In Memory of
Professor Stanley Morrison

Gift of
Peter Morrison
Class of 1953
LIVES

OF

EMINENT LAWYERS AND STATESMEN

OF THE STATE OF NEW YORK,

WITH

NOTES OF CASES TRIED BY THEM,

SPEECHES, ANECDOTES,

AND

INCIDENTS IN THEIR LIVES.

BY

L. B. PROCTOR,

AUTHOR OF "LIVES OF THE NEW YORK CHANCELLORS," "LAWYER AND CLIENT," ETC.

VOLUME II.

NEW YORK:
S. S. PELouBET & COMPANY,
LAW BOOK PUBLISHERS.
1882.
Entered according to Act of Congress, in the year 1876,

By L. B. PROCTOR,

in the office of the Librarian of Congress, at Washington.
WILLIAM L. MARCY.

Birth and Parentage.—Enters Leicester Academy in the midst of the Excitement between Jefferson and the Federalists.—Mr. Adams, the Principal, a Strong Federalist.—Young Marcy an Admirer of Jefferson.—The Debating Club.—Jefferson Attacked in it.—Marcy Defends him.—Reasons for Jefferson’s Popularity.—Interview between Dr. Adams and Marcy.—The former Demands that Marcy shall Cease Defending Jefferson in the Debating Society.—Respectful but firm Answer of Marcy.—The Expulsion.—Returns to his Parents.—Is Commended for his Firmness by them.—Enters College.—Graduates.—Removes to Troy, and Commences the Study of Law.—Admitted to the Bar.—His Professional Progress not Flattering.—Continues to Study.—Slow Increase of Business.—War with England.—Marcy Second in Command of the Troy Light Infantry.—Tenders that Company to Governor Tompkins.—Is accepted.—The Company in active Service at French Mills.—Marcy assigned to lead the Attack on Fort Saint Regis.—The March.—The Sentinels.—The Attack.—The Contest, and the Victory.—The Trophies and the Prisoners.—General Dearborn.—Marcy’s Company Attached to Colonel Pike’s Regiment.—Colonel Pike Attacks the works of the British at Le Collé.—Marcy’s Company Attacks the Indians with Slaughter.—Repulse of Pike.—Marcy’s Time of Service Expires, and he Returns to his Profession.—Finds his Clients Scattered.—His Want of Professional Industry.—His Personal Appearance at this Period.—The Troy Female Seminary.—Mr. Marcy and the Ladies.—Marcy and the Heiress.—His Friendship for her.—No Romance in the case.—Is Reported to Faculty as Paying his Address to her.—The Elopement.—The Excitement.—The Pursuit.—The Parties Found, but no Elopement.—Chagrin of the Pursuers.—Astonishment of Marcy on learning that he has Eloped.—Great Merriment.—The Lady Graduates.—Meets Marcy at Washington with her Husband Years Afterward.—The Introduction.—Marcy as a Writer.—Effect of his Writings.—Martin Van Buren and Mr. Marcy.—Is Appointed Recorder of Troy.—Opposes De Witt Clinton.—Threatened Removal from the Office of Recorder.—The Removal.—Marcy Dependent on his Profession.—Is the Author of the Celebrated Address to Bucktail Members of the Legislature.—Appointed Adjutant-General of the State.—Appointed Comptroller.—The Finances of the State.—Supports Judge Rochester for Governor against Clinton.—Who was the Author of Jackson and Van Buren’s Messages?—John Woodworth Resigns his Seat on the Bench of the Supreme Court.—Marcy Appointed in his Place.—Appointed to Hold the Lockport Oyer and Terminer for the Trial of Morgan’s Auctors.—The Trial of Colonel Jewett.—Ormanus Turner, the principal Witness against Jewett.—Refuses to Testify.—Exciting and Thrilling Scene.—The Imprisonment.—Character of Judge Marcy as a Judicial Writer.—Contrast between Burke and Marcy.—Opinion of Judge Marcy in the case of the People v. Mather.—Judge Marcy appointed United States Senator.—His Reply to Mr. Clay in Defense of Van Buren.—He Sustains Jackson in his Policy.—Marcy at Harrisburgh.—Public Honors.—Speech.—Marcy Nominated and Elected Governor.
WILLIAM L. MARCY was born at Sturbridge, now Southbridge, Worcester county, in the State of Massachusetts, December 12, 1786. He was descended from one of the oldest families in his native State. His father was Jedediah Marcy, a respectable farmer in comfortable circumstances. When William was in his fifteenth year, he was sent to an institution at Leicester, Massachusetts, known as the Adams' Academy, for the purpose of preparing for college.

At this time, the struggle between the Federalists and the Democrats or Jeffersonians was beginning to attain that point of uncompromising bitterness, which eventually rendered it memorable in the history of the nation.

Mr. Adams, the principal of the academy, notwithstanding his many virtues and his rare qualifications, was a strong and even bigoted Federalist, though honest and well-meaning; while young Marcy had inherited from his father, those strong Democratic tendencies which grew with his growth and strengthened with his years.

Thomas Jefferson was then the coming man; his simple manners, his opposition to the aristocratic tendencies of the Federal leaders, then exhibited itself "in combing his hair out of pigtail[s], discarding hair powder, wearing pantaloons instead of breeches, fastening his shoes with strings instead of elaborate buckles, and putting fine gentlemanism quite out of his heart." All this was pleasing, nay, captivating to those who preferred plain republicanism to
imitations of the court and customs of European sovereigns. To young Democracy, therefore, Jefferson, "the scholar, the philosopher, and the jurist," became a favorite and a leader; while, on the contrary, his very name was a horror to the Federalist, who represented him as an infidel to whom the Bible was repugnant and religion hateful. So terrible did his name at length become to his opponents, that many pious old ladies talked of secreting their Bibles in strong boxes, in case he was elected president, for fear he would seize them and commit them to the flames.

Dr. Adams shared liberally in this hatred to Jefferson, and he frequently prayed "in earnest wrestling," that the country might be protected from his influence.

There was a debating society connected with the academy, to which young Marcy belonged. Young as he was, he was one of the chief disputants, but the partisan sentiments of the principal prevailed in the society; Jefferson and his principles were often assailed with great bitterness. Young Marcy admired Jefferson, and he repelled these attacks single-handed and alone. The ability which he displayed in his defense began to exert an influence in the institution, and at length several of the students united with him, and the young student found himself the centre of a small, but increasing party. Dr. Adams now deemed it his duty to interfere; accordingly, he summoned young Marcy to his room, for the purpose of expostulating with him upon the course he was pursuing, in advancing and sustaining his dangerous political sentiments. To his surprise, he found the young Democrat as firm and unflinching in his presence, as he was in the debate. It was in vain that the good doctor reasoned, threatened, and cajoled. He was met with arguments which he was puzzled to answer, and which were firmly, but modestly maintained.
At length Mr. Adams saw that matters must be brought to a decided point.

"Am I to understand, then," said he, "that you are determined to openly advocate the course and the principles of that infidel, Jefferson, here in this institution?"

"If I hear him or his principles openly attacked and abused, I certainly shall defend him. If, however, you will forbid all allusion to politics, I will most cheerfully subscribe to the rule," said Marcy.

"It is my duty, sir, to expose error and wickedness in all ways and in every manner, and to teach my pupils to do the same; and therefore, I cannot es-establish such a rule," said the doctor.

"Then, sir, if you allow one class of students to discuss politics, you should give others the same privilege," said the young man.

"No, sir; not when one side proposes to advocate infidelity and all manner of evil," said the doctor.

"Who is to be the judge as to what political principles are erroneous?" asked Marcy.

"I am, sir; and to be plain, you must abandon all further public utterance of your sentiments here," was the reply.

"And if I do not obey this order, what is to be the consequence?" asked the student.

"You will be expelled from the institution, sir."

"This is bigotry and injustice, Dr. Adams, and I shall leave your institution. My father will sustain me in refusing to remain where free discussion is not tolerated—where narrow and bigoted sentiments can be advanced in the hearing of those who differ from them, and where the privilege of replying is forbidden," said Marcy.

The next day he left the academy, and returned home. He faithfully related to his father all that had occurred between himself and Dr. Adams; and both of his parents warmly commended him for the manly and independent course he had pursued. He was sent
to another institution, where more liberal principles prevailed.

At length he completed his preparatory course, and entered Brown University, at Providence, Rhode Island, where, in July, 1806, he graduated.

Having decided to enter the legal profession, he removed to Troy, New York. Here he commenced and completed his legal studies.

While a student at law he was an active politician, still adhering to the principles and policy of Jefferson. He frequently participated in political discussions, exhibiting an extensive knowledge of the political questions of the day, which rendered him a formidable antagonist and prominent as a politician.

After his call to the bar he opened an office at Troy; but as he was surrounded by old and experienced lawyers, and was wanting in those brilliant talents and those active energies which naturally attract the attention of the public, his professional success was not flattering. But he continued to pursue his legal studies with the same diligence that he did before his admission to the bar, perfecting himself in those solid acquirements which subsequently gave him his high position as a lawyer, judge and statesman.

The business with which he was entrusted was conducted promptly and with ability. The business men by whom he was surrounded began to discover in the modest and retiring young lawyer, legal abilities of a high order. He was one of those individuals, who, to be appreciated, must be thoroughly known, and, as his acquaintance extended, his business increased.

At length war with England was declared. Young Marcy was now at an age when there is a charm in a military life which is frequently irresistible. Yielding to the warlike spirit which pervaded the country, he determined to become a soldier.

At this time he held the rank of lieutenant in a light infantry company belonging to Troy, whose per-
fect drill and soldierly discipline rendered it the pride of the city. Soon after the declaration of war, young Marcy, acting for the company, tendered its service to Governor Tompkins. It was promptly accepted, and was soon at French Mills, now Fort Covington, the seat of war, on the northern frontier.

The company reached camp about the middle of September, 1812. For some time the young officer was compelled to remain in listless inactivity. At length the American commander learned that a detachment of British soldiers was stationed at St. Regis, seven miles distant. After due consultation among the officers, it was decided to make a night attack upon the enemy, and Lieutenant Marcy was assigned to take command of the attacking forces.

The night of the 23rd of October, 1812, was fixed upon as the time for the movement. Accordingly, on the evening of that day, Marcy, at the head of one hundred and seventy picked men, cautiously left the American camp and moved towards the foe. The moon went down before the troops began the march; the fitful blasts of an October night swept moaning and chilly across the St. Lawrence; amid darkness and silence, the men moved sternly on their perilous errand. So cautiously were they compelled to march, that it was midnight before they reached St. Regis. The enemy, unconscious of their approach, were wrapped in slumber, except the sentinels. The guard on the outposts were suddenly overpowered and disarmed by scouts, who sprang upon them ere their approach was discovered; and Marcy's troops moved so near the works of the enemy, that the tread of the sentinels on duty there, could be heard.

It had been ascertained that two sentinels guarded the main entrance to the fort; by overcoming these, the passage way would be free for the Americans to enter. Halting his men, the young officer, accompanied by three soldiers, crawled on their hands and knees towards the entrance. At length they reached
a point where a portion of the wall jutted out in a sharp angle but a few feet from the entrance; from this projection Marcy and his men sprang upon the sentries, and they were quickly disarmed. During this short struggle, a musket was discharged, which aroused the garrison, and brought the American troops to the assistance of their commander. In an instant the door was broken open, and the assailants rushed into the fort. The British received them with a scattering volley of musketry, and then prepared to defend themselves with the bayonet, swords and clubbed muskets. For a few moments the contest was fierce and desperate; but the superior numbers of the Americans prevailed, and the whole garrison were soon prisoners of war—the first prisoners captured in the war of 1812. Several Americans were wounded; three British soldiers were killed, and many others wounded in the attack.

The brilliant manner in which this expedition terminated, was regarded by the nation as a favorable omen for the Americans, while Marcy and his brave associates received the thanks of their commander and the plaudits of the people. A song, descriptive of the occasion, was composed, set to appropriate music, and sung throughout the country, inspiring the young men with military ardor.

Several stands of arms and a flag were captured. The latter was presented to Governor Tompkins, and it is still preserved as a relic of the war of 1812, and an evidence of the gallantry of him who captured it.

The taking of St. Regis brought Lieutenant Marcy to the notice of General Dearborn, who soon caused him and his command to be attached to Colonel Pike's regiment, then with the main army, which for a time, was encamped at Champlain.

In the month of November, 1812, Colonel Pike moved with his command against the works of the British on Le Colle river, but they were so strongly
garrisoned that he was disastrously repulsed, with considerable loss in killed and wounded.

During this attack, a body of hostile Indians, who occupied a position in a small ravine on the right of our troops, greatly annoyed them while moving to the attack. Colonel Pike ordered Lieutenant Marcy with his company to dislodge them. He obeyed, and in a few moments he gained a point from which he was enabled to open an enfilading fire on the savages, which he did so suddenly and effectually, that a deadly volley was poured upon them before they were aware of the approach of the Americans, sending them howling from their position, leaving many dead and wounded on the ground. But this successful movement did not save Pike's command from defeat, although his attack on the works was gallantly and vigorously made.

Young Marcy was advanced to the rank of captain. He continued in the service until the period for which he enlisted expired, when he returned home and resumed the practice of his profession. But during his absence his clients had sought other lawyers; his business was gone, and he was compelled to commence life anew; though many of his old clients returned to him, his professional progress was slow; though he was somewhat studious, he lacked that industry and energy which is so necessary for a young lawyer who is just commencing his practice; besides, he was never delighted with the details of office practice, and he did not relish the contests of the forum.

Those who knew him at this period, describe him as a person who was careless in his dress, whose boots were strangers to polish, whose hair, to say the least, never appeared in "Hyperion's curls," and who would be regarded by strangers as a dull and inactive person.

His office was directly opposite the female seminary of the late Miss Emma Willard. It was sur-
of veranda, to which there was a
pleasant weather, the young lawyer
was sitting, with his feet on the railing,
and the heads of the young ladies on the play-
ground were engaged in reading. Though he was
otherwise than elegant in exterior qualities which constitutes
being a ladies' man, his society was by no
means acceptable to the fair sex, especially those who
sooner than the real character, of his abilities.

He was one of the more advanced pupils of the seminary,
and his acquaintance with a lady from Massachusetts, an heiress,
and very pleasing in her manner, ac-
quaintance was all that was needed to reveal the mental powers of the future
Mr. Marcy. There was no romance in their friendship
of the heart mingled with it. Though their
attract attention, yet a rumor at length
declared Miss Willard that the lady was secretly receiv-
ing the attentions of Mr. Marcy. As such things
were strictly forbidden by the rules of the institution,
became her duty to investigate the matter, which
she did; but as she discovered nothing to confirm the
report, the matter was dismissed from her mind,
though occasionally the rumor would be repeated to
her.

One day, the young lady obtained permission to
visit Albany with some relations who had called upon
her. Some time after her departure, it occurred to
of the pupils, who had interested herself in the
extent, that, although the day was
the lawyer was not in his accustomed place.
She learned, on inquiry, that he had not been seen there that day. Her curiosity and suspicions being thus aroused, it caused her to make further inquiry, and she learned that he had accompanied the young lady and her friends to Albany. As such matters lose nothing by repetition, it was reported "that Mr. Marcy and the lady had eloped for the purpose of being married." The rumor ran like wildfire through the institution, and soon reached the ears of the faculty. The whole seminary was soon the scene of unusual excitement; then indeed "there was hurrying to and fro"—consternation was on every side. Cupid had found a lodgment within those walls dedicated to science alone; one of its fairest inmates had yielded to his witchery, and fled to the bowers of love.

The fugitives were immediately pursued. The lady and her friends were found at a hotel at Albany, quietly enjoying themselves; but, to the surprise of the pursuers, Marcy was not present; he had not even been seen by any of them that day.

It happened that shortly after the lady and her friends left Troy, Mr. Marcy, having business in Albany, proceeded to the city alone by stage. Having transacted his business, he returned at an early hour, to the surprise and astonishment of the citizens, who had learned of his elopement with the pretty heiress. His own astonishment was unbounded when he learned of the commotion which he had unconsciously caused in the seminary, especially when he learned that during the day, throughout the city, it was believed he had absconded, having a clandestine marriage in view; that he had abandoned the law for Gretna Green.

Nothing could exceed the chagrin of the pursuers, on learning how sadly they had been deceived; and for a long time the affair caused much merriment. None enjoyed the joke more than Mr. Marcy and his fair friend.

At length the lady graduated and returned to her
friends, retaining the highest esteem for the young lawyer, who she often predicted would make his way to fame. In the course of time, she married a highly respectable gentleman, who, while Mr. Marcy was in the Senate, was often at Washington. As the lady accompanied her husband, Mr. Marcy renewed his acquaintance with the Troy school girl of other days. She was now an elegant, accomplished, and fascinating woman, and he a senator in Congress, ranking with the great and illustrious of the nation.

"This is Hon. William L. Marcy, with whom I once eloped. I trust you will forgive him, as you have me, for it was only an indiscretion of our youth," said the lady, on the introduction of her husband to Mr. Marcy.

That elopement was the subject of much merriment in the society at Washington in those days.

The business of Mr. Marcy gradually increased until he attained a very respectable and remunerative practice. Though not a brilliant advocate, he was a strong and an effective speaker at the bar. There was a steady firmness in his arguments founded upon previous deliberations, a well poised judgment, forcible and to the point—sustained and enriched by a perfect and systematic knowledge of the law.

One of his distinguishing qualities was his power as a writer; few men wielded a more vigorous pen than he. His intellect was fertile, his reading extensive, his powers of analysis were strong, and he possessed an intellectual magazine which furnished every material for the pen of a ready writer.

A series of articles published by him over the signature of Vindex, attracted the attention and gained the admiration of the public. He strongly sustained the administration of Governor Tompkins, and the measures of the Democratic party. The intuitive force of these articles—the skill with which facts, circumstances, and arguments were marshaled in them,
caused the public to suppose that "Vindex" was some gifted and experienced statesman.

While William L. Marcy was thus sustaining Mr. Tompkins in the east, the pen of John C. Spencer was another powerful supporter of his administration in the west.

Mr. Marcy's versatile abilities as a writer—the influence of his articles with the public, created a desire on the part of his friends to promote him to some official position; accordingly, he was appointed recorder of the city of Troy.

At this period, Martin Van Buren was just entering on that splendid sphere of political action and influence through which he attained the chief magistracy of the nation. His judicious and penetrating mind early perceived that Marcy's abilities would be no ordinary support to the Democratic party, and to him, as one of its leaders; he therefore took an early opportunity of making the acquaintance of the young lawyer. This acquaintance soon ripened into an intimacy which continued through life.

With Mr. Van Buren, Marcy, in 1817, reluctantly supported De Witt Clinton for governor. He had not yet attained that caution—that wary skill—that subtle policy which constitutes the successful politician, and, dissatisfied with the administration of Governor Clinton, he openly proclaimed his sentiments and his friendship for Mr. Van Buren. This conduct, in the winter of 1818, nearly caused his removal from the office of recorder. But the threatened removal, however, did not abate his zeal for his friend, or his hostility to Clinton; the same indomitable adherence to his principles which caused his expulsion from the academy at Leicester, resulted at length in his removal from the office of recorder. This was one of the earliest cases of political proscription known in the political history of the State.

His removal from office now compelled Mr. Marcy to rely solely upon his profession for a livelihood.
But his mind was fascinated by the detail of politics, and he could not emancipate himself from the demands which his party made upon him. In 1819–20, in the endeavors of Mr. Van Buren and his compères to remove Mr. Clinton from the Republican party, the talents of Mr. Marcy were exceedingly useful to his political friends, and he became one of the leading politicians of the State. The opponents of Mr. Clinton in the State having, in 1819, organized under the name of the Bucktail party, Mr. Marcy wrote the celebrated address of the members of that party in the Legislature. Few political documents of that character bear the indubitable evidence of ability and research of that remarkable paper. Its dignified diction, its keen, subtle criticism of Mr. Clinton's measures, its apparently disinterested surrender of all personal advantage or ambition in the proposed ostracism of Clinton and his friends, with few of those mercenary opinions which often characterize such productions, did not fail to exert a powerful influence which nothing but the high popularity of Mr. Clinton could have withstood.

This address was soon followed by a pamphlet entitled "Considerations in Favor of the Appointment of Rufus King to the Senate of the United States;" which was equally as powerful as his legislative address, though not so adroitly written.

At the extra session of the Legislature of 1820, held in November of that year, a Republican Council of Appointment was elected. One of the first acts of this body, after its organization, was the appointment of Mr. Marcy to the office of adjutant-general of the State.

The duties of this office, entirely ministerial in their character, were performed with the most scrupulous exactness and promptitude, but they gave him no opportunity to distinguish himself.

In his efforts to procure the passage of the act authorizing a Convention to revise the Constitution, the abilities of William L. Marcy again exhibited them-
selves, and his influence aided in the final passage of the act. After the adoption of the new Constitution, in the year 1823, John Savage, then comptroller of the State, was appointed chief justice of the Supreme Court. This left the office of comptroller vacant, and Mr. Marcy was brought forward, in the caucus of the Republican members of the Legislature, as a proper person to fill that vacancy. But though warmly and even bitterly opposed by Samuel Young, John Cramer and others, who preferred General Talmadge, yet, through the influence of Mr. Van Buren and Governor Yates, Mr. Marcy was nominated by a large majority. On receiving the appointment of comptroller, he removed to Albany.

"The office of comptroller, always an important one, had now become particularly so in consequence of the large expenditures on the Erie and Champlain canal, and the increase of the State debt. The business capacity of the new comptroller was put to the severest test, but so faithfully and skillfully were his duties discharged that no opposition was offered to his reappointment in the winter of 1826. He found the finances of the State in a prosperous condition, and it was no fault of his if they were less so when he surrendered the office into other hands. He introduced many improvements in collecting and disbursing the public funds, and the State is indebted to him for the present admirable system of tolls, and disbursing them."

While comptroller, Mr. Marcy became identified with the "Albany Regency," which for many years controlled the Democratic party of the State. In the exciting political events of 1824–26, he distinguished himself for his activity. In 1824 he sustained Mr. Crawford for president, and in 1826 he gave his influence in favor of Judge Rochester for governor, against De Witt Clinton.

In 1828, he was one of those who aided in the nomination and election of General Jackson to the pres-
idency of the United States, and as a consequence gave Mr. Van Buren great ascendency in the political affairs of the State of New York.

One of the complaints made against President Jackson was, that he did not possess sufficient learning and ability to write his own messages; that the dignified and able State papers which were nominally the work of General Jackson, were really written by Mr. Van Buren; and a certain member of Congress, now no more, made the statement that he had examined the original manuscript of his first annual message, and that it was in the handwriting of Mr. Van Buren. What is still more singular, when the administration of Jackson had passed away, and Mr. Van Buren occupied the presidential chair, the serious charge was made against him that he had not ability sufficient to write his messages, and that they were written by a distinguished member of his cabinet; that some of his state documents were written by Mr. Marcy. There were few abler writers in the State than Mr. Marcy, and perhaps from this fact it was supposed that he was the author of some of those brilliant and able documents that were issued during the exciting and memorable discussion of the affairs of the United States Bank.

In December, 1828, Judge Woodworth resigned his seat upon the bench of the Supreme Court, where he had served with credit and ability since January, 1819. Judge Woodworth was a resident of Albany, and at the time of his appointment was one of the leading lawyers of the Albany bar, eminent for his learning and skill as a lawyer. Distinguished for his profundity and judicial accomplishments, he was one of those who gave to the old Supreme Court that eminence which commanded the respect of the nation. Those who knew him best were surprised that a lawyer of his commanding position did not receive the nomination for chief justice.

On the 16th of January, 1829, Mr. Marcy was
nominated by Governor Van Buren an associate justice of the Supreme Court. He was duly confirmed, and immediately entered upon the duties of his office. His appointment was exceedingly satisfactory to the bar of the State, which entertained the highest respect for his qualifications as a judicial officer. “He possessed a highly philosophic mind, united with the most ample stores of history and jurisprudence. His reflective powers predominated, and to a stranger, as well as to those who knew him intimately, he had the appearance of a man in deep thought. With inflexible honesty, he united an impartiality which rose above every influence and adjusted to all occasions. There was nothing either affected or repulsive about him; and if ever a man existed who would more than any other have scorned the pitiful fopperies which disfigure the worth of Cato, or shrunk from the harsher virtues of Brutus, it was he.”

Soon after his appointment, he was directed by the governor to preside at a Special Oyer and Terminer, held at Lockport for the trial of the alleged murderers of William Morgan. Prominent among those who were charged with complicity in that mysterious affair, was Colonel Ezekiel Jewett, the commander of Fort Niagara, when Morgan was confined in it. At the period when the trial occurred Anti-Masonry had become one of the elements in the politics of the State. This, of course, rendered the position of the presiding judge one of great delicacy and difficulty. But although a politician from his childhood, and up to the period of his appointment to the high judicial position which he then occupied, ardently engaged in promoting the prosperity of one of the great parties in the State, yet few men were better qualified to hold the balance between political excitement and the inflexibility of the laws than he.

When Colonel Jewett came to the bar for trial, there was one individual who knew, or was supposed to know, the full extent of his guilt. This was Orsa-
mus Turner. He was duly subpoenaed as a witness, and amid the most profound and breathless silence he took the stand; the vast audience assembled believed the hour had come when the fate of William Morgan was to be revealed to the world, and his murderers punished by those laws which they had so fearfully outraged.

John C. Spencer, who had labored with untiring zeal—had devoted the strength of his mighty intellect to the task of unmasking this great offense—but as yet with little effect, now believed that his hour of triumph had come. With calm emphasis the witness answered the preliminary questions which were put to him. But when the inquiry touching the guilt of the accused was propounded, a paleness overspread his features, with a rigid determination his lips closed, a look of unflinching obstinacy shot from his eyes, and no further answer could be extorted from him. The silence of the witness gave a deep and painful interest to the scene—an interest which almost suspended the respiration of many in the court-room, producing those emotions which are always experienced while watching a person who is known to be in the act of bringing upon himself some fearful doom, and who is calmly and deliberately awaiting his fate.

Presently the almost smothering silence was broken by the deep voice of the judge saying, in a voice and tone which none but William L. Marcy could assume,

"Witness, are you aware of the consequences of your refusal to answer?"

"I am," was the firm reply.

"Witness, it is not only upon you but upon society, that the evil consequence will flow from your refusal; and once more the court will give you an opportunity of saving yourself from the consequences of your rash obstinacy."

The question was repeated by Mr. Spencer. The faint flush which overspread the face of Turner as the question fell upon his ears, was the only response to
the question. Another momentous silence followed. It was momentary, however, just long enough to indicate that the witness did not intend to answer.

"Sheriff," said the judge, "convey the witness to the common jail, keep him in solitary confinement until you are directed to discharge him by the court."

That officer approached with his assistants, and through the densely crowded room, Orsamus Turner was conveyed to the dungeons of Lockport jail. Long and weary was his confinement, but with that confinement his obstinacy increased, and as he never answered, the fate of Morgan was never revealed, but by uncertain rumors; and if murdered, his assassins escaped the punishment due their crime, leaving them to answer that dread Being who has said, "Thou shalt not kill."

The chief distinguishing feature in the character of Judge Marcy, was his ability as a judicial writer. The late David Woodcock, of Ithaca, a distinguished lawyer, and an eminent representative in Congress, once remarked, that "William L. Marcy's style as a legal writer is not excelled by any judge in America; that what was more commendable in him, he did not lose sight of the substance, in the style." Perhaps there may have been deeper and closer reasoners, but there have been few who threw more light upon the point they sought to illustrate—few who could render the point they sought to establish more distinct.

The language of Marcy, like that of Burke, was calculated to make men think. "Chatham could rouse the fancy of the multitude and wield their physical energy as he pleased; while Burke carried conviction into the retired and lonely student." Here, perhaps the analogy ends between Burke and Marcy, for the power "which governed the mind of the former was imagination," while Marcy was wanting in imagination and fancy. But he united
the two extremes of refinement and strength; his writings were confined to the themes of wise lawgivers, reasons of the law, and those considerations which relate to the civilian and legislator.

It was Judge Marcy's fortune to pronounce the opinion of the court in the great case of the People v. Mather, reported in 4 Wend. 229. This was another case growing out of the abduction of Morgan. Mather was tried as one of the abductors of Morgan, at the Orleans circuit, in November, 1828, before Hon. Addison Gardner. After a very protracted trial, he was pronounced not guilty by the jury, and the special public prosecutor moved for a new trial, on the grounds of the misdirection of Judge Gardner. Whether a new trial could be awarded in a criminal case for the misdirection of the court where there has been an acquittal was then unsettled; nor was it settled in that case, although the court went so far as to say that "if the power exists at all, it will not be exercised unless it is reasonable to infer that the acquittal was induced by such misdirections." Though many of the points in this case were reviewed in the elaborate opinion of Judge Woodworth in the case of the People v. Vermilyea, yet very many new, and until then, unsettled doctrines were considered and decided by Judge Marcy in the People v. Mather, which renders his opinion in that case one of the ablest in our reports.

On the trial of this case, one William Daniels was asked by the public prosecutor whether, on the 13th of September, 1826, he was at the house of Solomon H. Wright, in New Fane? The witness declined to answer, on the ground that the answer might implicate him in the transaction. Mr. Spencer contended that, as the abduction took place in September, 1826, and the statute of limitations had attached, therefore, as the answer of the witness could not criminate him, he was bound to answer. The defense insisted that if the answer tended to the infamy of the witness, he
was excused from answering. Judge Gardner decided that the witness was not compelled to answer, and to this ruling of the judge an exception was taken. The Supreme Court affirmed the decision of Judge Gardner on this question, declaring, through Judge Marcy, that where the direct answer to a question will disgrace a witness and fix a stain of infamy upon his character, he is not bound to answer; that it is not enough, however, for the witness to allege that his answer will have a tendency to expose him to disgrace and infamy. The question must be such that the answer to it, which he may be required by the obligation of his oath to give, will directly show his infamy, and the court will see that such must be the case, before they will allow the excuse to prevail.

In considering the offense of accessories to a murder, before and after the fact, Judge Marcy said:

"The mysterious obscurity which hangs over the termination of this affair, justifies a well-founded suspicion that Morgan came to an untimely end."

This case also decides what constitutes the crime of conspiracy, and who may be made co-conspirators—where the venue may be laid in the case of conspiracy—what constitutes a challenge to a juror for principal cause—and what constitutes a proper challenge as to favor—and the exclusion of jurors for an expression of an opinion—when the facts on which a challenge rests are disputed, what course to be taken.

Judge Marcy's comments upon leading questions would alone repay a perusal of the case. Upon these and many other questions, the comments of the judge are eminently learned and interesting.

As has been stated, the jury found a verdict of not guilty, and the indictment and other proceedings were brought into the Supreme Court by Mr. Spencer on a motion for a new trial, for errors in the charge of the judge; but a new trial was denied, and the defendant fully acquitted.

Judge Marcy continued upon the bench until the
4th of March, 1831, when he received the nomination for United States senator in a legislative caucus held on the evening of that day. To the great regret of the bar of the State, as well as his associate judges, he decided to accept the senatorship, and, therefore, resigned the position of judge of the Supreme Court. With the opening of Congress in December, 1831, he entered the United States senate as one of its members. That his eminent abilities as a statesman were properly appreciated at Washington, is sufficiently shown by his being appointed chairman of the Judiciary Committee, a position which conferred upon him the highest honors, and, at the same time, great responsibilities.

Hardly had he taken his seat in the Senate, when Mr. Van Buren and his friends were attacked by Mr. Clay with that energy—that inimitable eloquence which always electrified those who listened to him. In the remarkable speech which he delivered on this subject, he charged Mr. Van Buren and his friends with being the first who brought party proscription into national politics. Van Buren was then minister to the court of St. James. Older and more experienced senators, whose duty it was to defend the absent minister, remained silent. William L. Marcy, however, was not the man to listen tamely to the attack on an absent friend. No matter who launched the thunderbolt, no matter how proud or lofty was the Senatorial record, nor how impressive the eloquence of him who made the attack, he boldly came to the rescue, and his maiden speech in the Senate was in answer to Henry Clay's aspersions upon Van Buren. The two speeches that he delivered on this occasion fully sustained the high reputation which had preceded him to Washington. They were distinguished for great dignity, strength and singleness. Some portions of those speeches would compare with those of Burke, Pitt and Canning.

The next effort which Mr. Marcy made on the floor
of the Senate was his celebrated answer to Mr. Webster's speech on the apportionment bill. It did much to elevate him in the estimation of his constituents, while it gained him the respect of his political opponents.

One of the questions of that day was the tariff; this claimed much of Mr. Marcy's attention, and although he has been represented as entertaining other views of it than those which would tend to the advantage of his party, yet no one can read his speeches on that question, delivered while in the Senate, without being impressed with the patriotic impulses which stimulated him.

He sustained General Jackson on the great question of the United States Bank, and voted against its re-charter. On account of his influence in New York, the veto message was strongly sustained by the people; for no man in the State, at this time, had a stronger hold on the confidence of the people than William L. Marcy.

When General Jackson vetoed the bill providing for the improvement of harbors and rivers, known as the Mayville veto, Mr. Marcy sustained him. Among the improvements which the bill provided for, was "the removal of obstructions from the Hudson river, near Albany." This measure was strongly urged by the people of Albany, his own particular friends, and, therefore, he had a direct personal interest in the passage of the bill; but, as he believed its general features to be dangerous, he emancipated himself at once from all personal interest, and threw his influence against it—a sacrifice which at this period is never made.

In July, 1832, he accepted an invitation from the citizens of Harrisburgh to partake of a public dinner in that city. The occasion was one which will long be remembered. Public honors awaited him there, seldom tendered to any individual. In reply to a sentiment offered by a distinguished statesman of
Pennsylvania, in alluding to the brilliant reception which had awaited him, he said:

"Deeply penetrated by the flattering sentiment which you have just uttered, and impressed with the marks of public favor which I have received since my arrival in your city, still I have not the vanity to suppose that they are intended for any other purpose than testifying the respect in which your citizens hold the great State which I have the honor to represent in the Senate of the United States. Through me the great Commonwealth of Pennsylvania speaks to the Empire State. If I should fail to be proud of my position under these circumstances, I should justly be chargeable with that apathy which would render me unworthy to be the representative of that great State."

"Enos T. Throop was now governor of the State; his official term was drawing to a close, and it was well understood that he declined a renomination. Judge Marcy was therefore already nominated for governor by the spontaneous voice of the people, and his nomination by the Herkimer convention in the following September, was but a ratification of his popular nomination."

At this period, political Anti-Masonry had arisen to a power in the State, which enabled it to contend with great confidence for supremacy over the Democratic party. Its standard-bearers were Francis Granger and Samuel Stevens; the former was nominated for governor, and the latter for lieutenant-governor.

Many circumstances tended to render this canvass warm and exciting; prominent among the questions which entered into it, was that of the United States Bank. But the Democratic party were now on that tide of success which, through so many years, gave it victory; and Mr. Marcy was elected. Resigning his seat in the Senate, he entered upon the discharge of his duties as governor. "His first message, as a literary
production, called forth commendation from every quarter, as indeed, was anticipated by those who knew how powerful and practical was the pen he wielded. The financial policy of the State was, as it had been for several years, the great subject of interest, and it had a deserved prominence in the message.” Liberal quotations from it were made by the press in all parts of the nation, and it commanded the respect of the statesman, the scholar, and the man of business.

The great questions of State policy that divided the public mind, and which fell within the purview of the executive, were met and disposed of with that native independence of character, that promptitude, decision, and ability which showed that he and no one else was governor.

So acceptable was his administration to the Democratic party, that he was again its nominee in the canvass of 1834. John Tracy, of Chenango, was nominated for lieutenant-governor. Few men have been more popular with their party, few have enjoyed in a larger degree, the confidence and regard of the people, than Mr. Tracy. Through a long series of years, he was honored by many exalted and responsible positions, and though a strong, uncompromising partizan, yet he passed through party collisions with such singular moderation, such unwavering devotion to rectitude of purpose, that he gained the esteem of political opponents as well as political friends.

Anti-Masonry had now become a thing of the past; it had subserved its purpose; it had brought forward names that were to live forever on the historic page; and it was now merged in the Whig party—a party which, whatever were its perfections or imperfections, formed for itself a record bright with the names of illustrious statesmen, who, in sustaining it, enriched the annals of the nation with the loftiest patriotism—with all that is attractive in learning and all that is brilliant in eloquence and oratory.

Mr. Seward received the nomination for governor,
and Silas M. Stillwell for lieutenant-governor, from the Whigs of New York, and they became the opposing candidates to Messrs. Marcy and Tracy. The latter were again elected.

The governor's next message to the Legislature was characterized by the strong and urgent manner in which it recommended the enlargement of the Erie canal, which it denominated the backbone of the canal system of the State. He insisted that the enlargement should be carried on with sufficient rapidity to exhaust the surplus revenues arising from the canal tolls. The Legislature, coinciding with these views, passed an act in conformity to them. The banking interest, which had now become a delicate and important question, fraught with many difficulties, received the attention of the governor in this message. He discussed the great question of the finances with the force, clearness and ability of a Huskisson. The State of New York—the Union itself—has furnished few if any men who understood and comprehended the financial questions of their day as thoroughly as did William L. Marcy and Silas Wright. Neither of them were distinguished for grace of oratory, though it cannot be said that they were not consummate debaters; and the latter, although he generally confined his remarks to the questions of commerce and finance, always gained the attention of the Senate.

In the month of September, 1834, George Thompson, a distinguished abolition lecturer, landed in the city of New York from England. His mission was to aid in the establishment of those abolition societies which began to exhibit themselves during Mr. Marcy's second administration. The riots and disturbances which succeeded their establishment mark an unusual era in the history of New York city. Thirty-two years passed away, and the principles which were contended for in those societies, and which then doomed all their members to the lawless vengeance of a mob, came to such importance that they rocked
the nation from center to circumference, and amid fearful convulsions the institution of slavery fell to rise no more.

On the 4th of September, 1834, Mr. Marcy presided at an immense meeting, held at Albany, "attended by the most venerable and distinguished men of both political parties," at which resolutions were adopted, declaring that the movements of the abolitionists were incendiary and threatened to disturb the public peace, and therefore ought to be frowned upon by all sincere friends of the Union. What a change from 1834 to 1865!

The speculating mania, which for several years had been increasing with unprecedented rapidity, had now reached its culminating point. Embarrassing as it was to his party, and to his administration, he grappled with all the questions growing out of the troubles, and led his party triumphantly through all difficulties, though his course lay between Scylla and Charybdis; and his second administration closed in a blaze of popularity, which led to his third nomination in 1836, without a dissenting voice. Mr. Tracy again received the nomination for lieutenant-governor. The late Jesse Buell and Gamaliel H. Barstow were the opposing candidates. The star of the Democratic party was still in the ascendant. Marcy and Tracy were again elected by an increased majority. This year, Martin Van Buren was elected president of the United States, and thus the early friends were now one of them the chief magistrate of the State, the other the chief magistrate of the United States.

With the administration of Mr. Van Buren, dark and threatening clouds began to lower around the Democratic party. The independent treasury question, which brought calamity upon that administration, was shared by Mr. Marcy's, and his third official term closed amid an impending storm. But such was the unflinching trust which the Democracy reposed in
him that, in 1838, he was again put in nomination for governor.

The Whigs this year nominated Mr. Seward for governor, and Luther Bradish for lieutenant-governor. Again he was compelled to confront the coming man of the State, and he was doomed to defeat. Mr. Seward and Bradish were elected by over ten thousand majority, and from that era the star of the former was in the ascendant. Gradually it led him from one degree of greatness to another, until, as the premier in the cabinet of Lincoln, during a civil war of unparalleled magnitude, he became known to the world as the most accomplished diplomatist of the age.

With the expiration of his term of office Governor Marcy retired to private life. He had filled the executive chair of the State, six years in succession, with such distinguished ability, that he carried into retirement the respect of all parties. But his retirement was of short duration. Martin Van Buren could not be forgetful of one who had so powerfully aided in his advancement to a position which was hereafter to render his name memorable in history, and he appointed him one of the commissioners to decide upon the claims against the government of Mexico under the Convention of 1839. This was a highly responsible position, compelling Mr. Marcy to reside at Washington until his powers as commissioner expired, which event occurred in 1842. From that period his residence was at Albany until the day of his death.

In September, 1843, he presided at the Democratic State Convention, held at Syracuse, for the purpose of choosing delegates to the National Convention, then soon to be held. His first choice for president was, of course, Martin Van Buren; but he gave a warm adherence to Mr. Polk, and used his influence in causing the State of New York to cast its vote for him.

At the State convention, called for nominating a
State ticket, he strongly urged the name of Silas Wright for governor.

The election of 1844 terminated so disastrously to the Whig party, that many believed it would never again assemble its scattered hosts. James K. Polk, the president elect, some time previous to his assuming the presidential chair, signified his appreciation of Mr. Marcy's abilities by tendering him the position of secretary of war in his cabinet. He accepted the offer, and entered upon the discharge of the duties of his new position.

As has been well said, "a cabinet appointment is not often a position calculated to add to the reputation of an individual who holds it, as its honors and responsibilities are shared among a number, or monopolized by the head of the administration."

This may be so in times of profound peace, or where the cabinet officers possesses no more than medium abilities. But in turbulent times—in times when the energies and abilities are taxed to the uttermost, then the head of a responsible department, if he has the ability, must distinguish himself.

This was the case with Mr. Marcy as secretary of war. The Mexican war demanded a man of practical ability and sagacity, a statesman of experience and energy. Mr. Polk found in Governor Marcy all these requisites—found in him qualities which gave success to our arms and shed a luster on the administration. The dispatches, orders, and instructions of which he was the author during that war, afford the most indubitable evidence of his accomplishments as a minister of state.

While secretary of war, he became involved in a controversy with Generals Scott and Taylor. These illustrious chieftains conceived the idea, that as they were opposed to him in politics, he naturally regarded the brilliant fame which they were gaining, with jealousy, fearing that it would lead to the advancement of the rival party; and they publicly
charged Mr. Marcy with using his official powers to embarrass and retard their military operations. So openly and persistently were these charges made, that he found it necessary to defend himself against them, and he replied with that dignity, force, and reason, which silenced all censure, and relieved him from the serious charges brought against him.

With the close of Mr. Polk's administration, he retired again to private life, where he remained through Mr. Fillmore's administration. The election of 1852 resulted in the triumph of the Democratic party, and the election of Franklin Pierce, president of the United States. This result again summoned William L. Marcy from his retreat, and he became premier of the new administration. With abilities enlarged and strengthened by varied and extensive experience as a statesman, he took his place at the head of Mr. Pierce's cabinet. Here he exercised all the powerful energies of his character, his profound knowledge of all diplomatic relations, and he became the rock of the new administration.

During the administration of Mr. Pierce, an event occurred which greatly distinguished Mr. Marcy as a diplomatist at home and abroad.

"On the 22nd day of June, 1853, Captain N. D. Ingraham, in command of the United States sloop of war St. Louis, arrived at Smyrna, and while at anchor he was informed by the American consul that Martin Kosta, a Hungarian by birth, but entitled to the protection of the United States, was a prisoner on board the Austrian brig of war Hussar, then lying near the St. Louis. Captain Ingraham immediately went on board the Hussar, had an interview with Kosta, and learned that he had resided a year and eleven months in New York, where he took the usual oath of allegiance to the United States, in July, 1852, and was in possession of a legalized copy of a declaration which he made of becoming an American citizen; he had come to Smyrna on business, intending to return;
that on the 21st of June, while seated on the Marina, he was seized by a party of armed Greeks, employed by the Austrian consul general, thrust into a boat, and carried on board the Hussar, where he was held in close confinement. Captain Ingraham immediately addressed a note on the subject to Mr. Brown, charge d'affaires of the United States, at Constantinople, who officially expressed the opinion that the discharge of Kosta should be demanded.

"Captain Ingraham accordingly, on the 2nd day of July, at eight o'clock, A. M., demanded of the Austrian commander, the release of Kosta by four o'clock P. M., declaring that he would otherwise take him by force. At this time a steamer was lying near the Hussar, ready to convey the prisoner to Trieste. At eleven o'clock, the Austrian consul general proposed, under protest, to deliver Kosta to the French consul, subject to the disposition of the consuls of the United States and Austria, and not to be delivered without their joint order; in the agreement drawn up, the ministers of the United States and Austria, the consuls of the two powers, were to give the assent to the delivery of Kosta. As this proposition was a sufficient assurance of the personal safety of Kosta, Captain Ingraham accepted it, and the Hungarian was soon set at liberty and returned to the United States."

This affair caused great sensation in Europe and in America. The Austrian government deemed it a high-handed and unwarranted act on the part of Captain Ingraham, and a correspondence on the subject ensued between Mr. Hulsmann, charge d'affaires of Austria, and Mr. Marcy, in which the matter was elaborately discussed. This correspondence was eagerly read throughout the civilized world. The questions involved were in a measure new, and more or less affected all governments who recognized the laws of nations. It proved Mr. Marcy an accomplished statesman and diplomatic correspondent.
The conduct of Captain Ingraham was fully sustained and approved by the United States government, and in August, 1854, Congress voted him a gold medal.

