. P. Alexander, Chief of Artillery of Longstreet's Corps, in an article in the

Southern Historical Society Papers on the battle of Frazier's Farm, writes: "As no one can go through the details of this action without surprise at the fatal want of concert of action which characterized the many gallant and bloody assaults of the Confederates, it is best to say beforehand that it was but the persistent mishap of every offensive battlefield which the army of Northern Virginia ever fought, and that its causes were not peculiar to any one."

General Pender in his official report of these battles, while paying full tribute to the memory of the dead, did not fail to confer honor on the meritorious survivors. He says of one of our townsmen, now a distinguished lawyer, "Lieutenant Hinsdale, my acting Assistant Adjutant-General, deserves the highest praise."

Lee's shattered brigades, somewhat gotten together after the fights around Richmond, commenced the Maryland campaign. It was begun to get rid of McClellan around Richmond, and also to strike General Pope, who was advancing from Washington with another army by way of Culpeper, before he and McClellan could unite.

Jackson moved off first, and finding the enemy at Cedar Run, or Slaughter Station, on the Rapidan, he attacked at once. He had his hands full, and for a time the battle seemed to be lost. At the supreme moment Pender came on the scene, and, by a beautiful flank movement, skillfully and energetically made, reanimated the wavering Confederate line, and in a general advance the enemy was beaten off the field. General Pender, in his official report of this battle, makes mention of a young soldier, then serving with him, who is now the accomplished

editor of the *News and Observer*, in terms most complimentary: "Captain Ashe, my Assistant Adjutant-General, deserves notice for his conduct, being found almost at every point almost at the same time, cheering on the men."

At second Manassas, a few days afterwards, Jackson's Corps received every attack of nearly the whole of the Federal army without yielding. The fire was delivered very often during that day at not more than ten paces. There General Pender was like Ney. The all-importance of holding the line until Longstreet should arrive was appreciated by him. He exposed himself here almost recklessly. At Ox Hill, or Chantilly, where General Phil. Kearney was killed, General Pender again led the movement. He was wounded here again. On these fields his superior generalship was conspicuously displayed. From these battles his reputation was established as a skillful leader. At Winchester, Harper's Ferry, and Sharpsburg he was a commanding figure, always in place, with his troops well in hand on the march and in battle. His superiors in rank in every movement confided in his skill as well as in his courage.

The battle of Fredericksburg ended the campaign of 1862. In this battle General Pender received the highest encomiums for the steady and cool bravery with which he held his brigade under a protracted fire from artillery, the most deadly of the war. It was a great triumph of discipline, skill, and valor. He was again wounded here.

General Longstreet spent the winter of 1862-'63 with two divisions of his corps at and near Suffolk, Virginia, procuring supplies in eastern North Carolina. Before he returned to General Lee at Fredericksburg, Hooker, who was in charge of the

Army of the Potomac, more than one hundred and twenty thousand strong, crossed the Rapidan and took position on Lee's left flank near Chancellorsville. The Confederate army numbered about fifty-five thousand of all arms. Instead of promptly pressing his advantage, Hooker delayed, and Lee and Jackson acted. This battle was perfect in both strategy and tactics, and advanced Generals Lee and Jackson to the forefront of military commanders. The Confederate soldiers could not add to their laurels already won. In this battle of Chancellorsville General Pender and his brigade made a name which will last as long as the fame of the battle itself. All of us are familiar with the first day's battle. Howard's Corps was routed by D. H. Hill's old division, commanded by General Rodes. The tangled growth of the wilderness and the darkness necessarily threw into great confusion the Confederate troops which had made the attack. While they were being reformed and reduced to order, and some of the brigades relieved by fresh men, the enemy, with great numbers, who had not been engaged, arrived, and, placing their artillery at short range, opened fire with fatal effect. Everything which had been gained seemed to be lost; and, when it was thought that the Confederate line could not be held, General Jackson, after he had received his death wound, recognizing in the darkness General Pender, who had relieved one of Rodes' brigades, said to him: "You must hold your ground, General Pender, you must hold your ground, sir!" and he held his ground. This was General Jackson's last command.

On the next morning early the handful of Confederates saw three times their numbers in a wilderness country, thoroughly entrenched, waiting to receive their attack. The assault *had* to be made.

Sedgwick, with his corps, was in rear and flank at Fredericksburg, opposed by Early, who was too weak to cope with him, and Hooker's main force was between Lee and Richmond. It was a terrible day—that Sunday, the 3d of May, 1863. General Heth, in his official report of the battle, says that Pender and Thomas, the left of A. P. Hill's Division, opened the battle. They were repulsed in the first assault with great loss, but in the second charge they carried the day. Pender won more glory in this charge than any other of the heroic souls who took part in it.

General Lee, in his official report of this battle, said: "General Pender led his brigade to the attack under a destructive fire, bearing the colors of a regiment in his own hands up to and over the entrenchments with the most distinguished gallantry."

After the wounding of General A. P. Hill on that day, General Pender was put in command of that officer's division and was wounded late that afternoon. His own official report of this action proves the modesty and magnanimity of his great and lofty nature. He said: "I can truly say that my brigade fought May 3d with unsurpassed courage and determination. I never knew them to act universally so well. I noticed no skulking, and they never showed any hesitation in following their colors. My list in killed and wounded will show how manfully they fought on that glorious day. After having witnessed the fighting of nearly all the troops that fought on the left of the road, I am satisfied with my own, but by no means claim any superiority. All that I saw behaved as heroes."

No wonder everybody loved and admired General Pender!

The greatness of General Lee as a commander of armies is nowhere more certainly seen than in the reorganization and enlargement of his army after the battles of Chancellorsville. Within a month after those battles he had organized the most effective and best disciplined army he ever had. Longstreet had returned, other reenforcements had arrived, and when the movement of his army towards the North was begun, on June 3, 1863, he probably had seventy-five thousand of all arms. In the reorganization of the army A. P. Hill had been decided on as a corps commander, and a major-general to command his division was wanted. On the 20th of May, two weeks after Chancellorsville, General Lee wrote to Mr. Davis: "If A. P. Hill is promoted a major-general will be wanted for his division. Pender is an excellent officer, attentive, industrious, and brave; has been conspicuous in every battle, and, I believe, wounded in almost all of them." For a division commander of A. P. Hill's celebrated "Light Division," no two, or three, or more, are recommended for the President to choose from, but one, and that one W. D. Pender. He was appointed Major-General on the 27th May, 1863, and assigned to that division composed of the brigades of Scales, Lane, Thomas, and McGowan, one week later. He was the youngest major-general in the Confederate army, being only twenty-nine years old.

Longstreet and Ewell left their camps during the first week in June, and arrived with Stuart and all the cavalry at Culpeper on the 8th. Ewell pushed on, and A. P. Hill, leaving Fredericksburg on the 13th, where the Federals had remained up to this time, passed Longstreet and moved on to the Valley of Virginia, Longstreet protecting Hill's flank by moving himself along the eastern base of the Blue Ridge,

with Stuart and his whole cavalry force in his front to watch the enemy.

"General Stuart was left to observe the movements of the enemy, and to impede him as much as possible, should he attempt to cross the Potomac. In that event, he was directed to move into Maryland, on right of our column as it advanced." (General Lee's report.) He, claiming the discretion, went off on a raid toward Washington, and thereby the enemy was enabled to interpose himself between the Confederate infantry and cavalry. Ewell, with his corps, advanced as far as Carlisle, and Longstreet and Hill were at Chambersburg on the 27th June. General Lee, in his official report of the Pennsylvania campaign, says: "It was expected that as soon as the Federal army should cross the Potomac General Stuart would give notice of its movements, and nothing having been heard from him since our entrance into Maryland, it was inferred that the enemy had not yet left Virginia. Orders were therefore issued (June 27th) to move on Harrisburg.

"On the night of the 28th news came through a scout that the Federal army had crossed the Potomac and the head of the column was at South Mountain, and this arrested the movement to Harrisburg."

This advance of the enemy threatened General Lee's communications with Virginia, and he determined to concentrate his army on the east of the mountains. On the 29th Hill was ordered to Gettysburg, and Longstreet was to follow next day. Ewell was ordered to Cashtown or Gettysburg, as circumstances might require. These movements towards Gettysburg were not so quickly made as they would have been had the movements of the enemy been known. Pettigrew's Brigade went to Gettysburg

on the morning of the 30th to get provision, but finding it in the possession of the Federals, returned to Cashtown, where he rejoined Heth's and united with Pender's Division. Next morning the divisions of Pender and Heth and two battalions of artillery advanced to ascertain the strength of the enemy. Heth, in the lead, found the enemy's videttes three miles from the town, they having advanced on the Chambersburg road; he drove them, but was in turn driven back by a superior force. Pender coming up at this time, the two divisions advanced and engaged the enemy. Rodes arrived afterwards, about 2:30 P. M., on the Middleburg road, formed on Pender's left, at right angles, and Early coming up on the Heidlersburg road, formed quickly on Rodes' left, when a general advance was made, and the enemy gave way everywhere. The success was complete. Of General Pender's part in this battle another extract from the letter of General Lewis will be used: "While we were being placed in line on a hill to join on Pender's left, his division drove the enemy from the woods on Seminary Ridge and across the open field about one-third of a mile wide and three-quarters long. The enemy then reformed behind Seminary Ridge and, with unlimited artillery, made a gallant stand, but Pender's 'Light Division,' with unbroken ranks, drove them from this strong position just as we advanced to his assistance. General Pender deserves the entire credit of the victory of the battle of the first day at Gettysburg."

On the morning of the 2d of July Longstreet, with his corps, except Pickett, who had not arrived, was on the Confederate right, with the Federals on Round Top and the adjacent hills in front; Ewell with his corps in front of Culp's Hill and the north front of Cemetery Hill, and A. P. Hill in the center, along the

western front of Cemetery Hill. Anderson's Division was the right of Hill's line, Pender's the left, and Heth's a little in rear, in reserve. At about 5 o'clock in the afternoon Longstreet attacked the Federal left on Round Top. Hill and Ewell were ordered to make feints to prevent Federal troops from being withdrawn from their fronts to reinforce the left, but to attack, if opportunity offered. It was during this attack of Longstreet that General Pender received the wound which resulted in his death. Anderson's Division was ordered in to support Longstreet. Just before the advance was begun, General Pender and his Adjutant-General, Major Joseph A. Engelhard, and General W. G. Lewis, who was then Lieutenant-Colonel of the Forty-third North Carolina Regiment, were on the extreme left of Pender's line, engaged in a friendly talk, sitting on a large granite boulder, when suddenly the enemy's artillery opened upon our right. Immediately General Pender turned to Major Engelhard, and said: "Major, this indicates an assault, and we will ride down our line."

In Major Engelhard's official report of this we find this account: "Late in the afternoon, during the attack of Longstreet and a part of Anderson's Division, General Pender having ridden to the extreme right to advance his division, did the opportunity occur, received a severe wound in the leg from a fragment of a shell."

A little later, on this same afternoon, at another part of the field where Colonel I. E. Avery (brother of Justice A. C. Avery of our Supreme Court), led the brigade of that distinguished soldier, General R. F. Hoke, who was absent on account of a wound received at Fredericksburg, could be seen the Sixth North Carolina (Pender's old regiment), under the

command of Colonel Tate, now State Treasurer, climbing the east front of Cemetery Hill under a furious storm of shot and shell. The hill and its fortifications were taken, and the proud flag of the old regiment floated above the captured works, but the brave and gifted Avery yielded here his soul to God and his life to his country. In a plain plank box this hero was placed by old Elijah, his colored servant, and by him brought along with the army on its retreat from the place where he fell, in a wagon as plain as the coffin. The old man was seen every day on that long, weary march, enduring and suffering, but still devoted in his pious attentions; and his labors ended only when he had delivered his precious burden to the tender care of loved ones near the banks of the Potomac.

On the retreat of the Confederates from Gettysburg, General Pender took ambulance and set out for Staunton, the nearest railroad connection. Upon reaching that place a hemorrhage from his wound of an alarming character occurred. It was stayed, improvement followed, and the hopes of his friends were reassured; but in a few days, the hemorrhage recurring, the surgeons determined to amputate the limb. The operation was performed on the 18th of July. He survived it only a few hours. Just before the operation he said to his brother: "Tell my wife that I do not fear to die. I can confidently resign my soul to God, trusting in the atonement of our Lord Jesus Christ. My only regret is to leave her and our children. I have always tried to do my duty in every sphere of life in which Providence has placed me."

The body was taken to Tarboro, North Carolina, and buried in the beautiful grounds around Calvary

church. He was a member of the Episcopal communion, having been received as a comunicant by confirmation at the hands of Bishop Johns, in St. John's Church, Richmond, Va., he having ridden quietly into the city at night for that purpose.

His death was a great public calamity. He combined every quality of the ideal soldier: courage, the power to control men, quickness of perception, readiness of decision, strong sense of justice, and modesty that excelled all. With the exception of his great commander he had no superior in the Army of Northern Virginia.

In the letter of General Lewis, heretofore referred to, occurs this sentence: "It was reported, and firmly believed throughout the Army of Northern Virginia, that General Lee had said that General Pender was the only officer in his army that could fill the place of Stonewall Jackson."

Whether General Lee ever expressed himself in this language may not be proved, yet it is superlative praise to have the Army of Northern Virginia believe it to be so, and to hand it down as a tradition. As some proof of this alleged declaration of General Lee, it will be appropriate to introduce some testimony from General G. C. Wharton. It is in the shape of an extract from a letter written from Radford, Va., on September 5, 1893, to James M. Norfleet, Esq., of Tarboro: "General Lee was preparing and about giving orders for the removal of the Army of Northern Virginia from the Valley of the Shenandoah (between Winchester and the Potomac) to the vicinity of Orange Court House. As my command was in good condition, not having been in the forced marches, nor in the battle of Gettysburg, General Lee decided to leave my command, with some cavalry,

temporarily to protect his rear until his main force should cross the Blue Ridge at Manassas and other gaps and be well on the march to the Rapidan Valley. My orders were that after the army had crossed the Blue Ridge, unless too much pressed by the enemy, I was to retire slowly up the Shenandoah Valley, cross the Blue Ridge at Brown's or Williams' Gap, and rejoin the army (via Madison Court House) at or near Orange Court House. After explaining his wishes and giving the necessary orders, I was about leaving General Lee's headquarters, when General A. P. Hill, an old friend and schoolmate, rode up. After the usual salutations, we entered into a general conversation in regard to the movement of the troops and the result of the recent campaign in Maryland and Pennsylvania, specially in regard to the ill-fated battle of Gettysburg. In the course of conversation, General Lee said, with sadness: 'I ought not to have fought the battle at Gettysburg; it was a mistake.' Then, after a short hesitation, he added: 'But the stakes were so great I was compelled to play; for had we succeeded Harrisburg, Baltimore, and Washington were in our hands; and,' (with emphasis) 'we would have succeeded had Pender lived.'" In General Lee's first report, 30th of July, 1863, of the battle of Gettysburg, he refers at length to the services of General Pender and his death, and in terms of higher praise than can be found, after diligent search amongst his official reports of battles, than he used concerning any of his fallen subordinates except General Jackson. In this report he says: "General Pender has since died. This lamented officer has borne a distinguished part in every engagement of this army, and was wounded on several occasions while leading his command with conspicuous gallantry and ability. The confidence

and admiration inspired by his courage and capacity as an officer were only equaled by the esteem and respect entertained by all with whom he was associated for the noble qualities of his modest and unassuming character."

General A. P. Hill, in his official report of the battle of the second day, says: "On this day, also, the Confederacy lost the invaluable services of Major-General W. D. Pender, wounded by a shell, and since dead. No man fell during this bloody battle of Gettysburg more regretted than he, nor around whose youthful brow were clustered brighter rays of glory."

General Pender undoubtedly made a great and lasting impression on General Lee. Six months after his first report of the battle of Gettysburg he made a full and complete one. Of course he thought well of what was to be his final report of this battle. In it he expressed himself in language concerning General Pender more complimentary, if possible, than that used in his first report. Here it is: "The loss of Major-General Pender is severely felt by the army and the country. He served with this army from the beginning of the war, and took a distinguished part in all its engagements. Wounded on several occasions, he never left his command in action until he received the injury that resulted in his death. His promise and usefulness as an officer were only equaled by the purity and excellence of his private life."

There is no need for further panegyric.

General Pender did not think his wound a mortal one when he received it, nor did his friends. His commissary, Major D. T. Carraway, saw him in the ambulance, and, though suffering from the wound,

he particularly inquired about the quantity of commissary supplies on hand, and about the condition and comfort of his soldiers as minutely as when he was well. He knew, though, that his wound was a serious one, and would be long in healing; he therefore turned his face from the field of carnage and was driven towards the South.

Ah! we know where his thoughts were then. Though as brave as the lion, he was yet as gentle as the lamb. He had often heard the wild shouts of his fierce soldiery as he led them, with colors in his own hands, over fields red with slaughter, and he had also, in the beautiful summer days gone by, romped and played with his little children over field and meadow and in grassy lawn, while the wife and mother looked on with beaming face. But now, sorely wounded and helpless, his heart turned toward her, toward her who was more precious to him than fame, and battle, and glory.

"God bless all good women—to their soft hands and pitying hearts we must all come at last."

Judge Montgomery has portrayed the character of one of the ablest soldiers and most attractive men that the Civil War developed. It is well that this duty fell on him to whom it was a labor of love, who appreciated the value of Pender's life, and depended upon facts rather than rhetoric to fix his place in history and in the hearts of his grateful countrymen.

The remarks on the difficulties under which the South labored, appropriate in his Memorial Address, delivered May 10, 1894 (of which the foregoing sketch forms the main part), and well considered in

themselves, are not essential to the sketch here presented, and are therefore omitted.



STEPHEN D. RAMSEUR.

STEPHEN D. RAMSEUR.

BY WM. R. COX.

Stephen Dodson Ramseur, the second child of Jacob A. and Lucy M. Ramseur, had Revolutionary

blood in his veins through John Wilfong, a hero who was wounded at King's Mountain and fought at Eutaw Springs. He was born in Lincolnton the 31st day of May, 1837. His surroundings were well calculated to promote a well developed character and a strong, self-relying manhood. His parents were members of the Presbyterian Church and did not neglect to see their son properly instructed in its religious tenets. They were possessed of ample means for their section, and gave to him the best advantages of social and intellectual improvement without his being exposed to the "devices and snares of the outer world." To the strong and beautiful character of his mother, Ramseur is said to have been indebted for the greater part of his success in life. In preparing the life of Dr. Thornwell, Rev. Dr. Palmer has asserted a truth which may be classed as a proverb: "The pages of history will be searched in vain for a great man who had a fool for his mother." In writing of her, the Hon. David Schenck, who married Sallie Wilfong, her second daughter, says: "As a young lady she was said to have been beautiful and attractive. I knew her intimately from 1849 to her death. She was a woman of great force of character. To a judgment clear and firm she united gentleness, tenderness and sympathy. Her manners were easy and courteous and fascinating. She was an active and devoted member of the Presbyterian Church, and brought up her children in the teachings of the shorter catechism from their early youth. It was to her that General Ramseur owed the mental and moral foundations of his character." He received his preparatory training in the schools of Lincolnton and Milton; thence he matriculated at Davidson College, entered the freshman class and passed eighteen months at this institution. He early

displayed that decision of character and force of will which distinguished him in after life. He had an ardent longing for a military career, and though disappointed in his efforts to secure an appointment as a cadet at the United States Military Academy, he was not cast down. Through the aid of General D. H. Hill, then a professor at Davidson, his second application was successful. He was given his appointment to the Academy by that sturdy old Roman, Hon. Burton Craige, who before the days of rotation in office was long an able and distinguished member of Congress from our State. Ramseur spent the usual term of five years at the Academy and was graduated with distinction in the class of 1860. Among his classmates of national reputation were General James H. Wilson and General Merritt, Colonel Wilson, Commandant at United States Military Academy, and Colonel A. C. M. Pennington.

Through his courtesy, sincerity and conscientious discharge of his duties while at West Point he formed many valued friendships both among his fellow-students and in the corps. After graduating, Ramseur entered the light artillery service and was commissioned Second Lieutenant by brevet. He was in the United States army but a short time prior to the breaking out of hostilities, and during that time was assigned to duty at Fortress Monroe. In April, 1861, he resigned his commission in the old army and promptly tendered his sword to the Provisional Government of the Confederate States, then assembled at Montgomery. By this government he was commissioned First Lieutenant of Artillery and ordered to the department of Mississippi. About this time a battery of artillery was being formed at Raleigh, whose membership was composed of the flower of the patriotic youth of the State. It was

called "the Ellis Artillery," in honor of our then very able and patriotic Governor, whose early death from phthisis was an irreparable loss to our State in the early days of the war. The officers were Manly, Saunders, Guion and Bridgers, who, owing to our long peace establishment, were not familiar with even the rudiments of the drill. Therefore, with more patriotism than selfish emulation, they promptly applied through Lieutenant Saunders to their friend the Governor for some suitable and reliable commander. With a pardonable pride in so fine a company, Governor Ellis had doubtless previously considered this subject in his own mind. At all events, so soon as the request was made known he promptly replied: "I have the very man. You couldn't get a better. It is Lieutenant Ramseur." Thereupon a dispatch was sent tendering him the command, which reached him on his way to his new field of duty. He accepted the unsolicited, but none the less coveted distinction of repelling the invasion of his native State in command of her own sons, and repaired at once to Raleigh. On arriving at the camp of instruction near this place, he found a first-class command of raw recruits without equipments or discipline or the remotest conception of the magnitude of the great contest before them. Many had joined the artillery because it was known to be one of the higher and more attractive branches of the service. They concurred with Secretary Seward, that the war was a matter of a few months, or else with Vice-President Stephens, that for the defense of their firesides gentlemen should not be kept in camps of instruction and discipline, but permitted to remain at their homes, for they were capable of judging when the enemy should be met, and by what methods most easily defeated. If they had read of war, it was in

books which gave it such gloss and glamour as made every battle magnificent, if not positively delectable, for such, indeed, is the general current of popular history. Not so Ramseur, who had been taught in the school where the art of war is thoroughly explained, the discipline and drudgery of soldier life daily seen, and the distinctions and advantages of rank recognized and respected. His education and experience led him to concur with Viscount Woolsey, who, in speaking of war, declares that active service teaches us some painful lessons: "That all men are not heroes; that the quality as well as quantity of their courage differs largely; that some men are positively cowards; that there always is, always has been, and always will be, a good deal of skulking and malingering; it teaches us not to expect too much from any body of men; above all things to value the truly brave men as worth more than all the talkers and spouters who have ever squabbled for place in the arena of politics." Ramseur was well satisfied with the *esprit de corps* of his command, and resolved to employ it to the best advantage. To do this his men must have a knowledge of tactics and discipline; and subordination was indispensable. He had considered all this, and determined what was right; and whether it consorted with the wishes and inclinations of those who belonged to the command or not was not material with him. Indeed, duty was his polar star. He did not willingly sever his connection from the old army, but when called on to elect whether he would fight for or against his people and his State, there was no hesitancy, no doubt as to where his duty lay; he threw his whole soul and energies into the cause of the South. This company was composed of twelve-months men. Ramseur wanted soldiers, and wanted them for the

war. This being known, a few members of the company began to become discontented. They feared they were to be treated as regular soldiers, and insisted that, inasmuch as they had volunteered only for twelve months, should the company be reorganized for the war, they were entitled to withdraw. They were good men and did not desire to leave the service; they were allowed to withdraw, and in other fields made valiant soldiers. The reorganization of the battery was soon completed, all elements of discord eliminated, and, under the skillful management and discipline of its new captain it made admirable progress. The great thing now was to secure its guns and equipments, and in this the company was aided by its name and the patriotic ardor of the citizens of Raleigh. At this time there was only one field battery available, and for it another company was applying. The name and *personnel* of the Ellis Artillery won the prize, while the voluntary subscriptions of our citizens supplied it with horses. Being without tents or suitable parade grounds, Mr. William Boylan tendered it his residence and out-buildings for shelter and ample grounds as a camp for instruction. The offer was accepted, and here the company received that impress which, when called to Virginia and brought in comparison with others, carried off the palm for their soldierly bearing, their splendid drill and handsome equipment. In the latter part of the summer of 1861 the company was ordered to Smithfield, Va., where the fall and winter months were spent without graver duties than occasional reconnoissances to and from Norfolk. McClellan's army was now near Washington, confronted by that of General Joe Johnston, while the public mind of the North was becoming very impatient at its

inaction, and began to renew the cry "On to Richmond!" which had been so popular before the inglorious defeat of the Federal army at Manassas. McClellan, unable to resist this clamor, determined to endeavor to reach the Confederate capital by way of the lower Chesapeake, transferred his army on transports to the Peninsula and sat down before Yorktown. It is estimated that McClellan at this time had an army of not less than one hundred and twenty thousand men fit for duty. This force was to be confronted and delayed—until Johnston could arrive—by thirteen thousand Confederates under J. B. Magruder, who, in order to accomplish this purpose, was compelled to cover a front of thirteen miles with his small force. The work was done with consummate ability, and it is no disparagement to others to say there was no officer in either army better qualified to play such a game of bluff than the genial, whole-souled Magruder. Ramseur was ordered to report with his battery at Yorktown. When he arrived Magruder, who had known him in the old army, detached him from his battery and placed him in command of all the artillery on his right. Here Ramseur saw his first active service in the field, and received the promotion of major. On the arrival of the forces of McClellan a campaign of maneuvering commenced which delayed advance for over a month. In the meantime Ramseur had been elected Lieutenant-Colonel of the Third Regiment of Volunteers, but declined to leave his battery. Subsequently, and before serious demonstrations had begun, he was elected Colonel of the Forty-ninth Regiment of Infantry. He was still reluctant to leave his battery, but appreciating the fact that Manly and its other officers were then well qualified for any duties that might be required of them, through the

persuasion of friends he was induced to accept the promotion. Subsequent events soon justified his confidence in this artillery company. At the battle of Williamsburg, where it received its first baptism of fire, it gathered fadeless laurels which it was destined to wear throughout the war with a fame still augmenting.

The Forty-ninth Regiment was composed of raw recruits who were gathered together in the camp of instruction at Raleigh, organized into companies and regiments and instructed as to its duties in the field. With his accustomed energy and ability Ramseur immediately addressed himself to the labor of making soldiers out of these new recruits. By constant drill he soon had his regiment in fair condition; and, as the emergency was pressing, he moved with it to the point of danger. The regiment was assigned to the brigade of an old army officer, General Robert Ransom, who was soon to become a distinguished major-general of cavalry in the Army of Northern Virginia, and thence to be assigned to the command of all the cavalry under Longstreet in his operations in the West. In the series of battles around Richmond, known as the "Seven Days' Fight," Ramseur, while gallantly leading his regiment in the battle of Malvern Hill, received a severe and disabling wound through the right arm, but declined to leave the field until the action was over. This wound necessitated his removal to Richmond, where he was detained for over a month before his injury permitted him to enjoy the much-coveted pleasure of a visit to his home. Indeed, the arm was broken, and he was ever afterwards compelled to wear it in a sling.

In his report General Ransom speaks of the

conspicuous gallantry of Ramseur and his men, and it was by reason of his soldierly qualities mainly, displayed upon this occasion, that his promotion to the rank of brigadier-general soon followed. While still at home wounded Ramseur received notice of his unexpected promotion. At first he doubted whether one so young should accept so responsible a position, and was disposed to decline the promotion. His friends did not coincide in his views, and through their persuasion he was induced to accept it. In October, 1862, with his arm still disabled, he went to Richmond to make a decision in regard to the brigade offered him. While there he called upon Mr. Davis, alike distinguished as a soldier and a statesman, to whom he expressed the fears then agitating his mind. In that affable and engaging manner peculiar to himself, Mr. Davis at once dismissed any suggestion of his declining, and on the contrary urged him to accept the command, return home and remain until he had entirely recovered his health and his strength. But Ramseur obeyed only in part the suggestions of his commander-in-chief. He accepted the command of the brigade and went at once to the Army of Northern Virginia, and, with his wound still green, entered upon the discharge of his duties. This brigade was then composed of the Second Regiment, organized and instructed by that able tactician, scholarly and accomplished gentleman, Colonel C. C. Tew, who was killed at Sharpsburg; the Fourth by the chivalrous and lamented Brigadier-General George B. Anderson, who died of wounds received at Sharpsburg; the Fourteenth, before its reorganization, was commanded and instructed by that soldierly and ardent North Carolinian, Brigadier-General Junius Daniel, who fell in the Spottsylvania campaign ere

his commission as a major-general had reached him; and the Thirtieth by Colonel F. M. Parker, the brave soldier and courteous gentleman, of whom further mention will be made during the course of this narrative. Ramseur was fitly chosen the commander of this distinguished brigade, and immediately addressed himself to its reorganization. His admirable qualifications for his duties and his pure and chivalrous character were soon recognized and appreciated, and infused new life and spirit into the command. As a disciplinarian he was rigid; as a tactician, skillful; as a judge of men, good; as a redresser of wrongs, prompt; as an officer, courteous and urbane; as a soldier, fearless and chivalrous. He early commanded the respect and ultimately won the hearts of all over whom he held command. This brigade at the time he took it was in Rodes' Division of Jackson's Corps. Ramseur remained in command without events of any particular importance occurring until he entered upon his Chancellorsville campaign. His report of that famous battle is so full and complete, and so clearly displays his unselfish and chivalrous nature, that I am confident I cannot do better than to incorporate it as a part of this sketch. It reads as follows:

"MAY 23, 1863.

"SIR:—In obedience to Order No. —, dated May 7th, 1863, I have the honor to submit the following report of the operations of my brigade in the series of skirmishes and battles opening at Massaponax Creek and ending in the splendid victory at Chancellorsville:

"Wednesday, A. M., April 29th, the brigade was placed below Massaponax Creek to dispute the enemy's crossing, and remained in that position,

occasionally annoyed by their artillery (by which I lost a few men) and kept on the alert by picket firing until Thursday evening, when we were withdrawn to a point near Hamilton's Crossing.