In March, 1857, at the close of Mr. Pierce's administration, Mr. Marcy again retired to private life, never again to be oppressed with the cares of state or burdened with official duties. He now entered upon a life congenial to his taste and his age, and for which he had long been anxious to resign the cares of office, and all that worldly ambition can give. With books—with his chosen companions, in the pleasures of intellectual conversation, his days passed pleasantly by. Mr. Marcy was a lover of the great poets of England. Among these his particular favorites were Thomson, Cowper and Gray. His imagination was captivated by the former. His heart inclined him to the kind and benevolent emotions which flow so copiously from the poems of Cowper; the touching tenderness and beautiful sentiment of Gray were always pleasing to him; and his splendid, truthful and lively Elegy was a lifelong companion for him. These authors relieved and refreshed his mind amid the cares of state. They rendered his retirement bright and flowery, shedding upon it the "ethereal mildness" which caused his days to pass in tranquillity and peace.

On the 4th of August, 1857, Mr. Marcy retired to his library as usual. An hour and a half passed away, when a friend called to see him. He was directed to the library, where, as a sort of privileged person, this friend often conversed with the statesman. He knocked at the door. Receiving no answer, he presumed upon his privilege and entered. Mr. Marcy lay apparently asleep upon a sofa, with a book open and turned down upon his breast. His features were calm and peaceful; but a second look revealed something unnatural in the general appearance of the face. He approached nearer, laid his hand upon his forehead, and he felt the cold, clammy presence of death.
The form—all that was left of William L. Marcy—was before him, but the spirit had fled.

There, in the silence of his study, without a struggle, he calmly left the world. On removing the book from his breast, it proved to be his favorite poem, the Elegy of Gray—that poem, which, in departed years, had been his solace and delight, was the last object on which his eyes rested ere they closed forever. Thus, four months to a day, from the time he retired from the cares of state, he died.

All who knew him concur in one uniform testimony to the purity of his morals, the sobriety and temperance of his habits, and the generous warmth and tenderness of his affections. With no habits of luxurious expense or ostentation, and addicted neither to the pleasures of the table or fashionable amusement, his home was the scene of happiness, often interrupted by his various offices, yet still he had a home wherever he was, for he was admirably fitted for domestic life.

"Governor Marcy was twice married. His first wife was Miss Newell, a descendant of one of the early settlers of Sturbridge; his second wife was a daughter of the late Benjamin Knower, formerly treasurer of the State; and for a long time one of the most active and influential politicians belonging to the Democratic party in the city of Albany.

"As a private citizen, Mr. Marcy was always held in high esteem for his good example in the fulfillment of social and religious duties. The Albany Academy, and the Albany Female Seminary, were much indebted to him for assistance as a patron, or counsel and advice as a trustee.

"In person, he was about the ordinary height; his frame was stout and muscular, but not gross; his forehead bold and full; his eyebrows heavy, his eyes deep set and expressive; his mouth and chin firmly molded; his manners were affable and courteous; free from pretense, yet dignified."
Through his whole life, he regarded the Christian religion with veneration and respect—a respect founded on an earnest conviction of the truth of the evidence and doctrines of Christianity, resulting from the frequent perusal of the scriptures.
EVERT VAN BUREN.

Born in Columbia County, New York.—His Father.—Enters the Office of J. & A. Vanderpoel, as a Law Student.—Commences his Practice at Penn Yan, New York.—The Yates Bar.—Mark H. Sibley.—Dudley Marvin.—Van Buren's Early Practice.—His Success.—Removes to Buffalo.—Speculation in Buffalo in 1833.—Benjamin Rathbun.—His Trial for Forgery.—Van Buren one of his Counsel.—Rathbun's Conviction.—Scene of his Leaving for Prison.—Van Buren Returns to Penn Yan.—His Success at the Bar.—The Divorce Suit.—Case at Bath.—The Trial before the Magistrate.—R. W. Morrison opposes him.—Van Buren in Danger of Defeat.—Morrison Charged with Blasphemy and the Tables Turned.—Amusing Scene.—Van Buren a Candidate for Senator against William H. Seward.—Van Buren Defeated.—William H. Maynard.—Albert H. Tracy.—The Election of 1832.—William Wirt.—The Baltimore Convention.—The Election of 1835.—Van Buren as a Public Speaker.—Aids the Whigs.—Public Discussion between him and Mark H. Sibley.—Singular turn of the Discussion.—Van Buren Removes to Chicago.—Elected Recorder of that City.—Amusing Anecdote.—General Characteristics.

Evert Van Buren was born at Kinderhook, in the county of Columbia, N. Y., November 3rd, 1803. He was the son of Barnet Van Buren, a reputable citizen, and a prominent politician of Columbia county, representing it at the Assembly of this State in the session of 1819. Jacob Rutsen Van Rensselaer was one of his colleagues in this body. Evert having finished his education, entered the office of J. and A. Vanderpoel, then a distinguished law firm at Kinderhook, where he prepared for his admission to the bar. James Vanderpoel subsequently removed to Albany, became prominent in the politics of the State, and at length was appointed one of the circuit judges, discharging his duties with ability and fidelity. In him, the politician was lost in the judge. Aaron Vanderpoel removed to New York, and was appointed judge of the Superior Court of that city.
Mr. Van Buren was called to the bar in March, 1827, and immediately commenced the practice of his profession in the village where he studied.

He continued here however, but one year, when he removed to Penn Yan, opened an office, and commenced practice. He soon took a prominent position at the Yates county bar; although at that time, John C. Spencer, Mark H. Sibley, Dudley Marvin and other distinguished lawyers often appeared there, and thus Mr. Van Buren was obliged to enter the lists at once with antagonists of renown and experience.

It was a custom of the ancient gladiators, while training a young man for the arena, to compel him at once to grapple with formidable adversaries, in order to develop his strength and render him self-reliant. Thus Mr. Van Buren, by early collisions with distinguished lawyers, rapidly gained confidence in his own abilities, while his intellectual powers were developed and strengthened. His practice extended into the surrounding counties, and he soon acquired the confidence of the public, and controlled a substantial law business.

In the year 1886, Buffalo became the theater of a speculative mania, the history of which now seems almost fabulous. Immense fortunes were made in a single day. Men who really were not worth a dollar, boasted of their hundreds of thousands, and talked of their immense real estate transactions, as though such things had been the business of their lives. City lots passed from purchaser to purchaser, their value accelerating with every change, until their price almost exceeded computation. This state of affairs greatly increased legal business, and attracted many lawyers to this Golconda, among whom was Mr. Van Buren, who in the summer of 1886, made Buffalo his home. Having often been engaged there in various legal matters, he was fortunate in making the acquaintance of several leading business
concerns in the city; and he entered at once into a large and extensive practice.

Among those who experienced all the vicissitudes of that day, many of which had almost dramatic interest, was Benjamin Rathbun. This man, who possessed a gigantic business intellect, united with many amiable and high-toned qualities, carried away by the wild speculation which surrounded him, entered into operations too vast, if not for his intellect, for his means; and finding himself amid a sea of embarrassments, sought to aid himself by stupendous forgeries, the discovery of which astounded the public, while it brought ruin and degradation upon himself. So elevated had been his character, such his liberality and honesty with those in his employ— with all the business public to whom his affairs extended—that upon his arrest there was a deep and open expression of sympathy for him, never before witnessed in a case where the evidence of guilt was so palpable. Such, however, was the nature of his forgeries, that they admitted of a strong defense, which was seized upon, and he prepared to defend himself with earnestness and determination, and a remarkable legal contest ensued, the like of which was never before witnessed in Buffalo.

In this defense Mr. Van Buren was retained with others, and he took a distinguished part in that celebrated trial, and in discussing before the Supreme Court in banc those nice and abstruse legal questions which grew out of the trial. Rathbun was convicted and sentenced to State prison for a term of nine years. The sentence was confirmed by the appellate court, a pardon was refused by the executive, and the princely man of business—the much-loved and distinguished citizen—left the city of Buffalo for his gloomy abode within the walls of Auburn prison. But his departure from the city was more like a triumphal exodus than a departing criminal. The most eminent citizens and business men of the city escorted him to
the depot, and even to the very vestibule of his prison, while his fate was everywhere lamented.

Mr. Van Buren's participation in the defense of Rathbun added much to his professional prosperity, and drew a large legal business to his office. Meanwhile, speculation continued for a time; but at length the revulsion came, and with it a general suspension and stagnation of business. Van Buren continued at Buffalo until 1840, when, at the solicitation of several business men at Penn Yan, he returned to that village, and resumed there the practice of his profession with more than his former success.

Among the many important cases which Mr. Van Buren conducted to a successful termination, while a member of the Penn Yan bar, was that of a man who had commenced proceedings against his wife for a divorce on the ground of adultery.

The action was instituted through the effects of jealousy alone. "Trifles light as air" had assumed the form of verities; and brooding over his supposed wrongs, which were made plain and clear to him by some honest Iago, he determined to rid himself forever of his faithful and undeviating wife. The only witness upon whom the husband relied to establish his case and her guilt, was a man whose deep displeasure the wife had incurred, and who had threatened to revenge himself upon her. He was one of those who never forgot or forgave an injury—never lost an opportunity that led to his revenge. Some time previous to this trial he removed to the western part of Illinois. Upon being notified of the trial, without fee or reward he voluntarily traveled from his far-western home to give his evidence against the injured wife. His testimony was of the most dangerous nature. Concealing his venom under the garb of plausibility and an apparent disinterestedness, he prepared to strike his victim a fearful and terrible blow. He took the stand and deliberately testified to the most damning act of infidelity and guilt. The only favorable matter which
Van Buren could elicit, after the most rigid and skillful cross-examination, was the implacable hatred which the witness entertained against the lady. This he succeeded in making fully apparent. From the bitterness of the heart the mouth spake; and with some other minor incidents which were proved in the defense, he went to the jury.

"Gentlemen," said he, in the course of his remarks, "this is a case where domestic happiness, where love and affection are prostrated before the demon of jealousy, so justly called 'the green-eyed monster.' A few short years ago this young woman was led to the altar, all buoyant with hope and exuberant with joy, by the man she loved, and whom, in the fond trusting love of her young heart, she believed loved her.

As the assembled guests at that happy marriage gathered around her in the home of her youth, where the blended love of father, mother, brothers and sisters shed its holy radiance upon her, they almost envied the happiness which seemed in store for her; and as the solemn words of the marriage ceremony were pronounced, 'whom God has joined together, let no man put asunder,' it seemed as though listening angels caught the impressive words, and recorded them in their own bright sphere. But alas! what a fearful change has come over that happy, joyous bride. The husband that led her to the altar, and then from her happy home—from the loved ones, who, with many prayers, had watched over her girlhood days, in all that beautiful tenderness which centers in parental affection—has become the dupe of designing wretches—the victim of jealousy. His love has turned to gall and bitterness, and he charges her with a shameful crime. But by whom does he attempt to establish this charge? Is it by a fair, impartial witness?—one who tells the disgusting story with reluctance and sorrow? No, gentlemen; he seeks to establish it by the evidence of a suborned villain!
"What is the motive which impels this witness to testify against the defendant? I will tell you what it is. He imagines that he has been wronged by her, and has sworn to be revenged. Ah! gentlemen, fearfully, but I trust not fatally, has he attempted to keep his oath. Revenge, gentlemen, is the deadliest, the most relentless passion that can possess the human heart—a passion that never tires and never dies. It will travel continents, and compass sea and land, to hunt out the object of its hate, and slake its thirst in the blood of its victim. Such is the passion that fires the heart of this miserable man, and which has caused him to travel a thousand miles, without reward or the hope thereof, to destroy forever the hopes, the happiness, and worse than all, the character of this unhappy young lady, whose fair fame is as unsullied and as pure as the early dew-drop, unstained even by the dark story which perjury has related against her.

"Gentlemen, let me say—and I know you will concur in what I say—that a man whose revenge is as deep, whose hatred is as implacable as is that of this witness, will fly to perjury with alacrity as the means of gratifying his dark and malignant passion; and you will only look at the story of this woman's guilt as the fabrication of revenge."

There were several nice legal questions involved in this case, which Mr. Van Buren argued with ability and learning. The trial took place at Canandaigua, and was conducted for the plaintiff by one of the ablest lawyers in the State; but the lady was triumphantly acquitted, and the divorce denied.

Soon after this trial he was retained to assist the district-attorney of Steuben county, in the trial of an indictment against a woman, charged with manslaughter. The victim was a small girl who had been bound to the defendant, and who was so cruelly beaten and maltreated by her mistress that she died. It appeared in evidence that the defendant frequently held the girl so close to a blazing fire, that she was fearfully
Van Buren could elicit, after the most rigid and skillful cross-examination, was the implacable hatred which the witness entertained against the lady. This he succeeded in making fully apparent. From the bitterness of the heart the mouth spake; and with some other minor incidents which were proved in the defense, he went to the jury.

"Gentlemen," said he, in the course of his remarks, "this is a case where domestic happiness, where love and affection are prostrated before the demon of jealousy, so justly called 'the green-eyed monster.' A few short years ago this young woman was led to the altar, all buoyant with hope and exuberant with joy, by the man she loved, and whom, in the fond trusting love of her young heart, she believed loved her.

"As the assembled guests at that happy marriage gathered around her in the home of her youth, where the blended love of father, mother, brothers and sisters shed its holy radiance upon her, they almost envied the happiness which seemed in store for her; and as the solemn words of the marriage ceremony were pronounced, 'whom God has joined together, let no man put asunder,' it seemed as though listening angels caught the impressive words, and recorded them in their own bright sphere. But alas! what a fearful change has come over that happy, joyous bride. The husband that led her to the altar, and then from her happy home—from the loved ones, who, with many prayers, had watched over her girlhood days, in all that beautiful tenderness which centers in parental affection—has become the dupe of designing wretches—the victim of jealousy. His love has turned to gall and bitterness, and he charges her with a shameful crime. But by whom does he attempt to establish this charge? Is it by a fair, impartial witness?—one who tells the disgusting story with reluctance and sorrow? No, gentlemen; he seeks to establish it by the evidence of a suborned villain!
"What is the motive which impels this witness to testify against the defendant? I will tell you what it is. He imagines that he has been wronged by her, and has sworn to be revenged. Ah! gentlemen, fearfully, but I trust not fatally, has he attempted to keep his oath. Revenge, gentlemen, is the deadliest, the most relentless passion that can possess the human heart—a passion that never tires and never dies. It will travel continents, and compass sea and land, to hunt out the object of its hate, and slake its thirst in the blood of its victim. Such is the passion that fires the heart of this miserable man, and which has caused him to travel a thousand miles, without reward or the hope thereof, to destroy forever the hopes, the happiness, and worse than all, the character of this unhappy young lady, whose fair fame is as unsullied and as pure as the early dew-drop, unstained even by the dark story which perjury has related against her.

"Gentlemen, let me say—and I know you will concur in what I say—that a man whose revenge is as deep, whose hatred is as implacable as is that of this witness, will fly to perjury with alacrity as the means of gratifying his dark and malignant passion; and you will only look at the story of this woman's guilt as the fabrication of revenge."

There were several nice legal questions involved in this case, which Mr. Van Buren argued with ability and learning. The trial took place at Canandaigua, and was conducted for the plaintiff by one of the ablest lawyers in the State; but the lady was triumphantly acquitted, and the divorce denied.

Soon after this trial he was retained to assist the district-attorney of Steuben county, in the trial of an indictment against a woman, charged with manslaughter. The victim was a small girl who had been bound to the defendant, and who was so cruelly beaten and maltreated by her mistress that she died. It appeared in evidence that the defendant frequently held the girl so close to a blazing fire, that she was fearfully
Van Buren could elicit, after the most rigid and skillful cross-examination, was the implacable hatred which the witness entertained against the lady. This he succeeded in making fully apparent. From the bitterness of the heart the mouth spake; and with some other minor incidents which were proved in the defense, he went to the jury.

"Gentlemen," said he, in the course of his remarks, "this is a case where domestic happiness, where love and affection are prostrated before the demon of jealousy, so justly called 'the green-eyed monster.' A few short years ago this young woman was led to the altar, all buoyant with hope and exuberant with joy, by the man she loved, and whom, in the fond trusting love of her young heart, she believed loved her.

"As the assembled guests at that happy marriage gathered around her in the home of her youth, where the blended love of father, mother, brothers and sisters shed its holy radiance upon her, they almost envied the happiness which seemed in store for her; and as the solemn words of the marriage ceremony were pronounced, 'whom God has joined together, let no man put asunder,' it seemed as though listening angels caught the impressive words, and recorded them in their own bright sphere. But alas! what a fearful change has come over that happy, joyous bride. The husband that led her to the altar, and then from her happy home—from the loved ones, who, with many prayers, had watched over her girlhood days, in all that beautiful tenderness which centers in parental affection—has become the dupe of designing wretches—the victim of jealousy. His love has turned to gall and bitterness, and he charges her with a shameful crime. But by whom does he attempt to establish this charge? Is it by a fair, impartial witness?—one who tells the disgusting story with reluctance and sorrow? No, gentlemen; he seeks to establish it by the evidence of a suborned villain!
"What is the motive which impels this witness to testify against the defendant? I will tell you what it is. He imagines that he has been wronged by her, and has sworn to be revenged. Ah! gentlemen, fearfully, but I trust not fatally, has he attempted to keep his oath. Revenge, gentlemen, is the deadliest, the most relentless passion that can possess the human heart—a passion that never tires and never dies. It will travel continents, and compass sea and land, to hunt out the object of its hate, and slake its thirst in the blood of its victim. Such is the passion that fires the heart of this miserable man, and which has caused him to travel a thousand miles, without reward or the hope thereof, to destroy forever the hopes, the happiness, and worse than all, the character of this unhappy young lady, whose fair fame is as unsullied and as pure as the early dew-drop, unstained even by the dark story which perjury has related against her.

"Gentlemen, let me say—and I know you will concur in what I say—that a man whose revenge is as deep, whose hatred is as implacable as is that of this witness, will fly to perjury with alacrity as the means of gratifying his dark and malignant passion; and you will only look at the story of this woman's guilt as the fabrication of revenge."

There were several nice legal questions involved in this case, which Mr. Van Buren argued with ability and learning. The trial took place at Canandaigua, and was conducted for the plaintiff by one of the ablest lawyers in the State; but the lady was triumphantly acquitted, and the divorce denied.

Soon after this trial he was retained to assist the district-attorney of Steuben county, in the trial of an indictment against a woman, charged with manslaughter. The victim was a small girl who had been bound to the defendant, and who was so cruelly beaten and maltreated by her mistress that she died. It appeared in evidence that the defendant frequently held the girl so close to a blazing fire, that she was fearfully
Van Buren could elicit, after the most rigid and skillful cross-examination, was the implacable hatred which the witness entertained against the lady. This he succeeded in making fully apparent. From the bitterness of the heart the mouth spake; and with some other minor incidents which were proved in the defense, he went to the jury.

“Gentlemen,” said he, in the course of his remarks, “this is a case where domestic happiness, where love and affection are prostrated before the demon of jealousy, so justly called ‘the green-eyed monster.’ A few short years ago this young woman was led to the altar, all buoyant with hope and exuberant with joy, by the man she loved, and whom, in the fond trusting love of her young heart, she believed loved her.

“As the assembled guests at that happy marriage gathered around her in the home of her youth, where the blended love of father, mother, brothers and sisters shed its holy radiance upon her, they almost envied the happiness which seemed in store for her; and as the solemn words of the marriage ceremony were pronounced, ‘whom God has joined together, let no man put asunder,’ it seemed as though listening angels caught the impressive words, and recorded them in their own bright sphere. But alas! what a fearful change has come over that happy, joyous bride. The husband that led her to the altar, and then from her happy home—from the loved ones, who, with many prayers, had watched over her girlhood days, in all that beautiful tenderness which centers in parental affection—has become the dupe of designing wretches—the victim of jealousy. His love has turned to gall and bitterness, and he charges her with a shameful crime. But by whom does he attempt to establish this charge? Is it by a fair, impartial witness?—one who tells the disgusting story with reluctance and sorrow? No, gentlemen; he seeks to establish it by the evidence of a suborned villain!
“What is the motive which impels this witness to testify against the defendant? I will tell you what it is. He imagines that he has been wronged by her, and has sworn to be revenged. Ah! gentlemen, fearfully, but I trust not fatally, has he attempted to keep his oath. Revenge, gentlemen, is the deadliest, the most relentless passion that can possess the human heart—a passion that never tires and never dies. It will travel continents, and compass sea and land, to hunt out the object of its hate, and slake its thirst in the blood of its victim. Such is the passion that fires the heart of this miserable man, and which has caused him to travel a thousand miles, without reward or the hope thereof, to destroy forever the hopes, the happiness, and worse than all, the character of this unhappy young lady, whose fair fame is as unsullied and as pure as the early dew-drop, unstained even by the dark story which perjury has related against her.

“Gentlemen, let me say—and I know you will concur in what I say—that a man whose revenge is as deep, whose hatred is as implacable as is that of this witness, will fly to perjury with alacrity as the means of gratifying his dark and malignant passion; and you will only look at the story of this woman’s guilt as the fabrication of revenge.”

There were several nice legal questions involved in this case, which Mr. Van Buren argued with ability and learning. The trial took place at Canandaigua, and was conducted for the plaintiff by one of the ablest lawyers in the State; but the lady was triumphantly acquitted, and the divorce denied.

Soon after this trial he was retained to assist the district-attorney of Steuben county, in the trial of an indictment against a woman, charged with manslaughter. The victim was a small girl who had been bound to the defendant, and who was so cruelly beaten and maltreated by her mistress that she died. It appeared in evidence that the defendant frequently held the girl so close to a blazing fire, that she was fearfully
Van Buren could elicit, after the most rigid and skillful cross-examination, was the implacable hatred which the witness entertained against the lady. This he succeeded in making fully apparent. From the bitterness of the heart the mouth spake; and with some other minor incidents which were proved in the defense, he went to the jury.

"Gentlemen," said he, in the course of his remarks, "this is a case where domestic happiness, where love and affection are prostrated before the demon of jealousy, so justly called 'the green-eyed monster.' A few short years ago this young woman was led to the altar, all buoyant with hope and exuberant with joy, by the man she loved, and whom, in the fond trusting love of her young heart, she believed loved her.

"As the assembled guests at that happy marriage gathered around her in the home of her youth, where the blended love of father, mother, brothers and sisters shed its holy radiance upon her, they almost envied the happiness which seemed in store for her; and as the solemn words of the marriage ceremony were pronounced, 'whom God has joined together, let no man put asunder,' it seemed as though listening angels caught the impressive words, and recorded them in their own bright sphere. But alas! what a fearful change has come over that happy, joyous bride. The husband that led her to the altar, and then from her happy home—from the loved ones, who, with many prayers, had watched over her girlhood days, in all that beautiful tenderness which centers in parental affection—has become the dupe of designing wretches—the victim of jealousy. His love has turned to gall and bitterness, and he charges her with a shameful crime. But by whom does he attempt to establish this charge? Is it by a fair, impartial witness—one who tells the disgusting story with reluctance and sorrow? No, gentlemen; he seeks to establish it by the evidence of a suborned villain!
"What is the motive which impels this witness to testify against the defendant? I will tell you what it is. He imagines that he has been wronged by her, and has sworn to be revenged. Ah! gentlemen, fearfully, but I trust not fatally, has he attempted to keep his oath. Revenge, gentlemen, is the deadliest, the most relentless passion that can possess the human heart—a passion that never tires and never dies. It will travel continents, and compass sea and land, to hunt out the object of its hate, and slake its thirst in the blood of its victim. Such is the passion that fires the heart of this miserable man, and which has caused him to travel a thousand miles, without reward or the hope thereof, to destroy forever the hopes, the happiness, and worse than all, the character of this unhappy young lady, whose fair fame is as unsullied and as pure as the early dew-drop, unstained even by the dark story which perjury has related against her.

"Gentlemen, let me say—and I know you will concur in what I say—that a man whose revenge is as deep, whose hatred is as implacable as is that of this witness, will fly to perjury with alacrity as the means of gratifying his dark and malignant passion; and you will only look at the story of this woman's guilt as the fabrication of revenge."

There were several nice legal questions involved in this case, which Mr. Van Buren argued with ability and learning. The trial took place at Canandaigua, and was conducted for the plaintiff by one of the ablest lawyers in the State; but the lady was triumphantly acquitted, and the divorce denied.

Soon after this trial he was retained to assist the district-attorney of Steuben county, in the trial of an indictment against a woman, charged with manslaughter. The victim was a small girl who had been bound to the defendant, and who was so cruelly beaten and maltreated by her mistress that she died. It appeared in evidence that the defendant frequently held the girl so close to a blazing fire, that she was fearfully
burned. At other times she was confined, in cold freezing weather, under the house, in a place so small that she could neither stand nor sit up; there she was kept by the cruel woman until her feet and hands were so horribly frozen that several of her fingers and toes fell off. The defense set up, besides a plea of not guilty, was ingenious, and plausibly maintained with all the ingenuity of eminent counsel. After a day had been exhausted in taking the testimony, the counsel for the prisoner on the morning of the second day commenced his address to the jury, closing at noon, when the district-attorney announced that Mr. Van Buren would sum up the case for the people after dinner. Accordingly, at the opening of the court in the afternoon, he commenced his argument. The court house was densely crowded, the galleries being filled with ladies. His speech on this occasion elicited the warmest commendation. The enormity of the offense, the intense suffering and cruel death of the little girl, were dwelt upon with a pathos and eloquence which drew tears from those even who were unused to the melting mood.

The sophistry of the defense was exposed, and the legal points closely and thoroughly considered.

"I have," said Mr. Van Buren, "for my whole life had something to do with courts of justice; I have witnessed the development and exposure of human depravity; I have listened to the recital of crime—aye, I have read accounts of savage barbarity—of the tortures of the Inquisition, described in all the fearful detail of history, and in the imagery and eloquence of romance. But poetry, eloquence, and romance are tame and insipid compared with the simple story of the suffering and death of this poor child."

The woman was convicted and sentenced to State prison for a term of years.

In the early days of his practice, Van Buren was engaged in the trial of an important suit before a justice of the peace in one of the towns of the county of
Yates, who was far more famous for his vital piety than for his legal knowledge, and who never failed to seize every opportunity to convince people of his great religious zeal.

Van Buren appeared for the plaintiff, and was opposed by the late R. W. Morrison, then a leading member of the Yates bar. As the trial progressed, it became apparent that the justice was clearly against the plaintiff, and the matter presented a very unpromising appearance for him. But Mr. Van Buren, with his usual perseverance, struggled to overcome all difficulties in his way, and to ingratiate himself into the favor of the court, but in vain; he made no impression, and defeat seemed inevitable.

At length a question arose, which led to considerable discussion. In his reply to Van Buren, Morrison remarked, that he proposed to explain the nature of the question, from Alpha to Omega. The instant these words fell from his lips, the justice brought his fist heavily down on the table before him, exclaiming:

"Mr. Morrison, sit down! do you think I am going to sit here and hear my Saviour abused in this way? It is an outrageous blasphemy, sir; sit down!"

It was in vain that the lawyer attempted to explain, that he did not intend any disrespect to the Saviour, and that he only used common words.

But the justice insisted that he had been guilty of blasphemy.

"Do you think I don't understand the meaning of words, sir? I am a Scripter man, and I sarch the Scripters because in them is eternal life. You ain't the only man that's got book larning. Sit down, I say. I have caught you in your blasphemy! you can't blaspheme in my court!"

As Morrison could make no impression upon the justice, he said:

"Why, your honor, Mr. Van Buren will tell you that these words are not blasphemous."
"You can't get him to help you out of this scrape, sir; you are fairly caught. He ain't a professor, I know; but then, he won't blaspheme like you do," said the justice.

"Why," said Morrison, determined to set himself right before the court, "Alpha means the beginning; it is a letter of the Greek alphabet, and One—"

"Stop, sir; are you going to blaspheme again? don't you think I understand what words mean, when I've read the Bible all my life?"

"Van Buren," said Morrison, turning to him; "come, be decent now, and explain the matter to him."

"Oh, this is too delicate a matter altogether for me to interfere with; I can't interfere in a misunderstanding between you and his honor, here," said Van Buren, in a very dignified manner.

"There," said the justice, "what did I tell you just now? I knew he wouldn't help you. Mr. Van Buren, you are like the man in the New Testament, who, although he was a hardened sinner, wasn't a great way off from the kingdom of heaven. You can go on with your case now; but no more of your blasphemy, Mr. Morrison."

The case was resumed; but the tide was turned in Van Buren's favor; through the remainder of the case, his hope increased, and when it was decided, it was in Van Buren's favor.

To expose crime and drag it from its refuge behind statute and common law; to unmask the criminal's defense which ingenuity, legal skill, and acumen had thrown around fraud and corruption; to give innocence protection, was the delight of Mr. Van Buren. But it cannot be denied that it was also his pleasure to resort to subterfuge, to sophistry, and all the arts which the ingenuity of counsel can devise, to save his client's case; nor was he exempt from the charge of sometimes shielding by professional skill the guilty,
and depriving the gallows and the prison of their just dues.

But all lawyers who undertake the defense of a criminal, do so at the hazard of clearing a guilty man. The law vouchsafes to all a fair and impartial trial, no matter how guilty; and if in the conduct of such a trial, a guilty man escapes, the fault is with the law, and not with the counsel for the defense.

Like most lawyers, early in his professional life, Mr. Van Buren gave more or less attention to politics; but at no period of his life did he surrender his professional ambition. While it is true very poor or inefficient lawyers often make eminent politicians, it is not always that a gifted politician makes a distinguished lawyer. Hence the political arena is crowded with eminent politicians, at least who lay claim to eminence, whose legal career was a failure. Of course there are many exceptions; there are many whose political and professional career adorns both politics and the bar.

In the year 1830, Mr. Van Buren was a candidate for State senator, in the old seventh Senatorial district, to which the county of Yates belonged. William H. Seward was also a candidate for the same office. The Senatorial convention met at Geneva in September, and the gentleman who during the early part of the year had been the candidate of those opposed to Mr. Seward, withdrew a few days before the convention assembled. Whereupon the friends of Mr. Van Buren, without his knowledge or consent, proposed his name as a candidate. Accordingly, at the convention a close contest for the nomination ensued, which resulted in favor of Mr. Seward by one majority, and he was afterwards elected senator. Both of these gentlemen were then quite young, both of them commencing their professional and political career with ardor and ambition, though Mr. Van Buren was several years younger than Mr. Seward.

Though the former was not disheartened by the result of this convention, yet it doubtless had the
effect to detract much from his love of politics. Had he received the nomination for senator, it would doubtless have increased his political aspirations, and with his acknowledged talents he would, perhaps, have entered upon a long and brilliant political career in the politics of the State. While, on the other hand, had Mr. Seward been rejected by the convention, such is the nicely balanced scale of fortune, especially in politics, that the struggle in the convention at Geneva might have decided the political fate of William H. Seward, and not given to New York that great and illustrious statesman. The fate of monarchs, of the most renowned heroes and conquerors, has frequently been decided by circumstances of far less moment than that which gave Mr. Seward a seat in the Senate of New York in 1831. He was at that time less than thirty years of age.

The Senate then contained some of the most eminent men in the State; very few of his own political friends, however, were among the number. Nathaniel P. Tallmadge, William H. Maynard, John W. Edmonds, Albert H. Tracy, Levi Beardsley, and Henry A. Foster, were among the most prominent senators. William H. Maynard was a senator for the fifth Senatorial district. He resided at Utica, and was a few years older than Mr. Seward. A lawyer by profession, whose career at the bar had already been brilliant and successful, he had attained a commanding position in the politics of the State, and was the acknowledged leader in the combined opposition to the Democratic party. He first entered the Senate in January, 1829, and became the leader of his party in that body. When, in 1831, Mr. Seward became a member of the Senate, Maynard found in him and in Albert H. Tracy, able and powerful supporters. And though at this time largely in the minority, yet such was his genius and power that he sometimes gained decisive advantages, which tended to strengthen and sustain the falling fortunes of his party. But his brilliant career was
suddenly terminated by the hand of death. He died early at the close of the year 1832, leaving Mr. Seward, young as he was, the champion of his party in the Senate and in the State. The death of this truly great man was an opportune circumstance in the political career of Mr. Seward. It removed a powerful and splendid though generous rival, and left the field to him. How well he profited by this advantage is attested by the history of the State and nation.

Mr. Van Buren represented his Congressional district in the Anti-Masonic convention which nominated William Wirt for president of the United States. No matter what the political complexion of that convention was, it covered itself with glory in nominating that great and illustrious man; and though defeated, his name sheds a flood of glory upon the page of his country's history. The husbandman at his plow, the artisan at his anvil, the seaman on the mast, paused when he heard that William Wirt was no more. His grave is a hallowed spot; great memories cluster there; and those who visit it may well exclaim:

"Such graves as his are pilgrims' shrines;  
Shrines to no creed or code confined—  
The Delphian Vales, the Palestines,  
The Meccas of the mind."

The convention met at Baltimore, in August, 1832. John C. Spencer was chairman, and many of the statesmen and legislators of the nation were present. Mr. Van Buren was made one of the committee on resolutions. The result of the election which followed entirely dissolved the Anti-Masonic party, and the subject of this sketch gave his allegiance to the Democratic party, and ever since, his fealty to it has been unswerving. He was a strong supporter of Douglas, and a War Democrat, ardently supporting the government during the rebellion.

In 1836, he supported Martin Van Buren for the presidency, and again in 1840. In the canvas of
1844, he took a prominent part, advocating the election of Mr. Polk, and devoting a large part of his time in addressing public meetings in various parts of the State.

During this campaign the Whigs of Yates county, through their central committee, invited the Democrats to publicly discuss the great issues of the day, upon a time to be fixed. The challenge was accepted, and Mr. Van Buren was chosen as the champion for the Democrats, and the distinguished and much lamented Mark H. Sibley was chosen by the Whigs to conduct the debate for them. An orator more popular, more gifted with all the aspirations of true eloquence, or more affluent in all the qualifications of a skillful debater, could not have been selected. Such was the man whom the Democracy of Yates invited Mr. Van Buren to meet in open debate. A discussion took place in a grove near Dundee; several thousand people were listeners, such was the interest which the public took in the matter. It was arranged that Mr. Sibley should open the debate, and occupy one hour—Van Buren to follow, with two hours at his disposal; the debate to be closed by Sibley, who had the same time in which to reply.

It will be remembered that one of the great questions of that campaign was the annexation of Texas; the Democrats favoring and the Whigs opposing, principally because it would extend and perpetuate slavery. Mr. Sibley dwelt with great eloquence upon this point, and in the course of his remarks spoke of Mr. Clay as the embodiment of the Whig party, the great exponent of its principles. On the 16th day of July, 1844, Clay wrote his celebrated but unfortunate Alabama letter, in which, among other things, he said: "I have, however, no hesitation in saying that, far from having any personal objections to the annexation of Texas, I should be glad to see it," &c.

Late in the evening before the debate, through a
friend direct from New York, Mr. Van Buren received the *National Intelligencer*, containing this letter. He immediately regarded it as a powerful weapon to be used in the coming contest, and such it proved to be. Mr. Sibley, who addressed a meeting the day before, in a remote part of the county, came to the discussion entirely ignorant of the existence of the letter.

In his reply to Mr. Sibley, Van Buren said: "Fellow citizens, Mr. Sibley has told you that the annexation of Texas will extend and perpetuate slavery, and this is the only ground upon which he is opposed to the annexation of that great and fertile country. He tells you, too, that Mr. Clay is the great exponent of Whig principles, the embodiment of the party. I admit it. No more truthful remark has this day fallen from the lips of my accomplished and able opponent; and now let us see what the great embodiment himself says." He then read that memorable letter to the audience. The effect which it produced can better be imagined than described. Notwithstanding the powerful elocution of Mr. Sibley, in which, with consummate ingenuity and ability, he explained the terms, connection and real meaning of the letter, still it had a most damaging influence upon the Whigs. The Democrats retired from the discussion jubilant and exultant, confidently believing that a tide was setting in which was to lead them to victory. And they were right.

Mr. Van Buren continued at Penn Yan until the fall of 1856, when he removed to Chicago, where he still resides. Such were the business facilities which awaited him there, that he immediately entered into a large and extensive practice, which in its pecuniary results and the popularity to which it led, much exceeded his most sanguine expectations.

In April, 1862, he was elected a judge of the Recorder's Court of Chicago. He discharged the duties of this office to the satisfaction of the public, during
his term. He was offered a renomination, but he declined, preferring the duties of his profession to the cares of office.

Mr. Van Buren always enjoyed pleasantness, wit, and repartee. He could relate an anecdote with great piquancy, and relished a joke, even at his own expense.

A case once occurred which tested the manner in which he was a party to a laughable transaction.

One day, in returning home from his office, he stopped at his boot-maker’s, put on a pair of new boots which had just been finished for him, wrapping the old ones in a piece of brown paper, and went his way with the boots under his arm. As he passed along, he observed a brace of fine chickens for sale. He purchased them, and they too were done up in a brown paper wrapper. With the boots and chickens under his arm he proceeded towards home. Presently he met a darkey whom he knew.

‘Here, Sam,” said he, “don’t you want a pair of boots—pretty good ones, too?”

“Yes, sah,” said the darkey, with a grin.

Handing the boots to the gentleman of color, he went on. In a few moments he met a friend, with whom he stopped to talk.

“What have you there, Judge?” said the friend.

“A very nice pair of chickens, which I just now bought,” was the reply.

“Chickens,” said his friend, taking hold of the bundle; “queer chickens, I should think.”

“Yes,” said the judge, “they are very large and nice ones.”

“They are not chickens.”

“What in the world are they?” was the reply.

Upon that remark, the judge, who began to feel somewhat astonished at the remark of his friend, opened the bundle, when, lo, he was still in possession of the old boots, and the darkey had gone away rejoicing with the chickens.
"Well," said the judge, "I am a pair of chickens the poorer, but the darkey has gained what I have lost."

In the language of another, "Judge Van Buren is always the kind, large-hearted, and hospitable gentleman, and in his intercourse with the world, frank, friendly, and sociable. In the enjoyment of a liberal competence, derived from a successful but laborious professional career, we trust there are many years of happiness and usefulness remaining for him, and that his days may be extended to the longest possible limit."
DUDLEY MARVIN.

Scene in the Court Room at Batavia in 1827.—Dudley Marvin and John W. Hurlbert.—Description of them.—Their Persons and Characters as Lawyers.—Marvin's Birth and Parentage.—A Student at Colchester Academy.—His Taste and Abilities.—Amusing Anecdote.—In Danger of Expulsion.—The Imprisoned Professor.—Marvin before the Faculty as a Culprit.—The Defense.—The Witty Turn.—The Discharge.—Marvin Refuses to Declaim.—Interesting Conversation with Dr. Hawks, regarding the Choice of a Profession.—Marvin visits Canandaigua.—Enters the Office of Howell & Gregg as a Law Student.—His Admission to the Bar.—His First Case.—Manner at the Bar.—Remark of B. DavisNoxon.—His Manner of Cross-examining a Witness illustrated in the Trial of the People v. Newman.—Interesting and Amusing Cross-examination of a Lady.—The Case of the People v. Bostwick—Amusing Incident.—Result of the Trial.—Marvin Elected to Congress.—His Career in Congress.—His Dislike for Public Speaking.—His Reception at a Convention in Canandaigua.—The Vote of Thanks.—Amusing Speech of a Constituent.—Marvin is Compelled to make a Speech.—Has an Application for a Law Student.—Rare Qualifications of the Proposed Student.—Doubting Scene between J. C. Spencer and Marvin.—Doubt if you Dare.—Spencer Prosecuted.—Marvin Retained as his Counsel.—The Trial.—Extract from Marvin's Speech.—The Result.—Marvin again in Congress.—His Report on Manufactures.—Celebrated Case of the People v. Gray.—Marvin Appointed by the Governor to assist the District-Attorney.—Prisoners apply to him to defend them.—The Short but Prophetic Reply.—The Trial.—Its Singular Result.—Hosmer's Remarks Concerning it.—Marvin's Connection with the Anti-Masonic Trials.—Trial of Ganson.—Examination of the Stage Driver.—His Final Answer True.—Marvin Removes to Chautauqua County.—Attempted Assassination of Lowrey.—Marvin Engaged in the Great Trial of the People v. Newman.—The Trial.—The last Important Case in which he is Engaged.—Retires from the Bar.—His Habits.—Elected to Congress.—His personal appearance more fully described.—His Characteristics.—Mark H. Sibley.—Amusing Business Transaction between him and Marvin.—Death of Marvin.

"Who is that rather large, portly man, with such a fine eye and head, not far from Mr. Chandler, in the bar? He must be a lawyer, I think; at least he looks like one, and a good one, too."

This remark was addressed to a law student who sat next to the speaker in the court house at Batavia, one morning in June, 1827, during a session of the
Circuit Court. The business of the day had not yet commenced, though the lawyers, jurors, witnesses, and spectators had assembled.

"That is Dudley Marvin, of Canandaigua, one of the most eminent lawyers in the State; he is eloquent, witty, sarcastic or pathetic, as the occasion requires," said the student.

"And that is Dudley Marvin; I have often heard of him as a famous advocate, but I never saw him until now. Who is that small man, dressed in black, with dark eyes and hair, and such an expressive face; the one who is sitting by himself at the other end of the bar?"

"That is John W. Hurlbert, of Auburn; he is as gifted, though perhaps not as close a lawyer as Marvin. As a criminal lawyer, he has no equal in the State. I have heard him address juries on several occasions; at times his small form seemed looming up to the proportions of a giant, with the big glowing thoughts he uttered," was the reply.

"John W. Hurlbert? he is the lawyer who defended Medad McKay on his last trial, and he cleared the Indian chief who was tried at Bath for shooting Stephens, near Hornellsville. I have heard that he made everybody in the court house cry except the sheriff, and he was obliged to cough several times to keep on the stern look which he felt himself obliged to assume; and I believe Hurlbert defended Mary Green for murdering her own child, did he not?" asked the first speaker.

"Yes," replied the student, "I heard that trial. Heavens, what a talk he made to that jury! His language, his gestures, and his whole appearance were full of sincerity and candor, he spoke so touchingly of the poor girl's misfortune (he always calls crime a misfortune, when he is defending a criminal) that the hearts of the jury opened and let him in. When once there he remained. But when he came down upon the witnesses against her, who, as he contended, de-
sired her conviction to subserve certain vile purposes of their own, I never listened to such terrible, such scathing language; it seemed as though his tongue was a two-edged sword, and the witnesses criminals on trial, instead of Mary Green. It was amusing to see them endeavor to brave it out, and appear unconcerned, but they might as well have undertaken to disregard the thunders of Jove.'

"Well, what did the jury do?"

"What did the jury do?" said the student. "Why they acquitted the woman almost as soon as they were organized, though more than half of the community where she lives, believed her guilty, and they would like to hang little Hurlbert, as they call him, for saving her; but he did his duty I suppose, and no more."

The conversation was here interrupted by the crier making the usual morning proclamation. It truthfully describes the appearance and the popularity of two eminent and highly distinguished lawyers of the past.

In many respects their minds were similar; both of them too often indulged in the pomp and glare of rhetoric—redundancy and excess of ornament. Both minds glowed with the fires of intellect and imagination; though perhaps they acquiesced too readily in first thoughts, and came to their conclusions by a rapid and penetrating glance, instead of verifying their impressions by a close and vigilant induction. Yet it was impossible not to be impressed with their rare qualities. Mr. Marvin, however, possessed the additional capacity of illustrating common thoughts and subjects, with beauty and interest, of explaining them with a grace which gave them new force, vigor, and vivacity; a rare quality in a speaker—the secret of success in a writer.

As deep, reasoning, logical, emotionless lawyers, neither Marvin, nor Hurlbert compared with John C. Spencer, Marcus T. Reynolds or Nicholas Hill, when before the court in banc; but before the jury, the former were the superiors.
Mr. Hurlbert and Mr. Marvin were at Batavia on the occasion which has been referred to, as opposing counsel in the important case of the People v. Bostwick and Graves, which will be described hereafter. This sketch, however, is devoted to the life of Dudley Marvin.

He was born at Lyme, New London county, Connecticut, on the 6th day of May, 1786. His father, who was a respectable merchant, placed him, when twelve years of age, at the Colchester seminary. Here he soon attracted the attention of his fellow students and his teachers, as a boy of the highest promise; the precocity with which some of his mental powers were manifested, might be regarded as extraordinary. Subservient to his early taste, however, he surrendered much of his time to poetry, belles lettres and mental philosophy. He also developed some of those exhaustless stores of wit, vivacity and humor, for which he was afterwards so distinguished.

Among the many anecdotes that are related of his student-days, the following will illustrate his native sagacity and wit:

On one occasion, with the aid of a less gifted classmate by the name of Sabin, he imprisoned a certain irritable, prying, pug-nosed professor of mathematics, in one of the distant rooms connected with the seminary, where he was compelled to remain five or six hours—until he made night hideous with his cries for relief. Terribly enraged at this indignity, the professor commenced the work of detecting the culprits, threatening instant expulsion to the guilty ones. Young Marvin, who was keenly watching the movement of matters, fearing that some confession might be extorted from Sabin, instructed him, when summoned before the faculty, to make no confession, and to answer as few questions as possible. In due time both Marvin and his companions were ordered to appear before the dreaded tribunal. Sabin was at
first terribly frightened; as soon as he received notice to appear, he rushed into Marvin's room, exclaiming:

"O dear! O dear! I shall break down! I know I shall! Old Hunks (ain't he properly named, though!) he'll look right through me. I can't lie!"

"Lie, you fool. Nobody wants you to lie. You don't know enough to lie, so don't undertake it. Say as little as possible; don't say anything if you can help it. I'll take care of you if you will only do as I tell you; so don't be frightened," said Marvin. Sabin, becoming more composed, promised to do as he was directed, and in a few moments they were in the presence of the assembled faculty.

Sabin was first interrogated, but so faithfully did he obey the instructions of his friend that nothing of importance was elicited from him, though his manner in some measure confirmed the suspicion against him. Then came Marvin's turn, and he was plied with all manner of questions, which he managed to answer so adroitly that nothing positive was established against him.

"Marvin," said the pug-nosed professor, in his peculiar, snarling manner, "this great crime, sir, my cruel imprisonment—it makes my very blood boil to think of it, lies between you and that young man,"

—pointing to Sabin—"and now what have you to say to that, I should like to know."

"I am delighted with what you have said, Professor," said Marvin.

"And so you glory in your iniquity, do you? What do you mean, sir?" said the excited tutor.

"I mean that I am delighted to hear you say that the great crime of which you speak lies between Sabin and myself. I was only fearful that you suspected it laid on one or both of us," said the student, with a ludicrous composure.

This answer was equivalent to the ablest defense. It convulsed all in the room with laughter, except the astonished professor, who looked like an old-fash-
ioned exclamation point, in italics—a mark of wonder, surprise, and, in this case, indignation. Marvin and his friend were acquitted; even the sharp eyes of Doctor Hawks, the preceptor, twinkled with merriment, as he pronounced their discharge.

One of the rules of this institution required the students to declaim, at least once in two weeks. It is remarkable that Marvin, who was so distinguished in his future years for his eloquence, should persistently refuse to comply with this rule. He was once urged by a blatant, mouthing, and conceited professor of elocution to attend one of his oratorical displays, and he replied in the language of Hamlet, "'O, it offends me to the soul, to hear a robustious, perriwig pated fellow tear a passion to tatters—to very rags—to split the ears of the groundlings; who, for the most part, are capable of nothing but inexplicable dumb show, and hideous noises.' Professor, do you recite Hamlet much in your exhibitions?"

A few days before Marvin left Colchester Seminary, Doctor Hawks, who was much attached to him, inquired what occupation he intended to follow.

"I think of studying law," was the reply.

"Studying law? why, Dudley, you will never succeed as a lawyer; you have no capacity for public speaking, and without that, you cannot succeed at the bar," said the doctor.

"I have persuaded myself that I have some qualifications for a lawyer, and as for oratorical power, I shall get on quite well with that, I have no doubt. I do not believe there will be any difficulty in telling to others that which has been closely impressed upon my own mind. The great question with a lawyer should be, to learn something to talk about, before he undertakes to talk."

"But Dudley, can't you conceive of a man's knowing more than he can explain? Have you not known persons who had splendid ideas, but no language to communicate them?"
"That often happens, but the reverse is more frequent. There are students here, and men everywhere, who have more language than ideas, more talk than thoughts. Hence the truth of the old poet, —

"Distrustful sense, with modest caution speaks,
It still looks home and short excursions makes,
But rattling nonsense in full volleys break."

"A most sensible answer, young man. Why, you can talk, and to some purpose, too. You are as voluble as you are sensible. I like your ideas. He who attempts to speak in public, or write for the public, without research or ideas, is like a soldier firing blank cartridges — very noisy and very ineffectual. I think, Dudley, you may as well turn lawyer. There may be a small matter of honesty in the question, but you will get along with that. I am a minister, and have always thought that honesty and lawyers — well, never mind what I thought; go ahead and be a lawyer, Dudley, and be as honest as you can and be a good lawyer."

After leaving Colchester, he was induced to accompany a gentleman on a tour through western New York, in the course of which he visited Canandaigua. Here he remained some time, making the acquaintance of the late Judge Howell and John Gregg, then distinguished lawyers, composing the eminent firm of Howell & Gregg. He perfected an arrangement with these gentlemen for pursuing his studies in their office; and in October, 1807, was regularly entered as a student at law.

Such was the progress which he made in his studies, such was the capacity and skill which he exhibited as a special pleader and draftsman, that his preceptors proposed to pay him a liberal salary, provided he would agree to remain with them until admitted to the bar. To this he consented, and he remained with them until September, 1811, when he was called to the bar.
"What of all things is the best?" asked Chilon of the Oracle.
"To know thyself, and the laws that govern thee," was the reply.

The most frequent obstacle to the success of lawyers is forming too exalted notions of law, as a system of acquired, practical dexterity, and too humble notions of it as mental energy, logic, reason, learning. Hence, there is a wide distinction between a lawyer, skilled through the medium of research and learning, and the dexterous, shrewd, cunning practitioner who, with no systematic knowledge of the law, yet in a certain sphere becomes successful, because he is simply sharp. With the one, we have the idea of strength, sagacity, power; with the other, small cunning, arch trickery, and all the devices of the mere empirical sharper.

When Dudley Marvin came to the bar his legal acquirements were of the highest order; in all things pertaining to his profession, except experience, he was an accomplished lawyer. Immediately opening an office at Canandaigua, he commenced practice in that village. About this time he was retained to defend a case brought by his early friend and preceptor, Judge Howell. On the trial he exhibited much acumen, knowledge and skill, but extended to his eminent opponent all the amenities and professional courtesy which characterize a liberal mind.

When the evidence was closed, he entered upon the duty of addressing the jury. Up to this period no one at Canandaigua had ever heard him attempt any oral effort. On this occasion his manner was so natural, so self-possessed, his case so thoroughly prepared, that he gained much in reputation as a lawyer, and he passed rapidly into a successful practice. Within a very few years he was distinguished throughout the State for those powerful and oftentimes thrilling speeches at the bar, which were regarded as specimens of consummate legal authority.

His manner at the bar was generally dignified and
courteous, though occasionally, when ruffled or displeased, he was uncivil—even rough. He spoke with great deliberation but with ease; when excited, he spoke more rapidly. His speeches were usually short, brilliant, and impressive. He spoke with the force of a man confident of great powers; possessed of ample materials, he pronounced his opinions with authority, and expected his hearers to qualify and apply them. His extreme subtlety of observation rendered him powerful on cross-examination—he probed to the quick—he penetrated to the bottom of the subject, and yet he seldom left a sting in the mind of the witness.

The celebrated advocate and eminent civilian, B. Davis Noxon, of Syracuse, once remarked that, "Dudley Marvin is the strongest lawyer on the cross-examination that I ever met, because he himself never gets cross."

This was illustrated in the trial of the important and memorable case of the People v. Newman, at Mayville, many years ago. The prisoner was indicted for stabbing a prominent merchant one evening as he was entering his own gate. One of the principal questions in the case was the identification of the prisoner. For this purpose, the prosecution introduced a very sensible and prepossessing woman, about thirty years of age, who testified very closely to matters tending to connect the prisoner with the offense. Marvin, who was on the defense, had learned that the woman was living with a man who was not her husband, a fact which was unknown in the community where she resided. Aware that this circumstance alone would not destroy the weight of her testimony, he shrewdly decided not to touch that matter, but laid a plan to impeach her memory, which would, if successful, be a very strong point against her evidence.

Commencing with that plausible manner so natural to him, he asked her if she distinctly remembered the circumstances which she had related on the direct examination.
"Certainly I do, sir," was the prompt reply.
"Madam, is your memory good?"
"Yes, sir, very."
"May I ask you if it is as good in recollection of days and dates as it is in events?"
"It is equally correct in both cases, sir."
"Is it as good in the recollection of the countenances of persons?"
"I think it is, sir."
"Well then, madam, can you recollect the date of your marriage to the man with whom you are now living?"

The witness reflected a moment, then replied that she could not remember the exact date. The question was shrewdly answered.

"Can you remember about the time, madam? Not to be very particular, can you tell me what month of the year it was?"

The lady saw she was caught, but rather than disclose the manner in which she was living, did just what Marvin expected she would, answered that she could not remember even that circumstance, and she was permitted to leave the stand. Nothing could exceed the chagrin of the counsel for the prosecution at this utter failure of one of their most reliable witnesses.

The case of the People v. Bostwick and Graves, which has already been mentioned, was one of the most important criminal cases in which Mr. Marvin was engaged. The defendants were highly respectable citizens of Auburn, who were connected with one of the great lotteries then in existence in the State. A heavy prize had been drawn by a citizen of Genesee county. The defendants having retained, under some rule of the concern, a per centage on the amount drawn, an action in equity was commenced against them to compel a specific performance of the conditions under which the ticket was purchased. In swearing to the truth of their answer to the bill filed, perjury was charged. As it was sworn to in Genesee
county, they were duly indicted there, and, as we have seen, Messrs. Marvin and Hurlbert were retained, the former to aid the prosecution, and the latter, with Michael S. Myers, Esq., of Auburn, to defend.

Such was the anxiety of the complainants to convict the defendants that Marvin had been retained at a heavy expense, a large portion of his fee having been provided for by subscription. In the course of the trial the sheriff of the county was introduced as a witness for the people. Hurlbert ascertained that the sheriff was a subscriber to this fund.

"Sheriff," said he, on the cross-examination, "are you not considerably interested in favor of the people in this case?"

"No, sir, not much."

"Did you not subscribe, with others, towards raising the money to fee Mr. Marvin?"

"I object to that question, if your honor pleases," said Marvin; "it is irrelevant."

"I understand that my friend has strong personal reasons for his objection, and out of consideration for him I shall waive the answer," replied Hurlbert, with great gravity.

Marvin, a little puzzled, cast a quick glance at the solemn face of his opponent, and fearing the jury would believe matters much worse than they really were, said:

"I shall insist upon an answer to the question—I desire the answer."

"Ah, I see—I see now; I was mistaken at first, but I see now that the counsel has very strong reasons for desiring the answer, and it may be answered. I am happy to aid the counsel—very happy. Go on, sheriff."

"Happy to aid me, sir? What do you mean?" said Marvin.

"Why, the counsel is fearful that the sheriff will deny his signature to the subscription when pay is demanded of him, and my friend proposes to extort a
confession from him here, in open court, that will bind him to it. Well managed, Mr. Marvin—exceedingly well managed, sir; you have really got the sheriff now; he'll be obliged to help pay your fees, sir. I congratulate you."

It was difficult to tell which felt this sharp cut most keenly, Marvin or the sheriff; but the laugh which ran through the court-room told how much it was enjoyed by the bench, the bar, and the spectators; and for once, Dudley Marvin had nothing to say.

The trial consumed several days—each point was closely contested, and each day the interest in it increased.

At length the evidence was closed, and the counsel prepared to address the jury; it was a case which elicited all their intellectual powers, and afforded a rich mental treat for those who were fortunate enough to be present.

One of the counsel was struggling "to protect an outraged community against a dark and insidious crime, easily perpetrated, but difficult to detect." The other was laboring "to protect innocence from an undeserved punishment, to disentangle unsuspecting worth from the meshes of craft, subtlety, and a dishonest complaint."

After the arguments of counsel, the jury listened to the charge of the judge, and then retired for deliberation.

An hour elapsed, and they returned into court with a verdict of not guilty. Thus ended one of the most interesting criminal cases ever tried in the county of Genesee.

Though Mr. Marvin had little taste for politics, yet it was impossible for him to stand entirely aloof from the political excitement which surrounded him. Very early in life he identified himself with the Federal party, and he continued true to its fortunes until it was merged in another organization.

In the year 1823 he represented the twenty-sixth
Congressional district in Congress. At the opening of that session, Mr. Clay and Mr. Barbour, of Virginia, were rival candidates for speaker.

The former was chosen by a vote of 139 against 42, exhibiting his great popularity at that period. Mr. Marvin, who had long been a friend and admirer of Mr. Clay, warmly sustained him in this contest, and that great statesman recognized his abilities and friendship by giving him a respectable position on three important standing committees in the House.

One of the questions before Congress that session, was the modification and revision of the then existing tariff. The debate in the House on this question created great interest in the nation. It was continued through several weeks. Mr. Marvin, however, occupied the floor but once during the discussion, and then only for the brief period of a half hour; but brief as were his remarks, he established his reputation as an able and accomplished debater. Like many successful speakers, conscious of their powers, he seldom claimed the attention of the House. It was a remarkable feature in his character, that when at home it was next to an impossibility to persuade him to address a popular assemblage; and what renders such refusal still more singular, whenever he did appear before the public as a speaker, he never failed to captivate and charm his audience.

It is related of him that soon after his return from one of the sessions of Congress, a convention assembled at Canandaigua, consisting of his political friends. In the course of its proceedings, a resolution was unanimously adopted, approving of the course of the Hon. Dudley Marvin in Congress. Mr. Marvin was not present, but a committee immediately waited upon him, gave him a copy of the resolution, and invited him to address the convention. He accompanied the committee to the court-house, where the convention was sitting. On entering the room, he
was received with cheers, and then loudly called upon for a speech. He immediately arose, and in a few words expressed the satisfaction which the resolution gave him,—acknowledged the deep obligation which he felt himself under to his generous friends who had so highly honored him,—and took his seat.

This meager speech from an orator so celebrated, fell rather coldly upon the enthusiasm of the convention. For a moment there was a dead silence in the room. Suddenly one of the delegates, a venerable farmer from the town of Bristol, arose, and turning to him, said:

"See here, Mr. Marvin, this won't answer. We have sent you to Congress, because you are a first-rate man to represent us there. We've just told you that we are satisfied with what you have done; but we want you to tell us how you did it, and how the affairs of the nation look down there for our side. I'm not one of them that likes to hear a speech on all occasions, especially from those that are always talking. Now we want some account of your stewardship from your own mouth. Now, gentlemen of the convention, I propose that Mr. Marvin address this assembly, and if he refuses to do so, then I propose that we rescind the vote of thanks we have just passed."

Once more cries for "Marvin!" "Marvin!" rang through the room. He obeyed the call, and delivered a speech which was highly gratifying to his constituents.

During one of the recesses of Congress, he was engaged in the trial of a cause which created considerable interest. At the conclusion of one of those appeals for which he was so famous, the court adjourned for dinner. On reaching the door of the court room, he was accosted by a man who said he wished to talk with him a moment.

"Well, I will hear you," said Marvin.

"I have a boy whom I want you to take and make a lawyer of," said the man.
“How old is he?” asked Marvin.

“He’s eighteen year old, stout and rugged; he’s got a pair of lungs like a bellows,” said the man.

“That is very well as far as it goes. Has he any other qualifications?” asked the lawyer.

“Yes sir, he’s got the one great qualification of all,” was the reply.

“Well, what is that?”

“Well, good heavens! Mr. Marvin, he’s the confoundedest liar in our town. If that ain’t a big qualification for a lawyer, then I don’t know. I thought when I heard you in the court room just now, that it wouldn’t take long for Sam to come pretty nigh up to you,” said the man.

Marvin assured him that his son’s qualification might bring him to the bar, for a short time, before he was aware of it, and for that reason he thought the boy would get along without any of his help, and thus the matter ended.

The Canandaigua bar at this time consisted of such lawyers as Spencer, Sibley, Worden, Wilson, Howard, Gregg, Norton, Strong and others, all of whom possessed more than ordinary abilities.

In speaking of John C. Spencer, Marvin often said: “Spencer was constituted for a lawyer, just as some men are constituted for mathematicians or as engineers, &c. He is all lawyer, and whatever intellectual effort he attempts, has the stamp of the lawyer upon it. If he should undertake to talk, or, as the saying is, use his liberty, in a religious meeting, he would give a disquisition on reversionary interest, contingent remainders or resulting trusts, by way of illustrating the rewards of just men made perfect.”

Though Spencer was less vulnerable to the keen sarcasm of Marvin, than many others; yet even he was often the victim of a sharp repartee, which gave the former a decided advantage in a contest.

This was once illustrated in a case in which they were opposed to each other. In the course of the
trial, an argument on some legal question occurred, in the course of which, Marvin asserted very strongly a certain proposition, and concluded by saying, that it was undoubted authority.

"I doubt it, I doubt it," said his opponent.

"Well, doubt, if you dare take the consequences," said Marvin.

"What are the consequences, sir?" asked Spencer.

"Why, he that doubts shall be damned," was the quick reply.

The color of Spencer's face proved that the shaft had taken effect.

In the year 1819, after a bitter political contest, in which Mr. Spencer had been very active, he was prosecuted by some opposing partizans, in an action growing out of matters which occurred during the campaign. The case was planned with singular skill, and prosecuted with great determination and ability.

As the consequences of defeat would be extremely disastrous to him, he had some cause for alarm, though really no cause of action existed against him. After mature deliberation with his friends, Dudley Marvin was retained to try the cause for him.

It was understood that Spencer was to plan the defense, and that Marvin should conduct it at the bar without the least assistance from any person.

On the day of trial, Mr. Spencer, attended by his counsel, entered the court house, in the character of a defendant; taking his seat in the bar, the trial commenced. Though opposed by Elisha Williams, who withheld none of his great legal abilities, never did Marvin appear to better advantage; never did he evince more indubitable evidence of his commanding powers as an advocate, than on this occasion.

His invective against the partizan malice which instigated the action was most withering.

"Gentlemen," said he, "I can excuse the heat and anger engendered by party strife. I am ever wil-
ling to palliate some vituperation on such occasions, for forbearance at such times, is due to the weakness of human nature, to the excess of sudden passion. But I cannot excuse that bitterness which outlives the occasion—merges into cool and calculating revenge—erects its fiery crest—hisses forth its venom—purses with its scorpion sting, private character and domestic peace, seeking the law as a means of vengeance, with all the dark malevolence—with all the hideous attributes of the assassin, without the assassin’s courage.”

The defense of Mr. Marvin was triumphant, and resulted in the utter defeat of Mr. Spencer’s enemies.

But to return to his Congressional life. During the Congressional session of 1825, although one of the most energetic and laborious members of that body, he seldom mingled in the debates which occurred in it. As the second on the committee to whom was referred the investigation into the amount of duties paid on imported woolen goods, and into the condition of the woolen manufactures of the nation, in the absence of the chairman, Mr. Penston, of Pennsylvania, Mr. Marvin submitted an elaborate and able report, which Mr. Mallory, of Vermont, in the succeeding session of Congress, as chairman of the Committee on Manufactures, asserted aided him materially in preparing his report on the “alteration of the acts imposing duties on imports,” commonly called the “Woolen bill.”

It is certainly safe to say, that Mr. Marvin’s career in the eighteenth Congress, if it was not brilliant, was highly creditable to him, and as an indication of the satisfaction which it gave his constituents, he was unanimously renominated to represent them in the succeeding Congress.

With the close of the nineteenth Congress, he retired from the political field to the duties of a private citizen.
In the month of October, 1829, the celebrated trial of Richard and James Gray occurred at Batavia. The defendants had been indicted for the murder of Harvey Davis, an innkeeper at Le Roy, New York. The accused were father and son. This fact, and the singular circumstances attending the homicide, created intense interest, rendering it one of the most important cases ever tried in the county of Genesee.

Levi Rumsey, a very reputable member of the Batavia bar, was then district-attorney. The case was so important that the governor was solicited to send the attorney-general to assist the prosecution. That officer having another engagement, the governor directed that Dudley Marvin should be retained in his place; and Mr. Rumsey immediately wrote to him in obedience to the instructions of the executive.

Before receiving this note, he had been written to by the friends of the Grays, inquiring on what terms he would undertake their defense; and accordingly he replied to the district-attorney by saying that he could not give him a definite answer until he heard further from the prisoners. Thus the matter rested. In the mean time, he happened to be at Batavia on business. The Grays, learning that he was in town, sent a friend to him for the purpose of ascertaining precisely what his charge would be for undertaking their defense.

"Two hundred and fifty dollars and expenses," was the reply to the Grays.

The agent repaired to the jail for the purpose of repeating this answer. He soon returned.

"Well, Mr. Marvin," said he, "they say you charge too much, and that they will be hanged if they will pay any such sum."

"Very well; tell them they shall have their choice, for they shall be hanged," was the reply.

Accordingly, he accepted the retainer of Mr. Rumsey. The trial took place, and one of the defendants—the son—was convicted of murder, and executed;
while the father was convicted of manslaughter, and sentenced to the State prison during his natural life.

The prosecution of this case involved the difficult task of grouping and combining a mass of apparently incongruous and unimportant circumstances, a close and critical examination of several difficult and technical legal questions, and of drawing from unwilling witnesses circumstances within their knowledge. But with the perseverance, fidelity and pertinacity of an explorer after some occult truth—some fascinating mystery—Marvin followed the prisoners through every labyrinth of the law, through the devious windings of the circumstances, until he fixed upon them the sure and certain mark of blood—the indubitable evidence of their guilt.

His address to the jury was powerful, convincing, and eminently successful. Like Webster, in the trial of the younger Knapp, he was accused of convicting the prisoners by the force of his eloquence alone, by a brilliant and powerful radiation of light on remote and doubtful circumstances.

The prisoners were defended by George Hosmer, then in the midst of his professional success. His defense was one of the most powerful ever made by that eminent lawyer. In speaking of this trial in after years, Mr. Hosmer remarked that “it was not the evidence that convicted the Grays; it was Marvin’s thrilling and terrible appeal; it was so overpowering that nothing could withstand it. Such efforts misdirected, or directed against innocence, are fearful, and I have sometimes thought that a public prosecutor of such abilities should not be permitted to appear where the prisoner’s guilt is doubtful.”

Some time after the execution of the young man, circumstances were developed which indicated that the father alone was guilty.

Mr. Marvin was connected with many of the important and exciting trials resulting from the abduc-
tion of Morgan. One of the most important was the
defense of Ganson, a wealthy stage proprietor, at Batav-
via, who was indicted for being concerned in the re-
moval of Morgan. Marvin conducted the defense in
this case. It appeared in evidence that one of the
defendant’s coaches was used for the purpose of the
abduction, but by whose authority or direction the
coach was thus used, did not appear, though a pow-
erful effort was made to connect Ganson with the
matter.

The person who drove the stage was placed upon
the stand.

“Who gave you the way bill, that night?” asked
the public prosecutor.

“I don’t remember.”

“Who was in the coach when you started from
Batavia?”

“I think there was three men; one of them, I
think, was Morgan.”

“Who shut the coach door?”

“I can’t tell.”

“Did you receive directions from any person?”

There was an objection to this question, but the
court allowed the answer.

“Yes; somebody told me to drive like hell, for
there was a man inside that was bound for that place.”

“Did you obey orders?”

“I think one of the men went through;” was the
reply.

This was all that could be elicited from the driver,
and as there was no proof that Ganson had any
knowledge that Morgan was in the coach, he was
acquitted by the jury.

Mr. Marvin continued to practice his profession
until the year 1885, when he removed to the city of
New York, formed a partnership with William Austen,
Esq., an accomplished lawyer, and commenced the
practice of law in that city under many advantageous
circumstances. His reputation preceded him, and he
immediately took a high position as an advocate at the New York bar. He continued to practice with increasing success, until he became engaged in a certain patent right, which for a time promised much success, and even wealth; this attracted his attention from his profession, and his practice began to decline. At length his patent right failed, causing the loss of large sums of money and many of his clients. His friends in the city offered to guarantee that his practice should be re-established, provided he would remain in the city. For a time he proposed to do so; but certain interests which he had in lands in the county of Chautauqua, rendered it necessary for him to remove there.

Accordingly, in autumn of the year 1835, he became a resident of Ripley, in that county. Here, he did not design to devote much time to his profession; but so high was his reputation as a lawyer, that retainers came to him from all parts of western New York.

Among the important cases in which he was engaged at the Chautauque bar, was that of the People v. Newman, tried in Mayville, in January, 1846.

Newman had been indicted for attempting to stab Nathaniel A. Lowrey, a prominent citizen of Chautauqua county, in November, 1846.

On the evening before the election of that year, Mr. Lowrey left his store for his residence; on reaching his gate, a man, whom he supposed to be Newman, came up with him, accosting him with the accustomed salutation, "Good evening." The next instant he received a blow from the man, who, in giving it, stumbled, and partly fell, and at the same time dropped something upon the walk; recovering himself, he ran rapidly away.

On entering his house, Lowrey discovered that he was bleeding profusely from a wound in his side, made with some sharp instrument. Recollecting that he heard something fall upon the walk, he caused
search to be made for it, which resulted in finding a large heavy knife, having a two-edged blade, which was covered with blood.

It was soon ascertained that Newman owned a knife similar to this; but it was also known that one of the merchants in the village once had a package containing a dozen of these knives, which had been disposed of to various persons about the country.

One of the most embarrassing questions for the prosecution, was the entire absence of motive in the mind of Newman for the commission of so fearful a crime, or, indeed, for the commission of any act of violence against Lowrey. However, some slight proof tended to establish the fact that the accused committed the crime at the instigation of other parties, enemies of Lowrey, now out of the jurisdiction of the court. But the principal question in the case was that of the identity of the prisoner. The whole case, however, created a legal contest seldom equaled in western New York.

The prosecution was conducted by Abner Hazleton, a distinguished member of the Chautauque bar, then district-attorney, and subsequently county judge of that county, assisted by Richard P. Marvin, now one of the justices of the Supreme Court for the eighth judicial district, and John B. Skinner, of Buffalo. Mr. Marvin was assisted by the late Judge Mullett. Seldom do the records of our State courts present such an array of distinguished and brilliant lawyers as appeared on the trial of this case. Seldom has there been a case which so thoroughly stimulated them to the exertion of their every faculty. During a whole week, the court-room at Mayville was the scene of a close, able, and at times thrilling contest, each side contending with a determination which would not brook the idea of defeat. At length, after addresses of almost unparalleled ability from the respective counsel, the jury retired. A lengthy deliberation followed, and they returned into court amid the most breathless
silence from the vast crowd of spectators present, and rendered a verdict of guilty.

This was the last case of any importance in which Marvin was engaged; other matters claimed his attention and drew him from the bar, though he could not entirely emancipate himself from the claims which his old clients believed they had upon him.

Previous to his removal to Ripley, he became somewhat dissipated in his habits; he was one of those genial, social, pleasing, gifted persons, upon whom the blight of intemperance naturally falls, leaving the cold-hearted, the callous, and the sordid, to that negative virtue, which, while it is commendable, possesses none of those heroic qualities which inspires him who with lofty sentiments, generous emotions, and liberality, unites many faults, which require fortitude, self-denial, and philosophy to overcome.

Whenever the genial sunbeam falls upon rich and generous soil, noxious weeds will spring into existence with useful and ornamental vegetation, while in the cold shadows of the rock, in the arid sand, all may be pure and free from weeds, but no beautiful flowers spring up to spread their fragrance through the surrounding air—no luxuriant fruit gives pleasure, happiness, and benefit to man.

When Mr. Marvin became fully aware of his dangerous condition, he suddenly resolved upon reformation, and he sternly and heroically carried that resolution into effect. He united with the Presbyterian Church, at Ripley, and from that event, through the remainder of his life, he exhibited the example of an undeviating Christian.

In the autumn of 1846, he was elected by the Whigs of the thirtieth Congressional district a representative in Congress. Early in December, 1847, he delivered a speech on that part of the president's message which referred to the Mexican war. Some of his remarks, particularly those in connection with the question of slavery in the territories, will long be
remembered as almost prophetic, and imbued with an astonishing prescience.

After serving through the session of 1847–8,—discharging his duties with great ability and exactness,—he retired from the cares of office, and from the political field, to the duties of private life.

Dudley Marvin was, as has already been stated, above the middle size, rather portly, but with a figure finely proportioned. His countenance was indicative of his gifted mind—handsome, open, and intelligent. He had a remarkable presence, in which dignity and urbanity combined. One of his talents, the one which most distinguished him in private life, was a rare turn of pleasantry, which was delicately ironical, and which tinged his vast fund of anecdote with a most pleasing interest.

He was fond of the society of literary men, with whom he always felt himself at home. He was deeply read in history, ancient and modern, possessing a critical and refined taste. His favorite poets were Spenser, Shakespeare, and Ariosto. He used to say of Pope, that he was the most Roman of all the British poets, and the least offensive in his Romanisms.

With the odes and satires of Horace, he was perfectly familiar, from which he often, in his speeches and conversation, made natural and pleasing quotations, among which was the following: "Prometheus was obliged to add to that original clay with which he formed mankind, some ingredient taken from every animal, and, thus he applied the vehemence of the raging lion to the human breast; and hence," said he, "we have soldiers, warriors, laws, and—lawauits, &c."

The kindness and generosity of Mr. Marvin overcame all acquisitiveness, rendering him extremely loose in his financial affairs. During a portion of his life, he paid but little attention to his pecuniary
engagements, forgetting them in the demands which his profession or the cares of office made upon him.

The late Mark H. Sibley, who always held Mr. Marvin in high esteem, used to relate an amusing incident illustrative of this feature in his character.

"On one occasion," said Mr. Sibley, "at a time when he was much embarrassed in his money matters, he came to me with a note against a man residing in one of the western counties, which amounted to five or six hundred dollars, and which had several months to run before it would become due, desiring me to take the note and advance him the money upon it. Believing the maker to be responsible, I did so. Some time after the note came to maturity, I wrote to the payor requesting payment; he replied by pleading the pressure of the times, and requesting some further time for payment. Time passed on, and payment continued to be delayed.

"At length, learning that Marvin was about to visit the place where the maker resided, on professional business, I called upon him, and requested him to take my note and collect it for me, which he readily consented to do. Amid the multiplicity of my professional engagements, the matter nearly passed out of my mind. One day, however, I met Mr. Marvin, and it occurred to me.

"'General,' said I, 'what about the note against Emerson? How did you succeed with it?"

"'O, admirably; admirably. I saved the debt for you, Mr. Sibley, and it's all right.'

"'I am glad to hear you say so. Where are the funds?' I asked.

"'Why, I took the money, and used it as occasion required,' was the reply.

"'Yes, General, I see. But you do not call that securing my debt, do you?'

"'Why, certainly.'

"'In what way?' I inquired.

"'By changing securities, to be sure. You hold
me now for the demand, instead of the maker of that note, and I think I am entitled to considerable credit for the manner in which I managed that matter for you. When you have more debts of the kind to collect, I will cheerfully aid you to the extent of my ability,' said he.

"The sincere and business-like manner in which he said this, was perfectly amusing to me; and although, from the general's circumstances just then, my security was not the most satisfactory, I replied to him:

"'General Marvin, you are a most excellent financier—I think you are improving—but allow me to inquire to what length of time the new security extends the payment?'

"'O, indefinitely, indefinitely, Mr. Sibley, with usual interest.'

"More prosperous times in his affairs came round at last, and my debt, principal and interest, was fully paid, for he was an honest, high-souled man.'

Dudley Marvin was always highly esteemed by his professional brethren, and by the judiciary throughout the State. Whenever he arose to address the court or jury, he commanded the most profound attention. Always dignified and composed; always master of himself and his case.

He died at Ripley, in June, 1856, in the 71st year of his age. The intelligence of his death was announced in the various courts, and by the press of the State, in language that exhibited the high position which he held in the mind of the public.
ALBERT H. TRACY.

His Character among the Lawyers and Legislators of his day.—The Condition of Affairs when he entered Public Life.—His Endowments.—His Father a Distinguished Physician.—Albert Commences Study of Medicine with him.—Removes to Madison, New York.—Discontinues the Study of Medicine and Commences the Study of Law with his brother, Honorable Phineas L. Tracy.—Removes to Batavia, New York.—Is admitted to the Bar.—Removes to Buffalo and Commences Practice.—Two of his earliest cases described.—The Plea of Infancy.—Prospects of Defeat.—The Discovered Family Record.—Defeat Turned to Victory.—The Condition of Politics during the first years of Tracy's Practice.—He is Elected to Represent his District in Congress.—Events of the Sixteenth Congress.—Contest over the Application of Missouri to become a State.—Mr. Tracy engages in it.—Henry R. Storrs.—Robert Monell.—Nathaniel Pitcher.—Mr. Tracy as a Speaker.—Sharp answer of Gerard.—Tracy's Speech on the Missouri Question.—Compromise of Mr. Holmes.—Admission of Missouri.—Mr. Tracy Re-elected to Congress.—Becomes a Friend of Martin Van Buren.—The Federal Party.—Van Buren as a Politician.—Tracy in the Social Circles of Washington.—Van Buren's Proposals to Tracy.—Governor Clinton offers to appoint him a Judge of the Supreme Court.—The Offer Rejected.—Is urged to become a Candidate for United States Senator.—Reasons for Declining.—Tracy Elected to the State Senate by the Anti-Masons.—Great Victory of the Democrats in 1839.—Tracy Sustains the Anti-Masons in the Senate.—Is aided next year by Seward, Maynard, Talmadge, and Cary.—Character of Trumbull Cary.—Tracy continues in the Senate eight years.—Character and number of the Legal Opinions written by him while a Member of the Court of Errors.—Retires from the State Senate.—Tracy a Candidate for United States Senator.—His high Claims for the Office.—The Whigs sustain N. P. Talmadge, a recent Democrat.—Talmadge Elected.—Tracy unites with the Democrats.—His Reasons.—Would have been Vice-President instead of Tyler, had he remained with the Whigs.—General Harrison offered Tracy a place in his Cabinet.—Declines.—Returns to the Practice of his Profession.—Thomas C. Love.—Tracy Retires from the Bar.—His Life in Retirement.—His Love of Literature.—Tracy's Opinion of Bulwer as a Writer and Critic.—His Conversation with a Friend as to Bulwer's Remarks upon Young's Night Thoughts, Child Harold, &c.—Tracy's Opinion of Scott as a Poet.—Tracy as a Conversationalist.—Opinions of Webster, Cass, and others, as to his Conversational Powers.—Tracy as a Critic.—Mr. Dortsheimer's Description of his Characteristics.—Tracy's Personal Appearance.—Failure of his Health.—His Death.

Among the eminent lawyers, as among the legislators of the active period of his day, Mr. Tracy occupies a place in the foremost rank. He entered the political field when very young, to contend with men
of the highest capacity—with the great partisan leaders of that period, and so successful was he in the contest, that his own fame has been entwined with theirs. He entered public life, when partisan strife was peculiarly acrimonious, and he showed himself above the narrow spirit of the common politician. There was in his nature a calm philosophy which never forsook him in the sharpest controversies, which contributed greatly to protect his genius, imagination, taste, and sensibility from the dangerous influence of public station—a philosophy which threw a hue of poetry over politics, softened the asperities of his nature, and covered his faults.

His endowments were of a useful, and in a measure commanding character. He possessed sound sense, ready memory, and vast industry, a thorough acquaintance with business in its principles and detail, a thorough and perfect knowledge of the law, theoretically as well as practically, while he understood politics from participating in their details.

His mind was of a very high order, and in many respects original; he was never highly distinguished as a public speaker, yet in that capacity, he attained a respectable position. But his conversational powers were unsurpassed. In private conversation, his language—indeed his oratory, was graceful, natural—abounding in flowers of various hues mingled with the closest reasoning. So that his arguments—his narratives, seemed spontaneously to clothe themselves in the most pointed terseness—and anon, in the most luminous statement, and then, in the most apt and felicitous antithesis. This rendered him a pleasing and valuable companion, and an ornament to the polished society in which he moved. His rare ability as a writer is evinced in the various documents, legal opinions, and other works, which he has left behind him.

Albert H. Tracy was born at Norwich, Connecticut, June 17th, 1793. His father was Doctor Philemon
Tracy, one of the most distinguished physicians and surgeons of his day. It was his ardent desire that Albert should follow the profession of medicine and surgery; accordingly, when he had completed his classical education, he commenced the study of medicine with his father, who spared no pains or expense in storing the mind of his son with a complete and perfect knowledge of all the learning of his profession. But when nearly fitted for his degree in medicine, he visited Madison, N. Y., where his brother, the present Hon. Phineas L. Tracy, then a practicing lawyer, resided.

Pleased with the country, and stimulated with the novelty of that then recently settled region, he determined to make it his future home. The profession of medicine never quite suited the taste of young Tracy. Its dry and endless nomenclature,—the beautiful, but abstruse arrangement of bone, muscle, nerve, sinew, vein and artery, so attractive to many, gave little interest to him. The heart-stirring energy of forensic struggles, the philosophy, the reason, and the logic of the law, attracted him, and he determined to abandon the profession of his father, and enter the legal profession. Accordingly, he immediately entered the office of his brother and commenced the study of law.

He remained at Madison a year or two, when his brother removed to Batavia and Albert accompanied him, where he completed his legal studies, and in May, 1815, he was admitted to the bar, and immediately went to Buffalo, opened an office, and commenced practice. Buffalo was then but the remnant of a thriving village, having been burned by the British during the war which had then just closed. When young Tracy first looked upon its desolate streets, it appeared as though the angel of destruction had passed over it. But it required no prophetic tongue to convince him that its desolation must soon give way to prosperity, wealth and commercial ac-
tivity, and this determined him to make it his home for life.

His many amiable qualities, his sound practical good sense, his industry, and capacity, soon became known to the citizens of Buffalo, and in a short time he gained the reputation of a prudent, sagacious counselor, a skillful and successful advocate. Such was his success, that when, at the end of three years, he visited Albany for the purpose of taking his degree as a counselor, he had acquired several thousand dollars in money earned by his profession.

One of the earliest cases which Mr. Tracy conducted, was an action of ejectment for the recovery of a piece of land containing some seventy five acres, situated not far from the present site of the New York and Erie depot. The matters in dispute were all intricate questions of law and fact. It was tried in Buffalo, in the summer of 1816. In conducting this case, the young attorney exhibited such perfect familiarity with the laws of real estate, such skill in harmonizing and adjusting the evidence against him, that he not only carried the case but gained much distinction as a real estate lawyer and advocate.

Another incident in his early practice is related of him, which exhibits his indomitable energy and perseverance. An action had been commenced against a young man residing at Hamburg, by his uncle, for the recovery of a large sum of money which he claimed was due on an alleged contract made between the uncle and nephew. Mr. Tracy was consulted by the defendant, and he soon satisfied himself that the claim made by the uncle was unjust and dishonest; but as there seemed no way to avoid the contract, Mr. Tracy was on the point of advising his client that he had no available defense to the claim of the plaintiff, and that he must submit to a judgment, however ruinous it might be to him, when the lawyer accidentally learned that at the time of making the alleged contract, the defendant was an infant under twenty-
one year of age, lacking one month of his majority. Under these circumstances, Mr. Tracy felt justified in interposing the defense of infancy, and it was duly set up in the plea.

On the trial, the mother of the defendant testified that he was born on the 12th day of October, 1794. After the lady retired from the witness box, court adjourned until the next morning, it being near night. During the evening, Mr. Tracy learned that the opposite party had several witnesses subpoenaed to prove that the mother was mistaken as to the year in which her son was born; in fact, to prove that he was born on the 12th day of October, 1793, instead of 1794, as the mother had testified. This was an unexpected attack, and there seemed no escape from defeat.

After consulting with his client and his friends for some time, inquiring minutely into all the circumstances of time and place, it suddenly occurred to the mother of his client that there was an old lady, a relative of the family, who lived near her at the time of her son's birth, who had in her possession a family Bible containing an entry of the time it occurred, made in her own hand the very next day. It was now ten o'clock in the evening; the old lady resided twenty-five miles from Buffalo; if she could be produced with her family record, the defendant would be saved from defeat. Accordingly, a subpoena was immediately prepared; the defendant and a friend started for the residence of the witness.

Soon after the opening of court in the morning, he appeared in the court room with his witness, Bible in hand. Tracy examined it a moment. The record had every appearance of authenticity, being as venerable in appearance as was its owner; and, what was still better, the old lady was exceedingly intelligent, clear and distinct in her recollection of facts. She was immediately placed upon the stand. She fully substantiated the validity of the record, the making of the entry, and the time when it was made; in addition to
which she testified to other circumstances which so strongly corroborated the testimony of the mother, that the defense became triumphant, notwithstanding the powerful attempt which the plaintiff made to overthrow it.

At no period in the history of the State has the collision of parties been more sharp and fierce than it was in the first year of Mr. Tracy's practice. It was the long-contested struggle between the Federal and Republican party, and he entered the contest an ardent partizan of the latter. His talents, his energy, his high reputation as a lawyer, gave him at once a commanding influence in the politics of the day, and, young as he was, he became the acknowledged leader of his party in his Congressional district, which at that time extended from Lake Erie to Cayuga Lake.

In the autumn of 1818 he received the nomination for representative in Congress from that district, although then but a trifle over twenty-four years of age. He was elected, and entered the National Legislature on the 6th day of December, 1819, at the opening of the sixteenth Congressional session.

During this session, the great contest engendered by the application of Missouri to become a State, agitated both branches of Congress, and shook the Republic from center to circumference.

The fifteenth Congress reconvened on the 16th day of November, 1819, and Missouri immediately applied to that body to be admitted into the Union as a State, presenting a copy of her constitution, by which negro slavery was permitted. A scene of excitement followed, which at that period was unparalleled in the history of the nation. It was the first great collision between the North and the South. The Missouri bill with the slavery clause in it, was bitterly opposed by many of the northern members, particularly by General James Talmadge, from New York, who introduced a bill as an amendment, which provided, among other things, that the introduction of slavery
or involuntary servitude, be prohibited in the State to be admitted, except for the punishment of crimes, &c. A portion of the bill passed the House, but a disagreement with the Senate occurred, and the bill for the admission of Missouri failed.

On the 6th day of December, following, the sixteenth Congress assembled, and the contest over the admission of Missouri as a slave State was renewed with increased bitterness. Mr. Clay was speaker of the House; he was in no sense a friend to slavery, and yet he was in favor of admitting the Territory without any restriction as to slavery. The President, Mr. Monroe, though he acted with great discretion, favored the admission of Missouri with a slave constitution.

Among the representatives from New York in this Congress, were the late Henry R. Storrs, of Oneida, Robert Monell, of Chenango, Nathaniel Pitcher and John W. Taylor, all of whom were eminent and distinguished lawyers. The members from New York, instructed by the Legislature, with one or two exceptions, stood firmly in favor of restriction. Mr. Tracy was one of the youngest members in the House, having barely arrived at the age when by the Constitution he could be admitted to a seat in it; but in this contest he took an important, active, part. He did not aspire to become a wordy champion, an indefatigable Ajax of the wordy warfare which was raging around him, and yet he occasionally occupied the attention of the House; but he did not speak for momentary effect; he labored to dispose of the great question in a manner which would vindicate the action of the House to posterity.

It was one of his maxims that "he who talks much in public, must often talk in vain." He often related the anecdote of the member of the Chamber of Deputies, who, after a very long and grandiloquent speech, asked Gerard what he thought of the Assembly.

"I think," said Gerard, looking very gravely at
the conceited member, "I think there are a great many fools among us."

The anxiety which so many men have to hear themselves talk in public, was once alluded to by a very sensible and well-educated member of the New York Assembly, in a letter to a friend, in the following manner:

"What can I do in the midst of a crowd of garrulous, conceited men, who believe themselves to be born great orators, and who, therefore, gabble on all questions before the House, without understanding in the least what they talk about?"

"Mr. Speaker," said Mr. Tracy, on one of the occasions on which he addressed the House, "my friend, Mr. Taylor, whom I may add, so ably and eloquently represents the State of New York, has said on this floor, that history will record the decision of this day as exerting an influence for centuries to come, over the population of half our continent; and sir, it has well been said by him, that if we reject this amendment, and suffer this evil to strike its roots so deep into the soil that it can never be removed, we shall furnish some apology for doubting our sincerity, when we say we deplore its existence. May I add, sir, that the words of the distinguished gentleman are prophetic, that we are called upon now to act with promptitude and decision upon this question; that posterity will hold us responsible if we consent to entail this evil upon it; an evil which can only be eradicated hereafter by civil commotion and perhaps bloodshed. The distinguished member from Maryland, Mr. Pinkney, admits that slavery engenders pride and insolence in him who commands, and inflicts intellectual and moral degradation on him who serves, that it is abominable and unchristian. Then why should we not apply this restriction? Why should we hesitate to prohibit such an institution in a State whose geographical position alone ought to exclude it?"
It may well be said that the words of Mr. Tracy, as well as those of Mr. Taylor, were indeed prophetic. The former lived to see the strife and dissension which characterized the admission of Missouri, repeated with accelerated force—to hear the prelude to that fearful storm of civil war which broke over the republic.