"Friday, May 1st, at 3 A. M., we were aroused for the march and led the advance of Major-General Rodes' Division in the direction of Chancellorsville. At a distance of seven miles from Fredericksburg we were detached from our own division and ordered to report to Major-General Anderson, when we advanced upon the enemy, who fell back in confusion before our sharpshooters for several miles, strewing the way with their arms and baggage, this brigade, with General Posey on our right and General Wright on our left, for upwards perhaps of two miles, being in advance. About 6 P. M. we found the foe in force upon our front and supported by batteries that poured grape unsparingly into the woods through which we were still advancing. Night approaching, a halt was ordered, and we slept on our arms with a strong picket line on the outposts.

"Saturday, May 2d, we were relieved about sunrise and shortly thereafter marched by a series of circuitous routes and with surpassing strategy to a position in the rear of the enemy, whom at about 5 P. M. we were ordered to attack.

"This brigade was directed to support Brigadier-General Colquitt, with orders to overlap his right by one regiment, and was placed accordingly. At the command we advanced with the division, preserving a distance of about one hundred yards in the rear of General Colquitt. Brisk firing was soon heard upon our front and left, indicating that General Doles had encountered the foe. At this point General Colquitt moved by the right flank, sending me word by an

officer of his staff that the enemy was attempting to turn his right. I immediately moved by the right flank, but heard no firing in that quarter. Again he sent his staff officer to inform me that the enemy was passing by his right flank, when I directed him to say to General Colquitt (in effect) that the firing indicated a sharp fight with General Doles, and that my impression was that his support was needed there, and that I would take care of his right flank. General Colquitt moved to the front, with the exception of one regiment, which continued to the right. I then pressed on by the right flank to meet the enemy that General Colquitt's staff officer twice reported to me to be in that direction, and prosecuted the search for half a mile perhaps, but not a solitary Yankee was to be seen. I then came up to the division line and moved by the left flank to the support of General Colquitt, whose men were resting in line of battle on the field General Doles had won.

"Saturday night our divisions occupied the last line of battle within the intrenchments from which the routed corps of Sigel had fled in terror. My brigade was placed perpendicular to the plank-road, the left resting on the road, General Doles on my right and Colonel (E. A.) O'Neal, commanding Rodes' Brigade, on my left. I placed Colonel (F. M.) Parker, Thirtieth North Carolina, on the right of my brigade; Colonel (R. T.) Bennett, Fourteenth North Carolina, on right centre; Colonel (W. R.) Cox, Second North Carolina, left centre, and Colonel (Bryan) Grimes, Fourth North Carolina, on left.

"Sunday, May 3d, the division, being as stated, in the third line of battle, advanced about 9 o'clock to the support of the second line. After proceeding about one-fourth of a mile I was applied to by Major

(W. J.) Pegram for support to his battery, when I detached Colonel Parker, Thirtieth North Carolina, for this purpose, with orders to advance obliquely to his front and left and join me after his support should be no longer needed, or to fight his regiment as circumstances might require. I continued to advance to the first line of breastworks, from which the enemy had been driven, and behind which I found a small portion of Paxton's Brigade and Jones' Brigade, of Trimble's Division. Knowing that a general advance had been ordered, I told these troops to move forward. Not a man moved. I then reported this state of things to Major-General Stuart, who directed me to assume command of these troops and compel them to advance. This I essayed to do, and, after fruitless efforts, ascertained that General Jones was not on the field and that Colonel (T. S.) Garnett had been killed, I reported again to General Stuart, who was near, and requested permission to run over the troops in my front, which was cheerfully granted. At the command 'Forward!' my brigade, with a shout, cleared the breastworks and charged the enemy. The Fourth North Carolina (Colonel Grimes) and seven companies of the Second North Carolina (Colonel Cox) drove the enemy before them until they had taken the last line of his works, which they held under a severe, direct, and enfilading fire, repulsing several assaults on this portion of our front. The Fourteenth North Carolina (Colonel Bennett) and three companies of the Second were compelled to halt some one hundred and fifty or two hundred yards in rear of the troops just mentioned for the reason that the troops on my right had failed to come up and the enemy was in heavy force on my right flank. Had Colonel Bennett advanced the enemy could easily have turned my

right. As it was, my line was subjected to a horrible enfilading fire, by which I lost severely. I saw the danger threatening my right, and sent several times to Jones' Brigade to come to my assistance, and I also went back twice myself and exhorted and ordered it (officers and men) to fill up the gap (some five or six hundred yards) on my right, but all in vain. I then reported to General Rodes that unless support was sent to drive the enemy from my right I would have to fall back. In the meantime Colonel Parker of the Thirtieth North Carolina, approaching from the battery on the right, suddenly fell upon the flank and repulsed a heavy column of the enemy who were moving to get in my rear by my right flank, some three or four hundred of them surrendering to him as prisoners of war. The enemy still held his strong position in the ravine on my right, so that the Fourteenth North Carolina and the three companies of the Second North Carolina could not advance. The enemy discovered this situation of affairs and pushed a brigade to the right and rear of Colonel Grimes and seven companies of Colonel Cox's (Second North Carolina), with the intention of capturing their commands. This advance was made under a terrible direct fire of musketry and artillery. The move necessitated a retrograde movement on the part of Colonels Grimes and Cox, which was executed in order, but with the loss of some prisoners, who did not hear the command to retire. Colonel Bennett held his position until ordered to fall back, and, in common with all the others, to replenish his empty cartridge-boxes. The enemy did not halt at this position, but retired to his battery, from which he was quickly driven, Colonel Parker of the Thirtieth North Carolina sweeping over it with the troops on my right.

"After replenishing cartridge-boxes I received an order from Major-General Rodes to throw my brigade on the left of the road to meet an apprehended attack of the enemy in that quarter. This was done, and afterwards I was moved to a position on the plank-road which was intrenched, and which we occupied until the division was ordered back to camp, near Hamilton's Crossing.

"The charge of the brigade, made at a critical moment, when the enemy had broken and was hotly pressing the centre of the line in our front with apparently overwhelming numbers, not only checked his advance but threw him back in disorder and pushed him with heavy loss from his last line of works.

"Too high praise cannot be accredited to officers and men for their gallantry, fortitude, and manly courage during this brief but arduous campaign. Exposed as they had been for five days immediately preceding the fights on the picket line, they were, of course, somewhat wearied, but the order to move forward and confront the enemy brightened every eye and quickened every step. Under fire all through Wednesday, Wednesday night and Thursday, without being able effectually to return this fire, they bore all bravely, and led the march towards Chancellorsville on Friday morning in splendid order. The advance of the brigade on Friday afternoon was made under the very eyes of our departed hero (Jackson) and of Major-General A. P. Hill, whose words of praise and commendation, bestowed upon the field, we fondly cherish. And on Sunday the magnificent charge of the brigade upon the enemy's last and most terrible stronghold was made in view of Major-General Stuart and our division commander, Major-General

R. E. Rodes, whose testimony that it was the most glorious charge of that most glorious day we are proud to remember and report to our kindred and friends.

"To enumerate all the officers and men who deserve special mention for their gallantry would be to return a list of all who were on the field. All met the enemy with unflinching courage; and for privations, hardships, and splendid marches, all of which were cheerfully borne, they richly deserve the thanks of our beautiful and glorious Confederacy.

"I cannot close without mentioning the conspicuous gallantry and great efficiency of my regimental commanders. Colonel Parker of the Thirtieth North Carolina was detached during the fight of Sunday to support a battery, and, having accomplished that object, moved forward on his own responsibility and greatly contributed to wrest the enemy's stronghold at Chancellorsville from their grasp as well as prevent their threatened demonstrations upon the right of my brigade; the gallant Grimes of the Fourth North Carolina, whose conduct on other fields gave promise of what was fully realized on this; Colonel Bennett of the Fourteenth North Carolina, conspicuous for his coolness under the hottest fire, and last, though not least, the manly and chivalrous Cox of the Second North Carolina, the accomplished gentleman, splendid soldier, and warm friend, who, though wounded five times, remained with his regiment until exhausted. In common with the entire command, I regret his temporary absence from the field, where he loved to be.

"Major Daniel W. Hurtt, Second North Carolina State Troops, commanded the skirmishers faithfully

and well.

"To the field and company officers, one and all, my thanks are due for the zeal and bravery displayed under the most trying circumstances.

"To the gentlemen of my staff I owe especial thanks for services rendered on the march and upon the field. Captain Seaton Gales, Assistant Adjutant-General, and Lieutenant Caleb Richmond, Aid-de-camp, were with me all the time, promptly carrying orders under the very hottest fire. I take pleasure, too, in speaking of the bravery of private James Stinson, courier, a youth of twenty, who displayed qualities a veteran might boast of, and of the conduct of private J. B. Beggarly, also a courier to headquarters.

"To Dr. G. W. Briggs, Senior Surgeon of the brigade, my thanks are due for his zeal, skill, and care of the wounded.

"I am, sir, very respectfully,

"Your obedient servant,

"STEPHEN D. RAMSEUR,
"*Brigadier-General Commanding*."

In the report of this battle by Major-General Rodes he makes the following remarks as to the part borne by Ramseur's Brigade: ...

"While these movements were taking place on the left, Ramseur and Doles pushed forward on the right, passed the first line of intrenchments, which had already been carried, passed the first and second lines of our troops, and became fiercely engaged. Doles deflecting to the right, passed up a ravine behind the graveyard on Chancellor's Hill, and finally

came out in the field nearly opposite the house, driving the enemy before him as he advanced, actually getting several hundred yards to the rear as well of those troops opposing the rest of my division as of those opposing General Anderson's Division. Subsequently he was compelled to fall back, and was directed by General Lee to take a large body of prisoners. Ramseur, after vainly urging the troops in the first line of intrenchments to move forward, obtained permission to pass them, and, dashing over the works, charged the second intrenchment in the most brilliant style. The struggle at this point was long and obstinate, but the charge on the left of the plank-road at this time caused the enemy to give way on his left, and this, combined with the unflinching determination of his men, carried the day and gave him possession of the works. Not being supported, he was exposed still to a galling fire from the right, with great danger of being flanked. Notwithstanding repeated efforts made by him, and by myself in person, none of the troops in his rear would move up until the old 'Stonewall Brigade' arrived on the ground and gallantly advanced in conjunction with the Thirtieth North Carolina Regiment, Colonel F. M. Parker, of Ramseur's Brigade, which had been detached to support a battery, and was now on its return. Occupying the works on the right of Ramseur, and thus relieving him when his ammunition was nearly exhausted, the Stonewall Brigade pushed on and carried Chancellorsville heights, making the third time that they were captured."

In this battle Ramseur, though severely wounded, declined to leave the field, and is especially mentioned by Rodes as one who was "distinguished for great gallantry and efficiency in this action."

It will be remembered that it was here that that great ideal soldier of the Army of Northern Virginia, who stood second only to Lee, Stonewall Jackson, fell mortally wounded, and was carried from the field. His command then devolved on A. P. Hill, who was wounded, and then upon General J. E. B. Stuart, whose plume, like that of Henry of Navarre, was always seen conspicuous in the thickest of the affray. While each of these generals mentioned Ramseur and his brigade in the most flattering terms, I will not stop to quote from their reports. I prefer to hasten on and call your attention to what will be recognized by every soldier of that army as one of the highest compliments and most distinguished tributes that could have been paid. I beg you to pause and reflect upon the force and power of each expression. It emanates from one not given to compliments, but who, in all his public communications, seemed to weigh and carefully consider each word. I am confident that the existence of this letter was not known either to Ramseur or to any of his command when written, and came to my notice for the first time only very recently.

It reads as follows:

"HEADQUARTERS ARMY OF NORTHERN VIRGINIA,

"June 4th, 1863.

"HIS EXCELLENCY ZEBULON B. VANCE,

"*Governor of North Carolina, Raleigh*:

"GOVERNOR:—I have the honor to call the attention of your Excellency to the reduced condition of Brigadier-General Ramseur's Brigade. Its ranks have been much thinned by the casualties of the battles in which it has been engaged, in all of which it has rendered conspicuous service. I consider its

brigade and regimental commanders as among the best of their respective grades in the army, and in the battle of Chancellorsville, where the brigade was much distinguished and suffered severely, General Ramseur was among those whose conduct was especially commended to my notice by Lieutenant-General Jackson in a message sent to me after he was wounded. I am very desirous that the efficiency of this brigade should be increased by filling its ranks, and respectfully ask that, if it be in your power, you will send on recruits for its various regiments as soon as possible. If this cannot be done I would recommend that two additional regiments be sent to it if they can be had. I am satisfied that the men could be used in no better way to render valuable service to the country and win credit for themselves and their State.

"I am, with great respect,

"Your obedient servant,
"R. E. LEE,
"*General.*"

After the battle of Chancellorsville, Ramseur, with his brigade, accompanied the army of Lee in its invasion of Pennsylvania. In connection with Rodes' Division, in the first day's fight at Gettysburg, they secured the elevated ridge known as Oak Hill, which was the key to the entire field. Swinton, in his *Campaigns of Army of the Potomac*, says: "When towards three o'clock a general advance was made by the Confederates, Rodes speedily broke through the Union centre, carrying away the right of the First Corps and the left of the Eleventh, and, entering the interval between them, disrupted the whole line." The Federal troops fell back in much disorder, and were pursued by our troops through the town of

Gettysburg. This was our opportunity to have seized the heights, the subsequent assaults on which proved so disastrous to us during the progress of this battle. Ramseur urged that the pursuit should be continued until Cemetery Heights were in our possession. The light of subsequent events shows that he was clearly in the right. Our friends in Virginia are fond of boasting of the advanced position of their troops at Gettysburg. It is a thing to be boasted of. Her sons were gallant and martial, and far be it from me to detract one tittle from the fame to which they are entitled, yet it is but an act of justice to call attention to the fact that the only two brigades which entered the works of Cemetery Heights on the second day of the battle were Hoke's North Carolina and Hays' Louisiana Brigades. The former was then under the command of that gallant soldier and accomplished gentleman, Colonel Isaac E. Avery, who lost his life on this occasion while gallantly leading his brigade on the heights on the 2d of July. In his report of this battle, Early says: ...

"As soon as Johnson became warmly engaged, which was a little before dusk, I ordered Hays and Avery to advance and carry the works on the heights in front. These troops advanced in gallant style to the attack, passing over the ridge in front of them under a heavy artillery fire, and there crossing a hollow between that and Cemetery Hill, and moving up this hill in the face of at least two lines of infantry posted behind stone and plank fences, and passing over all obstacles, they reached the crest of the hill and entered the enemy's breastworks, crossing it, getting possession of one or two batteries."

Brigadier-General Iverson, of Georgia, had manifested such a want of capacity in the field at

Gettysburg that he was relieved of his command and assigned to provost guard duty. As a further mark of Lee's appreciation of Ramseur, this brigade was assigned temporarily to his command, in addition to the one he already commanded.

In the various skirmishes and battles of this campaign Ramseur displayed his usual efficiency and gallantry. After returning from Pennsylvania our troops went into winter quarters near Orange Court House, and as it was clear that after the exhaustive campaigns of the year we would enjoy a period of comparative quiet, Ramseur obtained leave of absence for the purpose of entering into the most important relations of one's life. He had long been attached to and was then engaged to Miss Ellen E. Richmond, of Milton, but the consummation of his hopes had been often deferred by the exigencies of the public service. He was now made supremely happy in their marriage, which occurred on the 22d of October, 1863.

The successive failures of the Army of the Potomac in its engagements with the Army of Northern Virginia created a general apprehension throughout the North that unless something more satisfactory was accomplished the successful issue of the war was becoming a most doubtful problem. This prompted the nomination of General Grant to the grade of Lieutenant-General, and he was assigned to the command of "all the armies of the United States." One of the conditions of his acceptance was that he should not be hampered in the discharge of his duties by the central authorities at Washington—a wise and judicious precaution, which else had resulted in his supersedure after his terrible losses at Cold Harbor, where, according to Swinton, he had

thirteen thousand of his men killed and wounded within the space of two hours, and this without inflicting but little loss on his adversary.

On the morning of May 5th, 1864, over one hundred thousand of Grant's troops had crossed the Rapidan, and thence followed that series of battles on the overland route to Richmond, wherein the killed, wounded and disabled on the part of Grant's army were as great as the whole army of Lee when these engagements commenced. During this march Ramseur's men were frequently engaged in successful skirmishes and battles with the enemy, but the great battle in which he shone conspicuously was on the 12th of May, at Spottsylvania Court House.

On the afternoon of the 11th there was severe fighting on our right, when Ramseur's men mounted our works and drove the enemy from our front in a hand-to-hand engagement. It was expected by Lee that during the night Grant would withdraw his troops for the purpose of continuing his advance on Richmond. In order to be in readiness to confront him when he should make this change, Lee had directed that the guns in front of Ed. Johnson's Division, in a point in our lines known as the "salient," should be withdrawn during the night to facilitate our movements in the morning. This fact became known to Grant through a deserter from our lines. Hancock's Corps was in front of this point, and he was directed to approach under the cover of night and a dense fog and assault the line at early dawn. The attack resulted most successfully, for our works were captured, together with a large number of prisoners. To restore in part this line became Ramseur's duty. In his report of the action he speaks substantially as follows: That in anticipation of an

attack on his front on the morning of the 12th he had his brigade under arms at early dawn. Very soon he heard a terrible assault on his right. He therefore moved Cox's Regiment, which was in reserve, to a position perpendicular to his line of battle. At this time the enemy was massing his troops for a further advance. For the purpose of driving him back he formed his brigade in a line parallel to the two lines held by the enemy. The men in charging were directed to keep their alignment and not pause until both lines of works were ours. How gallantly and successfully these orders were executed were witnessed by Generals Rodes and Ewell. The two lines of Federal troops were driven pell-mell out and over both lines of our original works with great loss. The enemy held the breastworks on our right, enfilading the line with destructive fire, at the same time heavily assaulting our right front. In this extremity, Colonel Bennett of the Fourteenth offered to take his regiment from left to right, under a severe fire, and drive back the growing masses of the enemy on our right. This hazardous offer was accepted as a forlorn hope, and was most successfully executed. To Colonel Bennett, and his men, and to his gallant officers, says General Ramseur, all honor is due. I distinctly recall the circumstances under which the charge was made, and for cool audacity and unflinching courage I never saw it surpassed. At the time the movement was commenced Colonel Parker's Regiment and the Federals were engaged in a hand-to-hand encounter in and over the works, while my regiment was pouring a most destructive fire into the Federals in our front. We entered these works at 4 o'clock on the morning of the 12th and remained in the works fighting and contending for over twenty hours. When relieved, hungry and exhausted, we

dropped upon the wet ground and slept most profoundly.

A correspondent of the London *Morning Herald*, who had familiar access to Lee's headquarters, in a description of the battle of the Wilderness, gives this vivid account of the action of Ramseur's Brigade on the morning of the 12th:

"The Federalists continued to hold their ground in the salient, and along the line of works, to the left of that angle, within a short distance of the position of Monoghan's (Hays') Louisianians. Ramseur's North Carolinians of Rodes' Division formed, covering Monoghan's right, and being ordered to charge, was received by the enemy with a stubborn resistance. The desperate character of the struggle along that brigade-front was told terribly in the hoarseness and rapidity of its musketry. So close was the fighting there, for a time, that the fire of friend and foe rose up rattling in one common roar. Ramseur's North Carolinians dropped in the ranks thick and fast, but still he continued, with glorious constancy, to gain ground, foot by foot. Passing under a fierce fire, resolutely on, on, on, the struggle was about to become one of hand-to-hand, when the Federalists shrank from the bloody trial. Driven back, they were not defeated. The earthworks being at the moment in their immediate rear, they bounded on the opposite side; and having thus placed them in their front, they renewed the conflict. A rush of an instant brought Ramseur's men to the other side of the defenses; and though they crouched close to the slopes, under enfilade from the guns of the salient, their musketry rattled in deep and deadly fire on the enemy that stood in overwhelming numbers but a few yards from their front. Those brave North Carolinians had

thus, in one of the hottest conflicts of the day, succeeded in driving the enemy from the works that had been occupied during the previous night by a brigade which, until the 12th of May, had never yet yielded to a foe—the Stonewall."

In an address before the Army of Northern Virginia, Colonel Venable, of Lee's staff, says: "The restoration of the battle on the 12th, thus rendering utterly futile the success achieved by Hancock's Corps at daybreak, was a wonderful feat of arms, in which all the troops engaged deserve the greatest credit for endurance, constancy, and unflinching courage. But without unjust discrimination, we may say that Gordon, Rodes, and Ramseur were the heroes of this bloody day.... Rodes and Ramseur were destined, alas! in a few short months, to lay down their noble lives in the Valley of Virginia. There was no victor's chaplet more highly prized by the Roman soldier than that woven of the grass of early spring. Then let the earliest flowers of May be always intertwined in the garlands which the pious hands of our fair women shall lay on the tombs of Rodes and Ramseur and of the gallant dead of the battle of twenty hours at Spottsylvania."

General Long, in his *Life of Lee*, puts the name of Ramseur in the van of those who rushed into this angle of death and hurled back the Federals' most savage sallies. During the long and fierce struggle I saw soldiers place the arms of their comrades who had just fallen in such a position as when they had become stiffened they would hold the cartridges we were using. Yes, fighting and exhausted, amidst blood and mud and brains, they would sit on the bodies of their fallen comrades for rest, and dared not show even a finger above the breastworks, for so

terrible was the fire at this angle that a tree eighteen inches in diameter was cut asunder by minie balls. After the battle was over Generals Lee and Ewell thanked Ramseur in person, and directed him to carry to his officers and men their high appreciation of their conspicuous services and heroic daring. At this time such portions of the First and Third Regiments as were not captured in the salient were placed in the brigade, and it is sufficient praise to bear witness that from that time on to the surrender at Appomattox their officers and men always showed themselves worthy of the highest confidence reposed in them. In appreciation of the conspicuous services rendered by Ramseur on this occasion he was made a major-general and assigned to the command of Early's Division, and I had the distinguished honor of being assigned to Ramseur's (now to become Cox's) historic brigade.

The Valley of Virginia, both physically and strategically, is one of the most attractive regions of that State. It is not less distinguished for the brilliant achievements of Stonewall Jackson than for the ardent patriotism of its men and the devotion and sacrifices of its women to the cause of the South. It was here that Jackson, with only a little army of thirteen thousand men, defeated and drove from the valley Milroy, Frémont, Banks, and Shields, whose combined forces were five times as great as his own, besides capturing vast quantities of much needed commissary and ordnance stores and large numbers of prisoners. After the battle of Cold Harbor the Second Corps, composed of Ramseur's, Rodes' and Gordon's Divisions, were placed under the command of Early, and directed to proceed to this valley, with instructions to capture or destroy the army of Hunter, a recreant Virginian, who was marching in

the direction of Lynchburg, destroying the country as he moved along. Attached to this corps were Nelson's and Braxton's battalions of artillery, together with a division of cavalry. At this time Breckinridge, who, in a brilliant engagement, had recently defeated Sigel, was at Lynchburg awaiting our arrival. Our troops were transported by rail. Ramseur's and the greater part of Gordon's Division were sent forward as soon as they were ready. They arrived at Lynchburg at about 4 o'clock P. M. on the 17th of June. Here they united with Breckinridge and the troops of Major-General Ransom, who was in command of the whole cavalry in the valley. Hunter was in camp near the city of Lynchburg. In a letter to me, General Ransom says at this time "he (Ramseur) and I reconnoitered the left flank of Hunter's army and found it could be most advantageously assailed, and in person reported the fact to General Early, who said he would not attack until the whole of Rodes' Division had arrived from Richmond." The opportunity to destroy Hunter's army was then lost. Hunter took counsel of his fears and advantage of the cover of night and darkness to make a hasty retreat. Early on the morning of the 19th we commenced a pursuit, and just before night overtook the enemy's rear at Liberty, when Ramseur's Division moved on it and drove it through the place. It was now ascertained that Hunter had not taken the route that we anticipated, but had retreated by way of Buford's Gap, where, on the next day, he was found occupying a commanding position on the crest of the mountain. After our arrival we spent the afternoon in efforts to secure a position from which to successfully assail him the following day. Hunter, by our failure to promptly pursue at daylight, made his escape, and, being in the mountains, further pursuit

was useless. Early, in his report, says: "By mistake of the messenger who was sent with orders to General Rodes to lead the next morning, there was some delay in his movement on the 21st, but the pursuit was resumed very shortly after sunrise." After resting a day we resumed the march and reached Buchanan that night. Our next important move was to cross the Potomac into Maryland. We reached Frederick, Md., about the 9th of the month, when Ramseur, after a slight resistance, moved through the town and brushed away the Federals before him. Our invasion had so alarmed the Federal capital that General Wallace was directed to move at once with such forces as he had and could collect and interpose them between us and Washington. When Wallace reached our front he drew his troops up on the eastern bank of the Monocacy.

Ramseur deployed in his front, drove his skirmishers across the river and a brief and brisk artillery duel followed. In the meantime McCausland, with his cavalry, crossed the river, attacked the Federal left flank and threw it into confusion, which Early discovering, threw forward Gordon's Division, commanded by Breckinridge. Gordon moved to the assistance of McCausland, while Ramseur crossed over the railroad bridge and fell upon Wallace, who retreated with great precipitation, leaving in our hands six or seven hundred prisoners besides his killed and wounded. Our loss in killed and wounded was severe, but as this was a sharp and brilliant engagement, well planned and spiritedly executed, it infused new life into our troops. On the 10th we moved to Rockville. As the weather was hot and roads dusty, our troops were easily fatigued and made but slow progress. The next day we resumed the march, and in the afternoon reached Seventh

street pike, which leads into Washington. In a history of the Army of the Potomac, Swinton, in speaking of this movement, says: "By afternoon the Confederate infantry had come up and showed a strong line in front of Fort Stevens. Early had there an opportunity to dash into the city, the works being very slightly defended. The hope at headquarters that the capital could be saved from capture was very slender." The truth is, the Sixth and Ninth Corps of Grant's army were then *en route* to save the capital, and for us to have entered it at this time might, in the end, have proved a costly experiment. Probably more expedition might have been exercised by us in our march. After reconnoitering and skirmishing a couple of days, we turned our backs on the capital, beat a hasty retreat to the Potomac, followed by the enemy's cavalry.

The next engagement of any importance in which Ramseur was concerned was at Winchester, where he was left with his command and a battery of artillery to protect the place from a threatened attack from Averell. While here he was informed by General Vaughan, in command of the cavalry, that Averell, with a small force, was at Stephenson's Depot, and could be surprised and easily captured. Placing too much confidence in these representations, Ramseur advanced against him without the proper precaution of throwing forward a strong skirmish line, and he encountered Averell with a large force of infantry and cavalry, and met with a pretty severe repulse. In a letter to me, General W. G. Lewis, who was wounded in this engagement, says that Ramseur was not altogether responsible for the mistake that occurred, for he had every reason to suppose that the information furnished by Vaughan was correct. This matter, while not of much importance, is referred to

simply because it is the only instance in which he met with a reverse. The blame properly rests upon General Vaughan, who should have been more careful in his statements.

On the 9th of September information reached us that a large force had been concentrated at Harper's Ferry, which consisted of the Sixth, Nineteenth, and Crook's Corps, and was under a new commander, who proved to be Sheridan. From this time on constant maneuvering and skirmishing occurred between the two armies, in which Ramseur was more or less prominently engaged. Sheridan proved to be a wary, cautious, and prudent commander. In all of these movements it appeared that his purpose was rather to ascertain the strength and character of his adversary than to engage him in battle. Early was disappointed and disgusted by his wary methods, and says in his *Last Year of the War* that "the events of the last month had satisfied me that the commander opposing me was without enterprise and possessed an excessive caution which amounted to timidity. If it was his policy to produce the impression that his force was too weak to fight me, he did not succeed; but if it was to convince me that he was not an able and energetic commander, his strategy was a complete success, and subsequent events have not changed my opinion." Sheridan had recently been transferred from the Army of the West, where Lee's methods and "Stonewall Jackson's way" were known as towers of strength. For the first time Sheridan was given an independent command, had a wholesome dread of our veterans, and also fully realized the fact that upon the result of his first encounter with his adversary there was involved an important political as well as military element.

Grant's campaign from the "Wilderness to Cold Harbor had been disappointing to the North, where there was a feeling that so far the war had been a failure, which, in commenting on, in his *Campaigns of the Army of the Potomac*, Swinton says, that when the records of the War Department shall be carefully examined they will develop discoveries of the most startling nature. In speaking of public sentiment just prior to the battle of Winchester, Grant says in his *Personal Memoirs*:

"I had reason to believe that the administration was a little afraid to have a decisive battle fought at that time, for fear it might go against us and have a bad effect on the November elections. The convention which had met and made its nomination of the Democratic candidate for the Presidency had declared the war a failure.

"Treason was talked as boldly in Chicago as ever it had been at Charleston.

"It was a question of whether the government would then have had the power to make arrests and punish those who thus talked treason.

"But this decisive victory was the most effective campaign argument made in the canvass."

In addition to what Grant says there was another motive which made Sheridan timid in encountering our forces, and possibly Grant's presence was necessary to get him up to the fighting point.

In his *Memoirs*, Sheridan says:

"I had opposing me an army largely composed of troops that had operated in this region hitherto under 'Stonewall' Jackson with marked success, inflicting defeat on the Union forces almost every

time the two armies had come in contact.

"These men were now commanded by a veteran officer of the Confederacy, General Jubal A. Early, whose past services had so signalized his ability that General Lee specially selected him to take charge of the valley district, and notwithstanding the misfortunes that befell him later, clung to him to the end of the war. The Confederate army at this date was about twenty thousand strong, and consisted of Early's own corps, with Generals Rodes, Ramseur, and Gordon commanding its divisions; the infantry of Breckinridge, of Southwestern Virginia; three battalions of artillery, and the cavalry brigades of Vaughan, Johnson, McCausland, and Imboden."

Early had marched and countermarched so often in the presence of and around Sheridan's army without bringing him to a test of strength he began to think him no better than Hunter, and entertained more contempt for than fear of him. He separated his divisions at will, and scattered them from Winchester to Martinsburg—twenty-two miles—with no greater motive than that of interrupting railroad traffic, producing a little diversion in Washington, and securing a few commissaries in Martinsburg. His last movement in this direction was on the eve of the battle of Winchester. Of this movement he says: "Having been informed that a force was at work on the railroad near Martinsburg, I moved on the afternoon of the 17th of September with Rodes' and Gordon's Divisions and Braxton's artillery to Bunker Hill; and on the morning of the 18th, with Gordon's Division and a part of the artillery, to Martinsburg, preceded by a part of Lomax's cavalry." It will thus be seen that in the presence of a largely superior force, and a new and untried commander, Early had

his troops stretched out and separated like a string of glass beads with a knot between each one. In a previous move of a similar nature on Martinsburg, at Bunker Hill, I had been reliably informed that the next time Early should make the mistake of separating his command Sheridan intended to attack and endeavor to crush his troops in detail. This fact I communicated to General Rodes, who replied: "I know it. I have told Early as much"; and with much irritation of manner, said, "I can't get him to believe it."