The contest over the admission of Missouri, continued with unabated heat, until Mr. Thomas, from Illinois, introduced into the Senate the celebrated measure known as the Missouri Compromise, which was adopted by that body. When, however, it was first acted upon in the House, it was rejected by a vote of 159 yeas to 18 nays. The Senate refusing to recede from its amendment, and the House decisively insisting upon its disagreement, the Senate asked a conference, which request was acceded to. The committee of conference was so framed that it gave the Anti-Restricitons a decided majority. Mr. Tracy was appointed on such committee, but he declined to act, and another member was appointed in his place.

On the 20th of March, 1820, Mr. Holmes, from Massachusetts, reported from this committee that the Senate should surrender its combination of Missouri with Maine, and the House should abandon its attempt to restrict slavery in Missouri, and that both houses should concur in passing the bill to admit it as a State, with Mr. Thomas' restriction or proviso excluding slavery from all territory north and west of the new State. And thus the great compromise measure of 1820 passed both branches of Congress. It was the great measure of the sixteenth Congress, and with its settlement the nation forgot the turmoil and dissension which it created, and moved forward in unsurpassed prosperity.

Mr. Tracy represented his district in Congress until the year 1824, when he declined a renomination. This was an interesting and peculiar period in the history of the nation. During most of this time
Martin Van Buren and Rufus King were in the United States Senate from this State, while in the House the State was represented by men of the most distinguished ability.

The great Federal party—the party which was the exponent of the political theory of Hamilton—and which, since the foundation of the government, had always been powerful, often victorious—had committed the great error of opposing the late war with England.

The conduct of statesmen and legislators, even the very greatest, and those who are reputed the most successful, is so frequently at variance with the obvious suggestion of common prudence, that they may well be deemed to have been guided by some strange fatality. Thus with the statesmen who opposed the war of 1812. As a matter of policy it was a fatal mistake, and their party now stood on the very brink of dissolution, while the superstructure of the Democratic party in this State was being laid by Martin Van Buren and his compeers, who were then calling around them those whose hatred to the Federal party was stimulated by the political doctrines and dogmas of Jefferson.

There have been very few men in the world, certainly very few in our own country, who possessed the natural as well as the acquired political sagacity of Martin Van Buren. He understood the peculiar art of analyzing not only the external customs of men, but also of penetrating their deeper and more hidden interests. He had much of the subtle and astute policy of Richelieu, and, in the times of that great man, would perhaps have been equally successful. His career, though it closed in misfortune, evinces a consummate knowledge of human nature.

As a diplomatist and statesman his connexion with party, and his habits of viewing subjects in reference to party aggrandizement, too often caused the statesman to be lost in the mere politician. But this was a
fault which he showed in common with other American statesmen.

When Mr. Tracy first appeared at Washington, his refined taste, his elegant manners, and the charm of his conversation, rendered him welcome in its polite and refined circles. He at once took a high social position, while his devotion to all the details of his Congressional duties raised him to distinction as a legislator. Among those who were early attached to him was Martin Van Buren, then "the rising statesman of New York." It was his desire to induce Mr. Tracy to join the great party which was soon to control the power of the nation. The judicious and penetrating statesman perceived that Mr. Tracy's abilities, his various research, his facility of expression, his energy of character, his many claims to popularity among the people, would be of importance to any political party, and he was, therefore, not without selfish motives in cultivating the acquaintance of the young man. Though Mr. Tracy could not concur with Mr. Van Buren's political sentiments, yet there ever existed a warm friendship between them.

Governor Clinton, who duly appreciated the judicial abilities of Mr. Tracy, signified his desire to appoint him a justice of the Supreme Court, to fill a vacancy which would occur in the event of his accepting the appointment; but he declined the position for reasons which were entirely satisfactory to the governor.

In December, 1825, Mr. Tracy was urged by his friends to become a candidate for the office of United States senator in place of Rufus King, whose term in the Senate was about to expire. He at first yielded, but on learning that his friend Van Buren was to be the opposing candidate, he declined.

In the autumn of 1829, Mr. Tracy was nominated by the Anti-Masonry of the eighth Senatorial district, for State senator. This was a peculiar period in the political history of the State. Anti-Masonry, under
the lead of such men as William H. Seward, Frederick Whittlesey, Thurlow Weed, Albert H. Tracy, Trumbull Cary, Thomas C. Love, George W. Patterson, John Young, William H. Maynard, and many others, had assumed the dimensions of a powerful party in the State, especially in the western counties. As was said by another, during the existence of the Anti-Masonic party, "the tenacity of purpose which marked the Anti-Masonic counties, seem to indicate a reliable steadiness which it was almost hopeless for their opponents to attempt to change."

The fall of 1829 saw the Democratic party victorious throughout the State. In all the Senatorial districts except Mr. Tracy's, Democratic senators were elected; while of the one hundred and twenty-eight members of Assembly then elected in the State, one hundred and four were Democratic. Mr. Tracy entered the Senate with his party greatly in the minority, but his long experience in Congress, and his unquestioned ability, gave him a high position in that body, and he continued to uphold there, the fortunes of his party against the most overwhelming opposition. When the next session opened, he found himself surrounded by many political friends, some of whom were the ablest men in the State. He was cheered and sustained by William H. Seward, William H. Maynard, Trumbull Cary, Nathaniel P. Talmadge, and others. Messrs. Seward and Maynard have frequently been mentioned in other parts of this work. It is proper to add that Mr. Cary was a distinguished and successful merchant of Batavia, who for many years occupied a prominent position in the politics of the State. He was a gentleman in the true acceptation of the term, a business man of great energy and ability, fortunate in all the enterprises of his life; he retired many years before his death, from public life and from business, enjoying in dignified tranquillity the fruits of his well earned success. He represented the county of Genesee with
much ability in the Legislature of 1828, and he entered the Senate of the State in 1830, to occupy a highly respectable and responsible position. He died in the year 1860, at Batavia, at an advanced age, greatly respected and much lamented.

While Albert H. Tracy was a member of the Senate, that body constituted the court for the Correction of Errors—the court of dernier resort of the State. He remained in the Senate eight years, and was regarded as one of its most distinguished members. Though he often took a part in the debates which occurred through that exciting period,—though he introduced many bills which subsequently became laws, he won his chief distinction by the learned and elaborate opinions which he wrote as a member of the Court for the Correction of Errors.

During his Senatorial career, he wrote no less than one hundred and fifty legal opinions; most of them were published, and will be found in the legal reports of the State, from the ninth to the sixteenth of Wendell, with those of Chancellor Walworth, Chief Justices Savage and Nelson, and Senators Seward, Maynard, Foster, Benton, Talmadge, Todd, Edmonds, Birdsell, and other distinguished senators of the State.

These opinions of Senator Tracy have been greatly admired and held in high esteem by the legal profession for their severe logical acumen, their legal learning, their forcible and elegant style of judicial argument.

In the case of the Delaware and Hudson Canal Company v. Dubois, reported in 15 Wend., 106, Lieutenant-Governor John Tracy, Chancellor Walworth, and several senators prepared elaborate and strongly written opinions; to which Senator Tracy felt compelled to dissent. His dissenting opinion is written with such unquestioned modesty, with such marked ability, that the legal student and practitioner is struck with its learning and power.

In the case of Hawley v. James, 16 Wend., 92,
after the great and powerful argument of John C. Spencer, Mr. Tracy wrote an opinion which exhibits how thoroughly and perfectly he understood all the difficult and intricate questions involved in the case.

The opinions written by him in the cases of Allen v. Addington, 11 Wend., 374; Coster v. Lorillard, 14 Wend., 278; and the People v. Haynes, 14 Wend., 564, have been the subject of much interest to the legal profession, and to the judiciary of this and other States. While these opinions enrich the learning of the legal profession, there is no parade of learning, no unseemly pride of opinion. They exhibit profound research and thought, they abound in frequent quotations from ancient and modern authorities and precedent, yet there is no pedantic display of precedent or argument. For Mr. Tracy well knew that argument from precedent alone, is, in general, the weakest and the most tedious of all arguments. It often dazzles and overawes instead of enlightening and instructing.

It has been said by those who knew him best, that he himself never regarded these opinions with any particular favor, certainly not with any vanity.

After retiring from the Senate, he never again held any official position. As has been said by another, "In 1839, Mr. Tracy was a candidate for the United States Senate, a distinction which he greatly desired. Mr. N. P. Talmadge was his opponent for the party nomination. This gentleman was then in the Senate, to which he had been elected by the Democrats. He had separated from his party upon the financial questions then before the country, and motives of policy induced the Whig members of the Legislature to prefer him to Mr. Tracy, who had been generally looked upon as the choice of his party. Soon after this event, Mr. Tracy ceased to act with the Whigs. His disappointment at failing to secure the senatorship is supposed to have alienated him from his political associates." Notwithstanding the distinguished writer from whom the above is quoted has
given other reasons than disappointed ambition for Mr. Tracy's alienation from the Whig party, yet, as in those days, ambition was one of Mr. Tracy's faults, it may well be supposed, that the loss of the high place he sought, was at least a paramount reason for dissolving his connection with a party in which he had so long been an acknowledged leader. That this was the case, certainly does not tarnish his fame or reputation.

It was generally conceded that he had peculiar claims to the Senatorship, that his eminent abilities and rare accomplishments, would render him an ornament to the august body in which he desired a seat; that his long service and untiring devotion to the Whig party, was of itself almost a peremptory reason for his promotion to it; that he had never yet been rewarded for those services, nor obtained for his abilities the full and extensive fields they deserved. Then again, his antagonist had but recently left the Democratic party, while Tracy's allegiance to the Whig party, and the party from which it originated, was life long. He had been strongly solicited, and that too with offers of high distinctions by the great leaders of the Democratic party in the nation, to unite his fortunes with theirs, at a time when old parties were changing and new political relations were being formed, yet he had stood firm and unswerving—had adhered to the fortunes of the Whig party and its partizans through all vicissitudes. It would be strange, indeed, if a man's fealty to a party under such circumstances should remain unshaken. The personal friendship which had existed for many years between Mr. Tracy and Mr. Van Buren, may have influenced him in leaving his party; while his dissent from certain financial policies of that party, may have operated upon his mind in making the change.

Had he continued with the Whig party, his high character, personal worth, abilities and influence, would have given him, had he desired it, a high posi-
tion in the government. Thurlow Weed remarked at the time of Mr. Tracy’s death, that had he remained with the Whig party, he would have been nominated in 1840 for vice-president, and would of course have succeeded General Harrison in the executive chair of the nation. When, by the death of Harrison, Mr. Tyler became president, he offered Mr. Tracy a place in his cabinet, but the offer was declined by him, and he retired forever from the pitiful shifts and evanescent fame of the politician.

It has been said of Mr. Tracy, that he was never delighted with the practice of the law, although he was actively engaged in it until about the year 1842. For many years, the late Thomas C. Love, of Buffalo, was his law partner. Mr. Love was an eminent lawyer, a prominent and distinguished politician. He was one of the early leaders of the Anti-Masonic party in the State.

In the year 1836–7, he represented the thirty-second Congressional district of the State in Congress. He was appointed district-attorney for the county of Erie in 1829, and he discharged the duties of that office with great ability for the term of seven years, when he was succeeded by the late George P. Barker. Among the distinguished law firms which existed in Buffalo, few, if any, have left a more honorable record than that of Tracy & Love.

As has been said of Mr. Tracy, by an eminent lawyer of the Buffalo bar, “With too much self-restraint, indeed, too severely intellectual, to succeed in the more distinguished role of an advocate, he brought singular qualifications to the plainer labors of the profession. It would be hard to imagine a better counselor.” Hence, before the court in banc, in conducting a purely legal argument, his ability was generally acknowledged, and, as we have already seen, he knew how to be successful before a jury. But this part of the practice was distasteful to him, particularly in the latter part of his professional life. Doubtless, he was
instigated by some such feelings as prompted Lord Brougham to remark, that it was "a lawyer's duty to save his client by all expedient means—to protect that client at all hazards and cost to others, and, among others, to himself, and he must not regard the alarm, the suffering, the torment, the destruction which he may bring upon others; and for that reason, I cannot fancy that practice."

Mr. Tracy having retired from the bar, and from the political field, spent the remainder of his days in retirement, from whence, as Lucretius has said: "He could behold from the quiet and safe temples of philosophy, the great crowd rolling below, wandering, confused, erring, seeking to and fro the viam vitae, wasting days and nights in the industrious pursuits of wealth and honor, in the vague hope to enjoy them when possessed."

Fortunate in his business relations, he accumulated a large property, and his home was cheered and enlivened by those intellectual refinements which a mind like his naturally seeks. Books and paintings, the recondite productions of great and gifted writers—the works of literary men of all ages enriched his library, and were his constant companions. He possessed that nice and cultivated taste which enabled him to keenly relish their beauties. As Lord Orrery said of the elder Pliny, "He was numbered among the chief ornaments of the society in which he lived. He cultivated literature—he loved men of learning;" and it may be said that Mr. Tracy drew such men to him by a natural and pleasing attraction.

Like many who have been distinguished at the bar and in halls of legislation, Mr. Tracy was fond of works of fiction. His mind delighted in works of genius, on whatever soil or in whatever age they came forth, and poured out their fullness. He understood the dignity, rights, and pride of creative imagination. He had no pedantry—no fastidiousness. Wherever a
gem of thought glittered—wherever a keen and philosophic argument appeared—there he paused, and inhaled drafts as from Plerian springs.

Among modern novelists, he valued Scott and Bulwer the highest. The metaphysical disquisition—the learned and elegant colloquy—the keen and searching criticism which abounded in the works of the latter were always attractive to him.

Some years before his death, a friend from Albany called upon him, and, in the course of conversation, the works of Shelley were mentioned.

"Do you know," said Mr. Tracy, "that Bulwer has the ablest criticism upon Shelley's poems of any living writer?"

In proof of this assertion, he took down Pelham, and read the following extract:

"The writings of Shelley would furnish matter for a hundred volumes; they are an admirable museum of ill-arranged curiosities; they are diamonds awkwardly set, but one of them in the hands of a skillful jeweler would be invaluable. The poets of the future will serve him as Mercury did the tortoise—make him sing sweetly when he's dead."

Then turning to the student, he said:

"Here are some of his comments upon Young and Byron, which for their liberality, their thorough comprehension, and their exquisite beauty, are unequalled."

Mr. Tracy then read the following:

"But the conception of the Night Thoughts for a didactic poem is unutterably grand. An aged and bereaved mourner stands alone with the dead—the grave his scene—the night his canopy—and time, death, eternity—the darkest, the loftiest objects of human hope and human intellect—supply his only themes. Here, at this spot and at this hour, commencing his strain with a majesty worthy of its ends and aims, he calls upon
"Silence and darkness, solemn sisters, twins
From ancient Night, who nurse the tender thought
To reason, and on reason build resolve,
That column of true majesty in man,
Assist me: I will thank you in the grave—
The grave your kingdom—"

"Following the course of the sombre inspiration
that he adjoins, he then passes in a vast review before
him, in the presence of the stars, and above the slum-
bbers of the dead, the pomp and glories of the world—
the veiled and shadowy forms of Hope—the dim hosts
of Memory.

"‘The spirit walks of each departed hour,
And smiles an angel, or a fury frowns.’

"Standing upon the grave, the creations of two
worlds are around him, and the grey hairs of the
mourner become touched with the halo of the prophet.
It is the time he has chosen wherein to teach us to
dignify and consecrate the lesson; it is not the mere
human and earthly moral that gathers on his tongue.
The conception hallows the work, and sustains its
own majesty in every change and wandering of the
verse. And there is this greatness in his theme—
dark, terrible, severe—hope never deserts it! It
is a deep and gloomy wave, but the stars are
glassed on its bosom. I think the Night Thoughts
are a more sustained, solemn and mighty poem
than Childe Harold; but when I recall all the
works that accompany the latter, products of the
same teeming mind, the dark tale of Lord, the
sweetness of the Prisoners of Chillon, the daring
grandeur of Cain, and above all, the rich, nervous
humor—the deep mystery of the living world that
breathes a corporeal life into the shadows of Don
Juan, I am at no loss to allow Byron to be a greater
genius and a greater poet than Young.'"

"There," said Mr. Tracy, laying the book on the
table, "where in the language of criticism can you
find anything more pleasing than this? though I cannot fully agree with all the assertions which I have read, still, I regard them as the productions of a great master mind, comparing, weighing, and balancing the thoughts and sentiments of other master minds. It is Herschel viewing Herschel—Jupiter glancing at Jupiter—intellect meeting intellect."

"Well, Mr. Tracy," said the gentleman, "I agree with you in regard to Bulwer's views of Young and Byron. How do you regard Walter Scott as a poet?"

"There is nothing in Scott," said he, "of the severe and majestic style—or of the terse and fine composition of Pope, or the elaborate elegance and melody of Southey, or of the solemn grandeur of Young, nor the beautiful diction of Byron, but there is in him a medley of bright images, and glowing words, set carelessly together. Besides, in the management of the passions, he has great power. He raises all the most natural and poetical emotions in the most obvious, familiar, and judicious manner. Perhaps his description of scenery is unequaled; such is his power in this sphere, that before you are aware of it, you are gazing where,

"'Highest of all, white peaks glance, Where glittering streamers wave and dance Where the wanderer's eye can barely view The summer heaven's delicious blue; So wondrous wild, the whole might seem The scenery of a fairy dream.'"

"Here," continued Mr. Tracy, "is a picture so distinct and complete, finished with soft, natural coloring, and perfect in outline; above which is 'the summer heaven's delicious blue.' Another of Scott's triumphs is the facility with which he passes from the description of a scene like this, to the color and light of some moral affection, some thrilling and deep wrought emotion."
"Really, Mr. Tracy," said the gentleman, "your description of Scott excels Bulwer's description of Young and Byron;" and the remark is true, for with such conversation as this, Mr. Tracy was in the habit of entertaining his friends. Such conversation as this, caused Daniel Webster, Lewis Cass, and others of that class, to pronounce him the finest conversationalist of his time. In the language of Mr. Dorshemer, "men get reputation as a conversationalist in two ways,—some by talking themselves, and some by making others talk. Mr. Tracy did both. He was the best of listeners. He would draw you out, if there was anything in you to draw out; if there was a subject about which you knew more than he did, nothing pleased him so well as when he hit upon it. . . . . He was a most delightful critic, full of suggestion and fine appreciation, keenly susceptible to the melody of prose and verse.

"Both by habit and mind, he was truly a republican gentleman. He believed in the principles on which our government was founded, and desired that our society should be governed by the same principles. He paid little regard to social distinctions; affected no superiority, and was free from pride of station.

"His conversation derived a peculiar charm from his wide acquaintance with the distinguished men of his day. He knew nearly every American of mark in politics or literature. He seized quickly upon characteristic traits, and by an anecdote would tell you more than you can learn from some biographies. When I knew him he had been so long out of public life that he seemed to regard his cotemporaries as if they belonged to an older generation; he judged them without enthusiasm or prejudice."

In person Mr. Tracy was tall, standing six feet in his stockings, and he was well formed. His complexion was light; his countenance, if not attractive at first, became so the moment he commenced speaking—then it became as eloquent as his language.
Before leaving Congress his health failed him, and during the remainder of his life, to a certain extent, he was an invalid, "preserving a moderate degree of health by constant care and watchfulness." Early in September, 1858, he was seized by a violent disease. He lingered two weeks, and, on the 19th day of that month, he breathed his last.

That he had many faults is certain—that the common frailties of our nature were frequently conspicuous in him, none will deny—that he had as few of them as men in his station in life usually have, is also true.
DANIEL CRUGER.

His Relation to the Political and Legal History of the State.—Compared with Professional Politicians.—His Ancestry.—Birth.—His Father Removes to Elmira.—Daniel a Printer’s Apprentice at Albany.—A Newspaper Carrier.—Interview with a Great Man.—Meets Burr, Spencer and others on his Route.—Daniel Visits the Assembly Chamber.—Looks with Wonder upon the Great Men before him.—Thinks the Speaker a Greater Man than Washington.—His Youthful Ambition.—It is Realized.—His Apprenticeship Expires.—Commences the Publication of a Paper at Owego.—Removes to Bath.—Commences the Study of Law.—His Marriage.—The War of 1812.—Enters the Service as Aid to General McClure.—Cruger in Active Service.—Ordered to Burn the Town of Newark.—Visits the Town with an Orderly.—Assists the Inhabitants to Remove their Property.—Town Burned.—The Reconnaissance.—The Indian Village.—The Torture of the Gauntlet.—The American Prisoners Released as they are about to undergo the Torture.—Punishment of a Hostile Chief.—Cruger Resigns.—Is Nominated and Elected to the Assembly.—His Re-election.—Chosen Speaker of the Assembly.—Character as Speaker.—Great Legislative Contest.—Cruger Bitterly Assailed.—Is Elected to Congress.—Congressional Career.—Appointed District-Attorney under the large District System.—Professiona l Character.—The Flaw in the Indictment.—John W. Hurhert.—Expiration of his Term as District-Attorney.—His Partnership with William B. Rochester.—Cruger’s Influence.—His Speech on the Removal of De Witt Clinton.—Again Elected to the Legislature.—Great Legislative Contest over Common Dirt Roads.—Public Improvement of that Day Contrasted with the Present Time.—New York and Erie Rail Road.—Cruger Retires to Private Life, his Great Energy as a Politician.—His Celebrated Horse Jingle Foot.—Great Feast of Jingle Foot and his Master.—Scheme of the Federal Leaders Overthrown.—Personal Appearance of Cruger.—His Hospitality.—His House the Head Quarters for Judges and Lawyers.—Manner of Opening Courts in the Days of Ambrose Spencer.—Death of Mrs. Cruger.—Cruger’s Second Marriage.—Removes to Wheeling, Virginia.—His Sudden Death.

On the pages which faithfully record the political and legal history of the State of New York, the name of Daniel Cruger must be conspicuous—must be identified with those who once controlled its destinies, and who, having acted their part in the drama of life, long since retired to give room for other actors. He was distinguished at the bar as a lawyer of high capacity—eminent in the political arena for his knowl-
edge of the structure and operation of that machine called society—for his wonderful energy—for his pen, which he wielded with surpassing power, and from which emanated productions whose style was remarkably clear, elegant and forcible—for his skill in partizan drill, and for his great popularity with the people. He was, therefore, eminently qualified for the turbulent times in which he lived; for at that period, as well as at the present time, there was a class of men, so well described by Burke, to whom a state of order and quiet becomes a sentence of obscurity; who are nourished into a dangerous magnitude by force of party strife.

To nothing of this kind, however, was Daniel Cruger indebted for the high position and influence which he attained. He was one of those men who are formed by nature to occupy responsible and honorable positions in society.

The ancestors of Mr. Cruger were Huguenots, who, at the massacre of St. Bartholemew, escaped from France. A portion of them reached England in safety, while others fled to Germany, and found a home at Altonia, in the duchy of Holstein; and others fled to Denmark. That branch of the family from which Mr. Cruger descended, settled in Holstein. His father emigrated to America in 1768, and settled in Sunbury, in the State of Pennsylvania, where, on the 22nd day of December, 1780, Daniel was born.

Soon after the birth of his son, the elder Cruger removed to Newtown, now Elmira, in the State of New York, and engaged in mercantile business.

When Daniel was thirteen years of age, Mr. Webster, one of the earliest printers of Albany, being at Newtown on a visit to some relations, noticing his lively intelligence, his vivacity and activity, induced Mr. Cruger to apprentice his son to him for the purpose of learning the printing business. As Daniel himself was pleased with the arrangement, he willingly accom-
panied Mr. Webster to Albany, and entered his office as an apprentice.

Here he lived for several years, and here he learned the art of printing.

During the first years of his apprenticeship, it was his business to carry the paper of his employer to its patrons. While thus engaged, he often met, on his route, Hamilton, Burr, Clinton, Spencer, Livingston, and other great men, who were then much of their time at Albany.

One morning while toiling up State-street with a large bundle of papers under his arm, he was met by a gentleman, whose person was a little below the ordinary height—slender, but straight as an arrow, with a bright, clear, intelligent face, dressed in a blue coat, dark waistcoat, black small clothes, and dark stockings. This man approached him at a pace that indicated haste.

"Here, boy," said he, "I would like three or four of your papers."

"I cannot spare them, sir; they are for subscribers; and I have only just enough to go around," was the reply.

"But, my boy, I must have them; I am in a great hurry for them, too," said the gentleman, reaching out his hand to take them.

"No, sir; you can't have them," said young Cruger, grasping them tightly in his arms, "Mr. Webster will be displeased, if I let you have them," and he moved along.

The gentleman looked puzzled.

"Wait a moment, young man," said he, taking a small book from his pocket, and writing something on a piece of blank paper, which he handed to the boy with a half a dollar, saying:

"Give me four of your papers, take that note, and return to the printing office; hand it to Mr. Webster, and if he does not say you did right in letting me have the papers, call at 86, State-street, and I will satisfy
you," and, taking the papers, he walked quickly away.

Cruger returned to the office. Mr. Webster was sometimes harsh and violent, and he had some fears for himself.

"Well, sir; what have you come back for?" said his master, in a tone which exhibited his displeasure.

"Because a man met me just now on State-street, and urged me to let him have four papers, and as I have not enough to go around, I've come back after more."

Mr. Webster's face indicated a storm.

"What did you let him have the papers for? Hav'n't I told you, time, time, and time again, not to let anybody have papers, but subscribers? What have you got to say for yourself?" said Webster, greatly displeased.

"The gentleman gave me this note, and told me to hand it to you, and that it would be all right," said Cruger.

Webster took the paper, opened it, and read as follows:

"Dear Sir—I met your boy, this morning, with the papers. I was in a great hurry for four of them. He refused to let me have them, and I took them much against his will; he is a bright, faithful boy—did his duty manfully, and you will excuse him, and charge the wrong to me. A. Hamilton."

"Why, good gracious, boy, you did just right, after all. Do you know that you have been talking with Alexander Hamilton, this morning, Daniel,—one of the greatest men of the times! You did right—you did right, sir."

Daniel replenished his bundle, and once more started on his rounds.

Occasionally, Daniel would visit the Assembly chamber during the session of the Legislature, and
gazing on the wise men assembled there, he wondered where they all lived, how they learned so much wis-
dom—how they found out the way to make such ele-
gant speeches, and to use such great, splendid words. Like the French mathematician, described by Fonte-
nelle, who inquired of some Englishmen that were visiting him, whether Newton ate, drank, and slept like other men, young Cruger wondered whether these men, at home in their own houses, lived, acted, and talked as other men did; whether they always wore their hair so elaborately done up in pigtails, and always had on those great, bright, shoe buckles, and whether some of them didn’t live in great palaces, somewhere.

But when he cast his eyes up to the chair, and beheld the man who occupied it, and who ruled all the great men in the Assembly, he regarded him with feelings of awe. Certainly, thought he, that man must be greater even than Solon, Aristides, Themis-
tocles, Pericles, and the other illustrious personages of whom he had read in Plutarch’s Lives; he even thought that Washington himself could not have been a much greater man, only he dressed in uniform and had a sword, while this man wore citizen’s clothes, and had nothing but a small mallet in his hand. Then ambitious hopes and desires began to throb in his bosom, and he ventured the thought, that perhaps, if he spent his leisure time in study, conducted himself with propriety, and was industrious, he might some day be honored with a seat in that room, and talk so eloquently that everybody, even the great man in the chair, would listen to him with as much attention as they did to the men whom he heard talk there. And thus the first faint dream of ambition began to leave its impress on his mind—which, as it deepened, stim-
ulated him to that action and perseverance, which in a few short years placed him in that chair on which he looked with such feelings of awe.

He commenced his education in that school of
practical knowledge and vigorous intellectual developments,—the printing office,—where so many great men of the nation have prepared to enter places of renown and honor.

In the office with him, were the late Mathew L. Davis and the late Jesse Buell, both of whom, in after life, were his associates in far different scenes.

Having served his time with Mr. Webster, and rejoicing in a practical knowledge of the art preservative, he settled at Owego, and established the "Owego Democrat," which was the first journal ever published in that part of the State. He edited and published this paper until the year 1804, when he parted with his interest in the concern. His father having previously settled at Bath, young Cruger now made that village his home. For a time he pursued his occupation there; but the business proving injurious to his health, he renounced it and entered the office of General S. S. Haight as a student at law, with whom he continued until he was admitted to the bar, when he became a partner of the general; this was in the year 1806. About this time he was married to Miss Hannah Clement, a niece of the late Henry A. Townsend, of Bath, a lady of great refinement, intellectual culture, and graceful accomplishments, who subsequently was as much admired in the polished and refined circles at Washington and Albany, as her husband was esteemed and honored among the gifted statesmen and lawyers with whom he associated in those cities. His ability as a lawyer soon exhibited itself, and he became, within a few years after the commencement of his practice, one of the leading lawyers at the Steuben bar.

He continued to practice with increasing success, until the year 1812, when the war with England created a martial spirit throughout the country, which caused many young men to leave their occupations and enter the service of their country. Among these was Mr. Cruger. He accepted a position on the staff of General
McClure. This officer was fortunate in the selection of his staff. He called to his side some of the most distinguished young men in western New York, who subsequently occupied the very highest places in its legal and political history.

Soon after this, he moved with General McClure's brigade to the northern frontier. Some time after reaching the seat of war, the general, understanding that certain orders directed him to burn the town of Newark, in Canada, took the necessary steps to obey. Major Cruger and Mr. Spencer, however, dissented from the view of the order taken by General McClure, and objected to burning the town. About this time Mr. Spencer was called home by sickness in his family, and Mr. Cruger stood alone in his opposition. The general, therefore, prepared to carry out his construction of the order, and Major Cruger was ordered to enter the town with a flag of truce, and inform the "inhabitants of the threatened conflagration." He obeyed the order, entered the town with an orderly, and after giving the usual notice, he and his orderly assisted the inhabitants to remove their effects; and the town was soon in flames.

Soon after this he was placed in command of a detachment of soldiers, and two companies of Indians under the command of the celebrated chief, Red Jacket, with orders to proceed into the interior of Canada on a reconnaissance. The movement was attended with great danger from ambuscades of hostile Indians and attacks from heavy bodies of British troops which could be thrown forward against them. But Major Cruger was not a man to shrink from danger, and with his little command he carefully, successfully, and skillfully obeyed his instructions.

On the 2nd day of October they approached a small Indian village. Hearing an unusual shouting, yelling, and whooping, Cruger halted, and sent forward scouts to ascertain the cause of the commotion. After a short absence they returned, and reported that
the Indians had three American soldiers whom they had captured, and were about compelling to run the gauntlet. This is an ordeal of Indian invention, conducted in the following manner: Two lines are formed about six feet apart, consisting of Indians and squaws, each armed with a whip from three to four feet in length, cut from a tree. Between these lines the prisoners are compelled to run, one at a time, each Indian and squaw striking the man as many blows with the whip as he or she can while he is passing. It is a terrible ordeal; but if the prisoner is quick on foot, and expert in dodging, he can escape with much less injury than a more clumsy person.

On the return of his scouts, Major Cruger moved rapidly forward, reaching the village just as one of the prisoners had run the gauntlet. He was a strong and sinewy man, as fleet on foot as a deer. He was placed at one end of the parallel lines, with his shoulders bared, and when the word "go" was given, he started. In his progress he ran so close to one of the lines that he frequently knocked over men and women; this brought him so far from the opposite line that those in it could not strike him with their whips. And thus he passed through the army of whips without receiving the least injury. This trial, however, was not satisfactory to the Indians, and they were preparing him for another, when they were surrounded by the American forces, and the captives released.

One of the released prisoners, who had suffered much during his captivity, borrowed a hickory ramrod from one of the American soldiers, and walking up to a gigantic hostile chief, whose shoulders had been bared in order to give his arms full play in striking the unfortunate victim of the gauntlet, plied the weapon on the bare skin of the Indian with such force that great red ridges followed every blow. As the Indian was surrounded by Cruger's
soldiers, he could not escape; and as each blow fell, he sprang into the air uttering howls something between the roar of a lion and the shriek of a panther.

On his return from this adventure, Major Cruger received intelligence that he had been placed in nomination, by the Democrats of Allegany and Steuben, as candidate for member of Assembly, and, as his term of service had nearly expired, he tendered his resignation, and returned home. This was in the autumn of 1813. At this time the population of Allegany and Steuben was so small, that the two counties barely contained a population sufficient to entitle them to a member of Assembly between them.

The election took place, and Cruger succeeded. Daniel D. Tompkins was at the same time elected for the third term, governor of the State. Mr. Cruger's ardent support of the war, as well as the influence which he had exerted during this election, rendered him very popular with the governor, as well as with the Democratic party throughout the State. Among the distinguished persons elected to the Legislature at that election, were Jacob Rutsen Van Rensselaer, and Elisha Williams, from Columbia; William A. Duer, and James Emott, from Duchess; Samuel Young, from Saratoga; John Savage, from Washington. James Emott was chosen speaker, and Mr. Cruger occupied a place on the Committee of Ways and Means. In the fall of 1814, he was again elected to the Assembly from the two counties of Allegany and Steuben, and so acceptable were his services to his constituency, that in the autumn of 1815, he was re-elected from the same counties. Perhaps no previous or subsequent period in the legislative history of the State has ever been characterized by a more singular and bitter strife than occurred in the Assembly of 1816. It was a bitter collision between the Republican and Federal factions in the House. This memorable Assembly convened January 30th, 1816, and Mr. Cruger was immediately chosen speaker, against
Jacob Rutsen Van Rensselaer, the Federal candidate. So nearly divided were the opposing factions, that Mr. Cruger was elected by a majority of one vote. This majority was gained by the vote of one Peter Allen, from Ontario county, whose seat was contested by Henry Fellows, now a resident of Bath, N. Y. It was in contesting this seat that the acrimonious contest of this session arose. Mr. Allen's vote gave the Democrats a clear majority in the House; and much to the annoyance of the Federalists, a council of appointment was to be appointed by this body. They therefore struggled with desperation to bring the question of the contested seat to a termination before the appointment of this council, while the Democrats struggled with equal energy to postpone any action on the contested seat until the the council was elected; and they succeeded, notwithstanding the powerful efforts of men like William A. Duer, Thomas J. Oakley, and other members of commanding ability in the House.

On the fifth day of February the contest was renewed with intense vigor on both sides, and a Republican council of appointment was chosen by the vote of Mr. Allen. The bitterness with which Mr. Cruger was assailed by the Federalists for a decision made by him upon certain points of order during this contest has seldom been equaled. But he was defended by the Republicans with such ability that the attack of his enemies passed harmlessly over his head, and he was more popular after the attack than before it.

Perhaps few men ever presided over a legislative body with more dignity and ability than Daniel Cruger. He was a man of extensive and profound information, thoroughly conversant with parliamentary rules, quick of apprehension, and he perfectly understood the rules of debate; without any apparent reflection he could apply them to existing circumstances with perfect facility. His courtesy and urbanity in the
chair were proverbial, and, notwithstanding the bitter animosity which governed the partisan strife at that day, he was extremely popular as a presiding officer.

Such was his popularity that, in the autumn of 1816, he was nominated by the Republicans of the then twentieth Congressional district for member of Congress. He was elected, and entered upon his duties December 1, 1817. Here Mr. Cruger occupied a prominent position. His legal abilities and reputation secured him the second place on the Judiciary Committee, where he was subjected to the most incessant and severe labor. On several occasions he addressed the House in speeches which won him much consideration and respect. Although he made no pretensions as a public speaker, yet, whenever he appeared before a parliamentary body, his native good sense—his fund of information—the precision of his positions, always commanded the attention of his auditors.

On the 17th of April, 1815, Mr. Cruger was appointed district-attorney for the Seventh District, consisting of the counties of Steuben, Allegany, and Tioga. As has been remarked, in another part of this work, the office of district-attorney was one of the most important in the State, second only to that of attorney-general. There were at this time twelve district-attorneys, the State being divided into twelve districts, each district embracing within its jurisdiction several counties.

It was while in the discharge of the duties of this office that Mr. Cruger attained his highest professional reputation. At this period precedents and forms were hardly known; our system of criminal law was unsettled, and hence his duties were laborious and critical. It is related of him, that while district-attorney, a man was indicted for stealing a horse and saddle in the county of Steuben. The indictment was drawn by Cruger; but the cause was moved at a court
of Oyer and Terminer, held at Bath, while he was absent in Congress. The celebrated John W. Hurlbert, who was attending this court, was retained to defend the accused.

"Mr. Hurlbert," said a lawyer who was to assist in the defense, "I think, at the proper time, we can quash the indictment in this case."

"Upon what ground?" asked Hurlbert.

"Because it alleges that the man stole a horse and saddle, when in fact there was nothing but the horse taken; and then there is a mistake in the man's name," was the reply.

"Who drew the indictment?" asked Hurlbert.

"Cruger, the district-attorney; of course," replied the lawyer.

"Well, sir, then it would be of no use to make an attempt to quash it; for, when Daniel Cruger drew it, he had his mind upon those very questions—and if there had been any error in them they would not be in the instrument; for he knew more about what there is connected with that paper than you and I, and, I think, I may as well say, the court and the bar generally. He looks to such things, sir, and the judges believe in him,—therefore it is of no use to make the attempt." And no attempt was made.

This anecdote fully illustrates the capacity of Mr. Cruger as a special pleader and prosecuting officer.

In the year 1818, the jurisdiction of district-attorneys was confined to a single county. Cruger, however, was appointed the prosecuting officer for the county of Steuben, serving in that capacity one term, and was succeeded by the late Judge Wells.

In the year 1815, he formed a partnership with William B. Rochester, subsequently one of the circuit judges of the State, an eminent and distinguished politician, a lawyer of fine legal attainments, a judge of superior abilities, a gentleman by birth, intuition, association, and practice—a scholar ripe and thorough, and an ornament to the bench, the bar, and the polit-
ical field. It is needless, perhaps, to add, that the combination of such talents in a legal firm renders it extremely powerful.

Through a series of years, General Cruger wielded an influence in the counties of Steuben and Allegany, almost unbounded. If, as has been said, the courts believed in him, the people did so, most implicitly. He was a thorough and undeviating friend of De Witt Clinton. In his behalf, he carried war into Africa, or waged it at home, as the case demanded.

When Mr. Clinton was removed from the office of canal commissioner, meetings were held throughout the State, denouncing the act in the strongest and most emphatic manner. When the intelligence reached Steuben county, a large meeting convened at Bath. It was the largest gathering which, up to that time, had ever assembled in Steuben county. Mr. Cruger presided. His speech, on taking the chair, was one of great power and effect. He made no oratorical effort, no attempted fervency, no reaching after effect, no sensational display. His speech was the calm utterance—the dignified expression of one who deeply felt all that he uttered, and who imparted his feelings by a natural inspiration, into the hearts of his auditors, rendering his words penetrating and enduring.

"Private citizens," said Mr. Cruger, "have rights as well as duties. The Legislature is but a co-ordinate branch of government, instituted for one and a single end—the duty of making laws. When it is perverted to other objects—to purposes of ambition, or party spirit, we are authorized—we are bound to make such opposition as shall call it back to a discharge of its proper duties, to endeavor to render it as pure as the imperfection of our nature will admit. Fellow citizens, that the Legislature, in the removal of Mr. Clinton, has perverted its power to party spirit—party rancor and hate, will be admitted by all reasonable and thinking men. No prophetic inspiration tells me that the people of this great State will surely vindicate
him. I assert that they will do so, because I claim to know something of the people of this State. Fellow citizens, the day will come when shame and confusion will fall upon the heads of the perpetrators of this outrage."

During the year 1824–5, the question of State roads agitated the public mind in the counties of Tompkins, Steuben, and the adjoining counties. Commissioners had been appointed by the Legislature to locate such roads, who, at length reported in favor of two great routes, both to commence at Lake Erie, in the county of Chautauque, leading to Bath; but from Bath, the southern route was to lead to Ithaca, and from thence to Catskill; and the other, the southern route, from Bath to Painted Post, and thence to New Town and Binghamton, from there to Nyack on the Hudson River. A powerful attempt was made to divert both these routes from Bath, and in the fall of 1825, to check this movement, General Cruger, at the earnest solicitation of the citizens of that village, and of other parts of the county, consented to accept the nomination for Assembly. He was of course elected.

The Legislature of 1826 was organized by the election of Colonel Young, speaker of the Assembly, and immediately a fierce contest commenced over the question of the State roads proposed by the commissioners. They were strongly opposed by the speaker, Colonel Young, Francis Granger, Mr. Sill, from Oneida, and by the members from the counties bordering on the Erie and Champlain canals; combining against the measure, men of the highest influence in the State. On the other hand, the proposed roads were sustained by Generals Root and Cruger, Mr. Vanderpoel, from Columbia, and Woodcock, from Tompkins, with great power and address. These gentlemen were all lawyers of much distinction, standing at the head of the bar in their respective counties, and distinguished throughout the State for their legal, as well as political abilities. No party prejudice entered into this
contest; it was merely the jealousy and rivalry between what were then deemed great, extensive, proposed works of internal improvements.

And thus only forty-five years ago, the Legislature of the Empire State was engaged in a bitter and all-absorbing contest over the building of two common dirt or gravel roads, involving the expense of a few hundred thousand dollars, a much smaller sum than is at this day frequently disbursed by one great railroad company in procuring further immunities and privileges, or in its litigations with rival companies.

As the session of 1826 wore away, the contest deepened. The efforts of Mr. Cruger in its behalf were unceasing. His long experience as a legislator in Congress, and in the Legislature of the State, gave him that influence which, joined to a naturally strong and active intellect, rendered him a powerful supporter of the roads. Day and night saw him busy in the contest.

"Do you think Cruger ever sleeps?" said Mr. Sill, one day to Mr. Granger.

"Yes; with one eye open," was the reply.

"Say with both eyes open," said Mr. Sill, "and then you will have it right."

Towards the close of the session, the contest came to a decisive issue on a motion to indefinitely postpone the construction of the roads, which was carried by a vote of fifty to forty-eight, and thus the great measure of the southern tier counties was defeated. But the indignation which followed its defeat resulted in another project, more stupendous when it was proposed, than was that for the construction of the Erie canal. It was a proposal to build a railroad by which the city of New York would be united with the shores of Lake Erie. This project seemed at first too chimerical to be seriously entertained; it seemed to belong to what Colonel Young styled "a profligate career of internal improvement."

With the adjournment of the Legislature of 1826,
the legislative career of General Cruger closed forever. The influence which he exerted in the Assembly and in Congress, has already been alluded to. Much of this was due to the natural suavity of his manners and his popular talents, but more to the consummate skill and ability with which he planned his measures, and the indomitable energy with which he carried those measures into execution.

A measure which became necessary for him personally to carry into execution, was never delayed on account of darkness or the elements. In such cases, sunshine and tempest, day and night, were all the same to him.

The following incident illustrates this characteristic, and evinces a greatness of action which, had he been a military commander, would in times of war have rendered him formidable and victorious in the field.

While in the discharge of his duties as district-attorney under the large district system, he left Bath to attend a term of the Allegany Oyer and Terminer, at Angelica. At that day, lawyers, as well as judges, traveled from circuit to circuit on horseback. In those days Cruger was the owner of a valuable horse, which he called Jingle Foot. He was a large bay animal, with a white star in his forehead, finely proportioned, and, like his master, with whom he was a great favorite, capable of great endurance; he was as fleet as a deer, and as docile as he was fleet.

Jingle Foot had for two or three years, carried his master to all the courts in western New York, and he was therefore almost as famous as the steed of Alexander the Great. On this visit to Angelica, Mr. Cruger, as usual, rode his favorite horse. He reached that village some time in the afternoon on the first day of the circuit.

On his arrival, he found his Democratic friends in a state of great vexation, excitement and chagrin,
owing to an advantage which the Federals had apparently gained over them.

About this time the term of the clerk of the county of Allegany, who was a Republican, was drawing to a close. That officer was then appointed by the council of appointment at Albany, which at that time was composed of Democrats, and of course would appoint any person upon whom the leaders of that party in Allegany county could unite. This council was to meet on Thursday of that week, but as there had been some secret misunderstanding among the Democrats as to the proper person to recommend, no name had been sent to Albany.

In the mean time, the Federal leaders, who had been on the alert, learned of the troubles in the ranks of their opponents, and that there was likely to be such a disagreement that no person would be recommended to the council by them for clerk, secretly sent forward the name of one of the most bitter, rank, and objectionable Federalists in the county as a candidate for that office; and of course, if there was no opposition, he would be appointed, otherwise the old clerk would hold over. The fact that a Federal name had been sent to the council of appointment had just come to the knowledge of the Democrats when Cruger arrived. The partisan contests of those days were bitter in the extreme. The appointment of clerk was a matter of considerable advantage; and of course this was a serious affair—especially as it was now apparently too late to remedy the evil.