On the morning of the 19th the booming of cannon was heard in the direction of Winchester. As skirmishing at this time was frequent, we could not positively decide as to what it portended. Rodes was now at Stephenson's Depot, Breckinridge and Gordon at Bunker Hill, and Ramseur at Winchester. Rodes received orders to "move out," but was not directed where to go. We moved out, took position behind a rock wall north of the road intersecting the Winchester road, where we anxiously awaited further orders for the space of two hours. All this time Ramseur, with his seventeen hundred men, was actively engaged with Sheridan's advance corps. Had we been properly directed we could have moved forward and crushed this corps before the remainder of Sheridan's troops arrived, and secured a complete victory. In speaking of the time when the firing commenced, Early, who was with Gordon, says: "I immediately ordered all the troops that were at Stephenson's Depot to be in readiness to move, directions being given by Gordon, who had arrived from Bunker Hill, to move at once, but by some mistake on the part of my staff officer, the latter order was not delivered to either Generals Breckinridge or Gordon."

Ramseur was compelled to bear the whole brunt of the attack of Sheridan's army until we came to his support, about 10 A. M. While Rodes was moving in column up the Martinsburg road, near Winchester, we were unexpectedly called to attention, faced to the left, and moved forward to engage the enemy, who had advanced to within one hundred yards of the road. Grimes' Brigade was on the right, mine in the centre, and Cook's on the left, for Battle's was still behind. After a brief and vigorous assault the Federals commenced falling back.

Grimes drove the enemy through the woods and formed on the left of Ramseur, while I was driving the Federals before me in an open field, supported by Cook on my left. The latter brigade was brought to a temporary halt. Rodes was now in my rear, and dispatched his only remaining staff officer to push forward this brigade. At this moment Lieutenant J. S. Battle of my staff came up, informed me that Colonel Bennett of the Fourteenth Regiment had just had his horse shot under him, and he had given him his. It was now that General Rodes was shot in the head by a ball, and caught by Lieutenant Battle as he fell from his horse. The fall of Rodes was not observed by the troops, who pushed on, and struck a weak line between the Sixth and Nineteenth Corps. At this point the Federals were severely punished, and fell back, leaving their killed and wounded. A large number of officers and men, secreted in a ditch, were captured. We pursued the enemy, with a hot fire, beyond the crest of the hill on which Grimes had established his line. Here Evans' Brigade, upon meeting a heavy fire, fell back, which exposed my brigade to a concentrated, direct and left oblique fire. Seeing that I could not maintain this advanced position, my aide, Major Gales, was sent to General

Early with a request to have a battery placed on a hill in my rear. This was promptly done, when my men fell back and were formed behind the battery, which opening with telling effect upon their heavy lines, they laid down, and the victory appeared to be ours. In this brief engagement Colonel Bennett had two horses shot from under him and was captured. Colonel Cobb of the Second lost a foot, and Colonel Thurston of the Third was severely wounded. While my loss in officers and men had been severe, my troops were in fine spirits. Here we lay until 4 o'clock in the afternoon, when Major G. Peyton of the division staff directed me to fall back, for the infantry had retired from my left, and Fitz Lee's cavalry was hotly engaged with that of the Federals. I replied that there was no occasion for my falling back, as I could repulse any assault the Federals might attempt; and upon their endeavoring to advance, I opened fire upon them and they rapidly sought shelter. Discovering (after Major Peyton retired) that the Federals were in my rear, I fell back in good order to the Martinsburg pike and formed on the left of our troops. Here we were exposed, without any protection, to a heavy artillery fire, which was inflicting unnecessary punishment upon my men. I turned to General Breckinridge, who was near, pointed to a line of hills, and suggested that that was the place to make our stand, to which he agreed. Thereupon I faced my men about and commenced retiring deliberately to the hills, all the troops conforming to this movement. General Early, through a staff officer, directed me to return; I thereupon faced my men about and moved them to the front. Upon reaching the turnpike a second officer came from General Early and directed me to fall back. Facing my men about, I again commenced

slowly retiring.

Our troops now retreated towards Fisher's Hill. My brigade secured the elevation which I had selected, and stood as a menace to pursuit until our army had measurably retired. Then proceeding to the turnpike, I was retreating in column, when Dr. Hunter McGuire, who was with Early, approached and said General Early was feeling badly; that we had lost but one caisson, and he wished I would take my troops and protect from capture the artillery then passing. I informed him that I was so far from division headquarters (for our army was not then in sight) that I did not desire to have my brigade exposed to capture unless he would bring me an order from General Early, who was then riding slowly along the pike. He returned to the General and came back and said the General wished I would do it. I then dispatched Assistant Adjutant-General Gales to General Battle, who, after the fall of Rodes, was in command of the division, with information as to where I was and what I was doing. I then turned to my command, which had been joined by other troops who had lost their commands, and directed them to deploy and advance between the enemy's cavalry and our artillery, which was done with great spirit and promptness in the presence of the General, but without a word of indorsement from him. In this manner we moved on, protecting the artillery until near dusk, when we found Ramseur with his division thrown across the turnpike to prevent pursuit. About the time the artillery and my brigade crossed his line the enemy made a spirited charge to capture the guns. Ramseur's men rose and met it with a well-directed fire, which stopped further pursuit. I moved on and soon joined our troops. So that Ramseur, upon whom the enemy had opened their battle in the

morning, gave them the last repulse at night.

Of this battle, Early writing, says: "A skillful and energetic commander of the enemy's forces would have crushed Ramseur before any assistance could have reached him, and thus caused the destruction of my whole force; and later in the day, when the battle had turned against us, with the immense superiority of cavalry which Sheridan had and the advantage of the open country, would have destroyed my whole force and captured everything I had.... I have thought, instead of being promoted, Sheridan ought to have been cashiered for this battle." In his *Memoirs*, Grant says: "Sheridan moved at the time fixed upon. He met Early at the crossing of the Opequan Creek and won a most decisive victory—one which electrified the country. Early had invited this attack himself by his bad generalship, and made the victory easy." Considering the great disparity of numbers, this battle of Winchester was, after all, no great victory on the part of Sheridan, and Grant intimates as much, for his troops outnumbered those of Early more than three to one. His cavalry was in fine condition, while ours was worn down by excessive duties and scant forage. It was won at a critical moment to the Federal government, and it became to its interest to magnify it in every way practicable.

After our defeat at Winchester we fell back and formed a line of battle behind Fisher's Hill. In our encounter with Sheridan's army, notwithstanding our defeat, his loss had been severe and his pursuit was languid. It was the 20th before he reached our front, and several days were passed in maneuvering and skirmishing. Ramseur's Division occupied the left of our line of battle and the prolongation of our line

was defended by cavalry. On the 22d, Sheridan threw forward Crook's Corps, pushed back our cavalry and took possession of our line. Ramseur hearing the firing to his left, withdrew my brigade from the line and ordered me to move in the direction of the firing, for after the fall of Rodes, Ramseur, to our great gratification, was placed in charge of his division. On moving to the left I had a brisk skirmish with a part of Crook's men, but did not encounter the main force. From the firing in the direction of our line it was soon apparent that our army was falling back. I now met General Lomax with a part of his men, and he kindly conducted me by the nearest route to the turnpike over which we were retreating.

It was full dusk when we reached the road. Colonel Pendleton, an admirable officer and an accomplished gentleman of the corps staff, met me and requested that my brigade be thrown across the road to cover the retreat. The brigade was promptly formed, advanced rapidly to a fence, where it met the enemy in a hand-to-hand encounter, repulsed them and stopped the pursuit for the night. It was while near me that Colonel Pendleton, whom I had intimately known when on Jackson's staff, fell mortally wounded.

Napoleon said: "The moral force in war is worth twice its physical effect." Unfortunately from this time on, that moral force which leads to success in battle was, in this army, under its present leadership, sadly lacking.

After the affair of Fisher's Hill we fell back to the lower passes of the Blue Ridge, where Sheridan followed us as far as Staunton. Then, after destroying the Central Railroad, he retreated up the valley and

took position behind his intrenchments at Cedar Creek. Early had now been reenforced by the return of Kershaw's Division, Cutshaw's battalion of artillery and some cavalry, which about made up his losses at Winchester and Fisher's Hill. About the time Sheridan fell back it had been Early's purpose to attack him, which he doubtless anticipated, for he heard that Longstreet had joined Early, and it was their purpose to destroy him. Early pursued Sheridan beyond Middletown, where he found him too strongly intrenched for a direct attack, and we were therefore formed behind our breastworks at Fisher's Hill. From our signal station, which overlooked their camp, it was discovered that the Federal left flank was lightly picketed, and by a long detour and careful movement could be taken in reverse. A flanking movement was directed by Early and mainly intrusted to Gordon, who, with Ramseur's Division, commenced moving early after dark. The night was consumed in a fatiguing and exhausting march, which was conducted with the greatest secrecy. We reached the point at which we were to cross the creek and make the attack at early dawn. Here we were joined by Payne's cavalry, who at full speed dashed upon and captured Sheridan's headquarters, and, but for his absence, would have captured him. While Crook's Corps was enjoying its undisturbed quiet, and possibly dreaming of to-morrow, we descended "like a wolf on the fold" and aroused them by "Rebel yells" and peals of musketry, and they hastily fled in garments more suited to a camp than a ball-room.

After our great reverses the sensation of pursuit was delightful. As Ramseur hurried from point to point to hasten forward his troops where resistance was offered his presence and manner were electrical.

Notified of our attack by the firing, the Federals in other parts of the field formed and offered some resistance, but they were so much demoralized that my little brigade drove back a division ten times its numbers after but slight resistance. By 8 o'clock we had captured nearly all their artillery and from fifteen hundred to two thousand prisoners, and the Federals were in retreat. Early in the meantime, with two divisions which had scarcely been engaged, came upon the field. Gordon informed me that he then advised him to seize all his wagon, artillery, and ambulance horses—indeed, every one he could get—mount his men upon them, and hotly pursue the Federals before they could recover from their panic. But we were very deliberate. While this was occurring Sheridan was at Winchester, on his return from Washington. He gives this graphic account of his meeting with his fleeing troops: "At Mill Creek my escort fell behind and we were going ahead at a regular pace when, just as we made the crest of the rise beyond the stream, there burst upon our view the appalling spectacle of a panic-stricken army—hundreds of slightly wounded men, throngs of others unhurt, but utterly demoralized, and baggage-wagons by the score, all pressing to the rear in hopeless confusion, telling only too plainly that a disaster had occurred at the front. On accosting some of the fugitives, they assured me that the army was broken up, in full retreat, and that all was lost; all this with a manner true to that peculiar indifference that takes possession of panic-stricken men." In the meantime General Wright, with one division and some cavalry, had the only organized force in our presence. The return of Sheridan and the lack of a vigorous pursuit had the effect to allay the panic with which his army was seized early in the day.

Ascertaining from some prisoners that were captured that Longstreet was not with Early, Sheridan reorganized his men the best he could and turned upon us, I should say about 3 o'clock in the afternoon. Ramseur kept his men well in hand, and from behind rock walls successfully resisted the advance of the Federals. Near 4 o'clock Kershaw's Division gave way on my left. I sent my headquarters courier, private Beggarly, to report the fact to General Ramseur. While doing so his horse was shot through the ear and the horse upon which General Ramseur sat (for he refused to take shelter) was killed. At the request of General Ramseur, private Beggarly let the General have his horse. So careful was Ramseur of the rights of others, even in the midst of a severe engagement, this horse was not taken before getting my consent.

During this whole encounter no man could have behaved more magnificently and heroically than Ramseur did in his efforts to resist the overwhelming tide which was now setting in upon us. From the position which he occupied the retreat of Kershaw's Division and the overlapping flanking column of the Federals could be seen. His troops became alarmed and could not be held in position, and in a vain effort to hold them this brave and accomplished young officer fell mortally wounded and was captured. In speaking of his conduct upon this occasion, General Early says: "Major-General Ramseur has often proved his courage and his capacity to command, but never did these qualities shine more conspicuously than on the afternoon of the 19th of this month, when, after two divisions on his left had given way and his own was doing the same thing, he rallied a small band, and for one hour and a quarter held in check the enemy, until he was shot down himself. In

endeavoring to stop those who were retiring from the field, I had occasion to point them to the gallant stand made by Ramseur with his small party, and if his spirit could have animated those who left him thus battling, the 19th of October would have had a far different history. He met the death of a hero, *and with his fall the last hope of saving the day was lost*! General Ramseur was a soldier of whom his State has reason to be proud—he was brave, chivalrous, and capable." General Grimes says, in his report of this battle: "Up to the hour of 4 P. M. the troops of this division, both officers and men, with a few exceptions, behaved most admirably, and were kept well in hand—but little plundering and only a few shirking their duty. After that hour all was confusion and disorder. The brigade commanders conducted themselves, each and all, with great coolness and judgment, and are deserving of especial mention for using all possible efforts to check their troops, but without success. The death of the brave and heroic soldier, General Ramseur, is not only a loss to this division, but to his State and country at large. No truer and nobler spirit has been sacrificed in this unjust and unholy war." Colonel Winston, commanding the Forty-third and Forty-fifth North Carolina Regiments, says that "only one man of those regiments in passing through the rich spoils of the enemy's camp fell out of ranks, and he did it to get a hat, and was court-martialed." And so far as I observed, the charge of General Early that the loss of the fruits of our victory in the morning was ascribable to the plundering of the soldiers, is a great injustice. Certainly it is an injustice, as applicable to that large body of North Carolinians who were then in his corps, and who upon this, as upon prior and subsequent occasions, proved themselves to be

among the best soldiers in the Army of Northern Virginia.

What General Lee said in his letter to General Early, dated September 22, 1864, in regard to his strategy as a separate commander, was clear to all, and in the main led to his want of success. Lee said: ... "As far as I can judge from this distance, you have operated more with your divisions than with your constituted strength. Circumstances may have rendered it necessary, but such a course is to be avoided if possible." When General Forrest was asked the cause of his uniform success he replied: "I get there first with the most men." If not classic, this is at least epigrammatic.

We cheerfully accept the well-merited tribute General Early pays the chivalrous and knightly Ramseur, but it is insisted he is entitled to one still higher. Instead of fighting with a few hundred men, as Early elsewhere says, we see him, in the language of General Grimes, "holding his division well in hand," officers and men doing their duty faithfully, while the disorder and confusion in other parts of the field hastened the disaster which, with troops skillfully handled, should not have occurred.

It will be asked if the criticisms of Early's valley campaign are just, why did not General Lee remove him? There are several good reasons why General Lee should have been slow to pursue such a course. Early was a man of superior intelligence, he was earnest in the cause, and as a brigadier and division commander a hard fighter and successful officer. There is, however, a marked difference between a chief and subordinate commander, and Lee had never known him otherwise than as a subordinate. It is true that Lee was finally compelled to remove him,

and we may presume it was his reluctance to wound that caused him to unwillingly take the step which soon became necessary. This forbearance was in keeping with Lee's general character as known to those who served under him. It is so well expressed by Colonel W. H. Taylor of his staff, in his book entitled *Four Years with General Lee*, we can but quote from him. He says:

"If it shall be the verdict of posterity that General Lee in any respect fell short of perfection as a military leader it may perhaps be claimed: First, that he was too careful of the personal feelings of his subordinate commanders, too fearful of wounding their pride, and too solicitous of their reputation. Probably it was this that caused him sometimes to continue in command those of whose personal fitness for their position he was not convinced, and often avowedly or tacitly assumed responsibility for mishaps clearly attributable to the inefficiency, neglect or carelessness of others."

Through the courtesy of the family of General Ramseur, I am placed in the possession of a personal letter from R. R. Hutchinson, of Virginia, an able and accomplished officer, who before the battle of Cedar Creek had long served as Major and Acting Adjutant-General to the division. Major Hutchinson was with General Ramseur when he received his fatal wound, was captured while endeavoring to remove him from the field, and was by his bedside during his last moments.

His account of the sad occurrence on that occasion is so vivid and touching, that no apology is deemed due for introducing his letter, with a single omission, in this monograph:

"NEAR STRASBURG, VA., October 20, 1864.

"MRS. S. D. RAMSEUR, *Milton, N. C.*:

"DEAR MADAM:—I do not know how to write to you; how to express my deep sympathy in your grievous affliction; but the Christian soldier who has gone before us to that other world has asked me to do it, and I must not shrink from the performance of this duty, however painful. I am writing by the side of him whose last thought was of you and his God, his country and his duty. He died this day at twenty-seven minutes past 10 o'clock A. M., and had, at least, the consolation of having by his side some one who wore the same uniform and served in the same holy cause as himself. His last moments were peaceful, his wounds were painful, but his hope in Christ led him to endure *all* patiently. He received his mortal wound yesterday afternoon (October 19th) between the hours of 5 and 6 P. M. at the post of honor and of danger, where he always was. Our troops had fallen back a short distance, but had reformed, and were stubbornly contesting a position on a hill which the enemy attacked from three sides. He exposed himself to every shot, cheering and encouraging all. I was not far from him when I saw his horse shot; he procured another, which was shot also, and immediately after he received his fatal wound (the second), all in the space of a very few minutes. I ran over to him, got some men, and bore him to the rear, your brother joining us on the way. I then went off after an ambulance, found it, but saw on returning with it that he had been left, as I thought, in the enemy's lines. This fear was soon after dissipated, however, by seeing him on Captain Randolph's horse, the Captain running alongside and supporting him. We got him then to the ambulance I had brought up. I thought he was safe then, not knowing how dangerous was his wound, and remained with the

rear guard. When I was subsequently captured by the enemy's cavalry, I was carried to General Sheridan's headquarters, and learning that General Ramseur had been captured, asked and obtained permission to remain with him. The road had been blocked up by wagons, causing a delay that gave the enemy time to get up and take him prisoner, just south of Strasburg. Many of his former friends (West Pointers) called to see him yesterday and to-day, and offered every assistance in their power, General Sheridan among the number. He was taken to General Sheridan's headquarters and made as comfortable as circumstances would permit. Dr. James Gillespie (Cutshaw's battalion of artillery), a Confederate surgeon, assisted by the enemy's surgeons, attended to him and did all that could be done under the circumstances. He suffered a good deal from his wound, the ball having entered his right side, penetrating the right and left lung, and lodging near the left side. But the end was peaceful and quiet. He spoke continually of you, and sent very many messages to his family, but above all, to his wife. He told the ambulance driver to tell General Hoke that he died a Christian and had done his duty. He told me to give his love and send some of his hair to his darling wife; and often wished he could see his wife and little child before he died. He told me to tell you he had a firm hope in Christ, and hoped to meet you hereafter. He died as became a Confederate soldier and a firm believer.

"I inclose the lock of hair he desired sent to you.

"Respectfully,

R. R. HUTCHINSON,

"*Major and A. A. G. P. A. C. S.*"

Ramseur in personal appearance was slight, erect, alert, earnest in speech, with dark prominent eyes and well developed forehead. He was an ideal soldier.

General Robert Ransom, in writing of his bearing in action, while they were together in the valley, says: "Ramseur commanded infantry and I the whole of Early's cavalry during the time I was with Early. Whenever I had opportunity to see Ramseur his conduct was marked by great energy, brilliant dash (often amounting to impetuosity) and an enthusiasm which inspired those he led."

Among the soldiers of Napoleon Marshal Ney was known as "the bravest of the brave." When asked whether he ever felt fear in battle, he replied that he never had time. His reply might aptly be that of Ramseur. When in action his enthusiasm arose with the magnitude of the dangers that environed him. But this enthusiasm was controlled by a well-directed judgment as to the best disposition to make of his troops, and as to the weak points of his adversary. He fully realized that war meant danger, even death; that the eyes of his troops were upon him, and their greatest safety lay in marching fearlessly and promptly to the front of danger, and he never hesitated to lead them.

On the day preceding the battle of Cedar Creek, General Ramseur received intelligence of the birth of the little child mentioned in the letter of Major Hutchinson. The birth of one's first born arouses a thousand thrilling emotions in the heart of every manly bosom, which can be felt but not described.

General Ramseur was a superb horseman, and on the day of the battle he appeared upon the field well mounted and dressed with unusual care in his

handsome general's uniform. He wore upon the lapel of his coat a *boutonniere*, the gift doubtless of some fair and patriotic woman in that section, bestowed in recognition of the joyous event which he had made known to her.

"He died; but his end was fitting,
Foremost in the ranks he led,
And he marked the heights of his nation's gain,
As he lay in the harness—dead."

The Rev. E. Harding, his connection and chaplain, in his sketch of General Ramseur, to which I am indebted in preparing this memoir, writing of his Christian character, says: "Ramseur read his Bible a great deal, and when opportunity offered held family prayers"; he was "fond of conversing on religious subjects, and punctual in attending divine service"; that he "was a high-toned and chivalrous gentleman, a gallant soldier, an humble Christian."

His last thoughts on earth were of home and heaven, the sweetest words in any language. He said bear this message to my precious wife: "I die a Christian, and hope to meet her in heaven." No balm to the bruised heart could be more precious, no assurance more gratifying.

Irrespective of section, irrespective of service, the blue and the gray—Sheridan, Custer, Federal and Confederate surgeons—gather around his couch to minister to his wants and smooth his dying pillow. His soul takes its flight, and the day men called his last was his first in the Paradise of God. His body was carefully embalmed by the Federals, borne through their lines and delivered to his early and cherished friend, General Hoke. And thus was illustrated the saying that the world would remain at

peace if those who made the quarrels were the only men that fought, for between the soldiers of the two armies there was no personal animosity—of one race, of one nationality, equally brave and equally sincere, they did not bring on the war, and not with their consent have its animosities been continued. Ramseur's remains were carried to his native village, and there a large concourse of his neighbors and friends assembled to express their sorrow and do honor to his memory. They accompanied his remains to their last resting-place, which is in the Episcopal churchyard, and deposited them beside those of his father and mother. Over them a loving and devoted kinsman has had erected a handsome monument, on one side of which is engraved the Confederate flag and the names of the principal battles in which he fought, and on the other the date of his birth and of his death, with this appropriate inscription: "A Good Soldier of Jesus Christ."

Want of space causes the omission of several pages, not strictly biographical, of General Cox's sketch, delivered originally as an address before the Ladies' Memorial Association of Raleigh, May 10, 1891. It is well enough, however, that he and others have taken such occasions to give brief analyses of the causes and motives which shaped events of which he was an eye-witness and in which he was a conspicuous actor.

General Cox has shown something of the same nerve and courage in writing this sketch that characterized him in battle. In justice to the State and her dead heroes he has uttered some truths

which small men are willing to suppress in the interest of harmony. His sketch is a valuable chapter of North Carolina history.



BRYAN GRIMES.

BRYAN GRIMES.

BY H. A. LONDON.

Bryan Grimes, a Major-General in the provisional army of the Confederate States, was born on the 2d day of November, 1828, at Grimesland, in the county of Pitt, about eight miles from the town of Washington, N. C., and was the youngest child of Bryan and Nancy Grimes. He received a good academic education—having been a pupil of the late William Bingham, Sr., and graduated at the University of North Carolina in June, 1848. For his *alma mater* he always cherished a fond remembrance, and the last letter written by him on the day of his death was one ordering an oil portrait of himself to be sent to the Philanthropic Society, in accordance with a request made therefor by that body. Soon after graduating, his father gave him a valuable plantation in Pitt county, whereon he resided until the time of his death, with the exception of the four years during which he was in the Confederate army. On the 9th of April, 1851, he was married to Miss Elizabeth Hilliard, daughter of Dr. Thomas Davis, of Franklin county, who died in November, 1857. The only surviving issue of this marriage is the wife of S. F. Mordecai, Esq., of the Raleigh bar. In 1860 he made a visit to Europe, but returned home soon after Lincoln's election, and, at the first mutterings of the approaching storm he became deeply interested in the movements of the Southern States. As soon as he heard of the bombardment of Fort Sumter he hastened to the scene of conflict, but arrived after its

surrender. Thence he visited Pensacola, which was then threatened with an attack, and then went on to New Orleans, returning home early in the month of May to find that, during his absence, his friends had nominated him as a candidate for a seat in the State Convention, and to which he was elected without opposition. That body is known as the "Secession Convention," and was the most remarkable—composed of the ablest men—ever assembled in North Carolina. The ordinance of secession was signed on the ever-memorable 20th of May, and, in a few days thereafter, General Grimes, feeling that duty called him to the tented field, resigned his seat in the Convention and accepted the appointment of Major of the Fourth Regiment of State Troops, then organizing at Garysburg. He was also, at the same time, offered by Governor Ellis the positions of Lieutenant-Colonel of the Eighth Regiment and Major of the Second Regiment of Cavalry, but he declined these offers because he felt his deficiency in the knowledge of military tactics (never having had any military training whatsoever), and wished to have the benefit of the military knowledge and experience of the Colonel of the Fourth Regiment, George B. Anderson, who was a graduate of West Point, and one of the best officers of the old army. Without delay he joined his regiment at Garysburg, where it remained drilling until ordered to Richmond, and arrived at Manassas only a few days after the victory at that place. During the remainder of the year and until March, 1862, his regiment was stationed near Manassas, and he was in command of it most of that period, as Colonel Anderson had been appointed commandant of the post at Manassas.

On the 1st of May, Major Grimes was appointed Lieutenant-Colonel of his regiment, and a night or

two thereafter, when Yorktown was evacuated, he was assigned the very responsible position of commander of the picket line, with instructions to keep up, as usual, the firing throughout the night and retire about dawn, which perilous duty was most successfully and gallantly performed. At the battle of Williamsburg, on the 5th of May, the Fourth Regiment was only slightly engaged, and was commanded by Lieutenant-Colonel Grimes, as Colonel Anderson was commanding the brigade. But soon thereafter, on the 31st of May, at Seven Pines, that gallant regiment received its baptism of fire—the most bloody ever recorded. Lieutenant-Colonel Grimes led his regiment into that battle with twenty-five officers and five hundred and twenty non-commissioned officers and privates, and out of that number every officer, except himself, and four hundred and sixty-two men, were either killed or wounded. Such carnage is almost unparalleled in the annals of war, and seems incredible! In this battle the escape of Colonel Grimes seems miraculous. He acted with a bravery that rendered him conspicuous even in such a band of heroes. In attacking the enemy's fortifications his horse's head was blown off by a cannon ball, and the horse fell so suddenly as to catch his foot and leg under it. While in this position the regiment, thinking that he was killed, began to waver, when he, pinned to the ground by the dead horse, waved his sword and shouted, "Forward! Forward!" whereupon some of the men came to his assistance and pulled the horse off, and thus freed, he sprang to his feet, seized the flag of the regiment that was lying on the ground (the color-bearer and all the color-guard having been killed or wounded), and rushing forward, called upon his men to charge, which they did most gallantly, and captured the

fortifications. Most nobly did the gallant Grimes, in this bloody charge, prove himself the worthy leader of such heroes! On the 19th of June, 1862, he was appointed Colonel of his regiment, Colonel Anderson having received his commission as Brigadier-General. The next battle in which Colonel Grimes was engaged was at Mechanicsville, on the 26th of June, where, with no officers and a mere handful of men, his regiment rendered most efficient service, and where he had another horse killed under him. After this battle Colonel Grimes, with his regiment, was detailed by General D. H. Hill to take charge of the captured stores and prisoners and report with them at Richmond. General Anderson protested against this, paying Colonel Grimes the high compliment of saying "Although small in numbers, Colonel Grimes' regiment is the key-stone of my brigade."

After remaining around Richmond until the middle of July, he was seized with typhoid fever and returned to Raleigh until he recovered. He rejoined his command in time to take part in the first Maryland campaign and the battles previous to the crossing of the Potomac. When crossing the Potomac, on the 5th of September, he received a very severe hurt upon the leg from the kick of a horse, causing a permanent indentation of the bone, and rendering him incapable for several days of walking or riding horseback. On the 14th of September was fought the bloody battle of Boonsboro, where Colonel Grimes, although really unfit for duty, again acted with conspicuous courage and had another horse killed under him; and just here it may be proper to mention that altogether during the war he had seven horses shot under him in battle. The exertions of the day exhausted him and rendered his injured leg so much worse that General Anderson insisted upon his being

carried to a hospital in the rear, where amputation was seriously talked of. His injury incapacitated him for further service until November, when he was assigned to the temporary command of General Anderson's Brigade, that officer having been mortally wounded on the 17th of September, at Sharpsburg. Colonel Grimes commanded this brigade at the battle of Fredericksburg with much skill and judgment, and remained in command until February, when he was relieved by Brigadier-General Ramseur. During the remainder of the winter and until the opening of the campaign in May, Colonel Grimes diligently drilled his regiment until it became noted for its proficiency in military tactics and soldierly discipline.