Nothing could exceed the chagrin and mortification of Cruger on learning this state of things. In a few moments his room was filled with the leading Republicans of the county. A Federal clerk in the county of Allegany! Good heavens! Why, the matter was not to be thought of. But as the appointment was so soon to be made, no mail could reach Albany in time to prevent it, and the matter seemed already
decided. For a time Mr. Cruger walked the room in a state of intense excitement. At length he sent for the landlord; that person soon made his appearance.

"Bullock," said Cruger, "have Jingle Foot well rubbed, fed, saddled and bridled within an hour and a half."

He then sent for General Haight, who was attending court at Angelica at that time. When that gentleman appeared, he said:

"General, I want you to take charge of my business during this term; put over what causes you can, and try the rest, for I am going to Albany."

"Going to Albany!" exclaimed several gentlemen at the same moment.

"Going to Albany, Cruger! What can you be going to Albany for?" asked General Haight.

"To prevent this county being disgraced by a Federal clerk," was the reply.

"Why, good heavens, Cruger!" said a gentleman present, "you can't reach Albany in time to prevent that appointment now."

"Yes I can. Jingle Foot will land me safely in Albany between this and Thursday noon, or I am mistaken in him; at any rate, he and I will make a trial to overturn the nice plans of these infernal Federalists," said Cruger.

He then gave the general some further instruction concerning his business, and in due time word came that Jingle Foot was ready at the door.

This was in the month of June. The sun was just going down as Mr. Cruger mounted his horse and rode out of the village. Night and day, over hill and dale, he pressed forward, stopping just long enough for refreshments and a little rest. Jingle Foot seemed imbued with the same determined energy as his master—seemed to gather fresh strength as he sped on his course. Such was his progress, that, just as the old Albany town clock tolled the hour of noon, Cruger drew him up in front of the City Hotel.
"Take such care of that horse as you never did of any other," said he to the ostler, who came forward as he rode up; and the noble animal was soon safe in the comfortable stables of the hotel.

At the appointed time the council of appointment assembled. As Allegany county was the first on the list, that body was in the act of naming the person recommended by the Federalists for clerk of that county, when Daniel Cruger, to their great astonishment, stood before it. He was not long in relating the true situation of affairs in that remote region, and matters were soon arranged to his satisfaction.

After resting a day or two at Albany, he again mounted Jingle Foot, returned to Angelica, and the Democrats of Allegany county rejoiced in the appointment of a clerk belonging to their own party, having learned a lesson that healed all dissensions among them. This is but one of the many circumstances which, during Mr. Cruger's political career, attest his almost superhuman energy.

In person Mr. Cruger was below the common hight; thick set, though not corpulent; well formed, having one of those figures which bespeak the true gentleman. He was graceful and easy in his manners. His conversation was refined and cultivated. Both Mr. and Mrs. Cruger possessed that hospitality which always filled their house with intelligent and pleasing guests.

During the session of the courts at Bath, their home was always the headquarters of the judges who presided. There Ambrose Spencer, Yates and Van Ness, rested from their labors in the court room; there, too, John C. Spencer, Elisha Williams, Samuel A. Talcott, John A. Collier, David Woodcock, and other eminent lawyers of the day, forgetting the collisions of the bar, were entertained by Mr. Cruger and his accomplished lady, while many an agreeable hour passed by enlivened by pleasing and refined conversation.
It was the custom in those days, when the presiding judge arrived at a county seat for the purpose of holding court, to receive him with public honors; and when the hour for the session to open arrived, the sheriff, in full uniform, attended by his assistants, carrying their badges of office, waited upon him at his lodgings, and escorted him to the court house; and in the court room every thing was conducted in the same formal manner. The dignity of the bench was sustained by the dignity of the bar, and the people were thus led to believe that justice, though incumbered with many formalities, was sacred and awful. Though those customs would not answer for Young America—much older now than at that time—yet a recurrence to them is not without profit and interest.

In the year 1828, Mr. Cruger sustained an irreparable misfortune in the death of his wife. She died at Syracuse, while her husband was a temporary resident of that place. Soon after this event, he returned to Bath, dividing his time between his profession and various other business matters in which he was engaged.

In the year 1833 he was married to Mrs. Shepard, a highly respectable widow lady residing at Wheeling, Virginia. Soon after this, he invested his property at Wheeling, and became a resident of that town. Here he lived in great respectability, occupying a prominent and honorable position in society, regarded as an intelligent and honorable gentleman. Early in June, 1843, while attending a meeting of the directory of the Wheeling Bank, he was stricken down with apoplexy, dying within a few moments after the attack.
SAMUEL H. FITZHUGH.

His Peculiar Characteristics.—Contradictory Traits of his Character.—His Independence.—His Firmness.—Born at the Hive, in Maryland.—Enters Jefferson College.—His Popularity with the Faculty.—An Interesting Incident.—Troubles with Ridgeway, the Kentuckian.—Call me Ridgeway, Sir, not Ridge.—Fitzhugh insists upon "Ridge."—Incurs the Hatred of Ridgeway.—Scene in the Ball Room.—The Insult.—The Manner in which Fitzhugh Resented it.—Pulls Ridge way’s Nose.—The Result.—Fitzhugh Graduates and Commences the Study of the Law with Judge Howell, at Canandaigua.—Is admitted to the Bar.—Removes to Wheeling, Virginia, and Commences Practice.—His Marriage.—Early Death of his Wife.—Removes to Mount Morris, New York.—Enters the Practice.—Is appointed a Judge of Livingston County.—Character of the Bench and Bar of Livingston County.—Judge Fitzhugh on the Bench.—The Perjured Witness.—The Arrest.—The Scene in the Court Room between two eminent Lawyers.—Fitzhugh enters into a Partnership.—Fitzhugh’s Learning.—His Literary Taste.—His Favorite Authors.—Did Shakespeare understand the Art of Budding Flowers?—Proof that he did.—The Quotation.—Judge Fitzhugh’s Love of Fishing.—Singular Fishing Excursion.—Meets a Strange Fisherman.—Fitzhugh’s Disgust at his Manner of Fishing.—The Reconciliation.—Amusing Incident at Genesee.—A Cup of hot Coffee out of Place.—The Garrulous Lawyer.—Fitzhugh’s Witty Reply to him.—The Wood Thief.—Amusing Anecdote.

With the life of Judge Fitzhugh there are connected many pleasant recollections. He was a scholar of fine attainments—a lawyer deeply and thoroughly read in all the learning of his profession. He possessed a strong native intellect—clear and forcible reasoning powers; his education was enlivened and vitalized by association with men of varied acquirements. Thus, he was a man of no ordinary mind; while his manly nature, his generous and high-toned impulses, his sincere and chivalrous sense of honor, his blunt but disinterested honesty, constituted him a gentleman by intuition.

It is true, that there were dissimilar features in his character, an abruptness in his manner—certain ex-
tremes in his disposition, which on a slight acquaintance were difficult to reconcile; but when those traits were thoroughly understood, they rendered him attractive and pleasing. Singularly independent in his nature and judgment, he was not easily influenced by authority, numbers, or popularity. If a man, an idea, or sentiment pleased him, he did not stop to consider the popularity or unpopularity connected with the man, the idea, or sentiment; he adopted the one as a friend, the other as a pleasure. There was not force enough in the universe to coerce him into a measure; but a friend could lead him by a hair. If there were in his character many blemishes, they were counteracted by many excellent qualities. With him, hypocrisy, smooth-lipped deception, honeyed treachery, soft and fawning deceit, were loathsome and hateful. Finally, he was one of those men who, like Mark Antony, spoke "right on."

Samuel H. Fitzhugh was born at the Hive, Washington county, Maryland, February 22, 1796. After a thorough preparation, he was admitted into Jefferson College, Pennsylvania. This institution was then very popular with the southern people, and many sons of the rich planters were the fellow students of young Fitzhugh. His frank and sunny nature rendered him a favorite with all the students, while his studious habits commended him to the faculty.

During his first year in college, an incident occurred which exhibited his character when smarting under an insult. There was in the college at that time, a student by the name of Ridgeway, from Kentucky. Large and powerful in person, haughty and overbearing in his manner, he was frequently engaged in collisions and broils with the students. This person had conceived a dislike to Fitzhugh for his straight out and independent nature; and because he insisted upon calling him Ridge, instead of Mr. Ridgeway.

"Fitzhugh," said he, one day, "my name is not
Ridge; it is Ridgeway, sir; call me by my name after this, sir."

"My name is Fitzhugh, sir; a good name it is too, sir; but the boys call me Fitz, and I've no objections; they insist upon calling you Ridge, because it is short and business like, and so Ridge, here goes for the future; Ridge it is, and Ridge it must be; good night, sir."

From that time, Ridgeway became dark and sullen in his manner towards Fitzhugh, and gave out word that he would punish him when an opportunity occurred. Once he offered a slight insult to him, but Fitzhugh took no notice of it. This the bully attributed to cowardice, and was even more insolent to him.

One evening while Fitzhugh and Ridgeway, in company with several other students, were attending a ball at Gettysburg, it happened that they both sought to engage an accomplished young lady at the same time, for a set; the lady declined to dance with the latter, but accepted the invitation of the former. A malignant scowl exhibited the irritation of Ridgeway, and as the successful suitor was leading his partner to the dance, the Kentuckian rudely jostled against him, almost throwing him upon the floor. Fitzhugh instantly regained his position, and without regarding his assailant, joined in the dance. But all who were present saw by the bright glow on his cheek that a storm was raging in his bosom. Nothing, however, occurred to mar the pleasure of the evening. The young men joined in the dance, without adverting to the matter; but Ridgeway assumed a more important air, which seemed to say, "he fears me." The next morning, Fitzhugh met him in company with several students. "Stop, sir," said he, as the latter was passing him. "Why did you jostle me last night at the dance?"

"Because it suited my pleasure to do so, and
what is more, because you dare not resent it," said Ridgeway."

"I dare wring your nose, sir," and suiting the action to the words, he seized the nasal organ of the bully, and gave it a twist, which caused it to look like a purple excrescence, upon which a surgical operation had just been performed. "Resent that if you dare. I'll teach you manners, sir, before I get through with you," said Fitzhugh. Contrary to the expectation of the students, Ridgeway turned and left his assailant without uttering a word. For some days after this event, there were rumors of a challenge and various retributive movements on his part, but he was very careful to avoid Fitzhugh, and no further acts of hostility occurred between the young men. The Kentuckian lost his presumption and impudence. At length he sought an interview with Fitzhugh, and acknowledged that he was in the wrong, and that it had been properly resented. This ended all coldness between them, and they remained friends during their term in college.

In June, 1816, Mr. Fitzhugh graduated. After leaving college, he became a resident of Canandaigua. While there, he was invited by the late Judge Howell to enter his office as a student at law. The invitation was accepted, and Mr. Fitzhugh commenced his legal studies. Some time after this, Judge Howell formed a copartnership with the late John Gregg. Mr. Fitzhugh continued with these gentlemen until October, 1819, when he was called to the bar. Immediately after receiving his license to practice, he removed to Wheeling, Virginia, where he opened an office, and entered on the duties of his profession. His success as a lawyer was flattering, and he soon gained a very respectable position at the Pennsylvania bar. He was married to Miss Mary Addison, a daughter of Judge Addison, of Wheeling, in October, 1820. Mrs. Fitzhugh was an accomplished and lovely woman. To the attributes of a gentle and loving wife, she added
those of an attractive and agreeable leader in the society at Wheeling. Mr. Fitzhugh's union with her was fortunate. But in the midst of his domestic happiness, death removed her who was its center and its life. Mrs. Fitzhugh died in December, 1821, leaving one son, William A. Fitzhugh, Esq.

Judge Fitzhugh continued at Wheeling until the year 1831, when he removed to Mt. Morris, Livingston county, N. Y. Having interests to a considerable extent in lands at that place, he engaged, for a time, in agricultural pursuits. But his love for the legal profession caused him to relinquish the life of a farmer, and he returned to the practice of law.

In the year 1840 Colonel Reuben P. Wisner, of Mt. Morris, was appointed one of the judges of the Livingston Common Pleas. After holding the office a few days, he resigned, and Mr. Fitzhugh was appointed to fill the vacancy. At this time, Willard H. Smith, of Caledonia, was first judge of Livingston County, and James Faulkner, of Dansville, and David H. Bissell, of Genesee, were associate judges. Judge Smith was a lawyer of fine attainments, and a judge who presided with marked ability, dignity and impartiality, while his associates were men of much more than ordinary ability. The appointment of Mr. Fitzhugh was a valuable acquisition to the bench of Livingston county. His learning and experience as a lawyer were not the only qualifications which gave him character as a judge. His keen love of justice and right—his hatred of all fraud—his promptitude, and sterling honesty were still more valuable traits in his character. Under the supervision of such able judges, the Livingston Common Pleas attained a high rank as a tribunal, and at its bar the leading lawyers of western New York constantly appeared.

At a term of this court held in May, 1842, a circumstance occurred which exhibited the stern love of justice which animated Judge Fitzhugh. During the progress of a trial, in which the late John Young and
Hon. J. B. Skinner, now of Buffalo, were opposing counsel, Judge Fitzhugh presided. In the course of the trial, a witness was introduced by one of the parties, whose testimony was so strongly contradicted by various circumstances, that it was apparent he had committed perjury.

"Sheriff!" thundered Judge Fitzhugh from the bench, "arrest that man, and commit him to jail for perjury; and if no one else appears against him before the grand jury, I will; for he has desecrated the precincts of justice with falsehoods."

The order was obeyed, and the judge himself appeared before the grand jury, which was then in session, and preferred the complaint. The man was indicted for perjury, and convicted.

During this trial the contest between the counsel descended to some severe personalities. Mr. Young, contrary to his usual dignified and courteous manner at the bar, indulged in some sharp sarcasms upon Mr. Skinner. At length the better nature of the former prevailed, and he remarked that during the remainder of the trial he should endeavor to try the cause in a manner that would be more comfortable to the opposing counsel, as well as to himself.

"Never mind me, Mr. Young," said Skinner. "Suit yourself; I have endured your attacks until I am like the man who laid so long on a bed of spikes that he preferred it to any other."

"Gentlemen," said Judge Fitzhugh, "unless you end this, the court will make you both acquainted with the terrors of the law."

Though the trial continued some days after this, those distinguished lawyers treated each other with all the urbanity of their nature.

Judge Fitzhugh was for several years a partner of Colonel R. P. Wisner, and they controlled a large and extensive business. Colonel Wisner is still a resident of Mt. Morris, and a prominent member of
the Livingston bar. In the year 1840 he represented Livingston county in the Legislature of the State.

Judge Fitzhugh was deeply and thoroughly read in the common law. Like Lord Coke, he delighted to trace it from its dawn to that period, when, under the illustrious judges and jurists of England, it became, in the lively language of Burke, "the pride of the human intellect, the collected wisdom of ages, combining the principles of original justice with the variety of human concerns."

The judge once remarked to one of his students, now an eminent lawyer, that to the mind fond of exercising its reasoning powers, and of investigating the philosophy of the law, the earlier reports of the New York State courts afford the most valuable and interesting course of legal reading that can be marked out. He often alluded to the celebrated game case of Pierson v. Post, reported in 3 Caines, as containing the most genuine legal witticism in our language.

The strength of Judge Fitzhugh, as a lawyer, did not consist so much in his skill at the bar, as in the counselor, the legal adviser, and the judge. In all these positions he arose far above mediocrity. His knowledge of the classics, both ancient and modern, was surpassed by few. This knowledge was enlivened by a keen and brilliant wit. Such were the singular associations of his mind, such his "most excellent differences," that his wit was always at his command; and, though Lord Chesterfield has said that genuine wit never made any man laugh, yet it was impossible to be in Fitzhugh's society without giving way to immoderate laughter. He could make an aphorism or a reflection and it came home as true. His unpretending flow of conversation rendered him interesting whenever topics of intellectual interest were discussed,—the plain and solid sense which he threw into his remarks, rendered him a pleasing and attractive companion.

Among the modern authors whom he particularly
admired was Rousseau, whose wonderful conceptions, whose impassioned and meditative mind, whose thoughts of tenderness, truth and profundity were peculiarly pleasing to him.

His favorite table books were Middleton's Life of Cicero and Hume's History of England—the former the most perfect biographical work, the latter the ablest history of England that can be placed in the hands of the reader. Often while on a fishing excursion he would drop his rod, throw himself on the grass, and repeat the harmonious and elegant language of Cicero, Virgil, Horace and Livy, in their native tongue, with all their grammatical perfection and inflections. Then he would contrast the satires of Juvenal with those of Pope, Butler and Byron; always insisting that the latter, in writing his Scotch Reviewers, took his cue from the Satires of Juvenal.

These were no pedantic displays; they were the actions of a mind replete with the love of those great writers, glowing and kindling with their themes. Leaving these subjects, he would turn the conversation to agriculture, the improvement of stock, of fruit, and even flowers—exhibiting the most perfect and practical knowledge of all these subjects. One day while fishing with a friend, they came across some beautiful wild flowers. Stopping to admire them, Fitzhugh said:

"Is it not strange that old Will Shakspeare, who wrote so graphically concerning wars, sieges, battles and the human passions, was also a botanist, and understood the art of budding flowers?"

"This had not occurred to me," said the friend.

"The following sentence from Winter's Tale proves it: 'The fairest flowers of the season are our carnations, and the streaked gillyflowers, but I care not to get slips of them.' Then as to the art of budding, he says:

"'We marry a gentle scion to the wildest stock,
And make conceive a bark of baser kind"
There," said the judge, "does not that prove old
Shake a better florist than many of our modern
ones?"

He regarded the horse as the noblest, and at the
same time the most abused animal that Deity ever
gave to man.

"My God, sir," said he one day, "it provokes me
beyond endurance, when I see how many fools there
are who attempt to manage those splendid and intelli-
gent creatures, who really know more than half of
their owners."

The favorite amusement of Judge Fitzhugh was
tROUT fishing. His nice appreciation of the piscatorial
art gave him the name of "the Walton of western
New York." He would often leave his professional
labors—with basket and fishing rod, seek some stream
that shimmered and flashed along the base of distant
hills, or flowed in peaceful murmurs through the grand
old forests of Pennsylvania, and there perhaps,

"Under an oak whose antique root peeps out
Upon the brook, that brawls along the woods."

pursue his favorite pastime. His was emphatically
a mind that could

"Find tongues in trees, books in the running brook."

While fishing he always used the fly, entertaining
the most sovereign contempt for any other mode of
capturing trout, or, as he often termed them, "the
aristocrats of the streams." It is related of him that
once, while on a fishing excursion, he met a fisher-
man, whose well filled basket proved the success
with which he had met.

"You have some fine trout there," said the
judge.
"Yes, sir, but I should have caught more only my bait gave out," said the man.

"Bait! bait! What, are you one of those fellows that kill a quart of angle-worms to catch one fish; one of those bunglers that can't appreciate a trout any more than an ape can literature?" said the judge.

"I mean to say that I caught these fish with angle-worms for my bait," said the man.

"You do! Well, sir, don't you know that it is unmanly and vulgar to do so? I would as soon eat carrion as a trout caught with a hook baited with an angle-worm," said Fitzhugh.

"Who the devil are you, that goes about telling folks what they should fish with? May be you hav'n't read the Declaration of Independence," said the fisherman.

"I am a gentleman, sir, and you are not. A man can't be a gentleman that fishes for trout with angle-worms," was the reply.

"Damn it, sir, is it any of your business what a man fishes with? I've a great notion to pitch you into the creek, only that you are such an ugly looking cuss that you'd scare all the fish out of it forever," said the man, in a towering passion.

"Attempt that and I'll make live bait of you in a minute. I tell you it is my business what a man fishes with. You degenerate trout and baffle science when you fish with angle-worms. You teach that fish the habits of a common bull-head. With a fly it is a fair game between the man and the trout, and you cultivate those instincts which make him the pride of the water," said Fitzhugh.

"See here, what is your name?" said the fellow.

"My name is Fitzhugh—a name I have never dishonored yet, and I never shall, until I am caught fishing for trout with angle-worms," was the reply.

"Are you Judge Fitzhugh, the man that can catch trout with a buncomb insect on his hook just as
well where there ain't any, as where there is plenty of them?"

"'They call me Judge Fitzhugh.'"

"Well, I'd half a mind to thrash you just now, but that's past. Do you think I can learn to catch trout with one of those things you call a fly?"

"Yes," said the judge, "go with me awhile and I'll give you a lesson."

Accordingly the man accompanied the judge for some time, watching the skillfully thrown line with its darting fly, now alighting on the edge of a swift whirling eddy, now skipping over the bright, swift ripples, now floating on the smooth current or gyrating "like a strong swimmer in his agony," tempting the shy tenants of the brook to spring at the glittering insect above them, only to find themselves caught full surely by the fatal snare.

The man lingered until the judge's basket was nearly filled, then, with admiration glowing on his features, he exclaimed, "Judge, that's a big game between you and those trout, and a pretty one, too; damn me if you don't get the best of it, though. I'm done with angle-worms after this. Good-bye;" and the fisherman's form was soon lost in the forest.

Some time during the ensuing winter, Fitzhugh received a splendid saddle of venison from some unknown person. It was neatly packed in a basket. On removing the cover, a paper was discovered, on which was written the following:

"'From the fellow that don't fish for trout with angle-worms any more, but goes it strong on the fly.'"

Love of raillery was a strong feature in the character of Judge Fitzhugh, and he was remarkable for his quick and happy repartees. One morning during the sittings of the Common Pleas, he was at breakfast at one of the hotels in Geneseo. Among those at the table was a lawyer, noted for his very large mouth and his unceasing garrulity. During a pompous display of words, one of the waiters, while passing his chair,
unfortunately stumbled, and a large cup filled with coffee was lodged on the lawyer's head, deluging it with the hot fluid. Frightened and blinded he sprang to his feet, nearly overturning the table.

"Land—land—landlord! for God's sake, come here! Where in hall did this kettle of hot water come from? Get it off! get it off!" he roared, whirling about the room like Polyphemus deprived of his single eye.

The landlord and several waiters rushed to his assistance, with towels and dry cloths. After considerable wiping and rubbing, it was ascertained that he had sustained but little injury, being much more frightened than hurt, and he was soon seated at the table again.

"What a miserable piece of carelessness that was," said he.

"You might have avoided that accident yourself," said Fitzhugh.

"I should like to know how I?" asked the lawyer.

"By opening your mouth when the cup fell. Neither coffee nor cup would have been heard of again, if you had," was the answer.

This reply "set the table in a roar." The lawyer joined in the merriment, his big mouth enabling him to be heard over all the rest present.

The liberality of Judge Fitzhugh was proverbial. His generosity was unstudied and disinterested. He bestowed his charities in such a manner that his right hand did not know of the doings of his left; and his humane nature often exhibited itself in the most ludicrous manner. He once owned a valuable timber lot, adjoining which was another, owned by the late Judge Carrol. One day Fitzhugh received notice that a man had been cutting timber on his lot. Now, stealing timber from Judge Carrol was almost a matter of course. The former, however, was highly indignant at the larceny committed on his timber, and he immediately caused a warrant to be issued for the arrest of
the timber thief. In due time the constable, with the culprit, appeared at Fitzhugh's office.

"You scoundrel," said the judge, stroking back his long black hair, and fixing his piercing eyes upon the man, "how dare you steal my timber? I'll send you where you won't see a tree again for a year! What have you got to say for yourself?"

"I—I—did—didn't mean to cut your timber, Judge."

"Didn't mean to cut my timber!" roared the judge. "What the devil did you mean to do?"

"I—I—thought—I thought—"

"Well, sir, what did you think, you rascal?" said Fitzhugh, growing wrathful every moment.

"I thought it was Judge Carrol's timber that I was cutting," said the man, bursting into tears, and trembling with terror.

Fitzhugh walked the office floor a moment without uttering a word. Finally he halted in front of the prisoner, and taking a five-dollar bill from his pocket, handed it to the fellow, saying:

"Here, take that, damn you, and the next time see that you get on to the right lot."

He then ordered the man to be discharged from arrest, and paid the cost of the proceedings himself.
JOSEPH L. RICHARDSON.

His Memory intimately connected with the History of Cayuga County.—His Associates at the Bar.—Characteristics as a Lawyer.—The Effect of an Increase of Precedents upon the Profession.—The Training and Culture of Lawyers.—The Old Court of Chancery.—Lawyers who Reason and Study.—Those who Never Reason and Never Study.—All Professions Have Superficial Members who would regard Archimedes as Weak, and Newton Foolish.—Richardson as a Private Citizen.—Anecdote.—Richardson and the Church Meeting.—His Manner of Constructing the Call Turns the Tables.—Daniel Kellogg.—Richardson is Appointed District-Attorney for Several Counties.—Manner of Discharging the Duties of his Office.—The Singular and Interesting Case of the People v. Bishop.—Richard Jameson.—The Journey by Moonlight through the Forest.—The Attack of the Robber.—Your Money, and be Quick about it.—The Conflict.—The Robbery.—Escape of the Robber.—The Pursuit.—The Arrest.—The Trial.—Elisha Williams.—Singular Discovery of the Robber's Shoe.—The Conviction of the Robber.—Richardson Retires from the Office of District-Attorney.—The Survivors of the Old Auburn Bar.—Richardson Appointed First Judge of Cayuga County.—Character as a Judge.—Negro Bill.—The Sentence.—Personal Appearance of Judge Richardson.—His Religious Character.—His Death.

The name of Joseph L. Richardson is intimately connected with the history of Cayuga county. He was one of the earliest and most eminent members of its bar—one of its most incorruptible, impartial, and efficient judges. At the bar, or on the bench, he was most conscientious—a man of strict integrity—of a profound and comprehensive mind—a lawyer of the old school—the compeer of Platt, Marcy, Tompkins, Root, Van Ness, Williams, Noxon and Jewett. As the lawyer or the judge, he cast a quick penetrating glance over the facts and law in the case, then drew his conclusions with a logical precision for which he was distinguished.

Slenderly furnished with fancy or imagination, and wanting in originality, he was more capable of following a train of reasoning, of expounding the theo-
ries of others, and pursuing them to their legitimate consequences, than of striking out new theories for himself. Hence, he was able to perform much mental labor, though while he was at the bar, that multitude of legal reports which abound at the present day did not exist,—intolerably augmenting the labors of the student—tormenting the practitioner—substituting for the study of legal principle the empirical recollection of facts, and discouraging the acquirement of a scientific and philosophic knowledge of the law.

It cannot be pretended that he was a great lawyer, but he was learned and successful, and as has been already said, eminent in his profession. If he did not dazzle with sudden, bold, and exaggerated conceptions—if he did not startle and thrill with eloquence, the balance of his mind, his unwearied research in the tomes of old judges and reporters, his easy logic, his sound and practical good sense, his ready flow of language, rendered him a strong contestant in the forum, a versatile, safe, and ready counselor. Trained in the contests of stirring life, strengthened by enlarged experience, he was as successful as he was strong.

Judge Richardson was born at Tawneytown, Maryland, June 5th, 1777. At a very early age he emigrated to Cayuga county, and settled at Aurora. He read law with the late Walter Wood, a lawyer of considerable eminence, who in the year 1810 was appointed first judge of Cayuga county. Richardson prepared for the bar with Judge Wood, and in October, 1802, he was admitted to practice.

At the period when he was called to the bar, with all due respect to the profession at the present time be it said, the education and training of lawyers were severe and thorough. The principles of law adapted to the court of chancery alone, when well understood, rendered a lawyer accomplished and learned. It is too frequently the case at the present age, that while a profound and reasoning lawyer is carefully picking
his way through the tangles of a difficult case, carefully removing all obstacles in his way, like Application ascending the hill of science, those who never think, never study, jump as by intuition at the argument, often landing beyond it, and if they find themselves in an untenable position, and learning is not at hand, they ride home on an amendment, or recuscitate themselves by a special motion. Perhaps these men are as successful, and acquire as much money as their more learned and painstaking brethren.

In all professions there are those who would set down Archimedes for a fool, when after days of diligent, painful study, he danced for joy at the solution of a proposition, and who would mistake Newton for a mad man, when in his surplice, put on for chapel exercise in the evening, he was found in the morning, in the same place, in profound meditation on the theory of prismatic colors.

It is true that science alone is hard and mechanical, that it exercises the understanding upon things out of ourselves, while it leaves the affections unemployed; and thus all professions, followed with intense application, tend to narrow the intellect. But no professional student or practitioner, no statesman or legislator, can long remain the mere man of books, of classical erudition, for he is called upon to make acquaintance with so many practical matters, that something must be lost to particular skill and acquisition.

Judge Richardson was gifted with extraordinary powers of application, and he very early furnished his mind with a thorough knowledge of the common law. He was called to the bar when the principles of our jurisprudence were being formed by those master hands which have adorned it with more than trans-Atlantic learning and purity. This vigorous mind, unaided by the digests and abridgments of the present age, enabled him to aid in the great work of founding our legal system.
Fortunate in his pecuniary matters, he accumulated a large property. Indeed, he was charged with avarice and parsimony. That his love of money was very great, there is no doubt, and that he ardently sought to obtain it, is true; but in this he only anticipated, in a small degree, the wild and almost passionate clamor for money, which characterizes our own times. But really, that which in him was termed penuriousness, was only apparently so—it was the result of his fine sense of punctuality, exact dealing, and direct honesty. Prompt and accurate himself, he expected to find the same quality in others. It is related of him, that once a man called and paid him some money. In making change, he became the man's debtor to the amount of six cents.

"Never mind," said the man, "this is near enough."

"Oh no," said the judge, "you shall have your pay when I see you again."

It happened that they did not meet again until after the lapse of a year; but one day, the judge saw his creditor in the street,—walking up to him, he said:

"Now, Mr. Somers, I will pay you what I am owing you."

"Pay me what you are owing me? Why, Judge, you don't owe me anything but good will," said Somers.

"Oh yes I do. I owe you six cents, and here it is," said Richardson, handing him the money.

"Never mind it, Judge, it is such a small amount, that it is of no consequence."

"My dear sir, no sum is so small that it ought not to be paid. Small sums are like small stones in a great wall: as necessary to be kept in their place as the large ones. When the small stones become loose and detached, the whole wall soon falls down."

This circumstance is a true interpretation of Richardson's character with regard to money matters.

Judge Richardson was for many years a member
of the Episcopal Church at Auburn. Some time about the year 1880, the church edifice was destroyed by fire. The congregation at this time was not large, or wealthy. In a short time after the disaster, a meeting of the parishioners was called, for the purpose of adopting measures to rebuild the church, at which Judge Richardson presided. After the meeting was called to order, one after another arose and stated that the parish was too poor to think of rebuilding; and one of the gentlemen present proposed a resolution to that effect. Before submitting the question, Judge Richardson said:

"Gentlemen, I think you have entirely misunderstood the object of this meeting; it was not called for passing the resolution just offered; on the contrary, it was called for the purpose of adopting measures to rebuild our church; that is the exact wording of the call; now, I propose that we proceed to carry out the object of the meeting, and as action is the best way to proceed, the first thing to be done is to ascertain what each person here present is willing to give; and as you have honored me by making me chairman, I will commence by stating what I will do—I will give one thousand dollars towards the object."

This speech took the meeting entirely by surprise. It gave an entirely different turn to affairs, and before they adjourned, sufficient means were raised to rebuild the church in a very handsome, and for those times, elegant manner.

In the year 1801, the Legislature created the office of district-attorney, and divided the State into seven districts; soon after, five more districts were added, and one district-attorney was appointed by the governor and council for each district. The positions of these officers were nearly as responsible and important as that of the attorney-general. The counties of Cayuga, Cortland, Chenango, Madison, and Onondaga, constituted the ninth attorney district.

In April, 1815, Joseph L. Richardson was ap-
pointed by Governor Tompkins as district-attorney for these counties, in place of the late Daniel Kellogg, whose term of office had expired. Mr. Kellogg was an able lawyer, a distinguished, high-minded citizen, and for many years a man of much influence in the counties of Onondaga and Cayuga. During Mr. Richardson's official term, he was called upon to conduct many important and difficult prosecutions for the people. His speeches and arguments delivered on these occasions, were marked for their ability, their close texture, and their skillful adaptation of the law to his purpose.

One of the most singular and interesting cases which it was his fortune to conduct, was that of the People v. Bishop, a man charged with highway robbery. It was tried very soon after he was appointed a prosecuting officer.

In the month of June, 1815, one Richard Jameson visited a small settlement situated near the boundary line between the counties of Chenango and Otsego, for the purpose of receiving a considerable sum of money due by a man who then resided there. The money was paid; and after transacting some other business, he started for home, eight miles distant. It was nearly night when he commenced his journey, and his route lay through an almost unbroken forest, marked by a single path. But as he was familiar with the way, and there was a full moon, he was not the least disquieted with the thought that night would overtake him before reaching home; and he walked rapidly and cheerfully onward, happy in the thought that there were "eyes which would look the brighter for his coming."

At length he reached a wet and marshy turn in the path, where stood a blasted hemlock, upon whose few scathed and withered limbs the moonbeams fell like the weird drapery of Niobe, when a man of gigantic stature, disguised with a mask, suddenly sprang from a thicket, and, presenting a pistol at the breast of the
traveler, demanded his money. Jameson possessed a strongly knit and powerful frame; he was cool, courageous, and determined, and therefore not the man to yield to this demand without a struggle.

"Do you really mean what you say?" he coolly asked the robber.

"Yes! Give me your money, and be quick about it, or I'll blow your brains out, and take it from your dead carcass," was the savage reply.

With the spring of a tiger, Jameson grappled the ruffian before he could discharge the pistol, and a desperate contest ensued. Alone, in the depths of the forest, beneath the shades of night, and the uncertain glimmer of the moon, those strong and desperate men closed in mortal strife. There was something terribly appalling in this struggle. There was the tug, the grip, the blow. There was the quick, heavy, heaving breath, the low and deep-muttered curse. The gigantic ruffian writhed in the grasp of Jameson, like the Laocoön in the folds of the monster serpents—now springing forward with the hope of crushing his intended victim with his weight, and now attempting to clutch his throat with his huge hands, and now struggling to bring the muzzle of his pistol to bear upon the person of Jameson, who, "invulnerable still," held his desperate enemy at bay. At length the ruffian, by a sudden effort, succeeded in bringing the pistol to a level with the head of his victim, but as his finger was pressing the trigger, Jameson suddenly dodged, and the bullet grazed his cheek. Stunned by the report of the pistol, he fell senseless to the ground; when he came to his senses the robber was gone, and his money taken. After a short time, he recovered sufficiently to make his way homeward. He aroused his neighbors, and at early dawn they started in pursuit of the wretch. They first visited the scene of the robbery. There the ground exhibited the severity of the contest; but it was so soft and marshy, that most of the footprints of the parties engaged, were nearly closed by
the yielding earth. As no signs of the villain remained, they left the place and prepared to scour the country in pursuit of him. Several circumstances led Jameson to believe that the robber was a man by the name of Bishop, who had recently come into the country. Prominent among these circumstances was the fact that Bishop was a man whose size agreed with that of the robber. Search was made for him, and he was found at a house of which he was the sole occupant. He received his pursuers with reserve, but with no apparent fear or guilt. His person, and then the house, were searched for the pistol and the money, but in vain; no traces of either were discovered. His clothing exhibited no appearance of the struggle, except upon the bosom of his shirt there were some dark stains which appeared like mud from the swamp, and in his hair there were some hemlock leaves.

If Bishop was the robber, he had evidently changed his outside apparel; but the moment Jameson saw him, he was convinced that the man who had robbed him stood before him. Bishop was arrested. The magistrate before whom he was taken, after a close and well-contested examination, committed him to jail, to await the action of the grand jury. Within the space of three weeks of the commission of the crime, he was indicted and brought to the bar for trial. Such was the alacrity with which crime in those days was followed up.

The celebrated Elisha Williams, then one of the most brilliant and successful lawyers in the State, was retained for the defense, and a trial of unusual interest took place. . Hon. Joseph C. Yates, afterwards governor of the State, presided. One of the principal grounds upon which Mr. Williams rested the defense was the identity of the accused. So ably and adroitly did this great advocate manage the defense, so searching was his cross-examination of Jameson, that the escape of the prisoner seemed probable, notwithstanding the great ability and power with which Richardson
conducted the prosecution. He was thoroughly convinced that Bishop was the real criminal. Stimulated by professional pride and an honest desire to punish a guilty wretch, he made every exertion in his power to succeed. The first day of the trial ended with Jameson still in the witness box. During the day, the district-attorney learned that when Bishop was arrested, he wore a pair of perfectly new shoes. This circumstance suggested to Richardson that perhaps in the struggle with Jameson, the accused had left one or both of his shoes in the marsh where the crime was committed. So thoroughly did this thought impress itself upon his mind, that he determined to satisfy himself by searching the ground, and two constables with assistants were immediately sent there with orders to search, and, if need be, turn over every inch of the ground where the struggle occurred. The trial was resumed the next morning. Noon came, and the prosecuting attorney had exhausted nearly all his evidence, but it was apparent that he had made out at the best only a doubtful case, against which the eloquence of Williams would thunder like a terrible bombardment on a weak rampart. No tidings were received from the absent officers. After the recess for dinner, he again resumed the case, placing upon the stand his last witness. He protracted his examination with the hope of lengthening out the case until the return of his men, but still they lingered. Often during the cross-examination did the anxious attorney walk to a window near the bar, which commanded a view of the road over which they must pass in returning; but just as he was about to rest the case for the people, the officers arrived, and he was secretly notified that their search had been successful. To him the case now reached a point of dramatic interest. Would the shoe fit the prisoner?—would the court permit him to ascertain this?—were the absorbing questions with him now. After a moment's reflection, he arose and stated to
the court that he was nearly ready to submit the case, but he would beg a moment’s time to consult as to the propriety of introducing other evidence. This request was readily granted, and a short recess was directed, during which he privately examined the shoe which the officers had found. It was very large and heavy. From the heel strong iron nails protruded, and the soles were of unusual thickness. It was found very near the spot where Jameson fell, tightly wedged between two large roots, and nearly covered with mud. In the mind of Richardson, there was no doubt but that the shoe belonged to Bishop. If it was so, then his doom was sealed, and the triumph of the young attorney would be great as well as righteous. After the lapse of fifteen minutes, he returned into court, and announced his readiness to proceed with the case.

"Have you any further evidence, Mr. Richardson?" asked Judge Yates.

"I have," was the reply; "but before proceeding, I desire to ascertain whether a shoe which I have will fit the prisoner’s foot or feet, and I ask your honor that the sheriff may make the necessary trial."

"Do I understand the counsel aright? Is it possible that he proposes to interrupt the proceedings of this court for the purpose of trying an experiment, for the purpose of making testimony?" said Williams, warmly.

"I mean to be understood that I have a shoe, which has just been found on the ground where this robbery occurred. I think it belongs to the prisoner, and I ask that the sheriff may ascertain whether it does or not," said Richardson.

A livid paleness overspread the features of Bishop at these words, which was noticed by his quick-eyed counsel, who, with all his energy and powerful rhetoric, resisted the motion. But the court directed the sheriff to remove the prisoner to a private room, and with proper assistants try the shoe on his foot.
This was soon done, and in a short time the officer returned into court and reported that the shoe exactly fitted the accused. This circumstance led to the conviction of Bishop.

Mr. Richardson continued to discharge the duties of prosecuting officer under the large district system until the year 1818, when the duties of district-attorneys were confined to a single county. He was then appointed district-attorney for Cayuga county. His term of office continued until January, 1821, when it expired, and John Porter, of Auburn, was appointed in his place.

Mr. Porter is still a resident of Auburn; for many years he occupied a prominent place at the bar, ranking with the ablest lawyers of Central New York. In the year 1828, he was appointed surrogate of Cayuga county, discharging the duties of that office until the year 1836. He represented the seventh Senatorial district in the State Senate for the term of three years, and as a member of the Court for the Correction of Errors, the able opinions which he wrote, during his Senatorial term, exhibit a high degree of legal learning and judicial ability.

He continued to practice until within a short time ago, retaining the confidence and esteem of the people.

Warren T. Worden, a contemporary of Mr. Porter, and lawyer of very decided ability, still continues in practice at Auburn. Michael S. Myers, a lawyer of great respectability, is also one of Mr. Porter's contemporaries. These three gentlemen are the only surviving representatives of the old Auburn bar, excepting the Hon. William H. Seward, who retired from practice many years ago.

The Cayuga bar has always been one of the ablest in Central New York; many of its members have occupied some of the highest positions under the State and national government.

The name of John W. Hurlbert ranks among the ablest and most eloquent advocates of the State;
while that of George Rathbun stands full as high on the roll of fame. A long list of honored and distinguished names might be taken from its roll.

After Richardson’s term as district-attorney expired, he continued the practice of his profession, with some interruptions, until January 8, 1827, when he was appointed, by Governor Clinton, first judge of the Cayuga Common Pleas, a position which he held nineteen years in succession.

The manner in which Judge Richardson discharged his judicial duties gained him universal respect. His legal learning and long experience at the bar rendered him familiar with the rules of evidence, with precedent, with the common and statute law.

He was a man of strong feelings, somewhat impetuous in his nature, sometimes exhibiting on the bench a warmth and hastiness incompatible with the character of a judge; but this was only on rare occasions.

His deep-seated sense of right and justice rendered fraud and crime odious to him, and he was in every sense of the word a terror to evil doers.

Few men ever sat upon the bench with more native dignity than Joseph L. Richardson; dignity was a characteristic which never forsook him, even in those instances when his hasty temperament usurped the dominion of his naturally well-balanced mind.

There was in him a vein of humor, a strong flash of wit and pleasantry, which often gave light and beauty to his intellect. This feature of his character often appeared while on the bench, much to the amusement of the bar. During his extensive judicial career, numberless amusing instances of his ready and graceful wit occurred, which will long be remembered by the older members of the bar.

A negro, known by the name of Bill, was once convicted in his court of the crime of burglary. He had long been a resident of Auburn, and for several years was a sort of privileged person in the village. At length he acquired the habit of thieving on a small
scale, and was brought before Judge Richardson, who discharged him, after inflicting a small fine.

Profiting nothing by these admonitions, he at last committed the crime for which, as has been stated, he was convicted. When Bill was brought in to receive his sentence, he was ordered to stand up.

"You have several times been before this court," said the judge, "and the light punishment you received has been of no advantage to you, and now the people have come to the conclusion, that they must either lock up their property or have you locked up, and they have concluded to have you locked up; and therefore the sentence of the court is, that you be sent to hard labor in the State prison for the term of ten years, and the court indulge the hope, that during this term, you will reform, or at least forget how to pick locks, or in case your memory continues intact, we hope that during your imprisonment, locks may be invented which you will not be able to pick."

Judge Richardson was tall and commanding in his person. His features strongly resembled those of Andrew Jackson, and indeed, he resembled the old hero in his manners and general appearance. He possessed those qualities that endeared him to his family and to his friends. He was a true, unvarying friend, but as an enemy, unrelenting and bitter while the reason for enmity continued; yet generous and prompt in his forgiveness of an injury.

He possessed that congeniality with spiritual truths, which is the best evidence of a Christian life. His love of the church to which he belonged, his ardent devotion to her ancient, ever-living, fresh, and beautiful ritual, evinced his strong attachment to the worship of his Maker, his allegiance to the great truths of revelation, and his delight in its lofty and purifying manifestations.

Judge Richardson died at Auburn on the 15th day of April, 1863, in the seventy-seventh year of his age.
It has been said that the master spirits of our times may be divided into three great classes, the characteristic features of which are sometimes blended in a single individual, but generally strongly distinguished from each other. First, may be ranked those whose
genius is kindled by the divine enthusiasm of poetry, eloquence, and the faculty of selecting and combining lofty, pleasing images, with that creative faculty which embodies and animates them; faculties, which, displayed in various modes, and evolved in different degrees, by exercise and cultivation, are the sources of all that adorns and much that gladdens life.

Distinct from these may be placed the men of theory and abstraction—the discoverers and teachers of great truths and general principles. Lastly, those born for the management of affairs, and formed by nature for the collisions and contests of active life; who, without waiting for the gradual formation of particular habits, assimilate themselves at once to their station, and discharge whatever duties may be imposed upon them, with as much ability as if their whole lives had been spent in the minutest detail of that single employment. This last appears to have been the most usual form in which American genius has hitherto exhibited itself.

Daniel S. Dickinson possessed a mind which united many of the brilliant qualities of the first, with some of those of the third order. On his moral portraiture are discovered those features which render him a representative of our general national character.

With many qualities in common with the poet, and partaking somewhat of the character of the philosopher, the discipline of the logician, the practicability of the statesman, he may be placed, if not at the head, certainly among the first of the men formed for the discharge of great duties at the bar, in legislative business, and in the diversified scenes of active life.

Inspired by a consciousness of his own mental powers, aided by an iron determination, and prompted by a laudable ambition, he submitted to the vigils of the lonely, self-taught student—penetrated the depths of science and philosophy—entered those classic fields where the accomplishments and graces of the mind can only be attained—mastered the great principles of
judicial knowledge—laid his hands upon those honors which dazzled his youthful ambition—raised himself to the sphere of the ablest lawyers and the most gifted statesmen of his times.