During the next campaign Colonel Grimes and his regiment passed through a most fiery ordeal and nobly sustained their well-won reputation. On the 1st of May, 1863, began the battles around Chancellorsville. In the first day's fight Colonel Grimes' Regiment and a Mississippi regiment were detailed "to feel" the enemy, which they did in gallant style, driving everything before them until the main body of Hooker's army was reached. General Jackson himself accompanied Colonel Grimes in this movement, and when much resistance was shown by the enemy, would say, in suppressed tones: "Press them, Colonel." On the second day Colonel Grimes and his regiment took an active part in routing Sigel's Corps, and on the third day an incident occurred that deserves special mention. On the morning of the 3d of May General Ramseur's Brigade, having borne the brunt of the fights of the two previous days, was held in reserve to support other troops who were to take the advance. The brigade rested just in rear of a ... brigade of previous good reputation, which occupied the breastworks

captured the day before by Ramseur's Brigade. A staff officer of General J. E. B. Stuart rode up to the officer in command of the ... brigade and gave orders to advance and charge the enemy, General Ramseur and Colonel Grimes standing near by and hearing the order given. The ... officer declined to move forward, whereupon General Ramseur said to the staff officer, "Give me the order, and I will charge." He was then told to make the charge. He and Colonel Grimes hurried back to their troops, and, at the command "Forward!" moved up to the earthworks occupied by the ... brigade, and actually climbed over these men now lying down behind it for protection, and over the breastworks, and then formed in line of battle under a murderous fire. Colonel Grimes was so disgusted with the cowardly conduct of the ... troops that, in passing over them, he singled out an officer of high rank who was lying down, and placing one foot on his back and the other on his head, with contempt and fierce indignation ground his face in the earth. After climbing over the breastworks and forming in line of battle, Ramseur's Brigade rushed forward, Colonel Grimes' Regiment and three companies of the Second Regiment not halting or firing a gun until they had captured the enemy's works and bayoneted the Federal soldiers on the opposite side of the earthworks. The remainder of the brigade had in the meantime halted to deliver their fire on encountering the enemy where they were engaged. This was one of the few times during the war when the opposing troops actually crossed bayonets, and where an inferior force in broad daylight, without firing a gun, captured breastworks held by superior numbers and drove them out at the point of the bayonet! In this charge Colonel Grimes' sword was severed by a ball, his clothing perforated

in many places—a ball imbedded in his sword-belt and scabbard and he received a severe contusion on the foot. His regiment suffered fearfully, forty-six being killed and one hundred and fifty-seven wounded out of three hundred and twenty-seven carried into action. Truly may we claim that this charge was as gallant, daring, and self-sacrificing as the world-renowned charge of "the immortal six hundred" at Balaklava!

In the Pennsylvania campaign Colonel Grimes and his regiment were with the advance, and went on picket duty only eight miles from Harrisburg, the capital of the State. While on picket duty there, about five hundred Pennsylvania militia, wearing high, sugar-loaf hats, marched out to drive back the "bloody Rebels." As soon as Colonel Grimes caught sight of them he placed a portion of his men in ambush, who, as soon as the militia passed, opened fire in their rear, while those in front raised the terrifying "Rebel yell" and charged them. Of course the militia were completely stampeded, and sought shelter in the neighboring fields, dropping in their flight their hats, with which Colonel Grimes' men supplied themselves. In the first day's fight at Gettysburg Colonel Grimes and his regiment were the first to enter that town and drove the enemy through Gettysburg to the heights beyond, capturing more prisoners than there were men in his command. Had this temporary success been followed promptly by Lee's army Gettysburg would not have sounded the death-knell of the Southern Confederacy!

In the retreat from Pennsylvania Colonel Grimes was placed in the rear guard and assisted most efficiently in protecting the retreating army. It seems always to have been the fate of this officer to occupy

the post of honor and danger—in the front in every advance and in the rear in every retreat, beginning with Yorktown, in 1862, and ending at Appomattox, in 1865. This fact speaks louder than any words the great confidence placed in him by his superior officers.

On the 5th day of September, 1863, Colonel Grimes was married to Miss Charlotte Emily, daughter of the late Honorable John H. Bryan, of Raleigh. This lady now survives him, with four daughters and four sons. May the latter prove themselves to be worthy scions of so noble a sire, and their mother be enabled to point them out as her jewels, as did the mother of the Gracchi! In October, 1863, the friends of Colonel Grimes urged him to become a candidate to represent the Second District in the Confederate Congress, and at first he yielded to their wishes; but upon further consideration, he declined the honor, and published a letter, which well illustrated his unselfish patriotism, in which he stated that he "preferred to remain in active service in the field until peace and independence were secured." In November Colonel Grimes was placed in command of the brigade for the second time, while General Ramseur was at home on a furlough. The following winter was spent quietly, both armies preparing for the great conflict that was soon to begin at the Wilderness. Commencing on the 5th day of May, 1864, there was one almost continuous battle for a month, fighting all day and at night resting on their arms in line of battle. Colonel Grimes was actively engaged every day, but his services on the 12th and 19th days of May deserve especial mention. The Federal troops, by a sudden movement, had surprised that portion of the Confederate breastworks known as the "Horse Shoe," and

captured about two thousand men belonging to General Edward Johnson's Division. It was necessary to retake this position, and Ramseur's Brigade was selected for this difficult task. The charge was ordered, and while being gallantly made, General Ramseur was wounded, and was not able to keep up. At this critical juncture Colonel Grimes, seeing the need for prompt action, assumed the responsibility of ordering a second charge, himself leading it, and recovered the entire works and all the guns, capturing many prisoners and killing more of the enemy than the brigade numbered men. General Lee himself rode down, and in person thanked the brigade for its gallantry, telling them that they deserved the thanks of the country—they had saved his army.

General Junius Daniel having been mortally wounded on the 12th of May, Colonel Grimes was placed in command of that lamented officer's brigade, and soon thereafter received his well-deserved commission of brigadier-general. This commission, though not received until the 5th of June, bore date May 19th, on which day he had handled the brigade with such efficiency (on a flank movement towards the rear of Grant's army) that General Rodes (the division commander) approached him soon after the battle, and, shaking him by the hand, said: "You have saved Ewell's Corps, and shall be promoted, and your commission shall bear date from this day." Upon being assigned to the command of Daniel's Brigade, General Grimes' old regiment (the Fourth) made application to be transferred to that brigade, in order to be with their old commander, but their request, in which General Grimes heartily joined, was not granted. Still they were in the same division, and on every occasion

possible General Grimes' old regiment testified their affection for him.

About the middle of June, Grimes' Brigade, with the other troops of Ewell's Corps (now commanded by General Jubal Early), was ordered to the Valley of Virginia, and began a series of movements almost unparalleled in war. They quickly drove the Federal forces, commanded by General Hunter, entirely out of Virginia, although the latter greatly outnumbered them. Forced marches were made almost every day, and the men were exhausted by hunger as well as by fatigue, and yet they marched on, crossed the Potomac, threatened Baltimore, alarmed the government at Washington, and defiantly flaunted their blood-stained banners in sight of the very dome of the Capitol!

In July General Grimes went home on a sick furlough, but soon returned to active duty, although still sick and having a surgeon's certificate of unfitness for duty. He could not remain at home while his services were so much needed at the front. Until the 19th of September Early's forces were generally victorious in every skirmish and battle, but on that fatal day a victory was turned into a rout, the enemy's vastly superior numbers overwhelming the Confederates and disastrously defeating them. Here fell the division commander, General R. E. Rodes, than whom there was no better officer in the Army of Northern Virginia. In this battle General Grimes greatly distinguished himself, and his escape was marvelous, he being in the thickest of the fight, his horse shot under him and nearly every member of his staff severely wounded. A month afterwards, on the 19th of October, Early's army was again defeated by overwhelming numbers. General Grimes made

desperate efforts to stem the tide, exposing himself with an utter indifference to danger in his efforts to rally the panic-stricken troops, and having two horses shot under him. General Ramseur, who had succeeded Rodes in the command of the division, was mortally wounded in this battle, and General Grimes was placed in command of the division and retained that command until Lee's surrender, his commission as major-general being issued in the following February. This division was composed of as gallant a body of men as ever marched to battle, and had greatly distinguished itself in every campaign. For two years it had been commanded by General Rodes, who was one of General Lee's most trusted officers, and under its new commander—the gallant Grimes—it well sustained its brilliant reputation. It was composed of four brigades, two from North Carolina, one from Alabama, and one from Georgia. One of the North Carolina brigades was Daniel's old brigade—afterwards Grimes'—and the other was formerly Ramseur's, now commanded by General W. R. Cox. While North Carolina may well be proud of all her troops in the late civil war, she has especial cause to be proud of such heroes as composed those two brigades. The Alabama brigade had won at Seven Pines a reputation that was well sustained afterwards on many a hard-fought field. Its commander, General Cullen Battle, was so severely wounded at Winchester as not to be able to return again to active duty. The Georgia brigade, though the smallest in the division, always did its full duty, its first commander having been General Doles, who fell at Spottsylvania, and its second, General Phil. Cook, who was wounded at Hare's Hill and captured at the evacuation of Petersburg.

Immediately upon assuming command of the

division, General Grimes actively set about removing all effects of the recent defeats it had sustained. He was busily engaged in reorganizing and inspecting the regiments, and enforcing the most rigid discipline. The result was that in a month's time, on the 22d of November, his division by itself routed four thousand of Sheridan's formidable cavalry. The week before Christmas Grimes' Division went into winter quarters on Swift Creek, about three miles from Petersburg, and for a few weeks enjoyed a comparative rest, which was greatly needed. On the 15th of February, General Grimes, with his division, left winter quarters and encamped near Southerland's Station, about twelve miles from Petersburg, protecting Lee's right wing, where they remained until the middle of March, when they occupied the trenches in front of Petersburg, relieving Bushrod Johnson's Division. The line of fortifications occupied by Grimes' Division extended from near the famous "Crater" on the left to a dam beyond Battery No. 45 on the right, a distance of at least three and a half miles. To defend this extended line General Grimes had only about two thousand two hundred men, and one-third of them constantly on picket duty. Men may well wonder then why Grant's greatly superior numbers did not sooner break through this attenuated line. No one who himself did not experience a soldier's life in the trenches around Petersburg can appreciate the dangers and hardships then endured by the men of Grimes' Division. The trenches were usually knee-deep in mud, the men always on the alert and ready for action, one-third always on picket duty in the rifle-pits, one-third kept awake at the breastworks every night, and one-third only off duty at a time, and they sleeping on their arms and with accoutrements on, as best they could,

amid the continuous firing along the picket line. All night long the pickets kept up an incessant firing, the sound resembling at a distance the popping of fire-crackers, and the flash of the rifles illumining the darkness like fire-flies on a summer's night, while now and then a mortar shell would gracefully glide through the air and explode with a deafening roar. And yet those brave men endured all this, day after day and night after night, without a murmur, and on the 25th of March made one of the most desperate attacks of the war. On that day General Lee made his last and final effort to break through the coils of Grant's encircling army. It was a desperate undertaking, and came well-nigh being successful. At one point in front of Petersburg, near Hare's Hill, the breastworks of the two armies were only about one hundred yards apart, and General Lee determined to make a sudden sortie at this place and capture the enemy's line. A day or two before the attack was to be made Generals Gordon and Grimes visited this point, and carefully inspected the fortifications and acquainted themselves with the nature of the ground. Just before day-dawn the sharpshooters of Grimes' Division—about three hundred men—with unloaded muskets and in profound silence, leaped over our breastworks, dashed across the open space in front, surprising and capturing the enemy's pickets before they could give the alarm, and had mounted their breastworks and were upon the enemy before they could realize their situation. A brigadier-general and five hundred men were sent back as prisoners, and the remainder of the division followed the sharpshooters and occupied the enemy's works. Other troops, among whom were Ransom's and Lewis' North Carolina Brigades, had at the same time captured other portions of the enemy's works, and a

brilliant victory seemed within our grasp, but it was only the meteor's flash that illumines for a moment and leaves the night darker than before. The expected reenforcements, Pickett's Division, did not come to their support, and the enemy soon collected a force ten times as large as ours and poured so destructive a fire upon our men that they were withdrawn after a most stubborn fight of two hours. General Lee himself overlooked the scene of conflict from a hill near the old Blandford Cemetery, and well do I remember the sad expression of his face as we passed him in returning to our quarters. In this short engagement Grimes' Division lost four hundred and seventy-eight officers and men. This was the first battle in which General Grimes was engaged after receiving his commission as major-general, and he acted with more than his usual gallantry, if such a thing be possible. He was the only Confederate on horseback—riding a captured horse—and thus rendering himself a conspicuous target for the enemy's fire, but, notwithstanding his great danger, he rode up and down the lines, urging on and encouraging his men, who, enthused with admiration of his dauntless courage, cheered him most lustily.

But the end was rapidly drawing near. On Saturday night, April 1st, about ten o'clock, the enemy opened a heavy artillery and mortar fire, and by a sudden dash captured a portion of the picket line held by Grimes' Division. General Grimes at once informed General J. B. Gordon, who commanded the corps, of the situation, and that, if the enemy charged his weak line, he would not be able to resist them. But there were no reenforcements to be sent, for Lee's lines had been broken at other points, and although our picket line was soon reestablished, yet shortly before daylight the Federal forces in large

numbers attacked and captured that portion of our line known as Rune's Salient, held by Battle's Alabama Brigade. The enemy at once extended their line some distance up and down our breastworks before they could be checked. In a few minutes, however, General Grimes, on foot, rushed down the line, calling on his old brigade to follow him, and began rallying the troops who were retiring before the advancing enemy. Seizing a musket from a soldier, General Grimes himself opened fire on the enemy, and by his cool courage soon restored confidence to his men, and the enemy's further advance was promptly checked. Fighting continued until late in the day, and our troops not only successfully resisted any further advance of the enemy, but drove them back from traverse to traverse until the space in our breastworks occupied by them was not two hundred yards long. The fighting that day was desperate and bloody, being at such close quarters, and Grimes' Division—especially Grimes' old brigade—suffered heavily. If all of Lee's army could have held back the enemy that day as successfully as did Grimes' Division, Petersburg would not that night have been evacuated. But orders were received for our withdrawal, and shortly after dark the main body of the division retired from the trenches, marched through Petersburg and crossed the Appomattox river. A force of about two hundred and fifty men was left at the breastworks to cover the retreat of the main body, and this little band remained there, keeping up a brisk fire until after midnight, and then quietly followed the route taken by the division, being the last troops to leave Petersburg; and well do I remember crossing the Appomattox river on the old Pocahontas Bridge while the railroad bridge near by was burning

brightly and making a light by which the enemy's artillery was directed at us.

Time would fail me and your patience would be exhausted, were I to attempt a detailed recital of the part taken by General Grimes on that memorable retreat from Petersburg to Appomattox. Always placed at the post of danger, his division rendered conspicuous service. Now stubbornly resisting the advance of superior numbers flushed with victory, now turning like a wounded lion upon his pursuers and charging desperately and putting to flight a too confident foe, and now toiling along over muddy roads, famished with hunger, exhausted with constant marching day and night, almost stupefied with the want of sleep, those men proved themselves to be heroes indeed—the equals of any the world has ever seen!

On Thursday, the 6th of April, the enemy pressed us most pertinaciously, and that afternoon, at Sailor's Creek, overwhelmed our exhausted troops; and at this place General Grimes made a most wonderful escape. And yet, notwithstanding their rout that afternoon, on the next day those men were as ready for battle as ever before, and made a most brilliant charge, with the old Confederate yell, recapturing the line from which General Mahone's Division had just been driven. General Lee himself was near, and saw this charge, and at once sent for General Grimes, and in person thanked him for this service rendered by him and his division.

And now we come to the last sad scenes at Appomattox Court House, where General Grimes planned and led the last charge made by the Army of Northern Virginia. General Lee had been trying to carry his army to Lynchburg, but the enemy had in

overwhelming numbers thrown themselves in his front to head him off. Thereupon Grimes' Division, which always occupied the post of greatest danger, was hurried from the rear, where it had been covering the retreat, and placed in the advance. Shortly before daylight on that memorable Sunday, the 9th of April, 1865, our troops arrived at the village of Appomattox Court House, when it was ascertained that the enemy in strong numbers were in our immediate front. On the night before the last council of war had been held at General Lee's headquarters, which was attended by Generals Lee, Longstreet, Gordon, Pendleton, and Fitzhugh Lee, and the plan agreed upon was that Gordon's Corps and Fitzhugh Lee's cavalry were to attack the enemy next morning and attempt to cut a way out, and the other troops and wagon-train were to follow. It was then thought that only Sheridan's cavalry were in our front, and that they could be forced back. Soon after General Grimes arrived at Appomattox, Generals Gordon and Fitzhugh Lee joined him and held a conference as to what should be done. Gordon insisted that the enemy's troops were cavalry and that Fitzhugh Lee should attack, while the latter contended that they were infantry and that Gordon should attack. They discussed this so long, and so much valuable time was being lost, that General Grimes became impatient and said that it was somebody's duty to make the attack, and that at once, and that he would undertake it; whereupon General Gordon told him to do so, and placed under his command, in addition to his own division, the other two divisions of the corps, Evans' and Walker's —Bushrod Johnson's Division and Wise's Brigade having been placed under his command two or three days previously. General Grimes at once rode

forward, made all the necessary arrangements, placed the troops in proper positions, and gave the signal to advance, which was done in gallant style, our troops charging the enemy and driving them back nearly a mile. General Grimes then sent a message to General Gordon, announcing his success and that the road to Lynchburg was now open for the escape of the wagons. Then, to his great surprise, he received orders to retire, which he declined to do, thinking that General Gordon did not understand the commanding position held by him. Gordon continued to send orders to withdraw, which General Grimes continued to disregard, still thinking that General Gordon was in ignorance of his position, until finally an order to retire came from General Lee himself, and then sullenly and slowly our men began to retrace their steps over the ground from which they had so successfully driven the enemy. This withdrawal was conducted in an orderly manner, although in the immediate front of a greatly superior force. At one time the enemy with loud cheers made a sudden rush as if to overwhelm our little band, but the brigade of General W. R. Cox (which was bringing up the rear) faced about, and with the steadiness of veterans on parade poured such a sudden and deadly volley into the astonished Federals that they hastily retired in confusion, and our troops were then allowed to withdraw without further molestation. This was the last volley fired at Appomattox and the last ever fired by the grand old Army of Northern Virginia! General Grimes having thus successfully withdrawn his men to their original position, rode up to General Gordon and inquired where he should form line of battle, to which he replied, "Anywhere you choose." Struck by so strange an answer, General Grimes asked an explanation,

when he was informed that General Lee was then negotiating a surrender. At this astounding intelligence, General Grimes expressed himself very forcibly and indignantly upbraided General Gordon for not giving him notice of such intention, so that he could have escaped with his troops and joined General Joe Johnston's army, then near Raleigh. So horrible to General Grimes was the idea of surrendering that he turned his horse and started towards his command with the intention of informing his men of the approaching surrender and telling all, who might desire to do so, that they might escape with him. But General Gordon quickly overtook him, and placing his hand on his shoulder, asked him if he were going to desert the army and tarnish his honor as a soldier, and added that it would be a reflection upon General Lee and an indelible disgrace to him (Grimes), if he, an officer of high rank, should escape while a flag of truce was pending. Of course such an appeal had its immediate effect, for General Grimes' great courage was only equalled by his high sense of honor. But never can I forget his manner and the expression of his face while awaiting the final announcement of the surrender. He resembled a caged lion eager to break loose and scatter his tormentors. But the end had come, the Army of Northern Virginia had surrendered, the star of the young Confederacy had forever set, its tattered and blood-stained banners were forever furled, and its brave defenders, with "the consciousness of duty well performed," returned to their desolated homes and devastated fields. There a new duty awaited them. They realized that "peace hath her victories no less renowned than war," and at once went to work to build up the waste places. They had perilled their lives on an hundred carnage-

covered fields because of their love for their native land, and they were now ready to work for her material prosperity. They thought of their beloved South, devastated as she was, as Byron exclaimed of Greece,

"Even in thy desert, what is like to thee?
Thy very weeds are beautiful, thy waste
More rich than other climes' fertility;
Thy wreck a glory, and thy ruin graced
With an immaculate charm which cannot be
defaced."

Animated by these feelings, General Grimes, at the close of the war, returned to his farm and diligently applied himself to its cultivation, leading the quiet life of a country gentleman, his greatest pleasure being the society of his family and friends. Brave in war, he was gentle in peace; the bold soldier became the courteous gentleman, whose home was the seat of a refined and open-handed hospitality. With his ample means, he was ever ready to relieve the wants of the needy, and with his warm and generous heart he ever sympathized with the sufferings of the afflicted.

On the 14th day of August, 1880, while returning home from the town of Washington, N. C., this hero of an hundred battles was shot from the roadside by a concealed assassin and almost instantly killed. I cannot here trust myself to speak of the circumstances connected with his foul assassination —which will ever excite the fiercest indignation in every manly heart—but be it said to the everlasting disgrace of the administration of justice in North Carolina, his assassin escaped punishment!

In reviewing the military record of General

Grimes, it seems almost incredible that any one, without the slightest previous military experience or training, should have attained his high rank or rendered such efficient services. Not only did he win the love and admiration of his soldiers, but the confidence and esteem of his superior officers. While a strict disciplinarian, he was remarkably careful of the comfort of his troops, and they never endured any hardships or dangers in which he did not willingly share. Indeed I have often known him to peril his own life in order to protect his men.

In recommending his promotion for Brigadier-General, Generals Ramseur and Daniel were very complimentary, saying that, "In battle Colonel Grimes is conspicuous for skill and gallantry. As a disciplinarian, Colonel Grimes has few superiors. He is ever zealous in the performance of military duty, and in providing for and taking care of his men."

Major-General Rodes endorsed this recommendation as follows: "I take pleasure in endorsing Colonel Grimes' claims to promotion. He has served in this division since its formation at Yorktown, and shown himself under all circumstances to be a good and reliable officer. He is a thorough gentleman, brave to a fault, invaluable in an action, and his habits are worthy of imitation."

In March, 1863, General D. H. Hill urged his promotion, saying: "Colonel Bryan Grimes entered the service as Major of the Fourth North Carolina Regiment, and for more than a year had the admirable training of the lamented General G. B. Anderson, who was Colonel of that regiment. Colonel Grimes led the Fourth with most distinguished gallantry at Seven Pines, and in all the subsequent battles of the year 1862 except Sharpsburg (when he

was ill). He has been in many pitched battles, and has behaved most gallantly in them all. I think that he has seen more service than any Colonel from North Carolina. His gallantry, ripe experience, admirable training, intelligence and moral worth constitute strong claims for promotion."

With such testimonials from such Generals as Ramseur, Daniel, Rodes, and D. H. Hill, the friends of General Grimes may well feel proud of his reputation as a soldier, and nothing that I might say could add to it. No high-sounding words of praise are needed to perpetuate his memory. His heroic deeds and illustrious achievements are themselves sufficient, and will so brightly illumine the pages of North Carolina's history that words of eulogy would be dimmed by their brilliancy. And yet I cannot close without paying a slight tribute to one whom I loved while living, and whose memory I now so fondly cherish. It was my privilege, though a beardless boy, to have enjoyed the friendship of General Grimes and to have been with him on occasions that indeed "tried men's souls," and to-day it affords me peculiar pleasure and pride to declare that in devotion to every duty, in faithfulness to every trust, in sincerity of purpose, in dauntless courage, in unselfish patriotism—in everything that constitutes a noble, generous, true man—North Carolina has never honored a son superior to BRYAN GRIMES.

General Grimes was one of those men of iron nerve whom the God of battle raises up wherever a noble cause is to be defended. He was a strong man, loved truth, hated shams, and learned war to defend his

country. His life is well told by his courier, H. A. London, Esq., in his address delivered May 10, 1886, and will be read with especial interest, not only by his old soldiers, but by all who seek to set before the minds of youth exemplars of valor. It is sad that he, who bore a charmed life in the war, was reserved by fate for the hand of an assassin. His account of the surrender at Appomattox is the simple, unvarnished statement of an eye-witness and participant of those stirring scenes, who told the truth as he saw it and believed it, and whose strong character you can feel through his words.

SURRENDER AT APPOMATTOX.

BY BRYAN GRIMES.

On the night of Saturday, April 1, 1865, my division occupied a portion of the defenses around the city of Petersburg, my left resting on Otey's Battery, near the memorable crater, my right extending to the dam on a creek beyond Battery Forty-five. Ramseur's old Brigade of North Carolinians, commanded by Colonel W. R. Cox (holding appointment as temporary Brigadier) was on the right; Archer's Brigade of Virginia Junior Reserves, and Grimes' old brigade of North Carolinians, commanded by Colonel D. G. Cowand of the Thirty-second North Carolina, Battle's Brigade of Alabamians, commanded by Colonel Hobson, of the Fifth Alabama, Cook's Brigade of Georgians, commanded by Colonel Nash, extended to the left in the order above named, numbering for duty about

two thousand two hundred muskets, covering at least three and a half miles of the trenches around Petersburg. One-third of my men were constantly on picket duty in our front, one-third kept awake at the breastworks during the night, with one-third only off duty at a time, and they were required always to sleep with their accoutrements on and upon their arms, ready to repel an attack at a moment's warning.

About 10 o'clock on the night of April 1, 1865, the cannonading from the artillery and mortars in my front became unusually severe, and about 11 o'clock the Federals charged, capturing my picket line, which consisted of pits dug in the earth for protection from sharpshooters, and occupied by my soldiers, varying in distance from one hundred and fifty to three hundred yards in front of our main breastworks. I took measures immediately to reestablish this line, which was successfully accomplished, and our pits reoccupied. About daylight of the second the enemy again drove in our pickets and charged Rune's salient at the point where Battle's Brigade was posted, carrying the works for a few hundred yards on each side of that point, doubling and throwing Cook's Brigade back a short distance. I hurried the commands of Colonels Cowand and Archer to the point of attack as rapidly as possible, charging the enemy, who were in possession of and protected by our traverses and bomb-proofs (which were erected to prevent our line being enfiladed, and also as a place of refuge from their perpendicular mortar fire), and continued gradually to gain traverse after traverse of our captured works.

I then secured four pieces of artillery, which were

placed in our second line of works, and were invaluable in checking the advance of the enemy, thus confining them by grape and canister to this particular point at the salient, preventing their advancing to attack our lines in flank or rear; Cook and Battle holding them in check on the left, and Cowand and Archer on the right of the captured works, their only point of egress being exposed to the fire of the artillery.

I regret my inability to recall the names and thus give honorable mention to those gallant artillerists who rendered me such effective service.

During the forenoon a brigade, under command of Colonel ——, reported to me for duty, and was placed near the artillery in this second line of earthworks (which had been constructed to fall back upon in case of disaster to our first line). My dispositions were soon made to attack the enemy simultaneously at all points—Cowand and Archer on the right, Cook and Battle on the left, who were to drive them from the protection of their traverses. Colonel —— commanded in front with a heavy line of skirmishers, connecting his left with Cook and his right with Cowand. My four pieces of artillery poured grape and canister into the enemy, and I gave the signal for the infantry to advance, when a general charge was made, but through a direct violation of orders on the part of Colonel ——, this attack only partially succeeded, capturing that portion of the line alone upon which the skirmishers advanced, Colonel —— having changed the direction of attack, and charged the point assigned to the skirmishers on the right, thereby leaving a space of three hundred yards unassailed. There is no doubt in my mind that if Colonel —— had attacked with vigor

at that time, we could have driven the enemy entirely from our works. After the lapse of an hour, during which time the enemy were heavily reenforced, I ordered another attack from the second line in which Colonel —— participated, but by again diverting the brigade in the direction of Cowand's Brigade, instead of towards the salient, the enemy were dislodged from only a small portion of the lines.

Subsequently sixty men of Johnson's North Carolina Brigade, under command of Captain Plato Durham, recaptured Fort Mahone, which for an hour had been so covered by our fire as to forbid its occupants showing themselves. In taking this fort a large number of prisoners were captured; so many, in fact, that when I first saw them skulking behind the earthworks for protection against the fire of their own men, I feared it was a ruse on the part of the enemy to surprise us. They had secreted themselves for safety in this work, and we, in our charge, had taken the only outlet.

After this no general attack was made, though we continued slowly but gradually to drive them from traverse to traverse.

About nightfall the enemy occupied some two hundred yards of our breastworks. Through no inefficiency or negligence on the part of the officers and men were the works carried, but owing to the weakness of the line, its extreme length, and the want of sufficient force to defend it, for they acted most heroically on this trying occasion. Only one unwounded man (an officer) did I see seeking the rear, and he one whom I had the previous day ordered under arrest for trafficking with the enemy (exchanging tobacco for coffee). Him I hailed and

inquired where he was going, when he recalled his arrest of the previous day, from which I immediately released him, and sent him back to his command.

I had a verbal conference with General Lee and afterwards officially reported my inability to hold this point against any vigorous attack. In consequence of this report, Lieutenant-Colonel Peyton, the Army-Inspector, was sent to examine this line, and he coincided with my views and so reported to General Lee. On an average throughout, the space from man to man was at least eight feet in the line of trenches. I doubted not that with a reserve of five hundred men I could have driven the enemy from any point which they might capture, and repeatedly urged that such an arrangement be made, knowing well that the enemy, by concentrating a large force on any given point, could press their way through the line, and my only salvation was in having the means at hand to drive them back before large numbers could enter. Our left was the post of greatest danger. There should the reserve have been placed; but General Lee informed me that every available man was on duty, and I must do the best I could.

On Sunday night of the 2nd we had orders to abandon the works, and without the knowledge of the Federals, we withdrew to the north side of the Appomattox river, following the Hickory Road to Goode's Bridge, where we recrossed the Appomattox, proceeding towards Amelia Court House, which we reached on the morning of the 5th. Wednesday we remained stationary in line of battle, confronting the enemy until about dark, when we followed the army, taking up the rear, being very much impeded on the march by the wagon train and its most miserable

management, which, as I apprehended, would cause us some disaster. The enemy showed themselves on Thursday, about 8 o'clock A. M., in our rear and on our left flank, when near Amelia Springs, and in a short time began to press us vigorously.

I then formed Cox's and Cowand's Brigades in line of battle, with a heavy skirmish line in front to impede their progress, and to cover our rear, sending Battle's, Cook's and Archer's Brigades forward for one-half mile to form there, across the road, in line of battle in order to allow Cowand and Cox to retreat safely when the enemy had deployed and prepared to attack; our right flank being protected by a North Carolina brigade of cavalry under General Roberts. In this manner alternating the brigades throughout the day, we continued to oppose the enemy and retreat, endeavoring to protect the lagging wagon train, which was successfully done up to about 4 P. M., when we approached Sailor's Creek, and upon the ridge running parallel with that stream we made the final stand of the day, the wagons becoming blocked up at the bridge crossing the stream. At this point General Lee ordered me if possible to hold this line until he could have artillery put in position on the opposite hills over the creek parallel with those I occupied.

The enemy pushed on rapidly, attacking us with very great pertinacity. We here repeatedly repulsed their assaults, but by turning both of our flanks they succeeded in not only dislodging but driving us across the creek in confusion. About now the artillery from the heights occupied by General Lee opened upon the enemy, and the sun being down they did not cross the creek. After we broke, personally I was so pressed, the space between the

two wings of the enemy being not over two hundred yards, that I sought safety in retreat. I galloped to the creek (the bridge being in their possession) where the banks were very precipitous, and for protection from their murderous fire, concluded to jump my horse in, riding him through the water, and effect my escape by abandoning him on the other side, the bullets of the enemy whistled around me like hail all the while. By great good fortune, the opposite banks proving not so precipitous, and my horse, seeming to appreciate the situation, clambered up the height and started off in a run, thus securing my safety. This same animal, Warren, I still own and treasure for his past services. That night we took the road for Farmville, crossing the Appomattox at High Bridge, posting guards on the south side, thus collecting all stragglers and returning them to their commands.