The purity of his private life leaves little room for those exceptions and deductions, which too frequently detract from the fame of the gifted and the great. Not that his was a faultless character—no such character exists; but his imperfections were so controlled by a dominant integrity, so subdued by an unassuming piety, that his better nature triumphed over them all, holding them subservient to the dictates of that being "unto whom all hearts are open, and from whom no secrets are hid."

Considered as an advocate and orator, he certainly had few superiors. He knew how to touch those chords of the human heart which vibrate responsive to sympathy; he was unseduced by imagination, though no stranger to its inspirations—untainted by passion, though susceptible to all healthy and legitimate emotion—enthusiastic, but guided by a discerning and well balanced mind.

As Ruskin said of a certain architect, it was one of his chief virtues, that he never suffered ideas of outside symmetries and consistencies to interfere with the real use and value of what he did. If he desired a window, he opened one; a buttress, he built one. His intellect could fit itself to all service, height of shaft, breadth of arch, or disposition of ground plan. It could shrink into a turret, expand into a hall, coil into a staircase, or spring into the towering spire, with undegraded grace, and unexhausted energy. Whenever he found occasion to change in form or purpose, he submitted to it without the slightest loss, either of unity or majesty. So with the oratorical powers and capacity of Daniel S. Dickinson, he could adapt them to time, place, or circumstances, with the undefined flexibility of Ruskin's architect.

An English writer has said, that the world is
wearied with statesmen degraded into politicians, and orators who pander to the tunes of the times for popularity which their abilities and endowments cannot command. There was nothing of this searching after ephemeral popularity—this distinctive feature of cunning politicians—in Mr. Dickinson; he occupied a higher and better sphere—a sphere that can only be attained and held by the power and influence of a commanding intellect.

Whoever met him in the social circle, whoever listened to his fresh, happy thoughts, uttered in the unstudied facility of familiar conversation, replete with epigram and point, whoever saw him amid those home scenes, where, as the husband and the father, he was the center of the deepest affection, and where the sunlight of his nature was undimmed by the cares of state or professional duties,—could discern those powers of mind which commanded the respect of "listening senates," but they would see in his playful humor, in his loving gentleness, little of that spirit, which, when crime was to be punished, iniquity exposed and fraud lashed in its lurking place, could be roused into storms of the most terrible invective, or changed into withering, blighting sarcasm.

Daniel Stevens Dickinson was born at Goshen, Litchfield county, in the State of Connecticut, in the year 1800. His father inherited the stern, inflexible virtue of his native New England. When Daniel was six years old, he removed with his father to Guilford, in the county of Chenango. As soon as he was old enough, he was sent to a common school in the neighborhood, where he continued until he was sixteen years of age. At this period he began to seriously consider what vocation would be most congenial to his taste, and he decided to adopt the legal profession; his decision was permanent, though the limited means of his father then prevented him from commencing a course of studies which he so much desired.
As he was not inclined to the life of a farmer, his father proposed that he should learn some mechanical business; to this the young man objected, begging for permission to commence the study of law. At length his father consented to accompany him to Oxford, for the purpose of ascertaining of a lawyer there, the expense of preparing for the bar. After a careful investigation, the elder Dickinson became convinced that the expense would far exceed his means, and he at once informed Daniel that he must surrender all thoughts of becoming a lawyer. This was a serious disappointment to him—the hopes which he had indulged were suddenly dispelled; and with a heavy heart he commenced his journey home. For several miles he rode silently by the side of his father; his thoughts were busy with the devious future; he had built a tower and city within the Shinar of his own heart, where, forgetful of the present, he dwelt in the anticipations of the future.

"Father," said he, suddenly breaking the long silence that had existed, "do you remember what Robert Bruce said, when he was driven by his enemies into a gloomy glen, where he had nothing but straw to sleep on?"

"I remember the circumstance as related in history, but I cannot repeat the words. Can you?" said his father.

"Yes, sir. He said: "'Though I am driven to this gloomy, dismal glen, with no shelter but this old hut, yet I feel conscious that I shall one day be King of Scotland,'" was the reply.

"What made you think of that just now, Daniel?"

"Because, father, I want to be a lawyer just as much as Bruce wanted to be king; and though there is but little prospect now of my ever becoming one, I feel that I shall some day be a lawyer, and a good one too," said the young man.

"Daniel," said Mr. Dickinson, kindly, yet firmly,
"you must give up that idea now. You see it is beyond your reach and mine, and you must commence learning a trade."

"Well, father, I shall obey you and learn a trade, but I tell you, I shall never give up the idea of studying law," said Daniel.

"But you cannot succeed without help. Who do you suppose will help you?" asked Mr. Dickinson.

"I will help myself, when the time comes, as Robert Bruce did," was the firm reply; and the conversation ended.

Soon after this, young Dickinson was apprenticed to a clothier in the village of Guilford. With his characteristic cheerfulness and obedience, he submitted to the arrangement.

With his apprenticeship he commenced the great work of self-education; the loftiest effort of which the human mind is capable. Every leisure moment was devoted to his books; they were his constant companions—the source of his delight—the fountain of his pleasure; and he might have adopted the language of Horne Tooke, when he said to Erskine, "if you had obtained for me ten years of life in a dungeon, with my books, pen and ink, I should have thanked you."

With the assistance of a clergyman in the neighborhood, who was a ripe classical scholar, Dickinson succeeded in attaining a practical and correct knowledge of Latin. As a reward for his weary, toilsome study, he was enabled to read with perfect facility the precise elegance and harmonious utterances of Virgil, Cicero, Horace, and Livy; while the pages of Cæsar and Tully, the one the most elegant, the other the most eloquent of Romans, enlivened his intellect and chastened his imagination.

It was his delight to contrast the rude speech of the old patrician ages, with the artificial graces of the declining republic. In after years, while speaking to a friend on this subject, he remarked, "it is
strange that supercilious effeminacy and insipid elegance is the sure precursor of a nation's decay."

In addition to his advancement in the languages, he made considerable progress in rhetoric, logic, mental philosophy and surveying.

"You would be astonished," said he one day, to a student in his office, who is now an eminent lawyer, "did you know how much progress one can make in any study, by devoting to it but one hour in each day. In that way I learned the science of surveying."

At length the years of his apprenticeship wore away, and his time was his own. But as he was, in many respects, an excellent scholar, capable of teaching the languages and the higher branches of mathematics, and also a competent surveyor, he abandoned the trade which he had learned, and entered upon the duties and responsibilities of a teacher. When not occupied in school, he was engaged in surveying lands, and adjusting the boundaries of the farms in various parts of Chenango county.

This latter occupation made him a witness in the numerous ejectment suits, which at that period were brought to settle the conflicting titles of the land-holders. During his attendance at court the examination of the witnesses, the argument of counsel, the charge of the judge, were closely watched, and keenly observed by the young surveyor, and thus each trial to him was a practical and valuable lesson in the study of law.

His evidence upon the lines which he formed and established was considered conclusive. He gave his testimony in that self-possessed, intelligent manner, which rendered it effective.

Occasionally, however, he was attacked by some opposing lawyer, who on the cross-examination would attempt to destroy the force of his evidence. On one occasion, he was introduced as a witness in a trial which took place at Cooperstown.
Having given his evidence as to the quantity of land contained in certain boundaries, described by a map which he had made, the opposing lawyer commenced as follows:

"Mr. Dickinson, at what institution did you learn the art of surveying?"

"At a pretty large one, sir," was the reply.

"Well, sir, where was it?"

"Wherever and whenever I could gain time to study it."

"Then you never learned surveying as a science, did you?"

"Yes, sir; I learned it as a science; but not at any institution of learning."

"Who was your instructor, sir?"

"I had the very best instructors, sir."

"Well, name them."

"My books, my compass, my pencil, and my own brains. I suppose these are the principal things I should have depended upon at any institution, especially the latter article," said Dickinson.

The lawyer, who was a surveyor himself, and aided by a professional engineer at his side, believing that the self-taught surveyor could be easily disposed of, commenced a rigid cross-examination, in which he used all the technical tricks of the art, in the hope of entangling the back-woodsman, as he termed Dickinson; but it soon became apparent to the judge, jury, and bar, that the advantage was with the witness. In no instance did he falter, waver or hesitate, and he left the stand in triumph.

The late Farrand Stranahan, then a distinguished and learned member of the Otsego bar, and subsequently an eminent member of Congress, was the lawyer who tried the cause for the party who subpoenaed Dickinson.

He was exceedingly gratified with the manner and acquirements of his witness. When the trial was over, he invited the young man to his office.
"Mr. Dickinson," said he, "I am pleased with your instructors in surveying, particularly the one you called brains. I believe you have a pretty large sized pattern of your instructors always with you, and my opinion is that they will yet do something handsome for you. Take my advice, and study law. I believe you will succeed at the bar; your practical instructors, sir, will lift you to a very high position."

The young man assured Mr. Stranahan that he had always intended to become a lawyer; but as his means were limited, he had not been able to commence his studies.

"Commence at once, young man—commence at once. You need have no fears; you will make your way to the bar, and I shall hear of you there, too. Be resolved to succeed; master the law as a science; do not play in its shadows, but enter its depths—take the open, the deep sea, and you will at length come proudly into port," said Mr. Stranahan.

This advice, coming from a man so distinguished, greatly encouraged Dickinson, and he resolved to profit by it. How often have words, thus kindly spoken by men of influence and position, given struggling merit a new impetus, reconciled it to sacrifices, to inquietude, and to intense labor. Such words often inspire a hope which in the fullness of certainty, in the anticipation of success, gives glimpses of the reward of toil and self-denial.

In the year 1821–22, Mr. Dickinson was engaged in teaching school at Wheatland, New York. Borrowing Blackstone's Commentaries of a lawyer in a neighboring village, he commenced the study of law. Never satisfied with the surface of things, he studied that great work with a severity, patience, and industry which rendered him master of it.

In the year 1822, he was married to Miss Lydia Knapp, a lady of many personal and intellectual charms. This union resulted in a long life of domestic happiness. The following extract from a letter
written to Miss Knapp, in October, 1858, attests his affectionate regard for his wife:

"It was thirty-six years ago yesterday, since I married your dear aunt. Oh, how many lights and shadows of life have flitted by during those eventful years! How many joys have sent their refreshing influences—how many poignant and unutterable griefs have caused the heart to bleed with anguish too terrible for description! But a kind Heaven has dealt graciously with us, and we have learned to remember that this is not an 'abiding city,' and that the loved and the lost, who have gone before us, will not return to us, but we shall go to them. This marriage gave me a faithful, devoted and affectionate wife, and her relatives have ever been as dear to me as my own."

A beautiful poem, written a few days before her death, and dedicated "To Lydia," appears at the conclusion of this sketch.

After his marriage, in view of the many expenses of a legal education, he decided to engage for a time in the occupation which he had learned. Accordingly, in the spring of 1823, at the solicitation of the citizens of Columbus, Chenango county, he removed there, and commenced the erection of a small building, which he designed for a cloth dressing and wool carding shop.

When the building was partly enclosed, he was one day at work upon it. Those who were engaged with him noticed an unusual reticence in his manner, and that he seemed deeply engaged in study. Suddenly he threw his hammer behind a door, exclaiming, "There, I shall never touch that again;" then putting on his coat, he left the building without uttering another word. Seeking his wife, he informed her that he had decided to leave the business in which he was engaged, and to commence preparing for the legal profession.

With true devotion and a lofty ambition she encouraged him in his project, assuring him that he
had the ability to succeed, and that she would make any sacrifice to aid him.

He returned again to the business of teaching and surveying, employing every leisure moment in the study of law; in this way two or three years passed away.

While attending the various courts in central New York as a witness, he made the acquaintance of the late Lot Clark, who, in those days, was a resident of Norwich, New York. Mr. Clark was eminent at the bar, and widely distinguished in the political, financial, and legal affairs of the State. His discerning and sagacious mind discovered in the young surveyor abilities of the highest order. Learning that he desired to study law he encouraged him in the undertaking, invited him to pursue his studies in his office, generously offering any assistance in his power.

The friendship of Lot Clark was the circumstance which led to the future success of Mr. Dickinson.

Completing the necessary arrangements, he soon became a student in that gentleman's office, and, under his instructions, commenced the regular prosecution of his studies. To his surprise, Mr. Clark, in a few days, discovered that his student had already acquired a very correct knowledge of the elementary principles of law, and was well versed in the rules of evidence—that by devoting a few months to the study of the practice, he would be well qualified for his admission to the bar.

But there existed an impediment in the way, which seemed almost insurmountable. The rules of the Supreme Court at that time required seven years' study in the office of some practicing lawyer, before a student could be admitted to his examination; and, although Dickinson had effectually pursued legal studies for at least three years, he was considered by law as having now just commenced his legal education, not having studied according to the rule of the
court. Years must elapse before he could even be examined for his admission to the bar.

"I am determined to persevere," said he one day to Clark, after he had been in the office a few weeks; "though I hardly know how I shall sustain myself and family for so long a time, but I believe there will be some way provided."

"Yes, persevere, make yourself thoroughly acquainted with the practice and the rules of the courts; when you have succeeded in this, I will see what else can be done for you," said Mr. Clark.

Accordingly, Dickinson applied himself to his studies as he was directed; the business in the office was extensive, and hence he had an opportunity to learn the practice from actual experience, as well as from the books. He did not neglect to review the common and statute law which he had previously read; in this way eight months passed away, when, one day Mr. Clark said to him:

"I think you can now pass a very creditable examination."

"I feel confident that I can; but what will all this avail me?"

Mr. Clark informed him that the chief justice sometimes suspended the rule and admitted students *ex gratia* to their examination.

"It is very rarely done, I know," he continued; "but I have thought it best for you to accompany me to Albany next week; the General Term will then be in session there; I will introduce you to Chief Justice Savage, with whom I believe I have some influence, and endeavor to induce him to give you an order for your examination in the class which will be examined at that term."

A new world of hope opened before Dickinson at this suggestion, and he eagerly acceded to it.

The first Monday of October, 1828, saw Daniel S. Dickinson at Albany for the first time. He, who in a few years was destined to return there—to enter its
Senate chamber the gifted senator, and, as the lieutenant-governor of the State, to become its dignified and accomplished presiding officer, and the profound statesman, now, obscure and unknown, awaited with trembling hope the fiat which would place him upon the stepping-stone to all those honors.

In the course of that day, Mr. Clark called at the rooms of Judge Savage; after some general conversation, he said to him:

"Judge, I have a student whom I wish to have admitted to the class for examination this term."

"You know, Mr. Clark, that the clerk is the proper person to make the order for examination of students," said the judge.

"But this is a case, Judge, where you alone have the power to make the order; for, although he is a well-read student, he has now actually pursued his studies within the rule, but a little over eight months, and I desire that you will suspend the rule and give him an order for his examination."

A shade passed over the brow of the judge, as he listened to this request.

"Mr. Clark," said he, "I should be most happy to oblige you in this or any other matter, but my duty will not permit me to grant the order you desire. I have decided to admit no more students to examination who have not complied with the rule. I have occasionally done so, I am sorry to say, where the student was unworthy; and unless it is a very extraordinary case, I shall not vary the rule again."

"I consider this to be a very extraordinary case, or I certainly should not have applied to you," said Mr. Clark.

"There is but one way for me, and that is to rigidly adhere to the practice established by long usage," said the judge.

"Well, Judge, will you hear the circumstances under which the young man, through me, makes this application?"
"I think it will be useless, but to oblige you, I will; proceed, Mr. Clark."

"I propose that the young man shall himself relate the circumstances," said Mr. Clark.

"I think that is not worth while," said the judge.

"Judge Savage, I ask as a particular favor, that you see and talk with this young man, and if, after that, you decide to deny his request, I shall be satisfied."

The judge consented, and in due time Dickinson was alone with the chief justice of the State of New York. He knew that the hopes of coming years rested upon the result of that interview; that if his request was denied, several weary years must elapse before he could attain that goal which from his childhood, he had so ardently desired to reach. His friend had informed him that there was some doubt as to his success, and therefore he entered the presence of the man who was to decide his fate, conscious that he was to plead his own cause, and summoned all his self-possession and manhood to his aid.

Judge Savage received him with that courteous dignity for which he was distinguished; he listened attentively to the story of his life, as with simple, unaffected eloquence, he "ran it through, even from his boyish days." He spoke of his early desire to study law, of his struggle to obtain a classical education, how, when the day's labor was over, he applied himself to his studies—how, when attending the carding machine, with his book by his side, he became acquainted with the authors of antiquity,—and how he worked out those problems which gave him his knowledge of surveying, and how he commenced and continued the study of law, down to the time when he first became acquainted with Mr. Clark; but he made no appeal for sympathy; he rested his cause on the bare, unvarnished facts; he answered promptly and respectfully all the numerous questions asked him by the judge.
The interview lasted an hour and a half, and when Dickinson left the room, he carried in his hand the order for his admission to the class of students which were to be examined the ensuing evening. With a light and joyous heart, he returned to his hotel, where he found his friend anxiously waiting for him.

"Well, how did you succeed with the chief justice?"

Dickinson replied by handing him the order of Judge Savage. Clark rapidly glanced over it.

"You have won your first great case," said he, "and it is indeed a great one; what is better, you won it yourself. As you have succeeded, I have no hesitation to inform you that Judge Savage utterly declined to grant this order on my request. But I did not dare inform you of it, fearing that you would be discouraged and refuse to make any further effort."

"I made no particular effort, Mr. Clark; the judge seemed willing enough to grant the order. I simply related to him, in a plain way, the history of my life, and answered all his questions as correctly as I knew how."

"Exactly, sir; you have the talisman of success, the girdle described by Homer, which gave an invisible power. You were modest and unassuming, but deeply in earnest; a strained effort would have ruined your cause with the judge. Now for your examination. Give this paper to the clerk, he will enter your name on the list of students to be examined; be on hand promptly, and to-morrow you will be a lawyer," said Clark.

That day the chief justice and Lot Clark met at a dinner given by an eminent citizen of Albany, to the judges and members of the bar.

"Judge," said the latter, "I am happy that you decided to grant my student an order for his examination."
"He is a young man of extraordinary abilities, Mr. Clark,—a person of learning. Why, sir, I consider him a good lawyer already—he will be an ornament to the profession, and in a short time; he has the ability to make his mark in the world, and he surely will," said the judge.

Dickinson passed a very creditable examination, and was duly admitted to the bar.

Chief Justice Savage left the bench of the Supreme Court, in September, 1837, but before that event, Daniel S. Dickinson occupied a seat with him in the Court for the Correction of Errors—then the highest tribunal in the State, and with him adjudicated the great legal questions which came before it, and their opinions are committed to posterity in those reports which record the decision of the New York courts.

Immediately after his admission to the bar, Mr. Dickinson opened an office at Guilford and commenced his practice. Such had been the habits of his life, such his intercourse with the people, that he had been enabled to study deeply the great book of human nature—a study more essential to lawyers than to any other class of men; for the hopes, the fears, the frailties, and the passions of men, are matters which they have constantly to encounter. Mr. Dickinson's practice soon became the source of a competent income, and his respectability as a lawyer was established by the number of his clients and his success in their behalf. His occupation as a surveyor had given him a general acquaintance with the people, with the situations of the lands in central New York, and the titles thereto. These circumstances were of immense advantage to him; to them he was indebted for the early reputation which he attained as a real estate lawyer. Actions of ejectment at that period occupied very much of the attention of the courts; few lawyers better understood the complications of those actions than he.

He had been fortunate in making the acquaintance of several eminent business men at Binghamton,
through whose influence he was induced to make that beautiful town his future home. He removed there in June, 1831. Here great professional success awaited him—a success which soon gave him a position with the ablest lawyers in the State.

He was constantly engaged in the trial of causes, and in many respects he was peculiarly qualified for an advocate. In those actions in which he could touch on grave, gay, and pathetic subjects, he soon became powerful, "shedding on the world of nisi prius, hues of living beauty," touching on the verge of a sphere which Wirt himself would not have disdained to occupy.

Superior to any thing like trickery or chicanery, he yet was subtle, cautious, and wary. A quick and accurate observer of men and things, as has been said of another, he looked at them from a point of view in which it was his particular business and interest to observe them. Thus, he could "weave a web of difficulties for an opponent something like the silken threads in which the shepherdess entangled the steed of Cervantes' hero, who swore in his fine enthusiastic way, that he would sooner cut his way to another world than disturb the least of those beautiful meshes."

One of the most powerful competitors with whom Mr. Dickinson had to contend was John A. Collier, a man by whom it was no disgrace to be overthrown. Close, terse, logical, unimpassioned, but deeply learned in the law, particularly in evidence, in contracts, in equity and in the common law, he was one of those leading spirits which gave to the bar of the State its superiority. His abilities as a politician were scarcely less remarkable than his legal accomplishments. As was said of Lord Ellenborough, he was a real chief—such as the rising generation of lawyers may read of, or figure to themselves in imagination, but may never behold to dread or to admire.

He was not only a rival of Mr. Dickinson at the
bar, but his powerful opponent in the political field; for years the intellectual contests of these men struck out those vivid sparks which exhibited the powers of the combatants. Though these contests were not entirely free from acrimony and irascibility, yet the courtesies and amenities of the profession were generally observed by both of them.

In the summer of 1844, they were engaged in the argument of an appeal from one of the vice-chancellors to the chancellor, at Saratoga, in a matter connected with a Chenango county Bank. During the argument, a young lawyer, who had just been examined for a solicitor before Judge Parker, at Albany, entered the room; he was there for the purpose of taking the solicitor’s oath before the chancellor. His time was limited, but he waited patiently until Mr. Collier closed a long, and to him exceedingly dry speech. Mr. Dickinson immediately arose and commenced his remarks. As it was impossible for the young man to wait the conclusion of another argument, he approached the lawyer and said:

“Will you be kind enough, sir, to stop speaking long enough for me to take the solicitor’s oath? My great haste is my apology for asking this favor.”

Mr. Dickinson ceased speaking, and regarded the intruder with a look of surprise, mingled with some severity, which, however, instantly passed away, and he replied:

“Oh, certainly, certainly, sir; we need one more solicitor in the State of New York, and you shall be the one, for I see you intend to be on time.”

The young lawyer having taken the oath, signed the roll, thanked Mr. Dickinson, and retired. He entered into practice, became eminent at the bar, and in a few years met Mr. Dickinson as his opponent in a very important case.

“I see you do not remember me, Mr. Dickinson; perhaps you may recollect, some years ago, at Sara-
toga, you informed a young man about to take the solicitor's oath, that the State of New York needed just one more solicitor, and assured him that he should be the one, as he was on time. I am that fortunate solicitor."

"So you are a solicitor by my permission, are you?" said Dickinson, laughing, and taking the lawyer by the hand. "Since then, you have won a position as a solicitor in which you have done honor to the bar and to the State, and therefore, you really were the one that was needed." From that time, to the close of Mr. Dickinson's life, their relations were intimate and friendly.

Yielding to the natural affinity which the American lawyer has for politics, Mr. Dickinson became an ardent political partisan, strongly attached to the Democratic party. His success as a speaker gave him a high position in his party, while his urbanity and geniality rendered him a favorite with the people. He had been at Binghamton but a short time, when he was tendered the nomination for Assembly by the Democrats of Broome county. But professional ambition prompted him to decline, and though he became a powerful champion of his party, he refused all official distinction, until the autumn of 1836. Yielding to the solicitation of his friends, he then accepted the nomination for senator from the Democratic party of the old sixth Senatorial district, one of the largest and most important in the State.

His nomination was highly complimentary to him. He was elected by a heavy majority, and commenced his Senatorial duties on the 3rd day of January, 1837. John Tracy was then lieutenant-governor, and the Democratic party was dominant in the State. Mr. Dickinson was honored by a prominent place on several important committees, the duties of which he discharged with vigor and ability. With a cautious and discriminating use of those rare abilities which he possessed, he soon rose to the position of a leader in a
body composed of men whose singular lucidity of thought and expression, whose versatile attainments, persevering industry, and elevated views, rendered the Legislature of New York conspicuous before the nation.

Mr. Dickinson entered the State Senate at a time when political discussions were strong and fierce; and, as one of the leaders of the Democratic party, he was the subject of many maledictions. As censure is said to be the tax which man pays for being eminent, he paid liberally for his position. But he encountered this species of warfare with firmness, and in turn assumed the aggressive with such vigor and power, that he was as formidable in the attack as he was invulnerable in defense; but he always commanded the secret, and often the open respect of his political antagonists.

Some of his speeches in the Legislature won the commendation of all who were not so blinded by party that they could observe nothing bright—nothing meritorious in the utterances of a political opponent. One of the most able and eloquent of his Senatorial speeches was delivered on the 10th day of February, 1837, on the introduction of a bill in the Senate for the repeal of the usury laws.

Governor Marcy, in his annual message to the Legislature, that year, recommended the repeal of the usury laws, and the measure was strongly advocated in the Senate, by the powerful abilities of Samuel Young, of Saratoga. Mr. Dickinson warmly opposed the measure, and, as has been said by another, the discussion of the question led to an animated and interesting debate; but the agitation ended for a time, and for many years afterwards, as a public question, by the adoption, at the same session, of additional safeguards and more severe penalties against usury. In the course of that remarkable speech, Mr. Dickinson said:

"But the honorable senator from the fourth, Mr. Young, asserts that the usury law prevents competition
between money lenders; that if the usury laws are repealed, money will flow into the State freely, and that there will be an abundance to be loaned at less than seven per cent. Who, I ask, believes that this will be so? Interest is intended to be the fair average value of the use of money; that it may not reach every individual case is not pretended; there is an average moral rate, and that should be, and is, in contemplation of law, the legal rate. Seven per cent., I assume, is not only a fair compensation for the use of money, but is the average value of its use. Who has ever known a money lender, however unenterprising and stupid, and however humble in his beginning, who has not grown into affluence by an interest of even seven per cent., while his vigilant and enterprising neighbor, who has embarked in other business, has failed to keep pace with the gains of money accumulation? No one will pretend that a fair competition is prevented at less than seven per cent. The rate of interest in England is five per cent.; in France, four; in Holland, three; and in all the adjoining States, six. Now, where is the capital to 'flow in' from? How does the senator from the fourth explain why capital will be invited at an interest of less than seven per cent. when it will not come at seven? Why does not this liquid substance begin to flow now? Two per cent. has invited England; three per cent. has invited France; four per cent. has invited Holland; one per cent. has invited all our neighboring States, and yet the capital, we are told, refuses to 'flow in.'

"The senator from the fourth has informed us that one house in New York has paid usury enough to purchase a farm upon the fertile and almost classic plains of Saratoga; that another has paid sixty thousand dollars of usury within the last year, and that six or eight millions of dollars of usury have been paid within the year in the city of New York alone. I am much obliged for the information; this explains
all,—it is a sufficient sum to induce the moneyed sharks to pursue the ship of State for a long time to come. If they have succeeded in obtaining this enormous amount while the laws are in force, what, I ask, will they do when they are repealed?

"While the senator from the fourth is sheltered behind Jeremy Bentham, he will doubtless think my attempt to assail his impregnable citadel like storming Gibraltar with a pocket pistol; but I have done so upon his invitation, and claim to have both my motives and courage appreciated for even attempting it. If I am annihilated in the struggle, I can say with Hannah More, in her Sacred Drama:

"'Twill sweeten death
To know I had the honor to contend
With the dread son Anak.'"

Mr. Dickinson's speech upon the governor's message, delivered in the Senate, January 11, 1840, attracted much attention. It was entirely political in its nature, and, as speeches on such occasions usually are, it was made to settle political scores. It was generally commented upon by the press of the State, each political party discovering faults or merits, according to its political tendencies.

He delivered many other important speeches while in the State Senate, many of which bear the impress of the statesman.

Being a senator, Mr. Dickinson was also a member of the Court for the Correction of Errors; and his legal opinions upon the questions adjudicated in that tribunal while he was a member of it were written with that ability and judicial precision which strongly commend them to the legal profession. Some of them clearly demonstrate the principles upon which the great leading cases then before the court of last resort turned. No one can read his opinion in the case of Stoddard v. Butler, reported in 20 Wend. 507, without
being impressed with the ability, force, and profundity with which it abounds.

Mr. Dickinson retired from the Senate in May, 1840. At the Democratic State Convention, held in the following August, he was nominated for lieutenant-governor; but as his party suffered a general defeat at the ensuing election, Mr. Dickinson shared its fortunes.

"Well, Mr. Dickinson," said a friend, who met him after the result of the election was known, "how do you relish the result of the election?"

"Oh, the people have very decidedly given me to understand that they do not desire my services, and I honor their judgment, and from the loop-holes of my retreat I will watch the progress of this great Whig game," was the reply.

Devoting himself to his profession with untiring energy, he left the political field, contented with the honors which he had won. He attended the various circuits in the State, and was often engaged in every important case that was tried at the term. He frequently appeared at the General Term, and in the Court for the Correction of Errors.

It has been said that Mr. Dickinson was not a close lawyer, meaning that he was not bound down to those forms which render the lawyer a mere servile copyist—a creature of precedent, who hurl[s] decision after decision at his opponent, and charges down upon him with statutes, simply because it happens to be in that case so made and provided: like Juvenal's grammarian, tremblingly alive to mood and tense, without a philosophic thought, or a liberal sentiment. For this kind of legal closeness Mr. Dickinson had no taste, and was therefore not a close lawyer. But if thorough reading, logical exactness, knowledge of mankind, clear views, perspicuity of thought, a liberal familiarity with legal principles as well as technical rules, joined to ingenuity in illustrating and enforcing his
ideas, constitute a close lawyer, then Daniel S. Dickinson was such.

It is true that he was a man of much imagination; but, in his speeches at the bar, if he interpolated fanciful ideas or sentences, it was with such perfect good taste, that it tended to strengthen and enlarge his subject.

Nothing disgusted him so much as a tawdry, grandiloquent, or labored speech. He was fond of relating the following anecdote of Lord Tenderden, who, though a man of fine imagination, and a poet, would tolerate no undue display of learning and sentiment at the bar.

"It is asserted in Aristotle's Rhetoric," argued a pedantic barrister to his Lordship.

"I don't want to hear what is asserted in Aristotle's Rhetoric," interposed the Lord Chief Justice.

"It is laid down in the Pandects of Justinian."

"Where have you got to now?"

"It is a principle of the civil law."

"Oh, sir, we have nothing to do with civil law in this court."

Lord Campbell insists that this pun of Tenderden, if it can be called one, was unintentional; like that of Blackstone, who remarks in his "Commentaries," that "landmarks on the sea shore are often of signal service to navigators."

Mr. Dickinson frequently remarked that there were many at the bar who would be highly benefited by practicing before a judge like Lord Tenderden. His quotations were always lively and appropriate, particularly those taken from the Scriptures. These he often used with elegance, force, and fine rhetorical effect.

From his earliest years he was an ardent admirer of the Bible, regarding it as "a history, the narrative of a multitude of miraculous facts, which skepticism has often challenged, but never disproved—a poem
moral and didactic—a repertory of divine instinct—a collection of the deepest intuitions of truth, beauty, justice and holiness; destined to command, to charm, to sublimate the mind of man; which for ages has been exposed to the keenest investigation,—to a fire which has consumed contemptuously the mythology of the Iliad, the husbandry of the Georgic, the historical relations of Livy, the fables of the Shasters, the Talmud, and the Koran, the artistic merit of many a popular poem, and the authority of many a work of philosophy and science."

In the year 1842, Mr. Dickinson was again summoned from the duties of his profession to become the standard-bearer of his party in the campaign of that year. He was again nominated for lieutenant-governor, Mr. Bouck receiving the nomination for governor. The result of the election that year exhibits the mutability of politics in our government. The Democracy, which two years previously was prostrated before the Whig party, was again triumphant. The entire Democratic State ticket was elected, and on the third day of January, 1843, he again entered the State Senate, this time as its presiding officer. His various parliamentary attainments and experience prepared him to discharge the duties of this position with rare ability.

In the quickness of his perceptions, in the rapidity and urbanity with which he decided the technical parliamentary questions which constantly occurred in the Senate, he resembled Henry Clay.

During the summer of 1843, he was engaged in conducting certain important actions connected with some mining interests in Pennsylvania. In October of that year, he delivered an address at the fair of the Queens County Agricultural Society. This production was spoken of by the New York papers as "highly able, ingenious, and eloquent."

"Practical agriculture," said he, "is coeval with the history of man. The children of Israel, on coming
to the possession of the fair land of Canaan, after wandering in the wilderness forty years, addressed themselves to its cultivation. When the prophet Elijah passed by and cast his mantle upon Elisha, he found him plowing in the field, with twelve yoke of oxen before him, himself with the twelfth; and the servants and oxen of the affluent Idumean were engaged in the same pursuit when they fell a prey to the rapacity of the Sabeans. Many of the most interesting and poetic incidents of the Scriptures are touching the harvesting and gleaning of fields, and rural occupations, and its pages are replete with descriptions of the management of flocks and herds, sheep shearing, threshing floors, and the employments of husbandry.

"The mind of the professional man is engaged with his particular calling, striving to become eminent and useful, struggling, perchance, with rivalry on either hand, and realizing 'how hard it is to climb the steep where Fame's proud temple shines afar.' His mental vision is fixed upon a single object. His mind is accustomed to run in grooves fashioned by his pursuit—all else palls upon the sense, and he too often lives and dies the mere creature of his profession. The merchant is buried in commerce, and the mechanic is absorbed with inventions and improvements. But to the farmer, devoted to no theories, and wedded to no systems, with the ample volume of Nature constantly before him, unfolding her mysteries and spreading out her allurements, the deep fountains of knowledge stand open, and all combines to inspire him with the love of the sublime and beautiful, to store his mind with that practical, useful knowledge which energizes the man's nature to loftier and nobler pursuits."

The campaign of 1844 was one of the most memorable political struggles which, down to that period, ever occurred in the nation. Under the lead of Henry Clay, whose many captivating qualities inspired his
friends with servid enthusiasm, the Whig party rallied in its strength, confident of victory, and there was a time when the defeat of the Democrats seemed inevitable; but, at that moment, a few unfortunate sentences contained in a letter written by Mr. Clay decided the contest against him. The struggle was such as might have been expected by the antagonism of two such powerful parties.

In this campaign, Mr. Dickinson was peculiarly active; he was one of the prominent Democratic orators who aided in giving their party its victory.

As one of the presidential electors from the State of New York, in 1844, he gave his vote to the Democratic nominee, James K. Polk, for president.

On the 7th day of May, 1844, Mr. Dickinson retired from the second office within the gift of the people of the Empire State. He closed his career as president of the Senate, in an address of unusual dignity and grace. Seldom has that Senate chamber been a scene of more absorbing interest, than on this occasion; party strife and political feuds were forgotten in the impressive language of the lieutenant-governor, now about to become a private citizen, with no claim to power, save that intellect which gave him the place he had so ably occupied.

But he was not permitted long to remain the private citizen; his party had other claims upon him, and his abilities were destined to be exercised in another and loftier sphere of action.

Early in the summer of 1844, a vacancy occurred in the United States Senate, by the resignation of Nathaniel P. Talmadge, one of the senators from the State of New York. As this event occurred during the recess of the State Legislature, Governor Bouck immediately appointed Mr. Dickinson to fill the vacancy. One of the first acts of the Legislature of 1845, was the ratification of his appointment, and Daniel S. Dickinson entered the American Senate as the associate and compeer of Webster, Clay and Calhoun.
The political questions which agitated that body, when he entered it, led to close and animated discussions among those orators and statesmen whose genius had inaugurated an intellectual era of unrivaled splendor, and whose speeches are brilliant elaborations of national policy and diplomacy.

As a recognition of his high reputation and his services in advancing the interest of his party, he was appointed to the responsible and honorable position of chairman of the Committee on Finance.

Mr. Dickinson was soon compelled to participate in the debates which occurred on the great questions then before the nation. His first speech in the United States Senate was delivered on the 2nd day of February, 1845, "Upon the joint resolution providing for the Annexation of Texas." To use his own language, he delivered that speech under circumstances of peculiar embarrassment. The senators from New York had been called upon in the debates which preceded this speech, to respond to certain interrogations; he could not, therefore, avoid acting up to the responsibilities of his situation, and he proceeded to discuss the question in a manner which won the approbation of his constituency and added to his influence in the Senate.

His next speech was delivered February 24th, 1845, on the Oregon question. On the 9th of April, 1846, he delivered his great speech "Upon the North-eastern Boundary; the Right of Search; and the Destruction of the Caroline," in reply to Mr. Webster.

"Mr. Dickinson, in his speech on the resolution for terminating the joint occupancy of Oregon, delivered in the Senate, February 24th and 25th, 1846, referred briefly to the course of the government on those subjects, and, in several particulars, criticised and condemned it. In speaking of the McLeod case, he alluded to statements made by the Honorable C. J. Ingersoll, in the House of Representatives, relative to the action taken thereon by the administration, Mr. Webster then being secretary of state. On the 5th
and 6th of April, following, Mr. Webster addressed the Senate, in an elaborate defense of the Treaty of Washington, and in explanation of the other subjects referred to, with which he had been connected, as a member of the government. He denied and denounced in strong terms the statements made by Mr. Ingersoll, and complained of the use made of them by Mr. Dickinson;" his speech being characterized, in these respects, by a good degree of vehemence. Mr. Dickinson replied, with equal earnestness.

The passages between the two senators in this debate, are understood to be the "occurrences alluded to with regret," by Mr. Webster, in his admirable and magnanimous letter, addressed to Mr. Dickinson at the close of the session of 1850, and by the latter in a corresponding spirit, in his reply thereto.

On the 12th day of January, 1848, Mr. Dickinson addressed the Senate on the question of "The Acquisition of Territory, and the Formation of Governments for the Territories; The Doctrine of Popular Sovereignty, &c."

His speech, "On Establishing a Government for California and New Mexico, and in reply to Honorable John A. Dix, on the Wilmot Proviso," was delivered in the United States Senate, February 28th, 1849.

One of the most remarkable speeches which he delivered, while in the Senate, was in reply to Mr. Clemons, of Alabama, in reference to the appointment of a military governor for California. This discussion took place on the 16th, 16th, and 17th days of January, 1850, and created much interest throughout the nation.

Mr. Dickinson made several other speeches while in the Senate, which, with the reports and memorials presented by him during that period, give some idea of the position which he occupied in that body.

The following incident illustrates the manner in which the playful mind and lively wit of Mr. Dickinson often exhibited itself in the Senate.
One day, during the session of the Senate in 1850, while one of the senators was addressing that body, Senator Badger, of North Carolina, was seized with a fit of sneezing, so boisterous and immoderate as to cause great merriment, especially in the galleries. Mr. Dickinson took up a pencil, and in a few moments the senator received the following:

"A noise in the Senate is quite out of place,
If 'tis one that spectators are like to be pleased at;
And a member should know, if outsiders do not,
That the Senate in session is not to be sneezed at."

As Mr. Webster and Mr. Dickinson differed in their political sentiments, there was at first naturally some coolness mingled in their senatorial, and perhaps in their social relations. The passage between them on the occasion of the reply of the latter to Mr. Webster in the Senate, has already been referred to. On the death of General Taylor, in July, 1850, and the accession of Mr. Fillmore to the presidency, Mr. Webster was appointed secretary of state. On his retiring from the Senate, he wrote the following letter, which fully illustrates the high esteem in which he held his distinguished Democratic opponent from New York.

"Washington, September 27th, 1850.

"My Dear Sir—Our companionship in the Senate is dissolved. After this long and most important session, you are about to return to your home, and I shall try to find leisure to visit mine. I hope we may meet each other again, two months hence, for the discharge of our duties in our respective stations in the government. But life is uncertain, and I have not felt willing to take leave of you, without placing in your hands a note containing a few words which I wish to say to you.

"In the earlier part of our acquaintance, my dear sir, occurrences took place which I remember with constantly increasing regret and pain, because, the
more I have known you, the greater have been my esteem for your character and my respect for your talents. But it is your noble, able, manly, and patriotic conduct in support of the great measures of this session, which has entirely won my heart, and received my highest regard.

"I hope you may live long to serve your country; but I do not think you are ever likely to see a crisis in which you may be able to do so much, either for your own distinction, or for the public good. You have stood where others have fallen; you advanced with firm and manly steps where others have waivered, faltered, and fallen back; and, for one, I desire to thank you, and to commend your conduct out of the fullness of an honest heart.

"This letter needs no reply; it is, I am aware, of very little value; but I have thought you might be willing to receive it, and, perhaps, to leave it where it would be seen by those who shall come after you.

"I pray you, when you reach your own threshold, to remember me most kindly to your wife and daughter; and I remain, my dear sir, with the truest esteem, your friend and obedient servant,

"Daniel Webster.

"Hon. Daniel S. Dickinson,
U. S. Senate."

It has been said, by an imaginative writer, that "letters have souls," and it is true. If genius has one attribute higher than the rest, one charm more winning than the others, it is the ability to combine in a letter—to express in it, with facility, what the heart dictates; for, as has been truthfully said, epistles from one friend to another make a near approach to conversation, and we can see more of character displayed in them, than in any productions which are studied for public view. Thus, the foregoing letter and the following reply of Mr. Dickinson exhibit in a perspicuous manner the native generosity and high-toned characteristics of their minds.
"Binghamton, October 5th, 1850.

"My Dear Sir—I perused and repurused the beautiful note which you placed in my hands as I was about leaving Washington, with deeper emotion than I have ever experienced, except under some domestic vicissitude. Since I learned the noble and generous qualities of your nature, the unfortunate occurrences in our early acquaintance to which you refer, have caused me many moments of painful regret, and your confiding communication has furnished a powerful illustration of the truth, that to 'err is human; to forgive, divine.' Numerous and valued are the testimonials of confidence and regard which a somewhat extended acquaintance and lengthened public services have gathered around me; but among them all there is none to which my heart clings so fondly as this. I have presented it to my family and friends as the proudest passage in the history of an eventful life, and shall transmit to my posterity as a sacred and cherished memento of friendship. I thank Heaven that it has fallen to my lot to be associated with yourself and others in resisting the mad current of disunion which threatened to overwhelm us; and the recollection that my course upon a question so momentous has received the approbation of the most distinguished American statesman, has more than satisfied my ambition. Believe me, my dear sir, that of all the patriots who came forward in the evil day of their country, there was no voice so potential as your own. Others could buffet the dark and angry waves, but it was your strong arm that could roll them back from the holy citadel.

"May that benificent Being who holds the destinies of men and nations long spare you to the public service, and may your vision never rest upon the disjointed fragments of a convulsed and ruined confederacy. I pray you to accept and present to Mrs. Webster the kind remembrances of myself and family, and believe me sincerely yours,

"D. S. Dickinson."
After the death of Mr. Webster these letters came to the hands of Edward Everett, whose accomplished and gifted mind at once appreciated their merit and value; he sought the permission to "incorporate them with his labors."

On the eighth day of June, 1845, General Andrew Jackson breathed his last, at the Hermitage. "The event had been expected several weeks, but the shock it produced and the tribute of respect to his memory exhibited on every side," evinced the affection with which the American people regarded him.

Among those who publicly eulogized him was Mr. Dickinson. His eulogy stands as a model of classic purity, excellence, and scholarly beauty. Some portions of it rival the touching and graceful language of Hecuba when speaking of the death of Astyanax.

In the National Convention held at Baltimore in 1852, Mr. Dickinson received the vote of Virginia, and some other votes for president. Being himself a delegate and favoring the nomination of General Cass, whose name was before the convention, the former caused his name to be withdrawn. In declining the honor which was so unexpectedly tendered him, "he delivered an impromptu address, which proved conclusively that the demands of political integrity have a firmer hold upon the heart and the intellect of the good man, than the enticements of ambition."

His address was received with great applause from the immense audience present, while the ladies showered upon him from the galleries such a profusion of bouquets, that one might have believed Flora herself had come to add her offering to the eloquence of the speaker.

It is true that his political opponents attributed the act of withdrawing from the convention, to anything but a magnanimous spirit. First, they alleged that he had but little hopes of the nomination, and no prospect of it; secondly, he believed that in withdrawing, he would produce results which in the end might give him the nomination, &c.
But recent revelations have established the fact beyond a doubt, that had Mr. Dickinson made no pledge to General Cass, and early announced himself as a candidate, as many of his friends insisted upon his doing, he would have received the nomination for president.

In the division which subsequently occurred in the Democratic party in the State, he adhered with unflinching zeal to the Hunker or conservative branch of the party. In this, he was of course bitterly assailed by the opposing faction, and was charged with forgetting his northern birth in his desire to serve his southern friends. The remark which he made, regretting that he was not born in Virginia, was eagerly caught up by the opposition press, and made the subject of many a bitter and censorious newspaper comment.

It is not strange that in his long and eventful political career he often erred, that in the contests at the bar and in the political arena he incurred the enmity of many. Whatever were his convictions of duty, he followed them with the same unconquerable zeal which led Hampden and Sidney to their death.