The next morning (Friday) we continued our march down the railroad and formed line of battle on the Lynchburg road, still endeavoring to preserve that "*impedimenta*" of Cæsar's—the wagon-train—marching by the left flank through the woods parallel to the road traveled by the wagon train, and about one hundred or so yards distant from the road. Upon reaching the road and point that turns towards Lynchburg from the Cumberland road, three of my brigades, Cook's, Cox's, and Cowand's, had crossed the Cumberland road and were in line of battle, and at right angles with Battle's and Archer's Brigades, who were still parallel with the Cumberland road. Heavy firing was going on at this point, when General Mahone came rushing up and reported that the enemy had charged; turning his flank, and driving his men from their guns and the works which he had erected early in the day for the protection of these cross roads. I then ordered my three brigades,

Cook's, Cox's, and Cowand's [to move], at a double-quick on the line with Battle and Archer, and charging the enemy, we drove them well off from Mahone's works, recapturing the artillery taken by them and capturing a large number of prisoners. I held this position until sent for by General Lee, who complimented the troops of the division upon the charge made and the service rendered, ordering me to leave a skirmish line in my front, and stating that Field's Division would occupy my position; I was to hurry with all possible dispatch to the road which intersected the Lynchburg road, as the enemy's cavalry were reported to be approaching by that road.

We reached this road, halting and keeping the enemy in check until the wagons had passed, and then continued the march parallel with the road traveled by the wagon train, continuing thus to march until night, when we took the road following to protect the trains.

On Saturday, the 8th, no enemy appeared, and we marched undisturbed all day. Up to this time, since the evacuation of Petersburg, we had marched day and night, continually followed and harassed by the enemy. The men were very much jaded and suffering for necessary sustenance, our halts not having been sufficiently long to prepare their food, besides all our cooking utensils not captured or abandoned were where we could not reach them. This day Bushrod Johnson's Division was assigned to and placed under my command, by order of General Lee. Upon passing a clear stream of water and learning that the other division of the corps had gone into camp some two miles ahead, I concluded to halt and give my broken-down men an opportunity to close up and rejoin us,

and sent a message to General Gordon, commanding the corps, making known my whereabouts, informing him I would be at any point he might designate at any hour desired.

By dark my men were all quiet and asleep. About 9 o'clock I heard the roar of artillery in our front, and in consequence of information received, I had my command aroused in time and passed through the town of Appomattox Court House before daylight, where, upon the opposite side of the town, I found the enemy in my front. Throwing out my skirmishers and forming line of battle, I reconnoitred and satisfied myself as to their position, and awaited the arrival of General Gordon for instructions, who, awhile before day, accompanied by General Fitz Lee, came to my position, when we held a council of war. General Gordon was of the opinion that the troops in our front were cavalry, and that General Fitz Lee should attack. Fitz Lee thought they were infantry and that General Gordon should attack. They discussed the matter so long that I became impatient, and said it was somebody's duty to attack, and that immediately, and I felt satisfied that they could be driven from the cross-roads occupied by them, which was the route it was desirable that our wagon train should pursue, and that I would undertake it; whereupon Gordon said, "Well, drive them off." I replied, "I cannot do it with my division alone, but require assistance." He then said, "You can take the two other divisions of the corps." By this time it was becoming sufficiently light to make the surrounding localities visible. I then rode down and invited General Walker, who commanded a division on my left, composed principally of Virginians, to ride with me, showing him the position of the enemy and explaining to him my views and plan of attack. He

agreed with me as to its advisability. I did this because I felt that I had assumed a very great responsibility when I took upon myself the charge of making the attack. I then made dispositions to dislodge the Federals from their position, placing Bushrod Johnson's Division upon my right, with instructions to attack and take the enemy in the flank, while my division skirmishers charged in front, where temporary earthworks had been thrown up by the enemy, their cavalry holding the crossings of the road with a battery. I soon perceived a disposition on their part to attack this division in flank. I rode back and threw our right so as to take advantage of some ditches and fences to obstruct the cavalry if they should attempt to make a charge. In the meantime the cavalry of Fitz Lee were proceeding by a circuitous route to get in rear of them at these cross-roads. The enemy observing me placing these troops in position fired upon me with four pieces of artillery. I remember well the appearance of the shell, and how directly they came towards me, exploding and completely enveloping me in smoke. I then gave the signal to advance, at the same time Fitz Lee charged those posted at the cross-roads, when my skirmishers attacked the breastworks, which were taken without much loss on my part, also capturing several pieces of artillery and a large number of prisoners, I at the same time moving the division up to the support of the skirmishers in echelon by brigades, driving the enemy in confusion for three-quarters of a mile beyond the range of hills covered with oak undergrowth. I then learned from the prisoners that my right flank was threatened. Halting my troops I placed the skirmishers, commanded by Colonel J. R. Winston, Forty-fifth North Carolina troops, in front, about one hundred

yards distant, to give notice of indication of attack. I placed Cox's Brigade, which occupied the right of the division at right angles to the other troops, to watch that flank. The other divisions of the corps (Walker's and Evans') were on the left. I then sent an officer to General Gordon announcing our success, and that the Lynchburg road was open for the escape of the wagons, and that I awaited orders. Thereupon I received an order to withdraw, which I declined to do, supposing that General Gordon did not understand the commanding position which my troops occupied. He continued to send me order after order to the same effect, which I still disregarded, being under the impression that he did not comprehend our favorable location, until finally, I received a message from him, with an additional one as coming from General Lee, to fall back. I felt the difficulty of withdrawing without disaster and ordered Colonel J. R. Winston, commanding the skirmish line which had been posted in my front on first reaching these hills, to conform his movement to those of the division, and to move by the left flank so as to give notice of an attack from that quarter. I then ordered Cox to maintain his position in line of battle, and not to show himself until our rear was one hundred yards distant, and then to fall back in line of battle, so as to protect our rear and right flank from assault. I then instructed Major Peyton, of my staff, to start the left in motion, and I continued with the rear.

The enemy upon seeing us move off, rushed out from under cover with a cheer, when Cox's Brigade, lying concealed at the brow of the hill, rose and fired a volley into them which drove them back into the woods, the brigade then following their retreating comrades in line of battle unmolested. After

proceeding about half the distance to the position occupied by us in the morning, a dense mass of the enemy in column (infantry) appeared on our right, and advanced, without firing, towards the earthworks captured by us in the early morning, when a battery of our artillery opened with grape and canister and drove them under the shelter of the woods.

As my troops approached their position of the morning, I rode up to General Gordon and asked where I should form line of battle. He replied, "Anywhere you choose." Struck by the strangeness of the reply, I asked an explanation, whereupon he informed me that we would be surrendered. I then expressed very forcibly my dissent to being surrendered, and indignantly upbraided him for not giving me notice of such intention, as I could have escaped with my division and joined General Joe Johnston, then in North Carolina. Furthermore, that I should then inform my men of the purpose to surrender, and that whoever desired to escape that calamity could go with me, and galloped off to carry this idea into effect. Before reaching my troops, however, General Gordon overtook me, and placing his hand upon my shoulder, asked me if I were going to desert the army and tarnish my own honor as a soldier and said that it would be a reflection upon General Lee and an indelible disgrace to me, if I, an officer of rank, should escape under a flag of truce, which was then pending. I was in a dilemma and knew not what to do, but finally concluded to say nothing on the subject to my troops.

Upon reaching them, one of the soldiers asked if General Lee had surrendered, and upon my answering that I feared it was a fact that we had

been surrendered, he cast away his musket and holding his hands aloft cried in an agonized voice, "Blow, Gabriel, blow! My God, let him blow, I am ready to die!" We then went beyond the creek at Appomattox Court House, stacked arms amid the bitter tears of bronzed veterans, regretting the necessity of capitulation.

Among the incidents ever fresh in my memory of this fatal day to the Confederacy is the remark of a private soldier. When riding up to my old regiment to shake by the hand each comrade who had followed me through four years of suffering, toil, and privation often worse than death, to bid them a final affectionate, and, in many instances, an eternal farewell, a cadaverous, ragged, barefooted man grasped me by the hand, and choking with sobs said, "Good-bye, General; God bless you; we will go home, make three more crops and then try them again." I mention this instance simply to show the spirit, the pluck, and the faith of our men in the justice of our cause, and that they surrendered more to grim famine than to the prowess of our enemies.

That day and the next the terms of surrender were adjusted; the following day our paroles were signed and countersigned, and on Wednesday, April 12, 1865, we stacked our arms in an old field, and each man sought his home as best he might.

The foregoing account of the surrender at Appomattox was written to Major John W. Moore, at his request, November 5, 1879.

It was fit that North Carolina soldiers should have made the last charge; they were first at Bethel. The

fight was between the mercantile civilization of the North, Europeanized by immigration and commerce, and the agricultural civilization of the South, Americanized by the necessity of its situation. Being most essentially an agricultural State, least contaminated by communion with the great cities, and least corrupted by the greed of trade and the favoritism of trade's ill-gotten legislation, North Carolina was the centre of the rebellion against the aggressions of the North, aggressions which furthered the European policy of consolidating our government and destroying the equality, first of the States, and then of individuals. Democracy is not now a menace to kingcraft across the Atlantic. Europe has won its fight. Its policy is now to secure the fruits of its victory by treaties and alliances.

It is no wonder that North Carolina resorted to arms with such decent caution and fought with such desperate valor—the stakes were great—she knew the meaning of the fight. If the South's statesmen had been equal to her warriors there would have been no war, because she would have been prepared for it—every State would have had a place to manufacture the best ships and arms. Her statesmen were great constitutional lawyers—but great lawyers and orators are not necessarily statesmen.

General Cox's account of "the last charge" differs in some particulars from that of General Grimes. Both statements appear together in Moore's *History of North Carolina*, to which the interested reader may refer.



DANIEL H. HILL.

DANIEL HARVEY HILL.

BY A. C. AVERY.

Daniel Harvey Hill was born in the York District in the State of South Carolina on the 21st of July, 1821. He traced his descent neither from the Cavaliers of England nor from the Huguenots of France, but from the sturdy sons of liberty-loving Scotland, who migrated to the north of Ireland and ultimately planted colonies in Pennsylvania, Virginia, and North and South Carolina, where they educated, elevated, and dominated the people with whom they came in contact. His paternal grandfather, William Hill, a native of Ireland, had landed in Pennsylvania, and moving south with the stream of Scotch-Irish that populated the valley of Virginia and Western North Carolina, built, with Colonel Hayne as his partner, in 1770, an iron foundry in York District, which, within the next decade, was the only point south of Virginia where cannons were cast for the use of the colonial armies. He was colonel of a regiment in Sumter's Brigade, and fought gallantly under him in many engagements. While Colonel Hill was confined to his home by a wound received in battle a detachment was sent from the British force at Charleston to destroy his foundry, and he barely escaped with his life by hiding under a large log and covering himself with leaves. When the battle of King's Mountain was fought Colonel Hill's command had been disbanded, but he went to the field as a volunteer, and was honored by being invited to the council held by Campbell, Sevier, McDowell, and other distinguished regimental commanders, to determine the plan of attack. He made a number of suggestions that were adopted, which proved the value of his opinion as a soldier. For twenty years after the war Colonel Hill was the trusted representative of his district in the State Senate of South Carolina, and was the intimate friend of Patrick Calhoun, the father of the great

statesman and orator, John C. Calhoun. General Hill's mother was Nancy Cabeen, the daughter of Thomas Cabeen, a native Scotchman, who was Sumter's trusted scout, and himself "the bravest man in his command," as the General himself often declared. Two uncles of General Hill were soldiers in the second war with England, and one of them was the adjutant of Colonel Arthur P. Hayne's Regiment. Solomon Hill, his father, died when his son Harvey was but four years old, leaving him, with four other children, to be reared by a mother who was noted for her piety, culture, common sense, and devotion. Like all Scotch and Scotch-Irish Presbyterians of the old school, she exacted of her sons the most rigid observance of the Sabbath. Dr. John Hill, a somewhat wayward brother of General Hill, often declared, after he had reached middle age, that during his boyhood he always "took the blues on Thursday morning because Sunday was coming." The boys were required, each in his turn, to select and read a morning prayer when the family assembled for breakfast. Some of General Hill's heartiest laughs were provoked by the recollection of the ludicrous mistakes made by his little brother in his efforts to find and read the shortest petition in the book, without regard to its fitness for the occasion.

Sprung from a race of soldiers by the paternal as well as the maternal line, it is not strange that the earliest ambition of D. H. Hill led him to seek a place at West Point and to look forward to a military career. Under the rigid physical examination now prescribed for an applicant, he would have been rejected without hesitation. He entered the institution in 1838, and but for feeble health would have pressed to the very front of a class of which Generals Longstreet, A. P. Stewart, G. W. Smith, R.

H. Anderson, and Van Dorn of the Confederate, and Rosecrans, Pope, Sykes, Doubleday, Stone, and Reynolds of the Federal army were members.

Graduating in 1842, he was still a second lieutenant when he was ordered with his command into active service in Mexico in August, 1845. During the three succeeding years he participated in nearly every battle fought by our forces under the command of either Scott or Taylor, and always attracted the notice of his superior officers by his conspicuous courage. He soon rose to the rank of first lieutenant, and, for gallant conduct at Contreras and Churubusco, was breveted captain. At Chapultepec he volunteered with the storming party, and so distinguished himself among the scores of brave men who participated with him in that desperate assault as to win for himself a second brevet as major. He was one of the six officers in the whole force employed in Mexico who were twice breveted for meritorious service upon the field. Animosity, envy, and a disposition to indulge in carping criticism have led to many unjust reflections upon General Hill, but the most unscrupulous of his detractors never questioned his courage or his integrity. When the Legislature of his native State provided by law that three swords should be awarded to the three bravest of her soldiers who had survived the war with Mexico, many letters and testimonials from the officers of the old army were voluntarily sent to the Chief Executive, naming D. H. Hill as among the bravest soldiers in the army of the United States. Among a few of these testimonials still extant is the letter from the gallant Bee, who, in exclaiming, a moment before he fell at Manassas, "There stands Jackson like a stone wall," gave to the great leader the pet name by which his soldiers called him and

the world knows him, and thereby made himself immortal as its author. The letter addressed to General Dunavant on the 26th of October, 1856, is as follows:

> It gives me great pleasure to add my mite of praise to that which has already been given to Mr. Hill by his military superiors. I had the pleasure of knowing him intimately and serving with him in the storming party detailed from Twiggs' Division for the attack on Chapultepec. I can bear full testimony to his gallantry and to his ardent desire to do his duty well. In addition, I can testify to his State pride, evinced in his going up under a heavy fire to congratulate and praise a member of the Palmetto regiment who was behaving under fire most gallantly. For his services on that day he received honorable mention from his immediate commanders and also from Colonel Magruder, commanding a light battery, which battery Lieutenant Hill offered to support when it was menaced by a body of Mexican lancers. He received the brevet appointment of major, and was considered a loss to the service when he resigned.
>
> Your obedient servant,
>
> BERNARD BEE,
> *Captain U. S. Army.*

From the scores of her surviving heroes of the Palmetto regiment and in the regular army the committee appointed by the State authorities selected Hill to receive one of the three swords awarded, and it is still preserved by his family.

After the close of the late war a Federal officer wrote to General Joseph E. Johnston, asking the name of a Confederate officer who, on the right of our army at Seven Pines, had made himself most conspicuous for his daring and indifference to

danger. The only mark of distinction which he could give General Johnston was that he thought the officer rode a white horse. General Johnston replied that he supposed the officer referred to must have been General D. H. Hill. In writing to General Hill about the matter, General Johnston said: "I drew my conclusion that your horse might very well have been taken for white and that no man was more likely to expose himself than you. Do you know that in Mexico the young officers called you the bravest man in the army?"

When the war with Mexico ended Major Hill resigned his place in the army to accept the professorship of Mathematics in Washington College at Lexington, Virginia. Before assuming the duties of that place he was happily married, November 2d, 1852, to Isabella, oldest daughter of Rev. Dr. R. H. Morrison, and granddaughter of General Joseph Graham, who was a distinguished soldier of the Revolution and the father of Governor William A. Graham. Six years later, he was invited to take the same professorship at Davidson College, where for five years he was looked upon as the leading spirit amongst a corps of able and learned professors.

D. H. Hill was not a politician in the sense of aspiring to office or attempting to mould public opinion; but when he saw that the leaders of the North had determined that no Southerner should be allowed to take his slaves to the territory wrested from Mexico by the blood and treasure of the South as well as of the North, he believed that the irrepressible conflict, which Seward declared at a later day was being waged, had then begun, and would be settled only upon the bloody field of battle and after a prolonged, sanguinary, and doubtful

struggle.

Fully persuaded that the inevitable conflict was near at hand, and that it was his solemn duty to prepare the rising generation of his adopted State to meet it he, in 1859, gave up his pleasant home and his congenial duties at Davidson College for those of commandant and manager of the Military Institute at Charlotte.

He harbored no unkind thought against the noble men and women of the North who held opinions different from his own. He respected even the honest fanatic, who fairly and openly contended for his convictions; but he hated cant and hypocrisy, despised duplicity and dishonesty, and leveled at them his most effective weapons, ridicule, and sarcasm. For that portion of our Northern brethren who came to the South to drive hard bargains with our people and cheat them by false pretenses, he felt and expressed the most sovereign contempt. For the men of the North who coveted the wealth of the Southern planter, and the women who envied their Southern sisters because of the ease and leisure incident to the ownership of slaves, he made no attempt to conceal his hatred and disgust.

Major Hill brought with him to Raleigh his three professors, Lee, Lane, and McKinney, two of whom fell later at the head of North Carolina regiments, and one of whom was the successor of the noble Branch as commander of one of our best and bravest brigades. He also brought with him almost the whole corps of cadets, whose services proved invaluable as drill-masters of the ten thousand volunteers then in the camp of instruction of which Hill took charge. For his services in the camp of instruction General Hill was allowed to select twelve companies to

compose the first regiment of volunteers. The officers of these companies were all leading and influential citizens, and the rank and file were among the first young men in the State in intelligence, wealth, and social position. The service of six months proved a training-school for that splendid body of volunteers that ultimately placed them at the head of companies, regiments, brigades, and divisions. Among its original officers were Major-General Hoke, Brigadier-Generals Lane and Lewis, Colonels Avery, Bridgers, Hardy, W. W. McDowell, J. C. S. McDowell, Starr, Pemberton, Fuller, and a score of others, while a number from the rank and file fell at the head of both companies and regiments at later stages of the struggle.

In the outset of this discussion of the career of D. H. Hill as a Confederate soldier, I lay down and propose to maintain the proposition that from the time when he fought the first fight of the war with North Carolina soldiers on Virginia soil till the day he led the last attacking column of Confederates east of the Mississippi and checked Sherman's advance at Bentonsville, whatever may have been the general result of any engagement, the command of General D. H. Hill was never found when the firing ceased at night in the rear of the position it occupied when the signal of attack sounded in the morning. Apparently reckless in the exposure of his own person, no officer in our armies was more anxious about the health, happiness, and safety of his soldiers. His theory was that spades were instruments of defensive, bayonets of offensive, warfare, and whether the emergency demanded the use of the one or the other, it was to be done with "might and main." When his cadets had asked him whether they should join South Carolina regiments before their own State seceded he

prophesied that the war would soon begin and would continue long enough to give every Southerner an opportunity to display his manhood. He rested his hope of success upon the belief that every son of the South would rush to the rescue; that our armies would be supplied by the labor of our slaves, and that we would thus be enabled to throw a force into the field sufficient to meet every Northern man who would tender his services to the Federal Government. Two important elements were wanting as a basis of his calculations—the Southern loyalist and the foreign substitute. When, therefore, General D. H. Hill reported to Colonel J. B. Magruder, then in charge of the Peninsula, and was assigned to the command of the defenses of Yorktown, he realized, in a measure at least, the magnitude of coming contest.

It has been said that a man who is himself born to command is quick to perceive in others the qualities that fit them for leadership. Colonel Hill seemed almost intuitively to descry in the ranks the coolness, courage, judgment, and power of prompt decision which others recognized in his favorites after they had led brigades and divisions to victory. On assuming command at Yorktown he soon discovered that the cavalry, which he looked upon as the "eye and the ear of the army," was inefficient, because the force was composed of a number of detached companies without a trained or efficient commander. In this emergency an officer of the old army, who had been commissioned lieutenant in the regular army of the Confederate States, reported for duty. Marking him as a man of promise, Colonel Hill at once caused an order to be issued placing Major John B. Hood in command of all the cavalry, and waited for the War Department to ratify the

promotion and thus protect him in practicing a pardonable ruse on the volunteers. That officer ultimately succeeded Lieutenant-General D. H. Hill as the commander of a corps, and was still later placed in charge of the army of Tennessee. The Providence that has provided homes for his orphan children will in its own good time bring to light all the facts, and then John B. Hood will stand vindicated before the world as one of the best and bravest of all our leaders. It was this same gift that enabled General Hill to select from the lieutenants of his regiment Robert F. Hoke to be made a major of his regiment over ten competent captains. It was this intuitive perception of persistent pluck, dash, and coolness that prompted him to love and honor George B. Anderson, William R. Cox, Bryan Grimes, Stephen D. Ramseur, and Robert D. Johnston, and led him later to urge the advancement of Gordon, Colquitt, and Doles, of Georgia. In June, 1861 (a few days after the fight at Bethel), in a letter to his wife he said of Stonewall Jackson, then a colonel in command of a brigade, "I see that Jackson has had an engagement and taken many prisoners. I have predicted all along that Colonel Jackson would have a prominent place in the war."

On the 6th of June, 1861, Colonel Hill, then at Yorktown, was ordered to make a reconnaissance in force in the direction of Fortress Monroe, and he moved down with his own regiment and four companies of Richmond Howitzers under the command of Major G. W. Randolph (afterwards Secretary of War), to Little Bethel Church. Receiving information that Butler's forces were preparing to move up the Peninsula, Colonel Hill fell back to Big Bethel Church, where, with a small branch of Black river on his front and right flank and an almost

impenetrable forest on his left, he used twenty-five spades and several hundred bayonets during the night in making an enclosed work. Ben. Butler had started five thousand men in three columns, with the confident expectation that two of the detachments would travel by roads passing north and south of the position at Little Bethel and form a junction two or three miles in the rear of it, where the roads traveled by these two detachments came together, while Duryea's Regiment of Zouaves would engage Hill in front till the other columns should unite and then press him in the rear in his expected retreat. Two of the detachments mistook each other in the night and engaged in a skirmish. The Zouaves, instead of following immediately upon the heels of the fugitive rebels, as contemplated by Butler, turned back and fled precipitately on hearing the firing in front of their own reserve line.

On the next day they again moved forward and attacked the force at Big Bethel, Colonel Magruder having meantime arrived with Cary's battalion of infantry. The whole force engaged on the Confederate side was eight hundred North Carolinians and four hundred Virginians; on the Federal side, thirty-five hundred, with from fifteen hundred to twenty-five hundred in reserve. After preliminary skirmishing for about two hours, and an attack that lasted two and a half hours longer, the enemy retreated in great confusion, with a loss of probably fifty killed and three hundred wounded, and were so hotly pursued by our cavalry that they scattered guns, haversacks and knapsacks till they crossed a bridge and stopped the pursuit by destroying it. The names of no soldiers of North Carolina should be inscribed in a more prominent place on the monument to be erected to her heroic

dead than those of Henry L. Wyatt, the first offering of the South to the Lost Cause, and his three comrades, who rushed forward in a hail of shot and shell to destroy a house where the sharpshooters of the enemy had taken shelter. Judging of its importance by the numbers engaged and the losses on both sides, the battle of Bethel scarcely rose above the dignity of a skirmish; yet few events in the early history of the war had a more important influence upon the contests of the following year. The splendid bearing of our soldiers sent a thrill of pride to every Southern heart, and when the first battle of Manassas was fought, less than a month later, our soldiers moved forward in the confidence that Southern pluck would again prevail over a foe that had shown so little dash and confidence in this encounter.

There was on the Federal side at least one stout leader who displayed the spirit of a hero. When Major Theodore Winthrop fell within fifteen feet of our line, bravely leading a regiment in the charge, even a generous foe felt that he was worthy to bear the name of the two Winthrops by whose courage and judgment Americans had first gained a foothold in this country.

To know D. H. Hill as the soldier of iron nerve, who rode unmoved in showers of shot and shell, or rebuked in scathing terms a laggard or a deserter, was to understand nothing of his true nature. When the battle of Bethel was over and others were feasting or carousing, Hill had fallen upon his knees and was returning thanks to Almighty God, Who, he believed, directed the course of every deadly missile hurled by the enemy with the same unerring certainty that ordered the movements of the

multitudes of worlds in the universe, and into whose keeping he daily committed himself, his wife, and little ones, his staff and his soldiers with the calm reliance of a child, that as a kind father He would provide what was best for him and them.

On the day after the fight at Bethel he wrote his wife: "I have to thank God for a great and decided victory, and that I escaped with a slight contusion on the knee.... It is a little singular that my first battle in this war should be at Bethel, where I was baptized and worshiped till I was sixteen years old—the church of my mother. Was she not a guardian spirit in the battle, averting ball and shell? Oh God, give me gratitude to Thee, and may we never dishonor Thee by weak faith!" Still later he wrote his wife: "I look for a battle about the first of October. Pray for me that I may be well. (He was then in delicate health).... We are in the hands of God, and as safe on the battle-field as anywhere else. We will be exposed to a heavy fire, but the arm of God is mightier than the artillery of the enemy."

After the battle Governor Ellis issued a commission of brigadier-general to him, as Governor Letcher had done at an earlier date in the case of Jackson, but President Davis delayed giving him the appointment till September, 1861. The response to a letter from his wife, written during this interval, in which she complained of the delay, shows how little the outer world understood his character or his motives: "You must not be concerned about my commission," he wrote. "I feel too distrustful of my own skill, coolness, and judgment. I have never coveted, and always avoided, positions of trust and responsibility. The offices that I have held have not been of my seeking."

Upon receiving his commission as a brigadier in September, 1861, the first work assigned to him was the command of the coast of North Carolina, with the duty, as far as possible, of constructing fortifications wherever necessary. Hopeless as was the task assigned, he brought all of his energies to bear upon it, and during the few months that he remained in North Carolina did so much to strengthen our forts and improve the discipline and spirit of the troops that the public men of the State asked for his return in every time of peril, until it became the custom of the general commanding to send him to his department south of the James when all was quiet on the Potomac, and recall him to the command of his division in the field when active operations were resumed.

His first connection with the Army of Northern Virginia was when, early in December, 1861, he was ordered to report to General Johnston at Manassas, and was assigned to command at Leesburg on the left of the line. While he was stationed there an incident occurred which evinced the strength and warmth of General Hill's affection for his early friends, even in the Federal army. General Stone was in charge of the force on the opposite side of the river, and after writing an official letter, sent under a flag of truce, General Hill appended a postscript to the effect that, if the fortunes of war should place his old academy chum in his custody he should feel more inclined to take him into his own tent than to consign him to prison. This led to the interchange of several kind messages appended to similar communications. Unfortunately Stone was a pronounced Democrat, and, like McClellan, was unwilling to recant or repent. Seizing upon this excuse, Stanton arrested him on a charge of disloyalty, and gave him no

opportunity to vindicate himself till the close of the war, when he resigned and spent his last days in command of the army of the Khedive of Egypt.

On the night of the battle of Gaines' Mill, Major Clitz and General Reynolds, old army comrades of General Hill, were brought as prisoners to his quarters. He received both very kindly and sent for a surgeon to dress Major Clitz's wound, while he comforted Reynolds, who was mortified at being caught asleep, by reminding him that his gallant conduct in Mexico and on the border would protect his good name from a shade of suspicion. Both were placed in an ambulance, paroled to report to General Winder at Richmond, and furnished with the address of a friend of General Hill's who would honor their drafts for money. These incidents are reproduced because they bring to view traits of General Hill's character of which the world generally knows so little, his warm sympathy for suffering and his lasting and unswerving fidelity to his friends.

From the moment when Johnston placed Hill, then a major-general, at the head of a division in March, 1862, till the last shock of arms at Bentonsville, Hill's position on every march and in every battle, with scarcely a single exception, was the post of danger and honor. His was the first division of Johnston's army to enter Yorktown and the last to leave it and pass with his command through the reserve line. When the vanguard of the enemy, led by Hancock, rushed upon our rear at Williamsburg, it was Basil C. Manly, of Ramseur's Battery, who, seeing that a section of the enemy's light artillery might beat him in the race to occupy an earthwork midway between the two, unlimbered on the way and by a well-directed shot disabled the enemy *in transitu*, and as

quick as thought limbered up again and ran into the fortifications. It was the regiment of Duncan K. MacRae, of D. H. Hill's Division, that extorted from the generous and gallant Hancock that memorable declaration, "The Fifth North Carolina and Twenty-fourth Virginia deserve to have the word *immortal* inscribed on their banners." It was this charge which Early describes as "an attack upon the vastly superior forces of the enemy, which for its gallantry is unsurpassed in the annals of warfare."

When McClellan moved his army over Bottom's Bridge, threw a heavy column across the Chickahominy and extended his line towards the north of Richmond, General R. E. Lee was then acting as advisory commander of all the armies of the Confederacy. He concurred with Mr. Davis in the opinion that McClellan should be attacked on the other side of the Chickahominy before he matured his preparations for a siege of Richmond. (*The Rise and Fall of the Confederate Government*, Vol. I, p. 120.) When General Lee communicated their views to General Johnston, he told Lee that his plan was to send A. P. Hill to the right and rear of the enemy and G. W. Smith to the left flank, with orders to make simultaneous attacks for the purpose of doubling up the army, and sending Longstreet to cross at Mechanicsville bridge and attack him in front. McClellan's line on his right was not then well fortified, and the general disposition of the Federal forces was more favorable for a Confederate advance than a month later, when Lee concentrated a heavy force on the left and turned it. After McDowell's movement to Hanover Court House, when his vanguard was checked by Branch, the blows stricken by Jackson in such rapid succession in the valley had excited apprehension so grave in the mind of Lincoln

that, despite McClellan's protest, he ordered the withdrawal of that command to Fredericksburg for the protection of Washington City. For reasons that were unsatisfactory to the President, General Johnston, after marching and countermarching G. W. Smith's and Longstreet's Divisions, abandoned his first plan of operations and ordered the troops to assume substantially their original positions. President Davis, in his work *The Rise and Fall of the Confederate Government*, takes the ground that after waiting a week and giving McClellan the opportunity to fortify, operations should have been delayed another day till the Chickahominy had risen high enough to sweep away the bridges and till Huger had had time to move up his artillery from his position near Richmond.

The popular impression that the bridges across the Chickahominy had already been swept away when the fight at Seven Pines began on the 30th of May, 1861, is totally unfounded. The corps of Heintzelman and Keyes were then south and that of Sumner north of the Chickahominy. The plan outlined by General Johnston was, briefly, that Huger should move from his camp near Richmond early on that morning down the Charles City road and vigorously attack the enemy's right, and that Longstreet and Hill, moving on the same road, should attack the center and left of the force south of the bridge, while G. W. Smith's Corps should advance on the Nine Mile Road and turn the left of Heintzelman and Keyes, if Sumner should not have arrived, or engage and prevent the junction of his with the other corps, if he should cross. Longstreet and Hill were in position to attack at an early hour, but waited till ten o'clock for the arrival of Huger, whose division, except two regiments of Rodes' (which created a diversion by a

vigorous attack on the right), did not arrive in time to participate in the action. Our failure to destroy an enemy who, by a concerted movement in the forenoon, would have been utterly routed and driven from the field or captured was, as is universally conceded, one of the most palpable blunders of the war, but the question upon whose shoulders the blame rests still confronts us. No engagement of the war has given rise to more acrimonious censure and crimination than Seven Pines. Mr. Davis, General Johnston, General Longstreet, General Smith, and General Huger have each in turn discussed the conduct of both the active and passive leaders of that memorable day.

The future historians who shall make up for posterity their verdict upon the controverted points of the battle of Seven Pines will find one fact admitted by all of the disputants: that D. H. Hill was the hero of the occasion, and with his own gallant division, aided by two of Longstreet's brigades, drove the enemy in confusion from the breastworks and turned their own guns upon them as they retreated. Longstreet, who was in command on the right, generously said in his report: "The conduct of the attack was left entirely to Major-General Hill. The success of the affair is sufficient evidence of his ability, courage, and skill." Commenting upon the language of Longstreet, President Davis said: "This tribute to General Hill was no more than has been accorded to him by others who knew of his services on that day, and was in keeping with the determined courage, vigilance, and daring exhibited by him on other fields."

General Johnston's language was not less unequivocal in according to Hill the credit of making

a very gallant and the only successful attack upon the enemy's works, when he said in his report: "The principal attack was made by Major-General Longstreet with his own and Major-General D. H. Hill's Division—the latter mostly in advance. Hill's brave troops, admirably commanded and most gallantly led, forced their way through the abattis which formed the enemy's external defenses and stormed their entrenchments by a most determined rush. Such was the manner in which the enemy's first line was carried. The operation was repented with the same gallantry and success as our troops pursued their victorious career through the enemy's successive camps and entrenchments. At each new position they encountered fresh troops and reenforcements brought from the rear. Thus they had to repel repeated efforts to retake works which they had carried, but their advance was never successfully resisted."

On the 31st of May, 1862, General R. E. Lee was assigned to the command of the army in place of General Johnston, who had been painfully wounded on the previous day, and immediately addressed himself to the arduous task of preparing for the decisive encounter, which could not be long delayed. His "exhibition of grand administrative talent and indomitable energy in bringing up that army in so short a time to that state of discipline which maintained its aggregation during those terrible seven days' fight around Richmond," says Colonel Chilton, was "his greatest achievement."

The order of battle in the memorable seven days' fight required A. P. Hill, when Jackson should pass down in rear of Mechanicsville, to cross at Meadow Bridge and drive the enemy so as to enable D. H. Hill

to pass over the bridge at that village.

In obedience to messages from General Lee and President Davis, General Hill, after crossing, went forward with the brigade of Brigadier-General Ripley to cooperate with the division of General A. P. Hill. At the request of Brigadier-General Pender, Hill directed Ripley just at dark to act in concert with that dashing officer in the effort to turn the enemy's position at Ellison's Mill and drive him from it.

The desperate charge across an open field in the face of a murderous fire, in which that brave soldier and noble man, Colonel Montford S. Stokes of the First North Carolina Regiment, fell mortally wounded, was neither planned by General Hill nor executed under his directions. (*Official Records*, Series 1, Vol. XI, Part 2, p. 623.) The suggestion that General Hill deliberately and unnecessarily rushed those gallant men into danger is unfounded and unjust. The galling fire that had broken Pender's left called for immediate action, and in the hurry of the moment it became necessary to develop the strength of the enemy's position by assault instead of reconnaissance, but it was done under the orders of General Lee and the President, not of General Hill.

When on the second day Jackson had effected a junction with Lee, Hill was selected to relieve his tired troops by passing rapidly to his left and turning the extreme right of the enemy. A. P. Hill, Longstreet, Whiting, and Jackson had successively moved upon the double lines of infantry and artillery posted on the range of hills behind Powhite Creek from the McGehee to the Gaines house. The approach of the attacking columns of A. P. Hill and Whiting was in part over a plain about four hundred yards wide and was embarrassed by abattis and

ditches in front of the first line. The struggle along the front of these divisions and that of Longstreet had become doubtful, and almost desperate, when the troops of Jackson and Hill created a diversion by engaging the extreme right of the enemy. The first of the lines of entrenchments had been taken, and Longstreet, Hood, Law, and other brave leaders were moving on the last stronghold in the enemy's center, when the victorious shouts of Garland's and G. B. Anderson's Brigades of Hill's Division were followed by the rapid retreat of the enemy and the surrender, first of the ridge at the McGehee house, and then of their whole line. Thus did it fall to the lot of Hill once more to strike the decisive blow at a critical moment. But claiming for him this distinction among a host of heroic commanders, it is proper that I should rely on the evidence of the lamented Garland, who sealed his devotion to the cause with his heart's blood at South Mountain, and the corroborating accounts of Hill's superiors, from Jackson to President Davis, and not on my own assertion.

"The effect of our appearance at this opportune moment upon the enemy's flank, cheering and charging," said Garland in his report, "decided the fate of the day. The enemy broke and retreated and made a second stand, which induced my immediate command to halt under cover of the roadside and return the fire, when charging forward again we broke and scattered them in every direction." This discomfiture uncovered the left of the fortified line and left no obstacle between Hill and the McGehee house. (*Official Records*, Series 1, Vol. XI, Part 2, p. 626.)

General Jackson's language is not less unmistakable: "Again pressing forward, the Federals

fell back, but only to select a position for more obstinate defense, when at dark—under the pressure of our batteries and the dashing charge of General Hill's infantry, in which the troops of General C. S. Winder joined—the enemy yielded the field and fled in confusion." Of the part taken by Hill, General Lee said in his report (*Official Records*, Series 1, Vol. XI, Part 2, p. 493): "D. H. Hill charged across the open ground in his front, one of his regiments having first bravely carried a battery whose fire enfiladed his advance. Gallantly supported by the troops on his right, who pressed forward with unfaltering resolution, he reached the crest of the ridge (above the McGehee house), and after a sanguinary struggle broke the enemy's line, captured several of his batteries and drove him in confusion towards the Chickahominy until darkness rendered further pursuit impossible." Mr. Davis, in *The Rise and Fall of the Confederate Government*, Vol. II, p. 138, adopts the exact language of General Lee. General McClellan refers to the report of Fitz John Porter, who was in command, for a detailed account of the affair at Gaines' Mill. Porter admits that the withdrawal of his line was caused by the retreat on his right, but insists that the demoralization was due entirely to the stampede of the Federal cavalry, who were mistaken, as they fell back on the infantry line, for rebels. More candid, or better informed than General Porter, the French princes, who served on his staff on that day, admit that the charge of Hill and the discomfiture of the enemy's right necessitated the abandonment of their line of entrenchments. If to double the right flank of an army suddenly back, so as to expose to an enfilade the flank of his last and strongest line of entrenchments, is to make his position untenable, then Hill's charge was indeed decisive of the struggle

at Gaines' Mill.

Crossing the Chickahominy on the night of the 29th, in the advance of Jackson's Corps, D. H. Hill passed Savage Station, where he took one thousand prisoners, exclusive of three thousand in and connected with the Federal Hospital. The progress of Jackson was arrested by obstructions and the stubborn resistance at White Oak Swamp, and he failed to effect a junction with Longstreet till after the fight at Frasier's Farm.

D. H. Hill was again the first to reach and occupy the position which he was ordered to assume preparatory to a general advance on Malvern Hill. The other parts of the line were not formed till a much later hour in the day. General Lee says in his report, of the battle (*Official Records*, Series 1, Vol. XI, Part 2, p, 496): "Orders were issued for a general advance at a given signal, but the causes referred to prevented a proper concert of action among the troops. D. H. Hill pressed forward across the open field and engaged the enemy gallantly, breaking and driving back his first line; but a simultaneous advance of the other troops not taking place, he found himself unable to maintain the ground he had gained against the overwhelming numbers and numerous batteries of the enemy. Hill was therefore compelled to abandon a part of the ground he had gained after suffering severe loss and inflicting heavy damage upon the enemy."

Prompt, vigilant, and obedient, he was always at his post at the appointed hour, and with the true conception of soldierly duty, moved upon order or signal of his superiors without waiting to count the cost. At Malvern Hill, as at Seven Pines, he charged the enemy under orders from the commanding

general. The persistent pluck of his brave men, developed to the highest degree of his own unequaled coolness and courage, enabled him again to take and hold much of the enemy's outer line till after the last gun was fired.

When Pope had twice been punished by Jackson and driven back upon the supposed stronghold at Manassas, the transfer of troops from the Federal army on the Peninsula made it necessary for General Lee to move with the bulk of his army to the support of his dashing lieutenant, who had already twice defeated an enemy much stronger numerically than himself. D. H. Hill, recalled from the command of his department south of the James, which included his own State, and placed at the head of his old division, was ordered to watch and check the movements of McDowell's command, which was still occupying Fredericksburg, and consequently took no part in the second battle of Manassas.

Crossing over the Potomac with Longstreet to Fredericktown, Maryland, when our forces moved from that point south General Hill was ordered to occupy and hold a pass in the South Mountains, which, if gained by McClellan, would have enabled him to relieve Harper's Ferry and possibly to prevent the junction of our scattered army and destroy the divisions in detail, or drive them precipitately south of the Potomac with great loss of artillery and transportation.

General Lee's object in crossing the Potomac east of the Blue Ridge was to induce the enemy, by threatening Washington and Baltimore, to evacuate Martinsburg and Harper's Ferry, and to establish his own line of communication through the valley, and then by advancing towards Pennsylvania to draw the

enemy away from his own base of supplies. General Lee had not contemplated making a stand at South Mountain, probably not at Sharpsburg, or at any point north of the Potomac; but the continued occupation of Martinsburg and Harper's Ferry made it necessary to move directly upon the former place and to invest the latter, where both garrisons ultimately united. In consequence of the delay in reducing the garrison it became essential to the safety of Lee's army that McClellan's entire force should be held in check for a whole day at the pass in the South Mountains by Hill's depleted division, now numbering only four thousand, as a glance at the map with a knowledge of the disposition of Lee's different divisions will show.

Longstreet, with his whole force, estimated at four thousand, was at Hagerstown, while Jackson had disposed his own command, including McLaws' and A. P. Hill's Divisions, either with a view to an attack on Harper's Ferry or to cutting off the retreat of the force occupying it. Three days later McClellan, according to his own report, advanced to the attack at Sharpsburg with eighty-seven thousand men. Of this vast army probably thirty-three thousand were in the force actually engaged in the assault upon the little Spartan band of D. H. Hill for five hours, without cessation, before Longstreet's advance brigade arrived at 3:30 o'clock, which was followed by others coming up from that time till dark.

The late Justice Ruffin, Colonel of the Thirteenth North Carolina, standing by the side of the gallant Garland when he was instantly killed, discovered a moment later that the other regiments of the brigade had retired, leaving his command surrounded by the enemy. Facing to the rear in an instant, he ordered

his regiment to charge, and though embarrassed by a painful wound, performed the desperate feat of cutting his way through the serried ranks of the enemy. A few moments later that gallant officer was astonished to hear his intrepid commander express his delight at the discovery that McClellan's whole army was approaching his front. The explanation afterwards given was one that could have been safely disclosed only to a kindred spirit, such as Ruffin had shown himself to be. Hill then said that he had at first feared the movement upon his front was a feint, and that the main body of the enemy had passed through another gap and might be thrown between Jackson and Lee. The situation was still further embarrassed by the fact that General Stuart had at daylight withdrawn his command, except the single regiment of Rosser, which afterwards did its duty so nobly, under the impression that but a small force was in General Hill's front.

It was "with the stern joy" of an intrepid warrior waiting for the coming contest, that from an elevated pinnacle of the mountain he saw the four advance corps of the grand Army of the Potomac, one of which was forming at the foot of the mountain. The hour and the man had met when Lee entrusted to Hill the duty of holding the approach against that army with his little band of four thousand. From Seven Pines to Malvern Hill they had never turned their backs upon the foe. They believed that their leader would require them to endure no sacrifice or face no danger that was not demanded by the inevitable exigencies of the situation. With God's help, Hill determined to save the army, as his chief ordered him to do at any sacrifice, and, if the emergency had demanded his own life, he would have met death, not as the decree of fate, but as the

Providence of God, who had brought him face to face with a desperate duty. Captain Seaton Gales, the gallant Adjutant-General of George B. Anderson on that memorable day, summarized the important results of this battle as follows:

"It may be safely said that in its consequences, in the accomplishments of predetermined objects, and in the skillful disposition of small numbers to oppose overwhelming odds, it is without a parallel in the war. The division, unaided until a late hour in the afternoon, held in check the greater portion of McClellan's vast army endeavoring with battering-ram impetus to force its way through the narrow gap, and thereby afforded time for the concentration of our various corps, dispersed in strategic directions, in season for the bloody issue at Sharpsburg."

Imbued with an earnest devotion to the cause, which rose on occasion to the height of enthusiasm, Hill did not hesitate to denounce in unmeasured terms those who evaded duty in our armies, when the conditions were such as to plainly demand the active service of every able-bodied son of the South. One of his random shots at the "bomb-proofs" of the Confederacy wounded a gentleman who, having done nothing in the war worthy to be written, determined to write something, in the vain hope that it would be read by future generations. Prompted by petty revenge, he recklessly asserted that General D. H. Hill had thrown a copy of a general order upon the ground in his camp at Frederick City, which being afterwards picked up and handed to McClellan, gave him an idea of the movements and location of the different portions of Lee's army.

It will appear from an inspection of its contents that on the day when McClellan attacked Hill at

South Mountain, he had reason to believe, and must have thought, that Longstreet was occupying the mountains, supported by Hill. But we are not left to conjecture on that subject. McClellan wrote General Franklin from Frederick City on the 14th, just after he had read the "lost order," that Longstreet was to move to Boonsborough, and there halt with D. H. Hill, and he therefore directed Franklin to make his dispositions with an eye both to the relief of the garrison at Harper's Ferry and the capture of Longstreet and Hill. The plan outlined in the letter is predicated upon the supposition that Longstreet and Hill were together, and constituted the main body of an army, which he estimated in another report to General Halleck at one hundred and twenty thousand. If it were not manifest from this letter that McClellan was misled by the order, and his opinion corroborated by the skillful disposition of Hill's troops, his report proves beyond all question that he thought the force in his front was thirty thousand strong, composed of Hill's Division, fifteen thousand, with Longstreet's and a portion of Jackson's command (*Official Records*, Series 1, Vol. XIX, Part 1, p. 55). The skill of Hill, then, and the order combined to mislead McClellan by causing him to over-estimate our strength, and the cautious and dilatory movement which gave Longstreet time to come up in the afternoon, enabled Hill to escape with his little band, leaving the whole Army of the Potomac deployed before him.

The order issued by Lee and sent out from army headquarters was as follows:

HEADQUARTERS ARMY OF NORTHERN VIRGINIA,
September 9, 1862.

Special Orders No. 191.

I. The citizens of Fredericktown being unwilling, while overrun by members of this army, to open their stores, in order to give them confidence, and to secure to officers and men purchasing supplies for benefit of this command, all officers and men of this army are strictly prohibited from visiting Fredericktown except on business, in which case they will bear evidence of this in writing from division commanders. The Provost Marshal in Fredericktown will see that his guard rigidly enforces this order.

II. Major Taylor will proceed to Leesburg, Va., and arrange for transportation of the sick and those unable to walk to Winchester, securing the transportation of the country for this purpose. The route between this and Culpeper Court House east of the mountains being unsafe, will no longer be traveled. Those on the way to this army already across the river will move up promptly, all others will proceed to Winchester collectively and under command of officers, at which point, being the general depot of the army, its movements will be known and instructions given by commanding officers regulating further movements.

III. The army will resume its march to-morrow, taking the Hagerstown road. General Jackson's command will form the advance, and, after passing Middletown, with such portion as he may select, take the route to Sharpsburg, cross the Potomac at the most convenient point, and by Friday morning take possession of the Baltimore & Ohio Railroad, capture such of the enemy as may be at Martinsburg, and intercept such as may attempt to escape from Harper's Ferry.

IV. General Longstreet's command will pursue the main road as far as Boonsborough, where it will halt, with reserve, supply and baggage trains of the army.

V. General McLaws, with his own division and that

of General R. H. Anderson, will follow General Longstreet. On reaching Middletown will take the route to Harper's Ferry, and by Friday morning possess himself of the Maryland Heights and endeavor to capture the enemy at Harper's Ferry and vicinity.

VI. General Walker, with his division, after accomplishing the object in which he is now engaged, will cross the Potomac at Cheek's Ford, ascend its right bank to Lovettsville, take possession of the Loudoun Heights, if practicable, by Friday morning, Key's Ford on his left, and the road between the end of the mountain and the Potomac on his right. He will, as far as practicable, co-operate with Generals McLaws and Jackson and intercept retreat of the enemy.

VII. General D. H. Hill's Division will form the rear guard of the army, pursuing the road taken by the main body. The reserve artillery, ordnance, and supply trains, etc., will precede General Hill.

VIII. General Stuart will detach a squadron of cavalry to accompany the commands of Generals Longstreet, Jackson, and McLaws, and, with the main body of the cavalry, will cover the route of the army, bringing up all the stragglers that may have been left behind.

IX. The commands of Generals Jackson, McLaws, and Walker, after accomplishing the objects for which they have been detached, will join the main body of the army at Boonsborough or Hagerstown.

X. Each regiment on the march will habitually carry its axes in the regimental ordnance wagons, for use of the men at their encampments, to procure wood, etc.

By command of General R. E. Lee.

R. H. CHILTON,
Assistant Adjutant-General.

[The copy of the "lost order" given by McClellan, as far as it goes, is the same as the one above set forth, but it does not contain sections 1 and 2.]

If Pollard's malignant charges, made to detract from the honor and glory of an achievement so brilliantly executed and so fruitful of benefit to the cause, were not shown by the most direct proof from the most honorable men to be false and unfounded, the marked discrepancy between the order published in the *Official Records*, as No. 191, copied from General Lee's book of general orders, and that which McClellan declared in his report to be a *copy* of the order sent by him to Washington, suggests to a legal mind a solution of the dispute which corroborates in the strongest possible manner the sworn testimony of Major James W. Ratchford, Adjutant-General of Hill's Division, that the custody of such papers was a part of his exclusive duty at that time, and that no such order was delivered to him, with the solemn statement of General Hill that he never saw or read a copy of the order in question, except one purporting to have been sent through General Jackson, to whose corps he was attached when it was issued, and which he still preserved among his private papers in 1886. It will be observed that the first of the two paragraphs, omitted in what purports to be the copy of the order that fell into the possession of the enemy, forbade the troops stationed around Frederick City from entering that town without permission, and the second directed that the sick and disabled of the army should be removed to Winchester. Halleck's correspondence with McClellan on the same day, September 13, 1862 (*Official Records*, Series 1, Vol. XIX, Part 1, p. 41), evinces the greatest apprehension that the movement of the army was aimed at Washington City, and the

demonstrations higher up the Potomac were intended to distract attention from the real design. Was it not more important that the chief officer of all the armies should know that Lee's sick and disabled soldiers were to be moved to Winchester, as the general depot of the army, and that all recruits, returning or coming for the first time to the army were to rendezvous at Winchester, than to learn from the last paragraph of the copy sent him that Lee's troops were to habitually carry in their regimental wagons axes to cut wood, etc.? The second paragraph seemed plainly to indicate that Lee's purpose was what he afterwards declared in his report to have been his plan—to establish his base of operations by way of the valley of Virginia and invade or threaten Pennsylvania, not Washington, after taking Harper's Ferry. (*Official Records,* Series 1, Vol. XIX. Part 1, p. 145.) This was McClellan's own idea of Lee's design, and if he could have convinced Halleck of the correctness of his views there would have been no reason for further hesitation about weakening the garrison of the capital city to swell the effective force in the field. McClellan did not get the whole order and omit a portion of it in his correspondence at the time because it tended to sustain his view against Halleck. He did not send his chief the full copy of his order and omit in his report, written after his removal from command, a section which proved that he (not Halleck) had divined Lee's purpose from the beginning. The two paragraphs would not have been omitted in a copy intended for Hill, because it was Hill's troops that at the time were stationed nearest to Frederick City, and were prohibited from entering it. It is evident that General Lee must have sent the whole order to Hill, and it is equally manifest that McClellan had every reason for

inserting a full copy in his report if he received it.

The explanation which readily suggests itself, therefore, is that the original draft of the order contained only the portion beginning with the third section and was signed in that shape by Colonel Chilton, but was afterwards modified so as to prefix the two first paragraphs before it was issued. The "lost order" was found by an Indiana soldier, wrapped around three cigars. The first paper drawn would have become useless after the material additions made to it, and might well have been wrapped around cigars by some one at General Lee's headquarters, with the purpose of using it to light them, and then lost before cigars or paper were disposed of, as intended. It will be more readily believed that a clerk or assistant in the office at army headquarters might have been guilty of carelessness than that Ratchford swore to and that Hill told a falsehood. If their positive statements are believed, only the one order, addressed as though sent through General Jackson's headquarters, was received by General Hill. When Lee and Hill were encamped in sight of each other near Fredericktown, and General Lee was then and afterwards (as at South Mountain) habitually sending orders direct to General Hill, it does not seem probable that Lee, whose forte was the power of readily mobilizing his army, would have tolerated such circumlocution as making one courier ride across the Potomac to Jackson with an order which was to be sent back by another messenger to a camp in sight of its starting point on the next day. It would have been a fair compromise between extreme official courtesy and that common sense which always characterized the conduct of our great leaders, if Lee had recognized Jackson's authority by addressing the order as though transmitted through

him, and at the same time ordering its delivery directly to Hill, thus conforming his conduct to the conditions which demanded that Hill should know at the earliest possible moment of his proposed plan of operation, and of the prohibition against entering the neighboring town applying only to his own and Longstreet's Division.

The direct testimony bearing upon the dispute in reference to the lost order was the sworn statement of Major James W. Ratchford, Adjutant-General, that only the single copy of the order reached him, which was preserved by General Hill till his death, and the solemn statement of Hill that he himself received no other copy. Leaving out of view the difference between the original paper recorded in Lee's book and the supposed copy delivered to McClellan, there is nothing to contradict the testimony of one of the bravest and truest officers in the army of Virginia and the word of D. H. Hill. The attention of these two officers had been called to the loss of the paper within a few months after it passed into McClellan's hands, when all that had occurred in Maryland was still fresh in their memories, and they then made the same statement that the one reiterates to-day and the other published in 1886. Lee himself charged no particular person with the loss of the dispatch. While he possibly magnified (says Longstreet in his article in the *Century Magazine*) its effect upon the Maryland campaign, he was inclined to attribute its loss to the fault of a courier. (*Battles and Leaders of the Civil War*, Vol. II, p. 674.) In his report of the operations in Maryland he said: "The small command of General Hill repelled repeated assaults of the Federal army and held it in check for five hours." The only contradicting testimony comes from Major Taylor of

General Lee's staff, and being negative in its character, is not entitled to the weight that should be attached to the positive evidence of gentlemen of equal reputation for veracity. The substance of his statement is, that it was his habit during that campaign to send such orders directly to the headquarters of Hill's Division as well as through Jackson to Hill. But he neither recalls the fact of sending the particular paper in question, nor does he name any officer or courier who attests its actual delivery. Admitting the high character of Taylor, as well as that of Ratchford, the verdict of history, under the most familiar rules of evidence, must unquestionably acquit Hill of negligence, and accord to him the high honor of saving the army of Lee by his strategy, coolness, and courage.

At Sharpsburg, the last engagement in which D. H. Hill participated with that army, no figure was more conspicuous and no line firmer than his. As usual, he was the first to open and the last to quit the fight. General Lee said in his report: "The attack on our left was speedily followed by one in heavy force on the center. This was met by part of Walker's Division and the brigades of G. B. Anderson and Rodes of D. H. Hill's command, assisted by a few pieces of artillery. The enemy were repulsed and retired behind the crest of a hill, from which they kept up a desultory fire. At this time, by a mistake of orders, General Rodes' Brigade was withdrawn from its position during the temporary absence of that officer at another part of the field. The enemy immediately passed through the gap thus created and G. B. Anderson's Brigade was broken and retired, General Anderson himself being mortally wounded.... The heavy masses of the enemy again moved forward, being opposed by only four pieces of artillery,

supported by a few hundred men belonging to different brigades, rallied by General D. H. Hill and other officers, and parts of Walker's and R. H. Anderson's commands, Colonel Cooke of the Twenty-seventh North Carolina Regiment, of Walker's Brigade, standing boldly in line without a cartridge." "At this critical moment, when the enemy was advancing on Cooke," says General Longstreet, "a shot came across the Federal front, plowing the ground in a parallel line, then another and another, each nearer and nearer their line. This enfilade fire was from a battery on D. H. Hill's line, and it soon beat back the attacking column." (*Battles and Leaders of the Civil War*, Vol. II, p. 670.)

On the right General Lee was stationed in person, and with Toombs' Brigade (says General Longstreet) held the enemy in check till A. P. Hill's Division rushed to the rescue, with Pender on the right and Branch on the left of his line, and aided by well-directed shots from a battery planted by D. H. Hill on his front, drove them back in confusion. Generals Lee, Longstreet, and D. H. Hill concluded during a short suspension of musketry fire to reconnoiter the position of the enemy from the crest of a ridge in front of the Confederate line, which was formed behind a fence. Lee and Longstreet giving General Hill a sufficiently wide berth, went out on foot, while Hill rode. In a few moments, says Longstreet, Hill was making vain and rather ludicrous efforts to dismount from the third horse killed under him in that engagement, the legs of the animal having been cut off at the knees by a cannon ball. When Major Ratchford, who himself was never known to quail in the face of the foe, but whose affection for his friend was unbounded, said to him on this occasion: "General, why do you expose yourself so recklessly?

Do you never feel the sensation of fear?" General Hill replied that he would never require his men to go where he did not know the ground or would not go himself, and that he had no fear of death if he met it in the line of duty. His friend then inquired if he would not rather live than die. "Oh, yes," said General Hill, "when I think of my wife and babies I would; but God will take care of them if he allows anything to happen to me."

When, in November, 1862, Hill's Division was ordered to take the lead in the march to Fredericksburg to meet Hooker, a large number of his men had been barefooted since the return of the army from Maryland, yet he accomplished the unusual feat of marching two hundred miles in twenty days without leaving on the way a single straggler. One of the remarkable features of the battle of December 13th, 1862, near Fredericksburg, which followed this sudden transfer of the seat of war, was the fact that D. H. Hill's Division, Jubal A. Early's and most of John B. Hood's were in the reserve line. It was evidence of an easy victory that the services of three such fighting men were not needed in front.

In February, 1863, Hill bade a final adieu to his old division, when he was ordered to assume command in the State of North Carolina. Before the campaign opened in the following spring Hill had made a demonstration against New Bern, followed by an advance upon Washington in this State, which would have resulted in the capture of the latter place but for Lee's order to send a portion of his command to Virginia.

Later in the spring of 1863, Hill was ordered to remove his headquarters to Petersburg, and was

placed in command of the department extending from the James to the Cape Fear. When Lee invaded Pennsylvania the citizens of Richmond and the heads of the various departments became greatly alarmed for the safety of the place. The officers in charge of the defenses of the city and of the Peninsula had failed to inspire confidence in their vigilance, efficiency or capacity. When the troops of Dix began to move up the Peninsula from Yorktown and West Point, General Hill was ordered by the President to transfer all available troops from south of the James and assume command of the forces gathered for the defense of the capital city. With the brigades of Cooke and M. W. Ransom, and a few other regiments, General Hill met the army of Dix near Bottom's Bridge, drove them back without serious difficulty in the direction of West Point, and in two or three days restored perfect confidence on the part of the panic-stricken people of the city.

About the 10th of July, 1863, President Davis called at General Hill's quarters three miles east of Richmond, and, after many kind and complimentary comments upon his conduct as an officer during the preceding year, informed him that he was appointed a lieutenant-general, and would be ordered to report forthwith to General Joseph E. Johnston, near Vicksburg, Mississippi. Orders having been issued accordingly, on the 13th of July General Hill, with his staff, set out immediately for his new field. When he reached his home in Charlotte he was notified that his destination had been changed, and he would report for duty to General Braxton Bragg at Chattanooga.

Lieutenant-General D. H. Hill found the army of Bragg encamped along the Tennessee River in and

around the small town which has since assumed the proportions of a city. Colonel Archer Anderson, chief of Hill's staff, in his able address upon the battle of Chickamauga, says: "The corps of Hardee had lately gained as a commander a stern and dauntless soldier from the Army of Northern Virginia in D. H. Hill, whose vigor, coolness and unconquerable pertinacity in fight had already stamped him as a leader of heroic temper. Of the religious school of Stonewall Jackson, his earnest convictions never chilled his ardor for battle, and in another age he would have been worthy to charge with Cromwell at Dunbar, with the cry, 'Let God arise and let his enemies be scattered.'"