It is difficult to form an impartial judgment as to the conduct of men who have recently been engaged in the conflicting scenes of political life. Their connection with party, and their habit of viewing subjects in reference to personal aggrandizement, too often obscure the noblest intellect, and convert into patrons of narrow views and temporary interests, those who in other conditions would have been the light of their age.

After retiring from the Senate of the United States, his natural love for the legal profession again led him to the bar. The promptings of his early youth never deserted him; they stimulated him to action on that chosen field of labor and ambition which had cost him so many struggles, and he fell as the conquering soldier loves to fall, gloriously occupying the ground he
won, with the sound of the conflict still ringing in his ears.

In the year 1852, Mr. Pierce nominated him for collector of the port of New York, and he was unanimously confirmed; but preferring the large income which he derived from his profession, he declined, though it is one of the most lucrative positions in the State.

He continued free from the trammels of office for several years, until after the great drama of the rebellion opened and closed. Almost with the first gun that inaugurated the civil war he severed all party allegiance, and ranged himself under the banner of his country. In his own State, in Pennsylvania, and throughout New England, he addressed vast assemblages of people, impressing upon them the necessity of ignoring party and standing by their imperiled country.

Though the effect of his appeals can never be fully estimated, it is safe to say that they effectually aided in concentrating that power which overthrew the rebellion; they were as potent as those of Demosthenes, in his Philippics which so effectually aroused "the indignation of his countrymen against Phillip, the common enemy."

In the autumn of 1861, he was nominated for attorney-general by the Union party of New York, under the conviction that the crisis demanded a man of his long experience and varied legal attainments, as the chief prosecuting officer of the State, and as the adviser of its able executive. The nomination was reluctantly accepted, so averse was he to holding any official position. His election was a matter of course, and he entered upon the duties of the office in January, 1867.

While discharging the duties of attorney-general, in addition to an unusual amount of civil business which he was compelled to dispose of, it was his fortune to conduct some very difficult and extraordinary
criminal prosecutions. Prominent among these was the case of the People v. Covert—twice tried at the Livingston Oyer and Terminer in 1863.

The singular features of this case required in the counsel for the People, not only great legal learning, but a thorough acquaintance with medical jurisprudence, particularly in the department of toxicology. Covert had been indicted for the murder of his wife, by administering arsenic to her, at different times, and under circumstances which rendered its detection very difficult.

The victim was young and beautiful. It was alleged that the arsenic was administered to her at a period of approaching maternity, and in quantities which produced a lingering and painful illness, some of the symptoms of which were complicated by the peculiar situation of the victim. Immediately after her first attack, her mother and several of her friends took possession of her sick room, and by the aid of skillful physicians she was pronounced out of danger. She was then left to the care of a faithful nurse, with orders to admit no person, not even her husband, into the room. But some time during the ensuing night Covert entered the room and peremptorily dismissed the nurse, alleging that he would watch with his wife the remainder of the night. On the following morning her horrid sickness returned with increased agony. The poor woman lingered eighteen days in the most excruciating misery, and then died.

Her declaration in articulo mortis was taken, in which she stated, among other things, that during the night her husband watched with her, he gave her some medicine which did not taste like that which had been left for her by the physician; that at first she refused to take it, but he compelled her to do so, alleging that she would die if she did not. There were other circumstances in the case which pointed to the guilt of the husband. He was arrested and committed to jail.
The stomach of the victim was subjected to a chemical analysis by one of the most eminent chemists in the State; but no arsenic was detected. This circumstance was relied upon by the counsel for the defense with great confidence. But Mr. Dickinson, who was assisted by John A. Vanderlip, an eminent lawyer of the Livingston bar, relied with equal confidence on the theory of Orfila, Daugen, Flandin, and others, that in cases where solid poisons are administered in small doses, and at long intervals, chemical analysis will fail, provided the victim survives over sixteen days after taking them; for by that time the poison becomes entirely absorbed and eliminated, particularly arsenic, which rapidly passes from the system by the various secretions. It was proved by eminent physicians who attended the woman, that the whole alimentary canal was so seriously inflamed that it produced death—that this inflammation was caused by arsenic. It was proved by those physicians and by chemists that the elimination and absorption of poisons had taken place during the time which elapsed after taking the arsenic, and had thus passed out of the system, leaving its indubitably fatal results. Having proved this and the other circumstances, Mr. Dickinson contended to the jury that the fatal effect of the arsenic was fully proved, and that it had passed from the system; and thus there was no necessity of producing it, any more than there would have been in producing the ball, the dagger, the ax, or the bludgeon, had the woman been slain with either of those instruments.

"Supposing," said Mr. Dickinson, "that this woman had been killed by a pistol ball, which passed through her body, and lodged where it could not have been found; supposing we had proved by competent evidence, that her death was occasioned by a fatal inflammation produced by the passage of that bullet through her, who would contend that the bullet
must be produced before the man who shot her with it could be convicted.

Mr. Dickinson brought to this prosecution all the learning, ingenuity, and ability, which its singular intricacy demanded. His address to the jury occupied five hours, and has been excelled by few forensic efforts.

Covert made an obstinate and able defense, and the jury, after deliberating nearly two days, failed to agree—standing ten for conviction, and two for a discharge of the prisoner. On a subsequent trial, he was acquitted, having produced some evidence which satisfied the jury in their verdict; but Mr. Dickinson was not present at that trial.

At the expiration of his term as attorney-general, he was appointed by Mr. Lincoln a commissioner to settle the Oregon boundary question with Great Britain. "Your long experience as a statesman, your acknowledged legal ability," said Mr. Lincoln, in announcing to him his appointment, "has prompted me to tender the place to you, with the earnest hope that you will accept it." But it was most respectfully declined, although it was one of the most honorable and lucrative appointments within the control of the president.

Soon after this, Governor Fenton, learning that Judge Henry R. Selden was about to resign the place which he had so ably and acceptably occupied on the bench of the Court of Appeals, tendered the position to Mr. Dickinson, but he thought proper to decline the high and distinguished honor thus offered to him.

"One of the last acts of President Lincoln was to nominate him for the office of district-attorney for the southern district of New York. He accepted this office, and entered upon the discharge of its duties.

"When this appointment was announced, although it was felt that the requirements of the office were not such as to claim the constant exercise of his best legal
abilities, it was universally recognized as a partial acknowledgment of the generous services which he had both the desire and the power to render his country. He commenced the discharge of its duties at a period when it especially demanded experience, learning, and ability. His appointment was, therefore, considered a fortunate circumstance for the government.

This was the last official position Mr. Dickinson ever occupied. In order to discharge its duties, he was compelled most of the time to remain in the city of New York. He was thus obliged to surrender the comforts of his home at Binghamton, which he had spent years in adorning with elegance and refinement, where taste, cultivation, intelligence, and tranquility furnished a "pure banquet—a feast of the mind."

He continued in the active discharge of his duties until the ninth day of August, 1866. On that day he was engaged in the United States Circuit Court. On its adjournment, in the afternoon, he returned to the residence of his son in law, Hon. Samuel G. Courtney, with whom he resided when in the city. Towards evening he complained of indisposition, which was not regarded as serious. He continued in this condition until Thursday about noon. He had risen from his bed on that morning—dressed and shaved himself—ordered his breakfast, saying that he felt much better; and as Mr. Courtney left the house, he said, in a pleasant, jocular way: "You may run the office to-day; I shall be down there to-morrow." To-morrow! alas, for him it was never to come. Ere its arrival his career on earth was to cease, and he was to pass away from all its scenes,

"To realize in some unclouded sphere
Those pictured glories feebly imaged here."

Soon after this, his symptoms indicated serious illness; at length they assumed an alarming appear-
ance, and before five o'clock in the afternoon, his medical attendant informed him that he was rapidly approaching the close of life. He received this announcement calmly. No change passed over his face. Taking the hand of Mrs. Dickinson, who stood by his bed-side, he said:

"Let us bear it like Christians; the separation will not be long. You will be with me again soon, and then we shall never part."

He then dictated messages of affection to each member of his family—beautiful, tender and touching were these few words—they were indeed "precious heritages" from a departing father, now treasured in their heart of hearts, for no man was ever more fondly loved by his family than he.

In a brief time the end drew near. Raising himself, he said, in a clear, strong voice: "The conflict is strong, but the other side is ours," and in a few moments he was gone.

The intelligence of his death produced the most profound sorrow in all circles, and among all parties. The various courts then in session in the city promptly adjourned. A very large meeting of the New York city bar was convened, attended by the ablest of its members, and also by some of the most distinguished citizens of the city and State. Eulogies of impressive eloquence were pronounced, and everywhere unusual marks of respect to the memory of the deceased statesman were observed.

At Binghamton, the intelligence of his death was received with every token of grief—not assumed for the occasion, but real, unaffected grief. Bells were tolled, public and private buildings were draped in mourning, and a large community mourned the death of a favorite son, and every one felt his loss as a personal affliction.

The Broome county bar immediately assembled to testify their sorrow at the death of him who, for so many years, had been its distinguished leader, and
whose social worth had rendered him dear to all of them.

At the time of his death, the Legislature of the State was in session. The event was thus announced to both branches of that body:

"**New York Senate,**

*Saturday, April 14, 1866.*

"The following preamble and resolution were presented by Mr. Folger, seconded by Mr. H. C. Murphy, and unanimously adopted:

"**Whereas,** The Senate, filled with mournful recollections brought by the return of the day when Abraham Lincoln met his violent death, has received an additional sadness from the sudden decease of the Hon. Daniel S. Dickinson, formerly president of this body, as well as the worthy and able incumbent of many offices of honor and trust under the State and nation,

"**Resolved,** That, as a proper mark of respect for the memory of the departed, this body do now adjourn."

Resolutions equally expressive of sympathy and sorrow were, on the same day, unanimously passed in the Assembly and entered on its journal.

Thirty-eight years had passed away since Daniel S. Dickinson came to Albany with Lot Clark, trembling with hope and fear, yet conscious of his high destiny; standing before a chief justice of the State, asking him for a favor, which, if granted, would permit him, a stranger, poor and unknown, to enter an arena to contend with the giants of those days, for name and fame.

Moved by the strange inherent power of his intellect, the great chief justice listened approvingly to the story of the poor student,—granted a request which he had refused to a renowned lawyer and statesman,—opened to him the doors of the court,—called him to the bar,—and, as he had predicted, saw
him ascend from one honor to another until he entered that august body, the Senate of the United States. Thirty years! ah, how briefly they sped away; and now in that very hall where, clothed in judicial dignity, he sat by the side of that chief justice before whom he was so recently a suppliant—where the pearls of his mind had been cast in rich offerings, in the days of his young ambition—the voice of sorrow and mourning for his death resounded. Well may we all address the throne of the Eternal in the language of him who spake as by inspiration: "So teach us to number our days, that we may apply our hearts unto wisdom."

Mr. Dickinson possessed a chaste and refined literary taste, strengthened and enlarged by an extensive knowledge of books—a long acquaintance and familiarity with the world. All his literary efforts exhibit the vivacity and strength of his mind, the quickness of his conceptions, and the purity of his taste.

Among the most pleasing and interesting productions of his pen are the letters which he left behind him. They are, throughout, strongly impressed with the character of their author. They are written with great liveliness and force, with a considerable share of wit, perfectly natural and unaffected. It is this last quality which forms one of their principal charms. Some of his most beautiful letters are directed to Mr. Dickinson. In one of them, dated New York, September 8th, 1865, he says:

"Your good, kind letter of the 6th, came yesterday. I deeply sympathize in the labor of love you are performing, in looking over and arranging our early family letters. . . . . There is no one better qualified than you to arrange such correspondence. I should scarcely venture upon a task so full of earlier remembrances and replete with tender emotion; and I cheerfully commit it to you, in all the sacredness which belongs to it. . . . . I desire that you will be as careful of the letters written by yourself, as
of the letters written by me, for they are the best of the two."

In another letter to her he says: "I am sorry to learn, by Mary's letter, received this morning, that you are still sleepless and ill. If you continue so long, I shall go home, regardless of everything else. I am uneasy when absent from you, at best, and when you are not well, my anxiety becomes painful. . . . . You know not half my solicitude and affection."

Two daughters survive Mr. Dickinson—Mrs. Courtney and Mrs. Mygatt. Some of his letters to them are unequaled for their tenderness, elegance, and simplicity.

In a letter to the former, written in 1858, he says: "But, my dear child, I did not fail to read and appreciate your beautiful letter; so beautiful and affectionate, that I longed for a moment to give a corresponding answer, but I could not get it. My life has been literally chequered by lights and shadows, but no one object has ever given me more pleasure than such obedience and devotion as you have uniformly shown from your earliest childhood."

In his reply to a letter written by Mrs. Courtney to him on his birth-day, September 16th, 1860, he says: "Your letter, written in remembrance of my birth-day, with its sweet tones of affection, was twice welcome, and will be dearly cherished with many kind tokens of a beloved daughter to her father.

"I would that I were a patriarch, that I might confer on you a blessing of health, happiness, and peace; that peace which is unknown to those who flit over life's ocean in quest of excitement, to slaughter time and indulge sense, but that which elevates the desires, rectifies the heart, and fits us for a glorious fruition hereafter. . . . . Age brings me no sadness, no regrets, but consoles me with the reflection that when I have fought the 'good fight, and have finished my course,' if I have kept the faith, I shall
live again in the land of flowers and spring—live, clothed with eternal joy and perpetual youth."

Christmas morning, 1862, he received a beautiful cross from Mrs. Mygatt. In acknowledging the receipt of it, he says:

"My Dear Mary—I accept your beautiful present of a cross with affectionate emotion, and return you the warm tribute of a father's heart. That I may indulge a lively remembrance of the sentiments which prompted a gift so appropriate, and walk in the way which the symbol admonishes, is the prayer of my heart."

In another letter to Mrs. Mygatt, he says:

"My Darling Mary—Your note, so replete with beauty and affection, has just been received. I am proud that you and all my beloved ones are pleased with my Albany speech. It was hurriedly made and carelessly reported, and I am all the more glad that it has elements enough for your admiration left.... I am always more solicitous of what those nearest and dearest to me think of my efforts, than I am of what the world will say or think."

On one of her birth-days he writes as follows:

"The light you brought to our household in your natal day, has never been quenched, but has grown brighter as time has advanced and new relations have multiplied. I have only time to send you this one word of affection, and to hope that your dear boy may be as pure in paternal regard and love as you have been."

The following, from a letter to Miss Nellie Mygatt, informs the reader of Mr. Dickinson's love of domestic life. He says:

"I love the social and domestic circle more than 'the applause of listening senates to command,' the affection of cherished ones more than the ambition of the Cæsars; the sacred cares of home, and the holy duties of religion, more than the éclat of the popular voice or the notes of the trump of fame."
The foregoing extracts are taken from the published volumes of Mr. Dickinson’s speeches and letters, compiled by John E. Dickinson, Esq., who also wrote a very creditable sketch of the statesman’s life.

In those volumes there are several pages devoted to the poetry of Mr. Dickinson, which was arranged and prepared by his daughter, Mrs. Mary S. D. Mygatt. In the preface to these poems, she says:

“For those who have known him only in the bustle and turmoil of public life, or perhaps through the press’s medium, these heart thoughts may present some idea of the inner being, of the sentiment which graced his refined mind, that rendered the home he blessed with his presence so bright and cheerful, and of that devoted love which ever made his foremost thoughts and desires the happiness of those about him—endearing traits which the countless cares of an eventful life could never change or take away.”

Among these poems the following has been much admired, and possesses the interest of having been written but five days before his death, “as it would seem with some premonitions of his approaching end. It reveals the tenderness and purity of his inner life more than any speech that can be made.”

To Lydia.

In youth’s bright morn, when life was new,
And earth was fresh with dew and flowers,
And love was warm and friendship true,
And hope and happiness were ours,

We started hand in hand to thread
The chequered, changeful path of life,
And with each other, trusting, tread
The battle-fields of worldly strife.

We ranged in walks obscure, unseen,
O’er rugged steep, through vale and glen,
And climbed along the hillside green,
Unmindful of the future then.
We caught the song of earliest birds,
We culled the loveliest flowers of spring;
We plighted love in whispering words,
And time sped by on fairy wings.

And as it passed new joys were found
And life was gladdened by the birth
Of prattling babes, who clustered round
To cheer with smiles our humble hearth.

Fate thrust us forth before the world,
And phantoms whispered earthly fame,
Where hope's proud banner is unfurled,
And happiness too oft a name.

Thus lured along, we rode the dark
And foaming tide of public life,
And proudly dared, with slender barque,
The elements of storm and strife.

But storm and strife, thank heaven, have passed—
The night has fled, and morning come!
And we, tossed mariners, at last
Returned once more to hearth and home.

But of the loved ones God had given,
Two have returned—two sunk to rest,
In life's gay morning called to heaven,
To the bright mansions of the blest.

They sleep amid Spring Forest's glades,
Where flows its streamlet's murmuring waves,
And oft at evening's gentle shades
We'll weep beside their early graves.

Yet loved ones cluster round us still,
To gild the days of life's decline,
And whisper—'tis our Father's will
That blessings yet are yours and mine.

No change of life, no change of scene,
No fevered dreams, no cankering cares,
No hopes which are, or e'er have been,
Nor wrinkled brow nor silver hairs,
The Bench and Bar.

Have ever changed that vow of youth,
   Or blotted it from memory's page;
But, warm as love and pure as truth,
   It ripens with the frosts of age.

A few more days, a few more years
   Of life's capricious, fitful tide;
A few more sorrows, joys and tears,
   And we shall slumber side by side.

Then let us live—then let us love—
   As when life's journey we began,
Until we meet in worlds above,
   When this sad pilgrimage is done.

These beautiful lines were read by Judge Pierre-
pont, at the meeting of the New York city bar, called
at the time of Mr. Dickinson's death to pay a tribute
of respect to his memory.
ALVAH WORDEN.

Commences Life as a Merchant.—His Character, Acquirements, and Industry.—Demagogues.—Mr. Worden’s Opinion of Them.—His Parentage and Birth.—Prepares for College.—His Love for the Natural Sciences.—Decides not to Enter College.—Commences the Study of Medicine.—Abandons that Study and turns his attention to Mercantile Pursuits. Makes the Acquaintance of a Prominent Merchant of Auburn, New York.—Worden Enters his Store.—Pleases his Employer.—Accepts a Position in the Auburn Bank.—Commences Business as a Merchant on his own Account.—For a Time, Meets with Great Success.—His Marriage to a daughter of the late Judge Miller.—Worden’s Failure.—Commences the Study of Law.—Elected a Justice of the Peace.—Admitted to Practice.—His Success.—Engages in the Trial of a Cause against Mark H. Sibley.—Succeeds.—Forms a Partnership with Mr. Sibley and removes to Canandaigua.—His Professional Progress.—Worden is Engaged in the Celebrated Case of Griffith v. Reed.—Is Defeated by the Referees.—Appeals to the Supreme Court.—Worden Attends that Court, prepared to argue it himself against Marcus T. Reynolds.—Worden Loses his Trunk.—Appears in the Court Room, at Utica, in his Common Clothing.—His Appearance.—Remarks of Foppish young Lawyers.—The Argument.—Interesting Scene.—Apparent Triumph of Reynolds.—Defeat Turned into Victory.—Success of Worden’s Argument.—Its Effect.—Other Important Cases in which he was Engaged.—Worden and the General Term Lawyers of the Old Supreme Court.—He is Elected to the Legislature.—His Legislative Career.—His Efforts for the Passage of a Law Providing for a Constitutional Convention.—Law Passed.—The Convention.—Mr. Worden a Delegate.—Candidate for President.—Is Strongly Sustained.—John Tracy Chosen.—Mr. Worden’s Labors and Activity in the Convention.—His Great Speech on the Powers of the Executive.—Other Speeches.—His Plan for a Judiciary.—Closing Scenes of the Convention.—Resolution offered that Members Sign the Constitution.—Opposed by Charles O’Conor.—Sustained by Worden and others.—Adjournment of the Convention.—R. H. Walworth, J. A. Collier and Mr. Worden, Appointed Codifying Commissioners.—Walworth and Collier Resign.—Worden’s Labors and Duties.—Reappronted a Code Commissioner.—Returns again to the Duties of his Profession.—Great Case of The Farmers’ Loan & Trust Company v. Carroll.—Great Argument of, before the Supreme Court.—Worden, J. C. Spencer, Kirkland, Wm. C. Noyes and Hiram Denio engaged.—Interesting Scene in the Court Room.—Description of the Arguments.—Reflections on the Professional and Political Life of Alva Worden.

Alvah Worden first entered the theater of life, on his own responsibility, in the character of a merchant. In this vocation, at a very early age, he developed
that correct and ready knowledge of human nature, that thorough understanding of business in principle and in detail, that sound practical sense, which gave him much prominence as a man of business.

His fine mind, his many intellectual endowments, at length, by an easy transition, led him to the legal profession. With an industry which no excess of toil could weary, he applied himself to the study of law as a science, a system for the well being of society, as regards the enjoyment of civil rights, the prevention of crime, and the encouragement of virtue. He sought its fundamental principles as well as the detail of each precedent and legislative rule, reducing them to the test of reason alone; and when he came to his examination, he possessed, in extenso, the qualities and acquirements of a thorough lawyer.

Acute, sagacious, reflecting, with a plain, masculine, commanding eloquence, which ignored superfluous decoration and fancy, alike powerful in reason, attractive in ethical beauty and logical skill, he soon gained a commanding position at the bar of his native State, and took a high rank among the distinguished civilians of his day.

Among his faults, there was a certain firmness which sometimes degenerated into obstinacy,—a confidence in the principles he advocated, which was often blended with contempt for those who differed with him. His unbending honesty and straightforward integrity, in his intercourse with men, especially in politics, often led him to neglect that spirit of conciliation, which in a government like ours, conducted by the stratagem of party, is necessary in the attainment of important and responsible positions. It was a distinguishing feature in his character, that he would neither yield his judgment to the clamor of the populace, nor suffer himself to be swerved from the line of what he deemed to be his duty, by the artifices of demagogues; and hence, Mr. Worden was not an accomplished politician, simply because he did not
desire to be one. He regarded politics, in the detail, as a kind of machine, whose motive power is petty ambition, lubricated by intrigue, deceit and mendacity, which, by a strange metamorphose, often changes pigmies into giants, who, in the language of Bacon, "have not their thoughts established by learning, in the love and apprehension of duty, nor ever look abroad into universality, do refer all things to themselves, and thrust themselves into the center of the world, as if all time should meet in them and their fortunes, never caring, in all tempest, what becomes of the ship of State, so that they may save themselves in the boat of their own fortunes."

Alvah Worden was born at Milton, in the county of Saratoga, June 11, 1798. At the age of fourteen he entered Milton Academy, then a very flourishing institution for young men, where he prepared to enter the junior class of Union College. But instead of going to college, he decided to follow the medical profession, and commenced his studies with the late Doctor John Bennett, of Ballston Spa, one of the most eminent and honored physicians in the State.

During his studentship at Milton, his mind was attracted to the study of natural science, especially of chemistry, and he made considerable progress in agricultural chemistry, which then began to be studied in the State. Some of his letters on this subject, written to the late Jesse Buell, in 1838, exhibit much research and reflection.

After pursuing his studies with Doctor Bennett for some time, he became satisfied that the life of a practicing physician would not be agreeable to him, and he abandoned the study of medicine, with a view of turning his attention to mercantile pursuits. While at Ballston, he made the acquaintance of the late George Leitch, of Auburn, then one of the great merchants of western New York. Pleased with the appearance of young Worden, he invited him to enter his store as a clerk, promising to advance his interest
as fast as would be practicable. The invitation was accepted, and Worden soon assumed the entire charge of Mr. Leitch's extensive business. He continued with him until the old Bank of Auburn was established, when he was solicited to accept the position of teller in that institution. Yielding to the request of the directory, he entered upon the discharge of his new duties with those business qualifications which soon rendered him invaluable to the bank, and gained him many friends with the public. After discharging the duties of teller two years, he decided to commence the mercantile business on his own account. Accordingly, he left the bank, much to the regret of the directory, who offered additional inducements for him to remain, opened an extensive store, and soon became the leading merchant, and an eminent citizen of Auburn. In all matters connected with the prosperity and advancement of that village, he exhibited those strong mental traits which afterwards distinguished him at the bar.

So extensive and prosperous was his business, that he sought other avenues in which to invest his gains. He purchased a cotton factory which had been established by a company at Auburn, and introduced into the prison at that place, the business of weaving cotton, which for a time became almost the sole employment of the convicts.

In the year 1824, he married a daughter of the late Elijah Miller, of Auburn, a lady of many personal attractions and accomplishments, who is still living. Mrs. William H. Seward was her sister.

After continuing in business several years with great success, a revulsion in the commercial world occurred, which caused a decline in cotton. This led to the unavoidable failure of Mr. Worden. His partner availed himself of the insolvent laws, which Worden declined to do; on the contrary, he surrendered to his creditors all of his property, including his furniture and silver plate; determined to do all that he could
towards paying his indebtedness. Having thus been repulsed in his first movement in the battle of life, heundauntedly surveyed the field and made ready for another onset. In deciding upon a future occupation, he chose the legal profession, and without a dollar in the world, and heavily in debt, he commenced preparing for it.

Amid the cares of his business career, he found time to study the contents of a library which he had collected with the judgment and taste of a scholar; his mind was enlarged by experience, disciplined by a thorough education, and ripened by contact with the world. Although he was then thirty-four years of age, he was in every way qualified to commence the study of a profession congenial to his taste, and to which he seemed to be directed by destiny.

Soon after commencing his studies he was elected a justice of the peace at Auburn. The income from this office, with some agencies which he obtained, enabled him to support his family while pursuing his studies. It is said that the manner in which he discharged his official duties disclosed his unusual abilities and attracted the attention of the members of the bar who appeared before him in the trial of causes.

After a thorough preparatory course, he was admitted to the bar and commenced his practice at Aurora, Cayuga county.

At this time, there was a large amount of litigation resulting from the financial difficulties of the country, and the demand for legal talent was never greater.

For a time, Mr. Worden's business was confined to Justices' Courts and to the Court of Common Pleas of Cayuga county; but the decided ability which he exhibited in the trial of causes in these courts drew the attention of the public to him, and he soon found himself engaged in a very respectable practice in the Supreme Court, with the reputation of a safe and successful lawyer. His business continued to increase, so
that he began to attend the circuits of the adjoining counties.

At length he was engaged in an important suit which was tried at the Ontario Circuit, where he was opposed by the late Mark H. Sibley, then one of the distinguished lawyers of western New York.

The case was contested inch by inch, with rare skill and great determination, resulting in a verdict for Mr. Worden.

Soon after this trial, Mr. Sibley invited Mr. Worden to enter into partnership with him; after mature deliberation the invitation was accepted, and in the year 1835, Alvah Worden became a resident of Canandaigua, and a partner of Mark H. Sibley.

It is not invidious to say that the firm of Worden & Sibley combined as much forensic power as any which at that time existed in the State. Canandaigua was then the home of John C. Spencer, Dudley Marvin, Sibley, Wilson, and others, whose names have shed a luster on their profession.

Surrounded by such men, Mr. Worden rapidly rose to eminence, and soon began to appear in the circuits at Rochester, Auburn, Penn Yan, Bath, and other counties. He did not, however, appear at the bar of the General Term until he had been at Canandaigua a year and a half; after that time he was occasionally engaged in that court. But it was not until his argument in the celebrated case of Griffith v. Reed, that he attained any eminence as a General Term lawyer. His effort in that case gave him a position among the most prominent members of his profession in the State.

It was a case which involved several hundred thousand dollars, and the fortune of many well known business men in western New York. It had been tried before Addison Gardner, Vincent Mathews, and Orlando Hastings, as referees, who had been appointed to hear and determine the same. Their report being against Mr. Worden’s client, the cause was appealed
to the Supreme Court. In due time it was noticed for argument at Utica, where a term of the old Supreme Court was held once in a year. With case and brief he attended, prepared for the contest.

In those days, the judges and lawyers attending the term at Utica, stopped at Bagg's hotel, but as Mr. Worden's trunk which contained his best apparel had been miscarried, and he was dressed in a common traveling suit, he did not deem himself sufficiently well attired to appear at a fashionable hotel filled with the most eminent men in the State. Accordingly he sought a more obscure stopping place, to await the arrival of his trunk. His case was one of the earliest on the calendar, and he was compelled to proceed to the court room before the arrival of his trunk, "accoutered as he was." Fortunately, his papers were in a package which he carried with him.

He was then a stranger to nearly all the lawyers present, and taking a retired seat in the court room, he awaited the call of his case. At length it was reached; with great modesty, but not without self-possession, he came forward and opened the argument.

Many were the half sneering glances which several foppish young lawyers within the bar cast upon the plainly dressed, ordinary looking lawyer who stood before the court. They were surprised at his temerity in appearing against one of the most distinguished lawyers in the State.

"I wonder who that fellow is?" asked one of the young attorneys of a companion.

"Oh, he is some ambitious village lawyer who is desirous of being heard before the General Term, and having his name appear in the reports; but I rather think he don't know who he has got to deal with, or he would have restrained his vaunting ambition, which he'll find has o'erleaped itself in this instance," was the reply.

In a short time however, the young men learned
that the man before them commanded the attention of the judges and the bar, and that the great lawyer opposed to him was not, after all, so much his superior. He proceeded with great caution, cited his authorities with care, and commented upon them from written points, with a plain but effective oratory. As he had the closing argument, his speech was brief.

Marcus T. Reynolds appeared against him, replying with that vigor and intellectual force for which he was so distinguished. Extensive legal reading and long attendance upon the highest courts in the State had rendered him familiar with almost every reported case, and the circumstances under which it arose. He never appeared to greater advantage than on this occasion. His apparent superiority over his opponents was noticed by the bar, and it was felt by the court; but unfortunately for him, in closing his argument, he took occasion to allude to what he said the effect would be on commercial transactions, should the court be against him, but he left the case in apparent triumph.

When Mr. Worden arose to conclude the argument, there were many in the court room who regretted to see one so humble attempt to answer an argument of such power and eloquence; to them, he seemed like one about to immolate himself in a vain attempt to save his clients. But he entered on his remarks with the calm confidence of one who could rely upon himself in any emergency; he had not proceeded far, before he began to strike out bright, strong, original thoughts, and to bring up arguments from depths which his opponent had not attempted to sound. When replying to the authorities referred to by Mr. Reynolds, he did so with great skill and with the nicest discrimination, ingeniously and with precise logic detaching the points which diverged from the case at bar. But when he alluded to the effect of the decision to be made on the commer-
cial relations of the country, his superiority was manifest, and he arose to a point in the case which Mr. Reynolds had not reached. The bar waked up as from an apparent slumber. 'Greene C. Bronson, then one of the judges, leaned forward in his chair, made a few notes, and said:

"Mr. Worden, will you please repeat what you have just stated? I am not quite confident I fully understand you."

The scene was changed, the battle fought, the victory won—and completely won.

During this argument, there was seated within the bar, a friend of Mr. Worden—one who through all the phases of his life had admired and honored him, never doubting his ultimate success at the bar. With many fears for his friend, he listened to the splendid argument of Mr. Reynolds—he felt its power—saw its effect on the court and bar—knew the gigantic effort which must be made to overcome it, and with breathless anxiety awaited the result. As Mr. Worden arose in strength—as he gradually gained the eminence on which his opponent stood, and then soared above him, reaching the point of triumph, tears of joy trickled down his cheeks, and his bosom heaved with those unutterable emotions which none but those generous and noble minds can feel, whose deep-toned sensibility teaches them how to be a friend. Mr. Worden was fully sustained by the court, and from that time to the close of his life, the judiciary of the State, as well as his brethren of the bar, regarded him as one of its gifted lawyers.

It is, perhaps, proper to add, in the language of another, that "Efforts have been made, but without success, to obtain a reversal of the opinion of Judge Bronson; once in the Court for the Correction of Errors, in the case of Sudam v. Westfall, 2 Denio, 205. Judge Gardiner at that time was the presiding officer of the court, and brought his great influence to bear on the question, to sustain the decision which he
had made as referee in the case of Griffith v. Reed, honestly believing that his was founded on established precedent; but the decision of the Supreme Court in the case of Sudam v. Westfall was only reversed by distinguishing it from Griffith v. Reed. The same question was again presented for adjudication in the Court of Appeals, in the case of Wright v. Garlinghouse, 26 N. Y., 539; the judgment of the Supreme Court in the second district reversed, and the doctrine settled in the case of Griffith v. Reed maintained and declared to be the law of the State."

Those, however, who heard Mr. Worden's argument in the case of De Bow v. The People, 1 Denio, 9, assert that it was the ablest argument of his life. It evidently produced an impression on the court, for it went with him, and the opinion of Mr. Justice Bronson is well worth reading, though it was overruled by the Court for the Correction of Errors in the case of Gifford v. Livingston, and in Warren v. Beers, but by a divided court, in which strong and powerful opinions for sustaining it were given by several of its ablest members.

No questions have been more seriously litigated in this State, than those reported in 1 Denio, 9; 21 Wend., 502; and the examination of the opinions delivered in these cases, and in that of the 26 N. Y., 539, would repay the legal student for his trouble.

Another case might with propriety be cited, illustrative of Mr. Worden's power of argument, which took place before Chancellor Walworth. During this argument, a gentleman of the bar remarked that there appeared to be no decision applicable to Mr. Worden's case, to which a distinguished lawyer replied:

"Perhaps not, but there will be soon, for such an argument will not fail to produce its effect upon the chancellor."

This remark was subsequently verified, for the chancellor decided the case in his favor.

A reference to all the important cases argued by
Mr. Worden at the bar of the Supreme Court, Court of Errors, and of Appeals, would alone fill a volume. While he was at the bar, the business of those courts was centralized and controlled by eminent "Term lawyers," who resided principally at Albany and New York. The ascendency which Rufus W. Peckham, Nicholas Hill, Marcus T. Reynolds, Charles O'Conor, William Curtis Noyes, Daniel Lord, David Dudley Field, F. B. Cutting, J. W. Gerard, Samuel Stevens, and a few others, attained at the bar of these courts has passed into history. There were but few members of the country bar who presumed to enter the lists against these Jupiters of the profession. The immense number of heavy packages which they were constantly receiving from the country, marked "Papers for the General Term," "Papers for the Court of Errors," &c., &c., exhibited the tribute which lawyers from all parts of the State paid them.

That Alvah Worden, on his first entrance into the profession, with no influence to sustain him—relying upon his own strength, boldly and successfully grappled with these great lawyers, is evidence enough of his superiority.

He had but little political ambition; but from his position at the bar and his habits of public speaking, it was impossible for him to resist those allurements which politics have for lawyers. He identified himself with the Whig party at its formation, but his time was so entirely occupied with the duties of his profession, that for several years he avoided all offers of official distinction.

In the fall of 1840, however, he accepted the nomination for Assembly from the Whigs of Ontario county, and was elected by a very large majority. At this time, Mark H. Sibley was one of the representatives of the seventh Senatorial district, having been elected in the autumn of 1840. He, however, resigned his seat on the twenty-third day of May, 1841, a few days before the adjournment of the Legis-
lature. His business relations with Mr. Worden had terminated previously to this.

The latter, on taking his seat in the Legislature, was honored by the second position on the Committee of Ways and Means. During this session he made few speeches, but they were on important questions, and in support of certain bills which he had reported. Through his influence, several important laws were enacted, which pertained to the improvement of the legal and judicial system of the State. When the Legislature adjourned, he declared to a friend that he would never accept a seat in that body again. Returning home, he entirely discarded politics, until the autumn of 1844, when, at the earnest solicitation of his party, he again consented to represent them in the Legislature.

The session of 1845 was important and memorable. In it Mr. Worden occupied a very high and influential position. Although the Whigs were in the minority in both branches of the Legislature, their party having been prostrated in the State and Nation by the defeat of Mr. Clay, such was the masterly management of John Young, Mr. Worden, and others, that defeat was turned into victory and a way opened for the resuscitation of an apparently lifeless party.

Horatio Seymour was speaker of the Assembly, and the leader of the Democratic party in the State. The great question before the convention was the amendment of the Constitution. The Democracy in the State was then divided; the great schism which eventually prostrated it, was then just developing itself. This was adroitly seized upon by the Whig leaders and turned to their permanent advantage.

No measure before the people was more popular than the proposed convention; and some of the Democratic leaders assumed a position towards it that savored so much of hostility, that it greatly impaired the strength of their party.
As has been said in another part of this work, the debate which took place in the Assembly on this question, attracted attention from all parts of the State. Mr. Young advocated the proposed convention with great ability; he was ably sustained by Mr. Worden and others. To the energy, talents, and unwearied labors of these persons, the Whig party was indebted for its subsequent victory, and the State for whatever advantages have flowed from the Constitution which was subsequently adopted.

The convention bill finally passed both branches of the Legislature and became a law.

The measure before this Legislature which was next in importance to the convention bill, was that of internal improvements. This question was at that period one of vast importance— one that called into requisition all the energy and ability of statesmen and legislators. It was seized upon by politicians, entered into partizan strife, and of course became divested of interest to all except those engaged in the scramble for office. The measures over which so many contests occurred, so many elections were lost and won, have long since been settled, and we survey them now with much the same interest with which travelers regard historic ground and battlefields of other days.

In the debates which occurred on the internal improvements question, Mr. Worden exhibited the abilities of a statesman. Though he was accused of errors, and perhaps in many cases justly, yet like all prominent partizans, his political character will be varied by the lights and shades which political friends and enemies throw upon it; like all political leaders, he had frailties and virtues.

In the fall of 1845, he was again elected to the Assembly. The session to which he was elected commenced January 3rd, 1846. It was not an important one, though many measures affecting the public interest were adopted. Mr. Worden occupied a responsi-
ble position, and was regarded as a leader of his party in the State.

The act providing for a convention having become a law, a general election for choice of delegates to it, took place in May, 1846, each county sending delegates to correspond with its representation in the Assembly.

The election resulted in the choice of some of the most distinguished and able men in the State, a large proportion of whom were lawyers.

Alvah Worden and Robert C. Nicholson were elected delegates from Ontario county. Among the many eminent men who occupied seats in that convention, few were more thoroughly qualified for their position than Mr. Worden. He had been one of the most effective members of the Legislature which passed the bill providing for it; his influence and exertions aiding materially in its passage.

The convention assembled at the capitol in the city of Albany, on the first day of June, 1846. It was organized by the election of John Tracy, of Chenango, as president.

The friends of Mr. Worden insisted upon presenting his name as a candidate for speaker. The vote which he received, declared the high esteem in which he was held by the delegates assembled. He received the largest number of votes cast for any one candidate, except for Mr. Tracy. From the opening of the convention until its final adjournment, a period of over three months, he labored industriously and unceasingly.

On the 13th of June, he introduced a resolution on the naturalization of citizens, supporting it in a speech of great power and force. At the conclusion of his remarks, it was, on motion of Mr. Chatfield, unanimously adopted, and became one of the provisions of the new Constitution.

On the 30th of June, in Committee of the Whole, Mr. Worden delivered his great speech on the powers
and duties of the executive. This question involved
the limitation of the powers of the governor, the qual-
ifications which rendered a person eligible for that high
office, and the term for which he should be elected.
It elicited a debate of much more than ordinary inter-
est; the galleries, lobby, and every accessible place in
the Assembly chamber were occupied by a crowd of
interested and attentive listeners. The ablest mem-
ers of the convention participated in it, among whom
were Charles O'Conor, Ira Harris, Richard P. Marvin,
John K. Porter and Alvah Worden.

It has been said that this debate exceeded in ability
and eloquence any discussion which, previous to that
time, had ever taken place in that chamber. It raised
those who participated in it above the limits of local
reputation, and entitled them to the rank of statesmen.
Mr. Worden closed the debate; he made no effort at
display; the State, its institutions, its policy, interests,
and destiny, as connected with its executive, were the
topics which claimed his attention, and he confined
himself to those, with an intensity of thought, an
earnestness of purpose, and a cogency of reasoning,
which exhibited the statesman, patriot, and orator.

The same question occupied the attention of the
convention on several occasions. On the 31st of July,
it was again before the committee. The debate which
took place on that occasion was closed by John K.
Porter, who delivered a brilliant and effective speech.

This debate created considerable acrimony among
those who participated in it, particularly between
Mr. Worden and Mr. Porter; but the matter ended in
a most amicable manner, it being one of those storms
which often pass harmlessly over a deliberative body.

The attention of Mr. Worden was engrossed for a
long time, in preparing a plan for a judiciary, and on
the 6th of August, he submitted a report to the con-
vention, which was marked for its clearness, expansive-
ness, and ability. It subsequently received the ap-
probation of many of the leading members of the con-
vention; for a time it was believed that it would be adopted entire, and recommended to the people. After a long discussion, however, the judicial system which was in force until within a recent period, was adopted.

Mr. Worden justly regarded the judiciary question as one of most vital importance, and his labors upon it were unceasing. There was not a section, not even a sentence in the bill reported, which he did not examine with the closest scrutiny. His experience at the bar, his general acquaintance with the people and their relation to courts of justice, eminently qualified him for the place he occupied on the Judiciary Committee, which, owing to the ill health of the chairman, greatly increased Mr. Worden's labors.

Though the plan for a judiciary which was finally adopted was not in all respects what he desired, yet, as it was the best which, under the circumstances, could be obtained, he gave it his assent. Finally, the convention having completed its labors, Mr. Jones, on the 9th day of October, sent up to the chair the following resolution:

"Resolved, That the engrossed constitution be now signed by the members of the convention, as an attestation of their approval thereof, and that those members not now in attendance be at liberty to sign it at any time previous to the third day of November next."

Charles O'Conor immediately arose and protested against the resolution, and against the Constitution, particularly the judicial department, and that eminent jurist proceeded to give his reasons for his opposition in a brief but able speech, and his remarks found a ready response in the heart of the ablest and most experienced lawyers then at the bar.

He was followed by Mr. Van Schoonhoven, who, although unqualifiedly against the judiciary article in the convention, approved of the instrument as a whole, and therefore declared he should vote for it.
Mr. Worden addressed the convention. In the course of his remarks, he said:

"Mr. Chairman—I regard this Constitution, as a whole, as an improvement in the science of government, throwing, as it does, upon the people the responsible duty of keeping their own government under their own control, and of preserving and perpetuating their own rights and liberties. There are provisions in it that I should prefer to have changed; but the principle to which I have alluded is what I desire to see carried out. I am, therefore, willing to leave this great experiment of a republican government in the hands of the people with the least possible trammels upon their free action; and this is the true intendment and design of this instrument that we are now called upon to sign ere we part. Having framed it after much labor, in a spirit of compromise and concession, I trust, sir, we shall submit it to the people without attempting to influence their action for or against it, by pointing to this or that provision as objectionable, but that the whole instrument be left to their calm, deliberate judgment, for this judgment is the rock, the sure foundation of our republic."

After remarks from several other members, the amended Constitution was agreed to by a vote of one hundred and four ayes, against six noes—eighteen members being absent—and the convention adjourned sine die.

It was the desire of Mr. Worden, on retiring from the labors of the convention, to resume the practice of his profession, but another field of arduous labor was soon to be opened for him. By the provisions of the amended Constitution, the Legislature was empowered to provide for the appointment of three persons to be styled "Commissioners of the Code."

Accordingly, on the 8th of April, 1847, the Legislature passed an act appointing Reuben H. Walworth, Alvah Worden, and John A. Collier, such commissioners. Arphaxed Loomis, Nicholas Hill,
Jr., and David Graham, were, in the same act, appointed Commissioners on Practice and Pleading, whose duty it was, according to the provisions of the act, "to provide for the abolition of the present forms of actions and pleadings at common law, and for a uniform course of proceedings whether of legal or equitable cognizance."

Chancellor Walworth and Mr. Collier having declined to act on the Code Commission, Anthony L. Robertson, of New York, and Seth C. Hawley, then of Buffalo, were appointed in their places.

Mr. Worden accepted the position with great reluctance, but he entered upon the discharge of his duties with perseverance and diligence. His labors and embarrassments were enhanced by the frequent changes in the commission. But he continued to labor with all the determination of his nature, until his term of office expired.

By an act of the Legislature, passed April 10th, 1849, a new commission, consisting of John C. Spencer, Alvah Worden, and Seth C. Hawley, was created.

Mr. Spencer declined to act, leaving the labors of the commission to Mr. Worden and Mr. Hawley, who discharged their duties in a highly acceptable manner. At the expiration of this commission, Mr. Worden returned to the active duties of his profession, where he could test in a practical manner the workings of that legal machinery which he had aided in creating.

During his official career, his large legal business had been conducted mainly by H. O. Cheesbro, Esq., his son-in-law and law partner, an eminent and able lawyer, a gentleman possessing many estimable qualities, and a leading lawyer of the Ontario bar.

Mr. Worden retired from his duties as a commissioner of the Code, to enter upon one of the most extensive fields of legal labor in western New York,
where he continued actively and energetically occupied until his death, which occurred in 1856.