Hill received from Bragg the warm welcome of a comrade who had seen his metal tried on the hard-fought fields of Mexico. Not less cordial was the greeting of his old classmate, A. P. Stewart, and of the plucky Pat. Cleburne, who seemed from the first to feel that he had found a soldier-affinity in the congenial spirit of Hill. When at last the scattered hosts had concentrated and confronted each other on the Chickamauga, it was not till after the night of the first day that Bragg made public his purpose to give the entire management of the right wing to Polk and the control of the left to Longstreet. If the enemy's left, under the stalwart Thomas, could be driven from the Lafayette road the communication with Chattanooga would be cut off and the retreat and ruin of the enemy inevitable. To accomplish this end Bragg seemed more intent on hurried than concentrated effort. That grand man, officer and statesman, John C. Breckinridge, at his own request was allowed to take the extreme right, flanked by Forrest and supported in this forward movement by Cleburne on the left. Stewart having been transferred

to Buckner, these two divisions constituted Hill's Corps. In rear of the line from which Breckinridge and Cleburne moved to the attack at nine in the morning, on the last decisive day, was the corps of the old veteran known as "Fighting Bill" Walker, and as eager for the fray as a school-boy for frolic. His command was composed of his own and Liddell's Divisions, embracing six brigades, led by such dashing soldiers as Ector, Gist, and Walthall. But the first lesson learned by a staff officer, who went from the East to the West, was that even an old war-horse like Walker dared not to fire a gun or move an inch, acting upon his own best judgment, without an order brought with due formality through all of the regular channels. The Virginia Brigadier struck his blows where opportunity offered and reported to his superior that he was striking. The Western Brigadier lost his opportunity to strike waiting for permission to do so. Still behind Walker stood Frank Cheatham, with his splendid division, like their leader, chafing under restraint.

Such were the dispositions in Hill's rear when the impetuous charge of Breckinridge's two right brigades broke the left of Thomas and crossed the fateful road. With two thousand infantry and a battery of artillery, Breckinridge swung his line around at a right angle to that of the enemy and started to sweep down upon their flank; but the left of Breckinridge had encountered an earthwork, as had Cleburne's whole line, and their western foe standing firm, one or two brigades gave way. Another advancing line to fill the gap, and the day would be won before noon, and the enemy driven across the Tennessee or captured before night. In vain might Hill plead or Walker swear, when no

orders came and no chief could be found to give them. Chafed and disappointed, the grand Kentuckian found himself for want of support at last exposed to destruction or capture, and slowly and stubbornly both he and Cleburne fell back and reformed, but much nearer to the enemy than the line from which they advanced. Scarcely had the decimated forces of Hill reformed when, all too late, Walker went forward with another single line, to be hurled back by the fresh troops that the enemy was rapidly massing on his left to meet the design now developed by our ill-managed movement. Cheatham, meanwhile, was not allowed to budge an inch or fire a gun. Thus was the plan frustrated and the attacking force driven back and cut to pieces in detail for want of a present, active, moving head to strike with the two arms of the right wing at one time. The fierce onslaught of Hill failed, as did the no less impetuous charge of Walker, because as a chain is no stronger than its most defective link, so a single advancing line is no stouter than its weakest point.

The splendid conduct of our troops on our right and the dread inspired by Breckinridge's bold charge of the morning bore fruit, however, in a way entirely unexpected, when it led the enemy to mass so much of his force behind Thomas. This was the occupation of the enemy while Hill and Forrest were riding up and down in front of our line and drawing the fire of the enemy upon the young troop who followed at their heels, and when there was a temporary lull in front of Longstreet on the left and left center.

At last the thunder of artillery and the roar of musketry again burst upon us from along the whole front of the Virginia lieutenant, while Hill in vain sent messenger after messenger to beg that these

lines be formed and a general advance ordered on the right as well as on the left. Just before night General Polk permitted Hill to take charge of the forward movement of the three lines, Walker in front, his own corps composing the second and Cheatham the third. The advance of our attacking column on the left, before that time steady, now became impetuous, and with a momentary wavering of a brigade on the right, we rushed over the breastworks of Thomas and caught 5,000 prisoners in the angle, where Longstreet and Hill met, as they had on many hard-fought fields before, to discuss the events of that day and prepare, as they had hoped, for a still more eventful one that was to follow. But a short time had elapsed when they were joined by Forrest, impatient for orders to pursue the flying foe. When some hours had been passed in the vain effort to learn where the headquarters of the commanding general were located, Longstreet and Hill agreed to divide the responsibility of ordering the immediate pursuit by Forrest, with an assurance that they would ask the privilege of pushing forward to his support at early dawn.

Unable by the most diligent inquiry to open communication with Bragg till the next afternoon, they failed to secure for Forrest the infantry support that would have swept the single division of Thomas out of the gap on Missionary Ridge, or flanked and captured it, without another obstruction in the road to Chattanooga and on to Nashville. Such might have been the fruits of our victory, which being lost by delay, the last hope of the tottering Confederacy to regain the prestige and restore the confidence lost at Gettysburg and Vicksburg was gone forever.

Scattered along the face of Missionary Ridge,

waiting for the enemy to make Chattanooga impregnable, and then uniting the forces of Grant and Sherman with the reorganized army of Thomas to overwhelm them, were the disheartened Confederates, daily growing weaker from the desertion of men whose homes were exposed to devastation by the Federals.

It was at this juncture that Buckner drew up and Polk, Longstreet, Hill, Buckner, Cleburne, Cheatham, Brown, and other generals signed and sent to the president a petition stating that the commanding general had lost the confidence of the army, and asking that he be transferred to another command and replaced by a more acceptable leader. Hill was the last of the lieutenant-generals consulted, but, unfortunately for his future, his headquarters were located at a central point on the line and the paper was left there to be signed. Cheatham and Cleburne met at that point and put their names to the paper at the same time. After the battle at Murfreesboro, Bragg had addressed letters to the chiefs of divisions in his army, asking whether he retained the confidence of the troops, and intimating a willingness to resign if he had lost it. Breckinridge, Cleburne, and one or two others promptly answered that they thought he could no longer be useful in the position he occupied. The correspondence led to an open breach between Bragg and Breckinridge, and a newspaper controversy, in which each charged upon the other the responsibility of our failure at Murfreesboro. General Breckinridge, in a conversation with me, stated that his reason for declining to sign the paper was that his opinion of the commanding general was known, and, as their relations were already unfriendly, his motives might

be misconstrued.

No better illustration of the prevailing opinion among the higher officers, as well as the rank and file of the army, in reference to the efficiency of the commanding general can be given than the substance of a conversation between Cheatham and Cleburne, as they joined in a social glass after signing the petition: "Here are my congratulations upon your recovery from your bad cold," said Cleburne. "I have had no bad cold," said Cheatham. "Let me tell you an old fable," replied Cleburne. "The report had been circulated among the beasts of the forest that the lion had a bad breath; whereupon, as king, the lion summoned all to appear, and admitted them to his presence one by one. As each would answer, upon smelling his breath, that it was bad, the lion would devour him. When at length the fox was brought in, he replied to the question that he had a bad cold, and escaped. You had a bad cold when you wrote Bragg after the battle of Murfreesboro that you didn't know whether he still retained the confidence of the army. You have at last recovered."

Hill cherished no unkind feeling toward Bragg, and at the time reluctantly reached the conclusion that it was his duty to join his comrades in urging his removal, hoping that it might still be within the range of possibility to find a leader like Jackson, who could overcome superior numbers by vigilance, celerity, and strategy.

Mr. Davis was induced to believe that Hill was the originator and most active promoter of the plan to get rid of Bragg as a chief, and both the President and General Bragg determined to visit the whole sin of the insubordination of the inferior officers of that army on him. His name was not sent to the Senate

for confirmation as lieutenant-general, and the repeated efforts of Johnston, backed by many of his subordinates, to have Hill returned to the command of a corps, were refused up to the last campaign of Johnston in North Carolina. In response to repeated demands made upon Bragg and the Adjutant for a court of inquiry to report upon any charge or criticism that the latter might make, Hill at last received the answer that there were no charges to be investigated.

But it is due to the memory of General Hill that the world should know how thoroughly he retained the confidence, respect and admiration of the officers and men of the army, which Bragg left after the next fight, never to rejoin till he found Hill on the soil of his own State leading its reduced regiments in their last forlorn charge against their old foe.

The following letters, for which he did not ask, but which he treasured as testimonials of his relations to his troops to the day of his death, are submitted for the first time for the vindication of his memory against the suspicion of negligence, inefficiency, incompetency or infidelity to his trust as commander of a corps:

HEADQUARTERS CLEBURNE'S DIVISION,
MISSION RIDGE, October 9, 1863.

General:—In your departure from the army of Tennessee, allow me to offer you my grateful acknowledgments for the uniform kindness that has characterized all your official intercourse with my division. Allow me also to express to you the sincere regard and high confidence with which in so short a time you succeeded in inspiring both myself and, I believe, every officer and man in my command.

It gives me pleasure to add that now, though your

connection with this army has ended, you still retain undiminished the love, respect and confidence of Cleburne's Division.

Respectfully, your friend,
P. R. CLEBURNE,
Major-General.

Dear General:—I have just learned officially that you have been relieved from command in this army and ordered to report to Richmond.

I cannot see you go away without sending you, in an unofficial and friendly note, the expression of my sincere regret at our separation. It has the merit of at least being disinterested. I saw you for the first time on my way to this army from Mississippi, when my division became a part of your corps, and I have had more than one occasion to express my admiration for your fidelity to duty, your soldierly qualities, and your extraordinary courage on the field.

It may gratify you to know the opinion of one of your subordinates, and to be assured that, in his opinion, they are shared by his division. I am, General,

Very truly, your friend,
JOHN C. BRECKINRIDGE,
Major-General.

HEADQUARTERS CORPS ARMY OF TENNESSEE,
October 15, 1863.

My Dear General:—Your note of to-day is received. I am surprised and grieved to learn that you have been relieved from duty with this army. We have stood side by side on so many severely contested battle-fields that I have learned to lean upon you with great confidence.

I hope and trust that you may find some other position where your services may be as useful as they

can be here. * * *

Very truly and sincerely yours,
J. LONGSTREET.

HEADQUARTERS CLAYTON'S BRIGADE,
NEAR CHATTANOOGA, 3 November, 1863.

Lieutenant-General D. H. Hill:—Returning to my command a few days ago, I regretted to learn that you had left the command of our corps, and that I had not the opportunity of telling you farewell.

I have been in the military service since the 6th of February, 1861, and I have never been under a commander to whom I and my command formed so strong an attachment in so short a space of time. In the camp we were not afraid to approach you, and on the field *you* were not afraid to approach us and even go beyond us. This feeling was universal among privates as well as officers and to a greater degree than I have ever known towards any one except, perhaps, General Stuart. Those who have been in the military service and been *frozen to death* by a different class of officers, alone know how fully to appreciate this.

Your friend and obedient servant,
H. D. CLAYTON.

HEADQUARTERS POLK'S BRIGADE,
October 16, 1863.

General:—In behalf of myself and brigade, allow me to express to you our high appreciation of your uniform kindness in all of your official intercourse with us, and to say to you that although you have not been long with us, you have gained our love, confidence, and respect; and that it was with great regret that we heard of your being taken away from us; and in being so taken away our confidence in you as a soldier, gentleman, and patriot has not been in

the least diminished. We part with you, General, with the greatest regret, and hope some new field may be given you for the display of that generalship that led us to victory at Chickamauga.

Respectfully, your friend,
L. E. POLK,
Brigadier-General.

HEADQUARTERS LOWERY'S BRIGADE,
MISSION RIDGE, October 16, 1863.

Dear General:—Paragraph 2, Special Order No. 33, from Army Headquarters, relieving you from duty in this department has just been received by me. I take this opportunity to express to you my deep regret at this change. So far as I have heard an expression from the officers and men of this corps, your service with us has been *most satisfactory*. In the camp and on the march your orders were received and obeyed with the most cordial approval and with the greatest pleasure. The warm devotion that has been created in so short a time will not die while memory lives. In behalf of my brigade, permit me to express our regret on account of your separation from us, and the kindest wishes for your prosperity and happiness. For myself the memories of our short acquaintance will be warmly cherished in a devoted heart of friendship, and the guidance and protection of the Unseen Hand invoked on you wherever your lot may be cast.

May the glory of victorious fields form a wreath around your name in all time to come, and the memory of your deeds of gallantry and patriotism be cherished in the hearts of a grateful and free people.

Respectfully, General, your obedient servant,
M. P. LOWERY,
Brigadier-General.

Long after the war General J. E. Johnston

addressed the following letter to General Hill, from which it will appear that the influence of Bragg, who was at the elbow of the President as his military adviser, was still omnipotent after he was transferred from the west to Richmond:

WASHINGTON, D. C., September 22, 1887.

GENERAL D. H. HILL:

Dear General:—Your conduct at Yorktown and at Seven Pines gave me an opinion (of you) which made me wish for your assistance in every subsequent command that I had during the war. When commanding the army of Tennessee, I applied for your assignment to a vacancy * * * * * * * *

Yours very truly,
J. E. JOHNSTON.

It is but just to President Davis, as well as to General Hill, to state that there was good reason to believe that the former, in his last days, became convinced that General Hill was not the author of the petition, or the principal promoter of the plan for Bragg's removal, and that it dawned upon the great chieftain that the retention of Bragg was the one mistake of his own marvelous administration of the government of the Confederacy. When Johnston and others criticised the President, General Hill, then editing a magazine that was read by every Confederate, indignantly refused to utter one reproachful word, even in his own vindication, because, as he said, the time-servers who had turned their backs on the Lost Cause were making him the scapegoat to bear the supposed sin of a nation.

Misjudged, deprived of command and made to stand inactive in the midst of the stirring scenes of the last days of the Confederacy, Hill was not a man

to sulk in his tent. Volunteering successively on the staff of his old friends, Beauregard and Hoke, who appreciated his advice and assistance, he showed himself ever ready to serve the cause in any capacity.

The repeated and urgent requests of both Johnston and Beauregard that Hill should be restored to command, resulted at last in his assignment to duty at Charleston, from which place he fell back with our forces to Augusta.

When the remnant of the grand army of Tennessee reached Augusta in charge of General Stevenson, Johnston ordered Hill to assume command and move in front of the vast and victorious hosts of Sherman. The greeting given him by the little bands of the old legions of Cleburne and Breckinridge now left was a fitting tribute to an old commander whom they loved and admired. Hoping against hope, Hill was the leader above all others to infuse new spirit into the forlorn band devoted to this desperate duty. At every stream and on every eminence in his native State he disputed the ground with Sherman's vanguard till he developed a force that made it madness to contend further. Hill's reputation as a soldier depends in nowise upon successful running. This final retreat was the first and last in which he took a leading part. When once more his foot was planted upon the soil of North Carolina it was eminently fitting that he who heard the first victorious shouts of her first regiment in the first fight in Virginia would lead her brave sons in the last charge of the grand army of the great West within her own borders. Again, as in the last onset of Cox at Appomattox, North Carolina soldiers stood the highest test of the hero by facing danger in a gallant charge when they knew that all hope of success was gone forever.

The last years of General Hill's life were devoted to journalism and to teaching. As the editor of *The Land We Love*, and subsequently of *The Southern Home*, he wielded a trenchant pen and was a potent factor in putting down the *post-bellum* statesmen who proposed to relegate to the shades of private life the heroes and leaders of the Lost Cause. As a teacher, he soon placed himself in touch with his pupils and won their love and confidence, as he did that of the soldiers led by him to battle.

His opinions, whether upon political, religious or scientific subjects, were always the result of thought and study, and were expressed in terse and clear language. As a Christian, he constantly recurred to the cardinal doctrines of Christ's divinity and His complete atonement. He wrote two religious works which evince at once his grace and force as a writer, and his unbounded trust in these fundamental truths. The subject of the one was *The Sermon on the Mount*; of the other, *The Crucifixion*.

Unmoved in the presence of danger, schooled to hide his emotion at suffering in the critical time of battle, and forced by a sense of duty to show his bitter scorn for cowardice and treachery, it was the exclusive privilege of his family, his staff and his closest friends to fathom the depths of his true nature. The soldiers who saw him in camp or on the field could as little conceive of the humble Christian who, in the long hours of the night, pleaded with his God to spare their lives and save their souls, as they could of the affectionate father, the loving husband, the sympathizing friend, and the bountiful benefactor of the poor and helpless, known only to the favored few. A writer who in his last days was admitted to the inner circle of his friends, has so

beautifully expressed his idea of his true character that I cannot do better than reproduce it as not an overdrawn picture, from the standpoint of one who served on his staff, had free access to his home circle, and observed and studied his motives and conduct:

"Fancy a man in whom the grim determination of a veteran warrior is united to a gentle tenderness of manner which would not be inappropriate to the most womanly of women; ... affix a pair of eyes that possess the most indisputably honest and kindly expression; animate him with a mind clear, deep, and comprehensive, and imbued with a humor as rich as it is deep and effective; infuse man and mind with a soul which in its lofty views compels subordination of the material to the spiritual, and holds a supreme trust in the wisdom and goodness of the Almighty—is zealous in the discharge of duty, and looks with scorn on all that is mean and sinful. Add to all these a carriage that is indomitable, and a love of truth and honor which is sublime, and you have the earthly embodiment of D. H. Hill."

General Hill, though born in South Carolina, lived most of his life in North Carolina, the State of his adoption. In the early part of the war, if there was any hard fighting to do, Hill usually bore the brunt of it. He was essentially a "pounder," was utterly fearless, believed in his cause with his whole heart, despised traitors, and ridiculed those who sought high places as bomb-proofs. It was this habit of thus ridiculing and condemning influential men that occasioned his quarrel with Jefferson Davis, for many of his victims sought to undermine the

confidence of the Confederate chief in this grim old soldier. General Joe Johnston knew him, and knew his worth, and, when he was restored to the command of the army fighting Sherman, he gave Hill the prominence which he deserved. Hill's address on the "Old South," delivered in Baltimore, is one of the best and most interesting of its kind ever published. Like Julius Cæsar, he was a good writer as well as a good fighter.

THE OLD SOUTH.

BY D. H. HILL.

Comrades of the Society of the Army and Navy of the Confederate States in the State of Maryland:

LADIES AND GENTLEMEN:—Years and years ago, "the time whereof the memory of man runneth not to the contrary," I was a subaltern artillery officer in the United States Army. There was great striving with the young lieutenants of that day to be stationed at Fort McHenry, for they said that everybody in the world knew that the most beautiful and graceful ladies in the solar system were in the city near by. I give this as a reminiscence of the long-ago, and not as a piece of flattery, or as an endorsement of the astronomical opinions of the lieutenants of artillery of that prehistoric period.

But to-day, the battle-scarred veterans all over the South pay a higher and grander tribute than that to the mere beauty and grace of the ladies of the present generation, when they tell with tearful eyes

and husky voices of the kindness and sympathy shown them while they were hungry, ragged, sick, and suffering prisoners of war. In all ages of the world poetry and song have embalmed the ministrations of mercy of the beautiful to the brave; but these offices of charity rise into the sublime, when the gentle ministrants receive scorn, contumely, and contempt for their gracious deeds to the friendless, the hated and the despised. May God bless the noble women of Baltimore forever and forever more.

But there came a time when my people owed a still deeper debt of gratitude to your generous city. It was the time of the gentle fanning of spring breezes, of the rustling of the new-born leaves on the trees, of the wafting of perfumery from buds and flowers, of the busy humming of freshly-awakened insect life, of the gladsome singing and love-wooing of birds. The booming of cannon and the ringing of church bells told of the rejoicing of twenty-five millions of people over a restored Union. There was a gladness everywhere but in the eleven States scorched and withered by the hot blasts of war. Lee had surrendered, and sorrow had filled the hearts of those stern warriors who had battled for four years with the world in arms. But the grief of surrender had turned into sullen despair, when they came back in this joyous springtime to their suffering families to find desolation and destruction everywhere; blackened ruins marked the sites of the stately mansions of once lordly planters; the fields, once white with the world's greatest staple, were now fenceless and unplowed; "the fig-tree had not blossomed, neither was there fruit in the vine; the labor of the olive had failed, and the fields yielded no meat; the flocks had been cut off from the folds,

and there were no herds in the stalls"; the cities were without business, trade, and commerce; and grass was growing in the streets of the villages almost deserted of inhabitants. "The elders had ceased from the gates, the young men from their music (yea, the best and the bravest of them filled bloody graves). The joy of their heart had ceased, and their dances had been turned into mourning. The crown had fallen from the head of their beautiful Southland, and the Lord of Hosts had seemed to cover himself with a thick cloud so that the prayers of widows and orphans could not pass through."

It was at this time, when our whole people were shrouded with a pall of gloom and anguish, and absolute starvation was imminent in many places, that the generous heart of your city throbbed with one simultaneous pulsation of pity. Then both sexes, all classes and conditions, friends and foes alike, forgetting political and sectional differences, vied with one another in sending relief to the afflicted South.

In the name of my countrymen, thus rescued from despair and death, I invoke the blessings of Almighty God upon the heads of their deliverers, whatever be their religious creed or political faith; whatever be the skies of their nativity or their opinion of the righteousness or unrighteousness of the Southern cause.

My subject is the Old South; the Old South of pure women and brave men; the South of Washington and Jefferson; of Carroll and Rutledge; of Marshall and Taney; of the Pinckneys of Maryland and South Carolina (for they were of the same stock); of Andrew Jackson and Winfield Scott; of Decatur, Mcdonough, and Tattnall; the generous Old South,

which, rich, prosperous, and peaceful under British domination, cried "The cause of Boston is the cause of us all," and had her sons slain and her land desolated in defense of her Northern sister; the magnanimous Old South, which, without ships and commerce, hoisted in 1812, in the interest of the carrying trade, the banner inscribed "*Free Trade and Sailors' Rights*"; the chivalrous Old South, crying out in the person of Randolph Ridgeley, when Charley May was about trying the novel experiment of a charge of cavalry upon a battery of Mexican artillery, "Hold on, Charley, till I draw their fire upon myself." Ah! my countrymen, that Old South did many unselfish deeds which, in the slang of the day, "didn't pay." But the world was made purer, nobler, and better by them, and they should be as ointment poured forth, fragrant through all the ages.

Christopher Columbus has justly been considered mankind's greatest benefactor, and surely no one ever did great deeds under more adverse circumstances. Crowned heads had tantalized him with hope but to baffle his expectations; jealous courtiers sneered at him; men of science called him a dreamer and a madman; his own sailors were insubordinate and mutinous. Through it all, this wonderful man had borne himself grandly, never losing heart or hope until success had crowned his efforts. The fame won by Columbus stimulated the enterprise of the world for the next three hundred and fifty years, until all the highways and byways of the ocean had been thoroughly explored, and all its creeks, bays, and estuaries had been thoroughly surveyed. Then discoveries ceased, and it was said that there were no more continents, no more islands, no more coral reefs, no more sand-bars to be found in all the wide waste of waters. This lull in discovery

continued until 1868, when an enterprising brother from somewhere north of Mason and Dixon's line announced to the startled world that he had discovered a hitherto unknown region of vast extent, with fertile soil, varied and wonderful products, the loveliest scenery and the finest climate on the globe —cities, towns, villages, and a vast rural population —all speaking the English language, though it was not told whether they were Christian or heathen. The great navigator had called his discovery the New World, and other navigators had called theirs New Caledonia, New Zealand, New Britain, New Hebrides, New Holland, etc.; this land navigator, of the year of grace 1868, called his discovery the "New South." The thing stranger to me than even finding this hitherto unknown land is that the English-speaking race discovered there have adopted the name given them, are proud of it, brag about it, and roll it as a sweet morsel under their tongues. All other barbarians have resented the name imposed upon them by their discoverers, and have clung to their old names, their old ideas, and their old traditions.

It will be my business at this time to speak to you, Veterans of this Association, of the Old South for which we fought, and for which so many of our comrades, as dear to us as our own heart's blood, laid down their precious lives. I would tell you, young people, of that dear Old South which has passed away, that you may admire and imitate whatever was grand and noble in its history and reject whatever was wrong and defective.

Dr. Channing, of Boston, one of the ablest and fairest of the many gifted men of the North, said more than forty years ago, that the great passion of the South was for political power and the great

passion of the North was for wealth. I quote his words: "The South has abler politicians than the North, and almost necessarily so, because its opulent class makes politics the business of life.... In the South, an unnatural state of things turns men's thoughts to political ascendency, but in the Free States men think little of it. Prosperity is the goal for which they toil perseveringly from morning until night. Even the political partisan among us (the Northern people) has an eye to property and seeks office as the best, perhaps the only way, of subsistence."

This was a frank confession from a Northern scholar and thinker, that Northern politicians sought office with an eye to property and subsistence, while ambitious Southerners sought for place and power from love of political supremacy. Now, the motive of the latter class was not good, but these lovers of high position did have a restraining influence upon the lovers of money. The scandals that have brought shame upon the American name occurred when the Old South was out of power. Who has not heard of the Credit Mobilier swindle, in which high government officers, Senators and Representatives, were implicated? Then there were frauds known as Emma Mine stock, Seneca Stone contract, Whiskey Ring swindles, Pacific Mail subsidies, sales of Sutlers' Posts, steals of Government lands, "back salary" grabs, Star Route robberies, etc., etc. When Southern statesmen had a controlling influence these knaveries were unknown, because they were impossible. No official from the Old South, whether in Cabinet, Congress, Foreign Mission or public position of any kind, was ever charged with roguery. No great statesman of that period ever corruptly made money out of his office. Calhoun, Clay, and Webster were

comparatively poor. Some of our greatest Presidents were almost paupers, notably Jefferson, Monroe, and Harrison.

Dr. Channing gave the distinction between the North and the South with great candor and fairness. But we might still inquire: Why did the North seek property, and why did the South seek political supremacy, as the chief good? The reason of the differences between the two sections seems to me perfectly plain. It was not a race difference between the two peoples, for they were of the same blood and the same speech. The ambition of each section as to the avenues in which it should seek its own self-aggrandizement was determined by its surroundings. The Northern States of the old thirteen had magnificent bays and harbors, but a bleak, inhospitable climate, in which African slaves could not thrive, and a soil not adapted to producing the things which the world specially needed. The people of that region then freed or sold into the South the negroes whom they had brought from Africa and whom they found to be unprofitable slaves in their latitude. Naturally, these Northerners turned away from unremunerative agriculture to the wealth-giving sea and became the boldest and hardiest navigators the world had ever seen; but with all their courage, pluck, and energy they were averse to war and personal conflicts as interfering with the peaceful gains of trade. They were too busy to be turbulent. They put thousands of ships upon the ocean as fishing-smacks, whalers, and merchantmen. Their shipping interest called for great centers of trade and for foundries and machine-shops. They built great cities and huge dock-yards; they opened vast mines and established rich factories. They became a money-getting people from the situation in

which their surroundings had placed them. Anglo-Saxon energy and indomitable will had made them masters of whatever was at first unfavorable in their situation.

The South had but few ports, and these were in unhealthy places; it had a climate well suited to the African, and a soil well adapted to produce those things which the world most needed. Hence the people of the Old South maintained slavery and devoted themselves almost exclusively to agriculture. They built no great cities, for they had no trade; they developed no mines and erected no factories, for their laborers were better at field work than at anything else. The Southern men of property went to the country and became feudal lords of black retainers, the best fed, the best clothed, the gayest, happiest, healthiest, strongest serfs the world had ever seen. The towns and villages at the South were shackly, mostly with unpaved and unlighted streets. The rural mansions were spacious and comfortable, seldom grand or elegant. An agricultural people are seldom rich and the profuse hospitality of the Southern planter kept him generally straitened in his means. The Old South labored under a more serious disadvantage; there were few literary and scientific men among them. History shows that the great men of the world have been born chiefly in the country, and that they gained distinction, not there, but in cities and towns. The fire may be hid in a flint for countless ages, and the spark only be given out when the flint is struck by the steel. So the intellectual giants reared in the free, fresh air of the country have only given out their grand thoughts under the influence of other minds in populous places.

Thus, the men of the Old South, being cut off from

wealth, from mining, manufacture, commerce, art, science, and literature, found but two fields open in which they could distinguish themselves—war and politics—and into these they entered boldly and successfully and became leading statesmen and renowned warriors. So the surroundings of the Old South determined the destiny of its sons, just as the surroundings of the North determined that of its sons. Exceptional cases occurred at the South where fame was won outside of politics. Thus, Audubon, of Louisiana, was the first as he is the most distinguished, of American ornithologists. Washington Allston, of South Carolina, ranks among the foremost of American painters. M. F. Maury, of Virginia, has done more for navigation than any one of this century, and he received more medals, diplomas, and honors as a man of science from European nations than any other American. John Gill, of New Bern, N. C., is the true inventor of the revolver which has revolutionized the tactics of the world. Dr. Clemens, of Salisbury, N. C., is the true inventor of the telegraph, which has made almost instantaneous the intercourse between the most distant nations of the earth. McCormick, of Virginia, was the first to put the reaper into the field, which has done so much to develop the vast grain fields of the West. Stevens, of South Carolina, was the first to use iron as a protection against artillery, and thus the whole system of naval warfare has been changed. Dr. Reed, of Tuscaloosa, Ala., is the inventor of rifled cannon, which have made useless fortifications of stone and brick. Richard Jordan Gatling, of Hertford county, N. C., is the inventor of the terrible gun that bears his name. The Georgians claim that their countryman, Rev. F. R. Goulding, is the inventor of the sewing machine. General Gabriel J. Rains, by the

construction of a peculiar friction primer, made the use of torpedoes successful in the Southern waters during the civil war, and demonstrated that weak maritime nations could be protected against the most powerful. The Le Contes, of Georgia, are to-day among our foremost men of science. Dr. J. Marion Sims, of South Carolina, had more reputation abroad than any other American physician. In literature, we have had such men as Marshall, Kennedy, Gayarre, Wirt, Gilmore Simms, Hawks, Legaré, Hayne, Ryan, Timrod, the Elliotts, of South Carolina, Ticknor, Lanier, Thornwell, Archibald Alexander and his sons, Addison and James W., A. T. Bledsoe, Mrs. Welby, Mrs. Terhune. Brooke, of Virginia, solved the problem of deep-sea sounding, which had so long baffled men of science. But the other day, General John Newton, of Virginia, was at the head of the Engineering Department of the United States. Stephen V. Benet, of Florida, is now head of the United States Ordnance Department, and Dr. Robert Murray, of Maryland, is Surgeon-General.

Most of the Southern inventions were lost to those whose genius devised them, because the Old South had no foundries and machine-shops in which they could be made, and no great centers of trade by which they could be put upon the market. With rare magnanimity, Southern Congressmen had voted for protective tariffs, fishing bounties and coast-trade regulations, which did so much to build up the big cities and great commerce of the North and to fill its coffers to overflowing. Even Mr. Calhoun had voted to protect "infant industries," believing that the infants would in the course of time learn to crawl and walk, and do without pap. But that time has not yet come. Thomas Prentice Kettell, a Northern man, estimates that in these three ways the Old South

contributed from 1789 to 1861 $2,770,000,000 of her wealth to Northern profits. Our statesmen knew, surely, that their own section would never get one dollar in return from this enormous expenditure. But they were patriotic enough to be willing to make the nation rich and prosperous, even at the expense, for a season, of their own beloved South. My Countrymen! that Old South was a generous Old South. The world scoffs at such generosity and says, "it don't pay." The Old South believed with the wise man that "A good name is to be chosen rather than great riches, and loving favor than gold and silver." But the world does not think with Solomon and the Old South, and chooses great riches rather than the good name, and gives its loving favor to the holders of the gold and silver. But while the Old South had some success in literature, art, and science, the character of its people ought to be judged mainly by what they accomplished in two departments to which their efforts were mostly restricted—politics and war. Did the Old South give to the country wise statesmen and brave warriors? This will be the subject of the present investigation.

Mr. Bancroft says: "American Independence, like the great rivers of the country, had many sources, but the head-spring which colored all the stream was the Navigation Act." The whole of New England was in a blaze of fury because of it. The effect of it upon their commerce and shipping interest was most disastrous, and they believed that ruin impended over them. The Old South was equally excited, though it had no carrying trade and was in nowise affected by the act. But an agricultural people, living much by themselves, develop large individuality, and are always liberty-loving. Hence, though in many respects the gainers by intercourse with England, the

sons of the Old South stoutly resisted all encroachments upon their freedom by the Mother Country—a term of endearment they still loved to use. The Old South denounced the Navigation Act, which did not hurt its interests at all, just as severely as it did the Stamp and Revenue Acts. All were blows at the inalienable rights of freemen, and all were alike opposed. Christopher Gadsden, of South Carolina, in a speech delivered in Charleston in 1766, advocated the independence of the colonies, and he was the first American to proclaim that thought. The first American Congress met in Philadelphia on the 7th of October, 1774. Peyton Randolph, of Virginia, was elected President of that body. On the 20th of May, 1775, the Scotch-Irish of Mecklenburg county, N. C., absolved all allegiance to the crown of Great Britain, and set up a government of its own. On the 12th of April, 1776, the Provincial Congress of North Carolina took the lead of all the States in passing resolutions of independence. On the 7th of June that year, Richard Henry Lee, of Virginia, moved: "These United Colonies are, and of right ought to be, free and independent States." It was upon this motion in the Continental Congress that the separation from Great Britain took place. It was a Virginian who wrote the Declaration of Independence. It was a Virginian who led the rebel armies to victory and to freedom. It was a Southerner, Charles Pinckney, of South Carolina, whose draft of the Constitution was mainly adopted.

Thus, independence was declared upon the motion of one Southerner; its principles were set forth in the declaration written by another Southerner. A third led the armies of the rebel colonies to victory, while a fourth framed the Constitution, which, though denounced at one time by the South-haters as "a

covenant with death and a league with hell," has lived for a hundred years, and is likely to live for many hundreds more.

You of this newly-discovered region need not be ashamed of your ancestors and blush that they lived in the Old Bourbon South. That Bourbon régime lasted for eighty years, the grandest and noblest of American history. Eleven of seventeen Presidents were of Southern birth. Fifty-seven of the eighty were spent under the administration of Southern-born Presidents. Washington, Jefferson, Madison, Monroe, and Jackson, each served eight years, in all forty years—just one-half the life of the nation. Of the six Northern Presidents, John Quincy Adams was elected by the House of Representatives and not by the people and contrary to the wishes of the people. Nor was Mr. Fillmore elected to the Presidency, but on the death of General Taylor succeeded to the office and served out the unexpired term. So during the existence of the Old South, John Adams, Van Buren, Pierce, and Buchanan were the only Northern Presidents elected by the people. A remarkable thing is, that all the Southern Presidents were re-elected by the people except Mr. Polk, and he did not seek a renomination. This fact speaks volumes for the capacity of Southern men for the administration of affairs. Another curious fact is that every Northern President had associated with him as Vice-President a man from the Old South. Thus, the first Adams had Jefferson, the second Adams had Calhoun, Van Buren had R. M. Johnson, Pierce had W. R. King, and Buchanan had Breckinridge. On the other hand Jackson served one term as President with a Southern man, Calhoun, as Vice-President; Harrison and his associate were both born in Virginia; Lincoln and Johnson were both born in the South.

This period of eighty years has been called by the North: "The Era of the Domination of the Slave-power." Without raising an objection to the discourteous phraseology, I would simply say that it is an admission that the South had marvelous success in its desire for political supremacy—one of the two objects of its ambition. Before passing to our second question: "Did the Old South produce brave and successful warriors?" I will allude to a few characteristic incidents, which do not bear materially upon either of the two questions under consideration.

"In the year 1765, on the passage of the Stamp Act, Colonel John Ashe, Speaker of the House of Commons of North Carolina, informed Governor Tryon that the law would be resisted to every extent. On the arrival of the British sloop-of-war *Diligence* in the Cape Fear river he and Colonel Waddell, at the head of a body of the citizens of New Hanover and Brunswick counties marched down together, and frightened the captain of the sloop so that he did not attempt to land the stamped paper. Then they seized the boat of the sloop, and carried it with flags flying to Wilmington, and the whole town was illuminated that night. On the next day they marched to the Governor's house and demanded that Tryon should desist from all attempts to execute the Stamp Act, and forced him to deliver up Houston, the stampmaster for North Carolina. Having seized upon him, they carried him to the market-house, and there made him take an oath never to attempt to execute the duties of his office as stampmaster.

"It was nearly ten years after that the Boston tea-party assembled, when a number of citizens, disguised as Indians, went on board a ship and threw

overboard the tea imported in her. This was done in the night by men in disguise, and was directed against a defenseless ship. But the North Carolina movement, ten years earlier in point of time, occurred in open day, and was made against the Governor himself, ensconced in his palace, and by men who scorned disguise."—*Senator T. L. Clingman.*

Every schoolboy knows of the Boston tea-party of 1773; how many of my intelligent audience know of the Wilmington party of 1765? Yea, verily, the Old South has sorely needed historians of its own.

Virginia gave seven Presidents and many illustrious statesmen and warriors to the nation. She gave Patrick Henry, the war-trumpet of the Revolution, Washington, its sword, and Jefferson, its mouth-piece. When independence and white-winged peace came to the colonies, she gave to the Union that vast Northwest Territory, out of which have been carved the great States of Ohio, Indiana, Illinois, Michigan, and Wisconsin. [New York, Massachusetts, and Connecticut also ceded their claim to this territory.]

Oh, but generosity does not pay. Possibly the "mother of States and statesmen" thought so when the soldiers of these five great States swarmed over her soil, and grand old Virginia became District No. 1.

I'll now take up the second question: "Did the Old South furnish brave soldiers?" The commander-in-chief in the rebellion against Great Britain was the Southern-born Washington, of whom Byron lamented that the earth had no more seed to produce another like unto him, and of whom Wellington said "He was the grandest, the sublimest, and yet withal the

plainest and simplest character in the world's history." That the Old South did its duty in this war, I will try to show, notwithstanding imperfect records and deceptive pension rolls. The Old South went nobly to the assistance of their Northern brethren, who were first attacked, and nearly all the battle-fields of the North were drenched with Southern blood. In the retreat from Long Island, Smallwood's Maryland regiment distinguished itself above all the continental troops, losing two hundred and fifty-nine in killed and wounded. The Virginians made up a large portion of the army of Washington at Trenton and Princeton, where the wails of despair of the American people were changed into shouts of victory. Two future Presidents of the United States of Southern birth were in those battles, one of whom was wounded. The only general officer there slain was in command of Virginia troops. Southern blood flowed freely at Brandywine and Germantown, and in the latter battle a North Carolina general was slain, whose troops suffered greatly. It was General George Rogers Clark, of Virginia, who, with a Virginia brigade, chastised the Indians that committed the massacre in the valley of Wyoming. He made a Stonewall Jackson march to the rear, penetrated to the upper Mississippi, captured the Governor of Detroit, and took large booty in his raid. At Monmouth and Saratoga, Southern blood was commingled with the Northern in the battles of freedom. In the battle of Saratoga, Morgan's Virginia Riflemen greatly distinguished themselves and slew General Fraser, the inspiring spirit of the British army. The guerilla troops, under Sumter, Marion, Moultrie, Pickens, Clarke, and others, drove the British, step by step, back to Charleston, where they were cooped up till the end came.

It is my deliberate opinion that no battles of the Revolution will compare in brilliancy with the defense of Moultrie, the defeat of Ferguson at King's Mountain, and the defeat of Tarleton at Cowpens, all fought by Southern troops on Southern soil. In the last fight the victory was won when almost lost by the cavalry charge of William Washington, and the free use of the bayonet by that peerless soldier, your own John Eager Howard. The old "tar-heel" State, on the 16th of May, 1771, in the Battle of Alamance, poured out the first blood of the Revolution in resistance to British tyranny. The battle of Guilford Court House, fought on her soil solely by Southern troops, gave Cornwallis his first check in his career of victory, and led eventually to his capture. The first victory of the Revolution was won at Moore's Creek Bridge, in North Carolina, by Caswell and Lillington, in which one thousand Scotch loyalists were captured. Who knows of that battle? Oh, modest tar-heel State, in the slang of the newly-discovered country, "modesty does not pay!" Nevertheless, true courage and true modesty walk hand in hand. One word as to the misleading rolls of the Revolution. I was born in the Scotch-Irish settlement of Carolina, which furnished troops to Sumter, Pickens, Davie, Davidson, Shelby, and others. These men were never regularly enrolled; they gathered together for battle, and went back to their plows when the fight was over. There were no Tories in that regiment; it was thoroughly Whig. But I never heard of more than one pensioner in all that country. These men scorned the bounty of the Government for simply doing their duty. No official records ever bore the names of those gallant partisans, whose daring deeds are known only to the Omniscient. There were no horn-blowers and quill-drivers among them.

If we come to the war of 1812, all will concede that Jackson, of North Carolina, and Harrison, of Virginia, gained the most laurels, as shown by the elevation of both of them to the Presidency. All, too, readily concede that the brilliant land fights of that war were in defense of New Orleans, Mobile, Craney Island, and Baltimore, all fought by Southern troops on Southern soil.

Although the war was waged in the interest of the maritime rights of the North, it soon became unpopular in New England, because it seriously damaged trade and commerce. The Hartford Convention shows how deep was the defection in that region. The doctrine of secession was taught there half a century before the South took it up.[2] Hence, in this war, the Old South furnished more than her proportion of troops. Southern troops flocked North, and in the battles in Canada a large number of general officers were from the Old South; Harrison, Scott, Wilkinson, Izard, Winder, Hampton, Gaines, Towson, Brooke, Drayton, and others. Kentucky sent more men for the invasion of Canada than did any other State.

[2] In Barnes' *History of the United States* the author tells us (page 167) of the ravaging of the Southern coast in the war of 1812 by the noted Admiral Cockburn. He says: "Along the Virginia and Carolina coast, he (Cockburn) burned bridges, farm-houses, and villages; robbed the inhabitants of their crops, stock, and slaves; plundered churches of their communion services and murdered the sick in their beds." And then the author explains why the Southern coast was devastated and the New England coast was not disturbed. This explanation is in a foot-note, which reads as follows: "New England was spared because of a

> belief that the Northern States were unfriendly to the war and would yet return to their allegiance to Great Britain."
>
> This is the statement of a Northern writer, and not the fabrication of an enemy. How did the belief start among the British people that New England wished to return to its allegiance to the "mother country?"

All honor to the United States sailors of the North who had no sympathy with the Hartford Convention, and nobly did their duty—Perry, Bainbridge, Stewart, Lawrence, Porter, Preble, and others. The "Don't give up the ship" of the dying Lawrence is a precious legacy to the whole American people.

But the unmaritime South claims among the naval heroes of that period Decatur, of Maryland; Macdonough, of Delaware; Jacob Jones, of same State; the two Shubricks of South Carolina; Jesse D. Elliott, of Maryland; Blakely, of North Carolina, and others. A very large proportion of the naval heroes of the war of 1812 came from Maryland.

In the Mexican war the commanders-in-chief on both lines were born in Virginia, one of whom became President for his exploits, and the other an unsuccessful candidate for the Presidency. This war was unpopular in the North, and hence the South furnished troops to carry it on out of all proportion to her population. The Old South, out of a total population of 9,521,437, gave 48,649 volunteers, and gave also the rifle regiment, recruited within her borders, making in all 50,000 soldiers. The North, out of a population of 13,676,439, gave but 24,698 volunteers. All New England gave 1,057 volunteers. (I use the American Almanac for these figures and the census report of 1850.)

It will be admitted, without question, that Butler's South Carolina and Davis' Mississippi gained more reputation than the other volunteer regiments. I think it will be equally admitted that Quitman's Southern division of volunteers had the confidence of General Scott, next to his two divisions of regulars. Scott's chief engineers on that wonderful march from Vera Cruz to the City of Mexico were Swift, of North Carolina, and R. E. Lee, of Virginia. His chief of ordnance was Huger, of South Carolina.

The most brilliant exploit of that war was the attack of Tattnall, of Georgia, in a little gunboat, upon the castle of San Juan D'Ulloa and the land batteries at Vera Cruz. If there was anything more daring in that war, so full of great deeds, my eyes were not so fortunate as to behold it.

The bold, bluff tar of that day had a gentle, loving heart, full of kindly sympathy with his own race and lineage, as shown by rowing through shot and shell to offer such assistance as international law permitted to the British Admiral suffering under the murderous fire of the Peiho forts in China. "Blood is thicker than water" was the grand sentiment of the grand sailor, as he hurried to the rescue of the sufferers of his own blood and race. These things don't pay; nevertheless, it would be a cold, miserable, selfish world without them.

Maryland had no reason to suppose that her sons had degenerated from the days of Otho Williams, John Eager Howard, and William Smallwood when the Mexican war brought out such men as Ringgold, the first organizer of horse-artillery; Ridgeley, his dashing successor; and Charley May, the hero of the cavalry charge upon the Mexican battery.

Coming down to the Civil War, the President on

the Union side was a Southern-born man, his successor was born in North Carolina, and the commanding general, who first organized his troops, was a Virginian. His great War Secretary, the Carnot of that day, was born in Edgecombe county, North Carolina, though he would never admit it.

The Union generals who struck us the heaviest blows, next to those of Grant and Sherman, were from our own soil. From West Point there came forth forty-five graduates of Southern birth, who became Federal generals. I have their names, from George H. Thomas and George Sykes to David Hunter and John Pope, with the States of their nativity, viz.: George H. Thomas, Va.; George Sykes, Del.; E. O. C. Ord, Md.; R. C. Buchanan, Md.; E. R. S. Canby, Ky.; Jesse L. Reno, Va.; John Newton, Va.; R. W. Johnson, Ky.; J. J. Reynolds, Ky.; J. M. Brannan, D. C.; John Buford, Ky.; Thomas J. Wood, Ky.; John W. Davidson, Va.; John C. Tidball, Va.; Alvan C. Gillenn, Tenn.; William R. Terrill, Va.; A. T. A. Torbert, Del.; Samuel L. Carroll, D. C.; N. B. Buford, Ky.; Alfred Pleasonton, D. C.; I. M. Mitchell, Ky.; George W. Getty, D. C.; William Hayes, Va.; A. B. Dyer, Va.; John J. Abercrombie, Tenn.; Robert Anderson, Ky.; Robert Williams, Va.; Henry E. Maynadier, Va.; Kenner Garrard, Ky.; H. C. Bankhead, Md.; H. C. Gibson, Md.; John C. McFerran, Ky.; B. S. Alexander, Ky.; E. B. Alexander, Ky.; Washington Seawell, Va.; P. St. G. Cooke, Va.; G. R. Paul, Mo.; W. H. Emory, Md.; R. H. K. Whitely, Md.; W. H. French, Md.; H. D. Wallen, Mo.; J. L. Donaldson, Md.; Fred. T. Dent, Mo.; David Hunter, Va.; John Pope, Ky. Most of these were good officers, and some of them were superb. I could name six or eight of them who did the very best they could for their native land by going on the Federal side. In addition to these forty-five West Point

Southerners in the Federal army, some of the high officers of that army were born in the South, but not educated at West Point; Joseph R. Hawley (now Senator from Connecticut); John C. Frémont, the three Crittendens, and Frank Blair.

If we come to the United States Navy we find abundant proof of Southern prowess. Farragut, of Tennessee, was considered the hardest fighter and most successful commander, as shown by his elevation to the highest rank, that of Admiral—a rank specially created in order to honor him. Winslow, of North Carolina, was made a Rear-Admiral for sinking the Alabama. Goldsborough, of Maryland, was made a Rear-Admiral for the capture of Hatteras. Many other names of gallant Southerners will readily occur to you who are more familiar with the United States Navy than I am.

I will refer to but five points more in connection with the Civil War:

Disparity of numbers. The population of the eleven States that seceded was, in 1860, 8,710,098, of whom 3,520,840 were slaves. That of the other States and Territories was 22,733,223, giving an excess over the whole seceded population of 14,023,125, and over the white population, of 17,543,965; the excess of population being nearly double the whole population of the States in revolt, and more than three times the white population of those States. These are tremendous odds, my countrymen, and the Old South need not be ashamed of her sons who contended for four years against them.

But as the job of "suppressing the unnatural rebellion" still dragged its slow length along, 54,137

sympathetic Union men in the Rebel States joined the Federal army, and 186,017 "brothers in black" were in some way induced to enter the service. Secretary Stanton assured the world that the "colored troops fought nobly," and that without them "the life of the nation could not have been saved." There is another interesting aspect of the numerical statistics. The seceded States are supposed to have had, from first to last, seven hundred thousand men in the field, and you must admit that this is a very large number out of a population of five millions. The other belligerent had in the field from the first to last, 2,859,132, or more than four times the Confederate forces. Where did these immense hosts come from? The Southern States on the border, slave-holding States, furnished in all 301,062, and thus the entire South gave to the Union army 541,216 fighting men. From what quarter of the globe did the remaining two million three hundred thousand come?

Rosengarten, in his book, the *German Soldier*, puts down the number of Germans in the Federal army at 187,858. I don't know certainly, but I suppose that the Irish soldiers were as numerous as the German in the Federal army, for the Irish seemed to lead every attack and cover every retreat—Sumner's Bridge, Marye's Heights, Sharpsburg, Chickamauga—always fighting with the indomitable pluck of their race. I once complimented for their gallantry some Irish troops in our service, and I modestly claimed that I had Irish blood in my veins. But as I had broken up some barrels of whiskey a short time before, they would not own me, and I heard that they said: "Af the owld hapocrit had one dhrop of Irish blood in his veins, he would never have smashed whasky as he did." Then there were in the Federal army Russians,

Austrians, Hungarians, Slavs, Magyars, and Teutons alike—Scandinavians, Englishmen, Scotchmen, Frenchmen, Spaniards, Portuguese, Italians, Canadians, and the inhabitants of the far off isles of the sea. I think then that it is true that the seceded States and the border slave-holding States gave more native-born soldiers to the Union army than did the North give of her native-born sons to that army! Surely, then, General Sherman was mistaken in saying that the Civil War was a war of races, the South against the North. This is hardly fair to Farragut and Thomas and their gallant associates of the army and navy, and the half million of brave men who fought with them.

Disparity of resources. Oh! my brethren of the loyal North, do not taunt us with our poverty, when your own writer, Thomas Prentice Kettell, tells the world that the South gave $2,770,000,000 of her wealth to swell Northern profits. If that money were given back to us, we could get up a "big boom" sure enough, and become a veritable New South. As it was, we were poor in military resources in 1861. We were without mines, without factories, foundries, machine-shops, rolling-mills—without mechanical appliances of every kind. We rushed into war, not only without ships of war and trade, but without a single mill to make powder in the whole Confederacy, and without even a single machine to make percussion caps. We had been dependent upon the North for everything, even for the paper upon which the Ordinances of Secession were written, and for the ink and pens used in the writing. There never was a people on earth so destitute of all means of making war material and of supplying comforts and conveniences for those in camps and for those at home. From first to last, we had to depend largely

upon the spoils taken from the enemy with Stonewall Jackson as Quartermaster and Commissary-General. From first to last, ours was the worst fed, worst clothed and worst equipped army in the world, deficient in medical stores, in ordnance stores, in wagons, tents, shoes—even in artillery and rifles. Theirs was the best organized, the best equipped and the most pampered army in the world, with abundant commissariat, medical supplies, transportation, ordnance stores, etc.

A young rebel lieutenant who had been accustomed at home to a dram before each meal, and at frequent intervals between these three periods, was asked when the war would be over. "I am no military man," groaned he. "I know nothing of military affairs; but one thing I do know, and that is that the Confederacy has started the biggest temperance movement the world ever saw."

You all know how readily the Irish of the two armies affiliated when they came together as captors and prisoners. At the second battle of Manassas I was amused at a conversation between some Federal Irishmen and their countrymen in my division, who were in charge of them. One of the Irish prisoners complained to one of my Irishmen that he had not had anything to eat in twenty-four hours. My man replied: "And are you after complaining of such a trifle as that? Why, Pat, me boy, in the Southern Confederacy we have one male (meal) a week and three fights a day."

Confederate Navy. I wished to say a few words in regard to the Confederate navy, and I regret that I am so ignorant on this subject. I had the honor to know a few, and a few only, of our naval heroes, but these were all grand men. Among them were

Semmes, the Chevalier Bayard of the ocean; J. I. Waddell (of an illustrious North Carolina lineage), almost the peer of Semmes as a successful cruiser: M. F. Maury, the greatest benefactor to the merchant and naval marine the world has ever known; the brave W. F. Lynch, the Christian scholar and explorer; the gallant Pegram, Hunter, Alexander. I was proud before the Civil War of the fame of Tattnall, Ingraham, and Hollins, and was glad that they cast in their lot with their own people. I always regretted that I never saw your own Franklin Buchanan, the hardest fighter on our side, as Farragut, of Tennessee, was on their side. These two Southerners rose to the highest rank in their respective navies. But in that of which I know so little I do not wish, in my ignorance, to make distinctions. I have introduced the subject merely to express a long-felt opinion, viz.: that it required a higher and nobler patriotism for our sailors to leave the navy than for our soldiers to leave the army, for very obvious reasons: 1st, the flag to the sailor not only told him in foreign lands of his country, but it spoke of his far-off home, with all its endearments. It was hard for him to give up the old flag with all these sacred associations. 2d. Our army officers gave up generally subordinate positions to command regiments, brigades, divisions, and armies. The naval officers gave up fine positions on great ships of war to serve in little tubs of vessels, of which they must have been ashamed. 3d. The true sailor is a sailor and not a land-lubber. He never gets off his sea-legs on shore. Our patriotic naval officers knew certainly that the failure of our cause would drive them from the sea and compel them to seek business on land, in which they would feel as awkward as *Commodore Trunnion* on the fox-hunt. All honor to the noble men

who put country above self and self-interest. The Old South had thousands of unselfish men, but I put these in the foremost of them all.

Indebtedness of the nation to the Old South. The statesmen of the Old South were all broad-gauge men. They had fully the instincts of the Japhetic race for land-grabbing and they were eager to fulfill the prophecy in regard to the enlargement of Japhet's borders. We find, accordingly, that every inch of territory that has been added to the area belonging to the original thirteen States has been added under Southern Presidents, and all has been acquired save Alaska, during the "Era of the domination of the slave-power." When Jefferson came to the executive chair the whole Union comprised about 830,789 square miles. By wise policy and diplomacy, he won, without one drop of blood, for the paltry sum of fifteen million dollars, that vast territory out of which have been carved nine great States and six large Territories, embracing in all 1,282,005, or 415,216 square miles more than the United States possessed before his administration. That is, he doubled the area of the United States, and had this respectable slice left over. Mr. Blaine, in his recent speech at St. Louis, said in reference to this grand achievement: "In the annals of American greatness, Jefferson deserves to be ranked as the second Washington."

Monroe found a troublesome neighbor in Florida, and by the payment of five million dollars, with a few hangings by Andrew Jackson thrown in, he made loyal citizens of the United States out of the Spaniards and mongrel breeds in that territory, and enlarged the area of the Union by 58,680 square miles. Next came the annexation of Texas, under

Tyler, and the Mexican war, under Polk, which added to the Union two huge States and four huge Territories, and 855,410 square miles.

These were notoriously Southern measures, advocated by Southern statemen, and carried out by Southern Presidents, in spite of the opposition of the South-hating philanthropists. This policy enlarged our territory 2,196,095 square miles, nearly treble its area, extended the power of the government from the Atlantic to the Pacific, and gained the richest mineral, farming, and grazing grounds on the globe. With prophetic vision, Southern statesmen had seen that our country must extend to the Pacific, and from its ports carry on a trade with the populous nations of the East. Think of it, but for the Old South, a Spanish province would bound the United States on the South, and the Mississippi river, under the control of France, would bound it on the west. Compare, ye English-speaking Americans, the United States which Jefferson found with the United States which Polk left, and then you will form some conceptions of the indebtedness of the nation to the Old South.

Next came the purchase of Alaska, and the gain of 577,000 square miles of territory. By a singular providence, this acquisition was advocated by the South-hating philanthropists, and consummated by a Southern President. Southern men favored it, not that they expected to gain anything thereby, but the land-grabbing instinct was strong in them, and they knew that the wives of their neighbors in the loyal North would need furs and sealskin sacques. Thus we see, that, under Southern Presidents, the area of the United States has increased from 830,789 square miles to 3,603,884 square miles; that is, it is now

four times as big as it was. There is not a man of intelligence in the Union who does not know that this vast increase has been due to Mr. Jefferson and the Old South.

Oh! men of the loyal North, in view of what the Old South has done in quadrupling the national domain, with all of the inestimable advantages, thereof, let us cry quits and stop talking about Jeff Davis and the sour-apple tree, and talk rather of Jefferson, Monroe, Tyler, and Johnson. Probably, too, a few words might be whispered in commendation of the Old South for its Japhetic proclivities, for its gift of Washington, and a long line of statesmen and warriors, and for its donation out of its poverty, up to this date, of more than three billions of dollars to swell the wealth of the North.

Results of the War. I would place *first* of these the general diffusion of love for the Constitution of the United States. Time was when the then South-hating philanthropists denounced it as "a covenant with death and league with hell," gotten up by the slave-power in the interests of slavery. But in 1861 the philanthropists experienced a change of heart, and ever since have talked of the Constitution as that "sacred instrument," that "bulwark of freedom," that "palladium of liberty!" I am glad of their conversion, suspiciously sudden though it was, and I hope that they will never fall from grace. As a stalwart Presbyterian, I believe in the perseverance of the saints.

Second. Change of views in regard to the intellectual, moral, and social status of the negro. The philanthropists used to tell of the cruelty and brutality of slave-holders to their slaves, and said that they had reduced the negroes to the lowest state

of ignorance, barbarism, and bestiality. But in the reconstruction period the philanthropists underwent a radical change of views and discovered that these negroes, whom they had described as more savage and degraded than the barbarians on the Congo, were not merely enlightened, and civilized enough to be freemen and voters, but also to be United States Senators and Congressmen, Foreign Ministers, Consuls and Marshals, Governors of States, Judges, Members of State Cabinets, etc. I am glad that the philanthropists found out that the Old South had trained its slaves so carefully for these high and responsible duties. No other masters in the world's history ever gave such training to their slaves. The Thirteenth, Fourteenth and Fifteenth Amendments to the Constitution of the United States are the grandest possible eulogies to the Old South.

But there was one great error in this training. The simple-hearted, confiding Southern masters, always careless of their own money, did not teach their slaves to be cautious about their investments, and tens of thousands of these credulous creatures put their money in a bank in Washington, established by the philanthropists, and *lost it all*.

Third. The development of great men. I love to hear the praises of the wonderful deeds of McClellan, Grant, Meade, and Hancock, for if they were such great warriors for crushing with their massive columns the thin lines of ragged Rebels, what must be said of Lee, the two Johnstons, Beauregard, and Jackson, who held millions at bay for four years with their fragments of shadowy armies?

Pile up huge pedestals and surmount them with bronze horses and riders in bronze. All the Union monuments are eloquent of the prowess of the

ragged Rebels and their leaders. Suppose the tables had been turned, and that either of the five Southerners named above had been superior to his antagonists in all the appliances and inventions of war, and had been given, moreover, an excess of two million of men over them, how many statues, think ye, my countrymen, would there be of bronze warriors and prancing chargers?

The Congressmen from the Old South have voted liberally for all legitimate pension bills to Union Veterans, for they know what a tough job it was for the 2,859,132 Union soldiers, with their magnificent outfit, to overcome the seven hundred thousand Rebels, poorly fed, poorly clothed and poorly equipped. These pension bills are splendid tributes to the pluck, patience, perseverance, and fortitude of the chivalry of the Old South.

I love to hear the philanthropists praise Mr. Lincoln and call him the second Washington, for I remember that he was born in Kentucky, and was from first to last, as the *Atlantic Monthly* truly said, "a Southern man in all his characteristics." I love to hear them say that George H. Thomas was the stoutest fighter in the Union army, for I remember that he was born in Virginia. When the old lady of the Old South hears the eulogies upon these men she pushes back her spectacles that she may have a better view of the eulogists, and says: "These were *my* children." Then the old lady adds: "I have another son born in Kentucky, and he is not a stepson, nor did I raise him to die on a sour-apple tree."

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