Among the heavy cases in which he was engaged immediately after returning to his practice, was that of The Farmers' Loan and Trust Company v. Carroll. This was one of the most important cases ever adjudicated in the new Supreme Court; it involved a large amount of property, and many intricate and interesting legal questions.

The defendant had executed a mortgage to the plaintiff which was a lien upon several hundred acres of the most fertile lands in Livingston county, as the security for the repayment of a very large sum of money.

It was alleged that there were certain usurious matters which entered into the loan, and made a part of the contract. This allegation formed the defense to the action brought by the plaintiff to foreclose the mortgage. In the course of the legal contest which followed, the case reached the general term of the Supreme Court for the seventh judicial district, where, in October, 1851, it was argued at the court house in Rochester.

Alvah Worden and John C. Spencer appeared for the defendant Carroll, and C. P. Kirkland, Esq., appeared for the other defendants in the action; William Curtis Noyes and Hiram Denio conducted the argument for the plaintiff. The importance of the case is sufficiently attested by the number and eminence of the counsel engaged.

The argument occupied two days, and attracted to the court room a large and interested audience. It was a scene seldom witnessed in the history of modern litigation. The vast importance of the case, and the intricacy of the question involved in it, drew out all the intellectual powers of the great lawyers who appeared there as contestants.

John C. Spencer contended that the mortgage was illegal within the restraining act. To the consideration of the question involved in this proposition, he brought
all the great powers of a mind disciplined and enlarged by years of experience. He was suffering at the time from a temporary illness which compelled him to stand while addressing the court, supported by a chair, and in the course of his argument he broke down two chairs. As the last one gave way, he facetiously remarked, that if his legal positions were as unsafe as his personal ones had thus far proved, his learned opponents could already congratulate themselves upon success.

Mr. Worden confined himself exclusively to the question of usury. He was at the time in perfect health, and his mind was never more vigorous and active. The question which he argued was peculiarly adapted to the organization of his mind; he was at home amid all its intricacies; he threaded its labyrinths with an ease and precision which exhibited his familiarity with them, and also his extraordinary reach of thought.

The argument of Mr. Kirkland fully sustained his relation to the case, proving him competent to assist his eminent associates.

The efforts of Mr. Noyes and Mr. Denio were admitted to be consummate legal arguments, both in regard to the skill with which they were conducted, the soundness of the principles laid down, and the happy application of precedent to the case before them.

On the whole, the Supreme Court on this occasion presented a scene of forensic interest, replete with profound argument and intellectual elaboration, which will compare with those enacted in Westminster Hall in the days of Burke's and Sheridan's unparalleled success at the English bar.

The opinion in the case was written by the late Judge Wells, and it sustained the view presented by the defendants.

An examination into the professional life of Alvah Worden, is, in many respects, useful as an example to
future lawyers; while it exalts the character of the bar, it exhibits the result of energy, determination, and self-reliance, when applied to professional duties, and directed to the task of overcoming misfortune and rising above disappointment.

He was not a great politician, though in that sphere he was able. There was nothing of the demagogue about him, though he was skilled in the knowledge of the human heart and adroit in the management of popular prejudices and feelings. These qualities, added to a sound, discriminating mind, and to many other intellectual acquirements, always gave him weight and influence at the bar, in politics, as a codifier and law maker.
EBENEZER GRIFFIN.

Called to the Bar when the Principles of Statute and Common Law were being settled by Kent, Spencer, and others.—Born at Cherry Valley.—Removes with his Father to Clinton, New York.—Enters Union College.—Reputation as a Student.—Leaves College before Graduating and Commences the Study of Law.—Admitted to Practice.—James Kent.—Commences Practice at Clinton.—Removes to Utica.—His Marriage.—Continues at Utica until 1845, when he removes to the City of New York.—His Reputation as a Lawyer.—His Practice.—Like Elisha Williams, he seemed to be Ubiquitous.—Counsel for the Defense in the Case of the Three Thayers.—In the People v. Bishop.—In the Great Case of the Bank of Utica v. Wager.—Description of the Argument of that Case.—Joshua A. Spencer.—H. R. Storr.—The Result.—The Diseased Mind.—Description of the Murder of Morgan.—Mr. Griffin Engages in the Trials Resulting from his Abduction.—He Removes from New York to Rochester.—His Business Relations at Rochester.—Elected Recorder of the City.—Is Counsel in the Celebrated Case of Clark v. The City of Rochester.—Opinion of Mr. Justice Allen.—The Appeal from his Decision.—Griffin's Argument on the Appeal in the Supreme Court.—Selah Matthews.—His Character.—His Reply to Mr. Griffin, in the Case of Clark v. The City of Rochester.—Dissenting Opinion of Mr. Justice T. A. Johnson, on the Maxim Stare decisis.—Opinions of Judges E. D. Smith and T. R. Strong.—Mr. Griffin is Sustained by the Court.—Mr. Griffin's Relations with Governor Tempkins.—His Character as a Lawyer.—His Love of Literature.—His Favorite Authors.—His Death.

Among the many distinguished and gifted lawyers whose lives have elevated and adorned the bar of the State, no one is entitled to more respect and consideration, no one will be longer or more fondly remembered, than Ebenezer Griffin.

He was called to the bar at that period in the history of the nation, when the great leading principles of common and statute law were being settled—when the fabric of our jurisprudence was being framed, and its enduring corner stones laid by Kent, Spencer, Savage, Woodworth, Thompson, and their compairs.

He possessed a mental organization which qualified
him for a successful contest in an arena presided over by such master minds. Not only were the circumstances of his early training favorable to the development of his mental powers, but the theater in which he was called upon to act was eminently propitious for their exercise. Very soon after entering the profession, he took a high and responsible position as a lawyer. The native strength and power of his mind, his great legal attainments, his high-toned sense of honor and justice, the dignified fealty which attached him to his profession, rendered his influence strong and commanding in the great work of establishing the legal system of our State.

He was born at Cherry Valley, New York, July 29, 1789. While quite young his father removed to Clinton, Oneida county, New York. There Ebenezer was brought up and prepared for college. He entered Union College, and soon gained the reputation of a close, thorough, and intellectual student, which commended him strongly to the faculty, and to his fellow students. Desiring, however, to enter his chosen profession with as little delay as possible, he left college two years and a half after entering, and immediately commenced his legal studies with Mr. Hotchkiss, a counselor at law, then practicing at Clinton. In due time he prepared for the bar, and was admitted at the July term of the Supreme Court, held at Utica in 1811.

James Kent, the illustrious jurist and legal commentator, was then chief justice of the State. Legal gentlemen of that day, who saw Judge Kent on the bench, have frequently described the calm, unstudied dignity with which he presided over the courts; and his opinions, which were often pronounced without time for study or elaboration, were regarded at the time, as the finest display of judicial skill and rectitude ever made.

Mr. Griffin commenced practice at Clinton. In the month of February, 1812, he was united in matri-
mony to Miss Hannah Morrison. After practicing at Clinton eight years, his growing reputation as a lawyer demanded a more extensive field; and, at the solicitation of several prominent citizens of Utica, he removed to that place, where he continued to practice until the year 1825, when he removed to the city of New York, and entered into a large and extensive practice. His reputation extended throughout the State, and his practice in the Court for the Correction of Errors, in the Supreme Court, and in the various circuits in the State, was equaled by few lawyers then at the bar. Like Elisha Williams, he seemed almost ubiquitous. Now in Buffalo, then at Bath, then at Albany, and then at New York. He was one of the counsel for the defense in the famous case of the People v. the three Thayers, tried at Buffalo, in 1825. He was retained with Mr. Williams in the case of the People v. Bishop, referred to in the life of Joseph L. Richardson, but owing to an engagement in the Court of Errors, he was not present when that great trial took place. During his residence in New York, his practice was frequently interrupted by those fearful eclipses of reason which are referred to in another part of this sketch.

Among the many important cases in which he was retained, that of the Bank of Utica v. Wager tended most to increase and extend his reputation. This was an action commenced in the summer of 1821 on a promissory note executed by Philip Wager, on the 19th of March, 1821, for one thousand dollars, payable to the order of Smalley & Beecher, ninety days after date, at the Bank of Utica. The case was tried at Utica, in November, 1821, before the Hon. Jonas Platt, then one of the circuit judges. It was one of great importance, not only to the legal profession, but to the commercial world. It was not the amount involved that gave it so much interest, although in those days one thousand dollars was a large sum of money, but it was the nature of the defense set up by the defen-
dant, which was usury. Down to that time the policy of the statute of usury had not been fully vindicated by the Supreme Court, and this branch of the law, like many others, was then unsettled.

The legal contest which followed the issue in this case, has never been equaled in any other action of this nature, in the State. After a closely contested trial, and a full hearing of all the facts, Judge Platt ordered a verdict for the Bank, subject to the opinion of the Supreme Court. Accordingly a case was made, and the suit went to the general term, and was argued before that tribunal in the city of New York, in May, 1824. H. R. Storrs, then one of the ablest lawyers in the State, opened the argument for the plaintiff in a strong and masterly speech. Joshua A. Spencer opened the argument for the defense in a brief but learned and powerful effort—such an effort as might well be expected from that great and distinguished lawyer.

Mr. Griffin made the closing argument for the defense. When he arose to address the court, many supposed that the subject had been so perfectly exhausted by Mr. Spencer, that whatever else might be said, would be but the work of supererogation. A few moments, however, sufficed to convince all present, that, as by intuition, Mr. Griffin had penetrated deeper into the subject, had more fully and logically grasped the great questions of the case, than either of the other counsel. His argument was one of the most able, profound, and elaborate ever heard at the bar of this State. Every authority bearing on the matter, whether American, English, or French, was fully considered, examined and digested. It was lengthy, yet did not touch upon anything which could excite the fancy or please the imagination. It contained nothing but logic and learning; yet the court and bar listened with deep and unwearied attention. Such was its power, that all who heard it were lost to everything except the words which fell
from the lips of the eloquent and sagacious counsel-
or. He was full of his subject; he had completely mastered it, and his language flowed with intellectual energy, with an undefined delicacy and beauty of expression, which caused a "virtue to go out from it."

The labors of Mr. Griffin were fully rewarded by a great and signal triumph. The court sustained him in his view of the case. The verdict rendered against his client at the circuit was set aside, and a judgment directed in his favor against the Bank. The judgment of the court was pronounced by Chief Justice Savage in a profound and learned opinion, which is reported in 2 Cow. 763.

This opinion established certain principles in regard to the law of usury—the manner of casting interest—the effect of custom or usage upon questions of usury—what is sufficient evidence to constitute a corrupt or usurious agreement—what is lex mercatoria and how proved. Finally, it fully vindicated the policy of the statute of usury. The Bank, however, was not disposed to submit to this decision without another effort. Accordingly, an appeal was taken to the Court for the Correction of Errors, then the court of dernier resort in the State, where the contest was again renewed. The case was argued in that court at Albany, in December, 1830. James Talmadge was then lieutenant-governor and president of the Senate, and consequently the presiding officer of the court. The case was now incorporated with another which the Bank then had pending against Smalley & Barnard, in which the same questions were involved. Benjamin F. Butler and J. Platt appeared for the Bank. Mr. Griffin and Mr. Spencer for the defendants in the combined cases. The argument of Mr. Griffin in the Court of Errors was superior even to that which he made before the Supreme Court. He seemed to rise with the occasion, and to gain mental power and strength as such power and strength were
demanded, and he was again victorious. As there was no appeal from the decision of this court, the Bank was compelled to submit.

The proceedings of the Court of Errors in the case of The Bank of Utica v. Wager is reported in 8 Cow., 398, and is regarded by the profession as a leading case; although its doctrine has been somewhat modified by the Court of Appeals in Marvine v. Haymer, 12 N. Y.

The victory of Mr. Griffin in this case was purchased at a fearful expense. So great were his labors in the preparation, trial, and argument of it, that a cerebral agitation soon followed, which through life at times quite unsettled his splendid mind. Everything within the range of medical skill was done to heal the mental malady, but who can

”minister to a mind disea’d,
Or raze out the written troubles of the brain”?

The disease often left him for years, during which his fine intellect shone out in unclouded splendor.

In the month of September, 1826, William Morgan, a citizen of Genesee county, was abducted, and, as was alleged, murdered by certain leading Masons, in consequence of disclosures which he had made concerning the rites and secrets of that order. This immediately led to one of the most bitter and acrimonious political contests which ever agitated the State. In some localities, so terribly were the people incensed against Masonry, that it amounted almost to frenzy. Leading Masons were prosecuted and punished with vindictive fury; for a time, lodges were obliged to discontinue their meetings, or, like the Covenanters of Scotland, were compelled to meet in secret, where the blazing fury of Anti-Masonry could not detect them. The abduction was conducted with singular skill and success. Whatever fate befall Morgan, remains a secret unknown to all, except that great King “from whom no secrets are hid.” It was alleged by some
that heavy weights were attached to him, and he was
trown into the Niagara river. In support of this
theory, certain persons asserted that one night, while
fishing in the river, their attention was attracted to a
phantom-like boat, which moved swiftly over the dark
waters, propelled by muffled oars. When the boat
reached the center of the stream it stopped—something
resembling a human form was lifted from it, one long,
piercing, horrid shriek rang out on the night air, one
splash on the water followed, and all was still—the
river rolled on, as it rolled before. The boat shot
noiselessly away, and was soon lost from sight, leaving
no trace of its occupants behind. This was believed
to be the scene of Morgan's death. Others asserted
that he was strangled in a gloomy dungeon connected
with Fort Niagara; while others contended that he
got to a distant land, where he died.

Suspicion fell upon certain persons, whom it was
believed were guilty of his death. They were
accordingly indicted and brought to trial. The legal
questions growing out of their trial were intricate and
interesting. For a long time they absorbed much of
the time and attention of the courts. John C. Spencer,
of Canandaigua, was appointed by the governor to
conduct the prosecution against the abductors.

Early in January, 1827, several persons who were
concerned in the affair, were brought to trial before
his Honor Enos T. Throop, then one of the circuit
judges, at Canandaigua. All pleaded guilty to a
charge of conspiracy to kidnap Morgan, excepting
one; he was tried and convicted.

Judge Throop was not a Mason, nor was he an
Anti-Mason, but in sentencing the convicta, his elo-
quent, severe and just language, won much commen-
dation from all persons.

In November, 1829, one Mather, a leading and
prominent conspirator in the Morgan abduction, was
brought to trial before Judge Gardner, at the Orleans
Circuit. This was one of the most important trials
growing out of the Morgan affair. Mather prepared
to defend himself with vigor and success. Accord-
ingly, he sent to New York and retained Mr. Griffin
to conduct his defense. Vincent Mathews, Daniel D.
Barnard, and William H. Adams, were also retained
with Mr. Griffin. Such an array of talent could not
fail to inspire hope and courage in the accused. The
trial was conducted with signal ability on both sides.
After a protracted trial, the jury rendered a verdict of
not guilty. Mr. Spencer was greatly chagrined at this
result, and immediately moved for a new trial, which
brought the case before the general term of the Su-
preme Court. The argument of the case took place
in the city of New York, in May, 1830. William L.
Marcy was then one of the justices of the court, and
wrote its opinion, which is regarded as one of the
ablest in our reports.

Like all of Mr. Marcy's opinions, it is written with
much precision, with great perspicuity, and with all
the affluence of legal learning. Few cases in our
erlier reports decide more intricate and important
questions than The People v. Mather. Its doctrine
has been approved by the Supreme Court of Pennsyl-
vania and of many other States. The points in the case
were principally prepared by Mr. Griffin, but owing
to ill health, he did not argue the case before the
Supreme Court, and that duty fell upon Mr. Barnard.
Mr. Spencer argued the case for the people; but he
was again unsuccessful. The verdict of the jury was
sustained, and Mather fully acquitted.

Mr. Griffin continued to practice in New York
with much success until he was again seriously
attacked by his mental difficulty. He remained,
however, in New York until 1842, and having re-
covered from the attack, he returned to Roches-
ter, where he continued until his death. During
his first residence in Rochester, Honorable E. Darwin
Smith was a student in his office. A strong and lasting
friendship immediately commenced between preceptor
and pupil, which terminated only with the life of the former.

After Judge Smith's admission to the bar, he married a daughter of Mr. Griffin, and subsequently entered into partnership with him, which relation continued until Mr. Smith was elected a Justice of the Supreme Court, when Mr. Griffin formed a copartnership with his grandson, Vincent M. Smith, Esq. Mr. Griffin was at one time a partner of Selah Mathews. Soon after his removal from New York, he became a partner in business with Thomas C. Montgomery, Esq. He was for some time recorder of the city of Rochester, and discharged the duties of that office with marked ability. The last important professional matter in which he was engaged, was that of Freeman Clark v. The City of Rochester.

The questions in that case arose in an action brought to recover the sum of forty-one thousand seven hundred and forty dollars, paid for principal and interest by the plaintiff in the action, upon a contract for the sale to him by the defendants of three hundred shares of the stock of the Rochester and Genesee Valley Railroad Company, issued under and in pursuance of sections 285 to 292, inclusive, of an act to amend the charter of the city of Rochester.

The case was tried before Hon. W. F. Allen, then one of the justices of the Supreme Court for the fifth judicial district, without a jury, who found as a conclusion of law upon the facts stated in the case, that the said sections 285 to 292 inclusive of the act aforesaid never became a valid law of the State, and that the subscription to, and taking of, the said three hundred shares of the stock of the Genesee Valley Railroad Company, authorized and taken under said sections, were illegal and void; that the several payments made by the plaintiff to the defendants therefor, were made without consideration, and that the plaintiff was entitled to rescind the said contract and require the repayment and recover against the defen-
dants the several sums, with the interest thereon, and accordingly rendered judgment for the plaintiff for the money so paid, deducting certain offsets specified in the case.

The city having been thus defeated, appealed to the general term of the Supreme Court, and the appeal came on for hearing in March, 1857. In conducting the argument for the appellant in this case, Mr. Griffin exhibited those extraordinary powers of reasoning, comprehension and research,—all that clear poise of mind and power of discrimination, which characterized his earlier professional efforts. This argument was regarded by the bench and the bar, as a great and powerful effort, of which the ablest counsel in the State might well have been proud.

"The determination of this cause," said Mr. Griffin, "requires the deliberate and careful examination of the powers of the legislative and judicial department of our government. In this country, government is divided into three departments—legislative, judicial and executive. The legislative, to pass laws, the judicial to construe them, and the executive to see that they are enforced. These departments are created entirely distinct, by the Constitution, and the public good requires that they should be kept so. The Constitution being the supreme law of the land, the judicial department is necessarily empowered to construe it. A laudable desire to protect the citizens from the exercise of what the judges may consider a dangerous power conferred by the legislative department, has, in some instances, induced courts by construction to trench upon the powers of this department. That cities and towns have suffered from the exercise of such powers as are conferred upon the city of Rochester, must be admitted; and such constructions are apt to have their influence upon the decision of courts, in all such cases.

"A general sentiment pervades the community, that
it is unwise and inexpedient to confer upon municipal corporations the power to engage in the construction of railroads. This sentiment may be just, but the court will bear in mind that the wisdom or expediency of a law is kept solely and exclusively with the legislative department of our government. No other department has a right to interfere with the exercise of the power to pass laws. Every law passed by the legislative department is presumed to be constitutional; and all courts are bound to approach the examination of every question involving the constitutionality of a law under the influence of such a presumption (1 M'Cook's Ohio N. S. 82). It should be the wish and anxious desire of all the courts to uphold and sustain the authority of the legislative department.

"The rule which we contend for is this: That no law should be declared unconstitutional, unless the court, starting with the presumption that it is constitutional, should become satisfied, beyond any doubt or hesitation, that it was clearly, plainly and palpably unconstitutional. We contend that this is the only safe rule, and that it is supported by the decisions of every respectable tribunal in this country which has ever pronounced an opinion upon the subject." In support of this position, Mr. Griffin referred to a large number of English and American cases.

He insisted that the Legislature, when acting within the scope of the legislative department, can pass any law not expressly prohibited; and that the decision in this case might safely rest upon the inability of his opponents to produce any such prohibition.

"If the framers of the Constitution," said Mr. Griffin, "mean to restrain the Legislature in the exercise of any particular power, they would plainly say so. They would leave no doubt on the subject. This prohibition is not made out by process of reasoning, but by putting your finger upon the prohibition itself. Lieber on Civil Government, ch. 15, § 25; 2 Burr.,
285; 2 Rawle, 374; 1 Jones, 61; Hartman v. Commonwealth, 5 Harr.

"With all due deference to the course pursued by the learned, ingenious and able judge, who presided at the circuit and pronounced the law under which the defendants have acted unconstitutional, I submit that he has departed from the well known established rule laid down by the sages of the law who preceded him, and practically said that any law is unconstitutional which can by process of reasoning be made plausibly to appear so. He has practically repudiated the plain, safe, and well established rule, and adopted one eminently unsound in principle and unsafe in practice. Is the rule thus practically established by his honor, in this case, a safe rule, in the construction of constitutional powers? We think not, and trust your honors, when you reflect upon the dangers which will result from the adoption of such a delusive standard or rule, if it can be called a standard or rule, will concur with this opinion. What, then, are the powers of the legislative department of our State government?"

Mr. Griffin proceeded to argue with great force and power, that question. He contended that all the inherent powers of the people for self-government, not delegated to the general government, are reserved to and belong to the State. Of such reserved powers the entire legislative power is vested in the State Legislature, subject to no restrictions or limitations except such as are contained in the State Constitution. The taxing power belongs to the Legislature, and is subject to no limits or restrictions outside of the United States and State Constitutions. The power to authorize the construction of works of internal improvement, and to provide for their construction by the officers or agents of the State, rests with, and pertains to, the Legislature, to be exercised within its exclusive jurisdiction. Such works may
be constructed by general taxation, and in case of local works, by local taxation; or the State may aid in their construction by becoming a stockholder in private corporations; or authorize municipal corporations to become such stockholders for that purpose. Railroads are public works and may be constructed by the State or by corporations, and lands taken for their use are taken for the public use, and may be taken on payment of a just compensation. The Legislature is the exclusive judge in respect to what works are for the public benefit, and in regard to the expediency of constructing such works, and as to the mode of their construction, whether by the State or by private or municipal corporations, in whole or in part.

The Legislature, therefore, may authorize municipal corporations to subscribe to the stock of a railroad company, with the consent and approval of a majority of the corporators, duly ascertained. The passage of a law authorizing such subscription to the stock of a private corporation, subject to the assent or approval of a municipal corporation, by the vote of the corporators, is not a delegation of power to the corporation to pass a law, but it is a legitimate case of conditional legislation, and is entirely within the discretion of the Legislature. Such was the substance of Mr. Griffin's argument.

The late Selah Mathews of the Rochester bar, replied to Mr. Griffin. He was a nephew and a student of Vincent Mathews, and partook of many of the characteristics of that distinguished man.

Selah Mathews, in many respects, was one of the ablest lawyers in western New York. His mental qualities were not only marked by breadth and brilliance, but they were remarkable for their strength and intensity. His patient, abiding industry and inquiry rendered him familiar with all legal authorities. His retentive memory and the orderly distribution of his
knowledge placed the result of his immense reading at his ready disposal.

It was pleasing to observe him while engaged in a legal argument. Was there an authority referred to by his opponent, when the volume containing it did not happen to be present? If there was the least departure from the construction which the court had given to the point, Mathews would instantly detect it, and if he was to reply, make a note of it and reserve his correction until he replied; if not, he would courteously set the matter right, on the spot. "The counsel's memory is not quite correct, or mine is greatly at fault, and I beg leave to state my recollection of the case," he would say on such occasions; and those who knew him best seldom took issue with his interpretation of the matter.

His reply to Mr. Griffin comprehended all that could be brought to bear in sustaining the position of the plaintiff in the case. It was an argument such as courts, lawyers, and even laymen delight to hear,—an argument with which Mr. Justice Johnson coincided in a strong and ably written opinion in which he dissented from his brethren of the bench, feeling himself "constrained by the rigor of the maxim stare decisis, to hold that the sections of the statute in question were never properly enacted by the Legislature, and never had any force or authority as law, and consequently, the bonds issued under them were void and the action properly brought."

The other judges, however, sustained Mr. Griffin, and the decision of the special term was reversed.

The opinion of Judge E. D. Smith in the case possesses great merit for its learning, clearness, and force; a careful examination of it would be useful to the student, the practitioner, and the business man, while that of Judge Strong fully sustains his high judicial and legal abilities. Judge Wells wrote no opinion, but he fully concurred with Judges Smith and Strong.
A more extended history of this important case would be interesting to the reader, but it would extend beyond the limits of this work.

In early life Mr. Griffin was an ardent admirer of Hamilton and Adams, consequently, he was then a Federalist. He became a strong and influential supporter of Governor Tompkins. The "frank, manly, and ingenious disposition, the true nobleness of soul which characterized the governor in public and in private life," had peculiar charms for a mind like Mr. Griffin's, and through life his relations with him were most friendly and intimate.

In the presidential contest of 1828 he ardently sustained Andrew Jackson for the presidency; but when his administration closed, Mr. Griffin became a member of the Whig party, and subsequently a Republican.

He was an ardent patriot, and the secession of the Southern States after the election of Mr. Lincoln, in 1860, greatly excited him. The situation of the country often disheartened him, but such was his unflinching confidence in the patriotism of the people that he never doubted our triumph over armed and formidable treason.

In all his domestic relations, Mr. Griffin was happy and fortunate. As a lawyer, he had few equals in the State. Had it not been for the mental difficulties with which he was frequently afflicted, he would have attained the very highest professional distinction. In conducting his cases, "he uniformly examined the whole range of discussion, and sought such a result as he believed would be reflected by the mirror of the law in its truth and purity. The case of his client was always an object of peculiar solicitude; no principle, no case bearing on the subject, within his extensive knowledge and various reading, was omitted. His conclusions thus carefully formed were maintained by him before the various courts in which he practiced, with a firmness and boldness which resulted
from a consciousness of their accuracy, eminently calculated to aid the researches of the most enlightened and experienced tribunal."

He read with pleasure Milton's sublime epic, and lingered with delight over Shakespeare's immortal page, where imagination revels equally in regions of mirth, beauty, and terror; now evoking specters, now sporting with fairies, now conversing with calm and recondite scholars, and now "ascending the highest heaven of invention." He had a deep, religious sensibility, which never rested until it found its true perfection and manifestations in every day's practice, and in all the concerns of life. Like Vincent Mathews, Mr. Griffin continued in the practice of his profession until the last days of his life, and he fell from the ranks of his professional brethren into the arms of death, "with the harness upon him," a legal Marmion, falling beneath that standard which aroused his youthful ambition. He died on the twenty-second day of January, 1861, in the seventy-third year of his age, in full possession of all his mental powers, calm as midnight, yet bright as the still summer noon, disturbed by no throb of passion or of sorrow, with no sigh of regret for the world he was leaving, resting on that faith "which takes hold of immortality."
NICHOLAS HILL.

Remarks of an Eminent Writer Concerning Erskine Apply to Mr. Hill.—His Character in some Respects Resembles J. C. Spencer.—Hill's Devotion to his Profession.—His Ambition Confined to it.—The Professional Eminence which Mr. Hill Attained.—His Youthful Characteristics.—Becomes a Law Student.—Is Admitted to the Bar.—He turned all his Intellectual Efforts to Law.—Commences Practice at Amsterdam, New York.—Removes to Saratoga.—Judge Cowen.—Hill forms a Copartnership with Sidney Cowen, Esq.—Engages in the Preparation of the "Notes to Phillips's Evidence."—Mr. Hill's Love of Justice Illustrated.—The Will.—The Insidious Designs of a Father Thwarted.—His Rage.—The Lawsuit and the Result.—Mr. Hill's Progress at the Saratoga Bar.—He is Appointed State Law Reporter.—Character as a Reporter.—Removes to Albany.—Forms a Partnership with Messrs. Caggie & Porter.—The Character of the Firm.—Mr. Hill gave his Profession no Divided Allegiance.—Entered into Law as Newton did Into Astronomy.—Resembled Lord Brougham in his Capacity for Physical and Mental Labor.—Description of Hill’s Labors During the Session of the Court of Appeals.—Mr. Hill’s Appearance at the Bar of the Court of Appeals Described.—Anecdote.—Incident connected with the late M. S. Newton.—Can Courts be Influenced?—Interesting Incident Related by Mr. Hill.—Its Effect.—Personal Characteristics of Mr. Hill.—His Capacity as a Jury Lawyer.—Manner before a Jury.—His Physical Powers begin to Fail.—Retires from the Bar for a time.—Hopes of his Friends.—His Sudden Death.—Scene in the Court of Appeals on the Announcement of his Death.—Eulogy of J. H. Reynolds.

To describe Mr. Erskine at the bar, says a writer, is to ascertain the highest intellectual eminence to which a barrister under the most favorable circumstances may safely aspire; and the remark will apply to Mr. Hill, for it is no exaggeration to say of him, that he belonged to the front rank of American lawyers.

In some of his characteristics he resembled John C. Spencer; they were both creatures of pure intellect, active and restless—men of vast research, vigorous logic, practical wisdom, unwearied industry, and capable of immense intellectual labor. Both were wanting in enthusiasm, creative imagination, fancy, and poetic
fervor; and both were close, critical, reasoning lawyers. But here the analogy ends; for much of the power which impelled Spencer to action was political ambition; this led him into a varied career, in which opinions and personal relations were subordinate to political ambition. He divided his great talents and his extensive learning between the bar and the political arena, between the duties of the legislator and the cabinet minister.

Mr. Hill, on the contrary, concentrated all the powers of his mind upon his profession. This gave him a mastery at the bar which few men are capable of attaining. He disliked politics, and there was nothing in official position that could attract him from the one chosen sphere to which he devoted himself. He was ambitious, but his ambition was that of the lawyer divorced from politics, and, therefore, his knowledge of the law, his power of applying it to practical use, of wielding its subtilties with facility, of grasping the points in a legal question, and separating truth from error, rendered him unequaled at the bar of the State.

Though Nicholas Hill gained the highest eminence in his profession, and adorned the American bar, yet he was never desirous of "decking himself with those trappings of learning, or of swelling out his reputation above its natural bulk, by those adventitious honors which are so easily acquired in this country, where every city is filled with learned societies amply furnished with sounding names and a large list of well titled officers."

His life was unvaried by those events which excite the ambition of the politician or the statesman. It was spent over books, whose pages were often illumined by the midnight lamp, before courts—before grave and learned judges, whose deliberations were aided and whose minds were enlightened by his learned and powerful arguments.

Nicholas Hill was born in the county of Mont-
gomey, New York, October 16th, 1806. His father was a Revolutionary soldier, who, on leaving the army, became a preacher of the Gospel, and lived to a very venerable age.

Young Hill early exhibited a love of books, an unusual strength and tenacity of memory—a desire for knowledge—a meditative mind, which, with an indomitable energy and perseverance, enabled him, with but little aid from his father, to acquire sufficient classical learning to commence the study of law with profit and success. As a law student, he exhibited the same unwearied powers of research which characterized him amid his brilliant and successful career at the bar.

It was once remarked of Dr. Chalmers, that whatever science he happened to touch, was instantly transmuted into theology; and it may well be said of Nicholas Hill, that whatever facts or principles within the range of human knowledge, at any time excited his attention, became subservient to one common purpose, and aided to render him more accomplished and learned in his profession; for, in the operations of the intellect, as well as of the will, the prevailing passion, like Aaron's serpent, swallows up all the rest.

After his call to the bar he commenced practice at Amsterdam, meeting with ordinary encouragement. At length he removed to Saratoga, where he made the acquaintance of the late Judge Esek Cowen, "whose life seemed to offer that example of singleness of purpose, devotion to his profession, and unwearied industry, upon which he molded his own career."

He afterwards formed a copartnership with Sidney Cowen, Esq., a son of Judge Cowen. Associated with Mr. Cowen, he prepared that great work known to the legal profession throughout the nation, and in England, as "Cowen & Hill's Notes to Phillips on Evidence," which remains a lasting monument to the ability, energy, industry, and learning of its authors;
a work which may be considered a law library by itself.

There was in the character of Mr. Hill an innate love of justice and right; hence he could not tolerate injustice, duplicity, or fraud, "could not be petty, unfair, or disingenuous;" and in all his practice he never, if it was possible for him to prevent it, allowed injustice to triumph. These traits were illustrated by an incident which occurred early in his career.

While at Amsterdam, soon after his admission to the bar, he was called upon to draw a will for a man by the name of Christian—a farmer, whom he held in high esteem. This man had been ill for a long time, and, aware that he was near his end, desired that his matters should be properly adjusted before his death. He was about forty years old, with a wife and two children—a daughter ten years of age, and a son of six. His property amounted to twenty-five or thirty thousand dollars which he had accumulated since his marriage.

Christian had a father, a hard, grasping, insidious old man, with a strong controlling character. For several weeks he had been constantly with his son.

On arriving at the residence of his friend, Mr. Hill was received with great cordiality by the elder Christian, who at once assumed a very confidential manner towards him; so attentive was he to the young lawyer, that he hardly gave him an opportunity to pay his respects to Mrs. Christian.

"Mr. Hill," said she, "I am very glad you have come; I know you are my poor husband's friend, and—and—I wanted to"—

"Never mind, Mary, John is waiting for us, you know, and Mr. Hill has no time to hear any lengthy talk. This is the way, sir. John is quite low, and what is done must be done immediately," said the old man, moving towards the room where the sick man lay. The look which the grief-stricken woman
gave the lawyer as he parted with her, spoke volumes, which, with the actions of the elder Christian, convinced him that there were matters below the surface, which he ought to understand.

On entering the sick-room, the old man took his seat by the bed of his son, in that business-like manner, which clearly indicated that he was to be a party to the business in hand.

Mr. Hill conversed a few moments with the sick man on general topics, and then asked him if he was ready for him to commence drawing the will.

"I am," was the reply.

"Then you will please retire, for I am accustomed, when engaged in drawing a will, to be entirely alone with the testator," said Mr. Hill to the elder Christian.

"Oh! this matter is all understood between John and me, and it is his wish that I remain in the room, isn't it, John?" said he.

The sick man gave a faint response in the affirmative, which convinced Mr. Hill that his first impressions were right, and he was determined that the old man should leave the room.

"Mr. Christian," said he, "I cannot draw this will until you leave this room; if you insist upon remaining, I shall leave at once."

"But my son is very weak, and will need me here to nurse him while you are at work."

"I will see to that; I shall not be engaged long, and I will undertake to care for him while I am engaged," said Mr. Hill.

"Father, I think you had better retire; Mr. Hill is an old friend of mine; I can trust him, and I want him to draw my will, very much," said Christian.

"Well, John, I can go; but you must not forget—you must remember to—take your medicine," said the old man, giving his son a peculiar look as he was leaving him.

"Christian," said Mr. Hill, as soon as the door closed on his father, "now tell me the manner in which
you desire to dispose of your property, and I will soon prepare your will accordingly."

In a few words, the sufferer informed him that he proposed to give his daughter eight hundred dollars, for the purpose of educating her, and all the residue thereof, after deducting his wife's thirds, was to be given to his father in trust for his son, who was to receive it when he attained his majority. The old man to be named as sole executor. These were substantially the conditions of the will.

This greatly astonished the lawyer, and he felt confident that left to himself, his friend would never make such an unnatural disposition of his property; he believed, and justly too, that the iron will of the old man had influenced his son to give him the possession of his property for fourteen years, and, in effect, to disinherit the daughter. He now fully understood the pleading look of Mrs. Christian, and why she was so anxious to see him; he was in great doubt as to the manner in which he should proceed. The way in which his client disposed of his property, was clearly nothing to him, and yet he did not regard it as his duty to permit such a flagrant act of injustice. After a few moments' reflection, he said:

"Mr. Christian, you are, as you say, on your dying bed; now let me ask you if you really desire to dispose of your property in the manner in which you have just stated?"

"Oh, Mr. Hill, I have been through so much—have suffered so much, and have had so many things said to me, that I don't care what becomes of my property—but I—I—think—I hope my father will do what is right—he's promised me he would."

"This business is nothing to me, Mr. Christian; but it is your duty to deal fairly and justly with both your children, and to dispose of your property as to you seems just, uninfluenced by others. It is your will that I have come to draw, Mr. Christian; now is the time to exercise your own judgment, so that when
this business is done you will feel conscious of having discharged your duty fairly, impartially, and unadvised, according to the dictates of your own heart," said Hill.

After reflecting a few moments, Christian said:

"Mr. Hill, promise me that you will be a friend to my poor wife and children when I am gone."

The promise was given. He then directed Hill to commence the will, and he would dictate the conditions. When the instrument was nearly completed, the lawyer asked him who he desired to act as executor.

"My father expects—but no matter, as the will reads, he had better not act. Will you not act, Mr. Hill?" asked Christian.

"No, I cannot act; you should select some very near relative, one whom you have always esteemed and trusted, one who has some deep feeling for you," was the answer.

"Can my wife act?"

"Certainly."

"I should like to have her act very much, but then it would displease my father terribly; and I tell you, Mr. Hill, he's a fearful man when his anger is aroused," said Christian.

"You have no doubt of her capacity, I suppose."

"No, she has more than ordinary ability, or I should not have had this property; and she has been the kindest and truest friend I ever had in this world"—

"And the mother of your children, Mr. Christian," said Mr. Hill, interrupting him.

"Oh, yes, yes, and you may make her my executrix. If she was faithful to me while living, she will be so when I am dead; but you must protect her from my father."

Accordingly, Mrs. Christian was named sole executrix; two reliable neighbors were called in for witnesses, the will was duly signed in their presence, and
by request of Mr. Christian, Mr. Hill was made the
custodian of it until it was proved. The lawyer then
took leave of his friend.

As he was passing through the hall which led to
the street, he was met by the old man who, with many
smirks and smiles, said:

"Well, Mr. Hill, the will is all right, is it? John
knows pretty well what he's about and who he can
trust, I assure you. Where is the will?"

"In my pocket," was the reply.

"Well, I'll take it; that was the understanding."

"I am directed to keep it, Mr. Christian, until it is
needed for proof," said Mr. Hill.

"Well, I don't know but that will do, though it
ain't as we talked," said the old man, and Mr. Hill
departed.

After the death of Mr. Christian, the will was
opened and read in the presence of the family and
friends. It proved to be a very different affair from
what the elder Christian expected.

It provided for an equal distribution of the prop-
erty of the deceased between the two children. After
giving the widow a liberal portion, the remainder was
left in her hands, in trust for her children, until they
were of age, making ample provision for their sup-
port; it also provided for their education.

The rage of old Christian knew no bounds, when
he heard these conditions of the will, and he prepared
to contest its validity. With scarcely any chance for
success, he commenced proceedings to annul it.
Everything that legal ingenuity could suggest was
brought to bear against it, and one of the most im-
portant litigations in Mr. Hill's early practice ensued;
but it ended in the triumph of the widow, adding
much to the reputation of Mr. Hill as a lawyer. The
infant son of the deceased grew to manhood; removed
to Chicago in the early days of that city, and became
a man of wealth. He died in the year 1867, ever re-
taining a veneration for the name of Nicholas Hill.
The unassuming manner and native modesty of Mr. Hill tended at first to retard his progress at the bar. Though a close and powerful reasoner, he did not possess those showy elocutionary qualities which dazzle the multitude and bring a lawyer rapidly into notice. Though he loved the forum and delighted in its contests, yet there were many of the attributes of the retiring scholar in his nature, and hence he derived the most sincere pleasure in the silence and retirement of his study.

He had many qualities which constitute the successful jury lawyer, and gradually attained a high position as an advocate. Marcus T. Reynolds and Samuel Stevens, for several years his great rivals in the profession, had been distinguished at the bar of the Supreme Court in banc and in the Court for the Correction of Errors, a long time before Mr. Hill was known in either of those tribunals.

But from his first appearance there, he created a very favorable impression on the minds of all the members of the court. In the case of Tilden v. Gardiner, which was one of the earliest argued by him before the General Term his argument was listened to with profound attention by both the bench and the bar. "We shall hear from that man very often hereafter," said Chief Justice Nelson to Judge Bronson, as he was folding the papers in the case, after the conclusion of Mr. Hill's remarks. Doubtless the reputation which the Notes to Phillips on Evidence had given, aided him in gaining the confidence of the judges, and in obtaining the appointment of State law reporter in 1841. The manner in which he prepared these reports greatly enhanced his reputation. They are characterized by the same methodical and expansive mind which is conspicuous in all his works.

He was one of the most accomplished and accurate special pleaders in the State, and few exceeded him in the faculty of analyzing a complicated
question, or clinching a contested conclusion. These qualifications greatly aided him in the labors of reporting the adjudicated cases of the State courts, enabling him to adjust them so that the student or practitioner could determine at a glance the real points decided in them. Soon after receiving this appointment he removed to Albany, where he resided the remainder of his life.

He occupied the position of State reporter five years, when his increasing legal business compelled him to resign. Soon after his resignation, he formed a copartnership with Peter Cagger and John K. Porter, constituting a firm which combined every variety of legal talent—a firm which was distinguished for its capacity and for the vast amount of legal business which it controlled. Each of its members possessed attainments which gave them superiority at the bar, or in whatever intellectual field they chose to enter.

Mr. Hill devoted himself to the General Term and the Court of Appeals; at length his business at the latter court increased to such extent that he was compelled to confine himself almost exclusively to that tribunal.

Many of his comppeers at the bar gave to their profession divided allegiance, or loved it for the applause it brought, and the rewards it secured. With Mr. Hill this was a secondary consideration; he entered into the investigation and research of the law as Newton, Kepler, and Galileo did into the science of astronomy—Handel and Mozart into harmony—Cuvier into the study of mollusca—Stewart, Locke, and Hamilton into metaphysics.

With him it was the application of an ardent and scholastic mind to its favorite theme. A the powerful lens of Herschel swept the heavens discovering new stars, orbs, and sidereal bodies, measuring their proportions by practical mathematical principles, so the intellectual lens of Hill was turned to the field of
judicial science; through it he observed and scanned every principle of the written and unwritten law, compared every conflicting precedent, revealed the hidden treasures of musty tomes, rendering them applicable to modern jurisprudence. Thus the labor which he performed was astonishing.

In his capacity for intellectual and physical endurance, he resembled Lord Brougham, of whom it was said he was not one, but legions. "At three in the morning he would make a reply in Parliament, which blanched the cheeks and appalled the hearts of his enemies; at half past nine he would be found in his place in the court room, working out a case in which a bill of five pounds was disputed, with all the plodding care of the most laborious junior. This multiplicity of avocation and division of talent suited the temper of his constitution and mind. Not only did he accomplish a greater variety of purpose than any other man—not only did he give anxious attention to every petty cause, while he was fighting a great political battle and weighing the relative interests of a nation—not only did he write an article for the Edinburgh Review while contesting a county, and preparing complicated arguments on Scotch appeals by way of rest,—but he did all this as if were perfectly natural to him." The labors of Brougham, though more desultory than those of Hill, were not more intense or more enduring.

During the sessions of the Court of Appeals he was constantly in his seat at the bar, from the opening to the close of the term; concerned in nearly three fourths of the causes on the calendar. He was often engaged in the argument of a case during the entire day, and at night retiring to his study, he would remain there until after the clock tolled the hour of midnight; "the fire which burned in the tough fabric of his intellect" as undimmed when the last page was turned—the last note made, as it was when he first arose in the morning.
During vacation he would be in his office during the day, and continue his labors far into the night. Thus he prepared those voluminous briefs on whose pages there was often a reference to many hundred cases; each one of which he had thoroughly studied and analyzed.

Strangers visiting the court room at Albany always desired to have Mr. Hill pointed out.

In the summer of 1857, a young law student from Rochester, with a friend who resided at Albany, visited the Senate chamber where the Court of Appeals was sitting. There were in the bar at the time, a large number of lawyers from various parts of the State. After looking over the bar for some time, the young man inquired if Nicholas Hill was in the court room. His friend replied, "He is, and I want you to point him out, if you can." Scanning each face within the bar with great scrutiny, the student at last fixed his eyes upon a man a little below the medium height, slenderly built, with a sharp and somewhat wrinkled face, but full of fire and intelligence, dark hair, in which the silver lines of advancing years began to be blended, and who carried one of his arms in a peculiar manner.

"That, according to the description which I have often heard, is Mr. Hill," said the young man, pointing to the person who has been described.

"You are right, that is Nicholas Hill, a lawyer more thoroughly identified with this court than any other lawyer at the bar."

The courtesy and generosity of Mr. Hill to his brethren of the bar, especially the younger members, was proverbial; he instantly perceived and liberally acknowledged their merits.

The late M. S. Newton, a highly respectable member of the Rochester bar, in the early days of his practice had a case in the Court of Appeals, which he prepared to argue himself. He had conversed with Mr. Hill on the leading points in the case, who assured him that, though the questions involved were
difficult and intricate, yet he believed the law was with him. The suit had been contested inch by inch from the Circuit to the Supreme Court, and from thence to the Court of Appeals, and in every instance it had been decided against Mr. Newton.

The term at which it was to be argued finally commenced its sittings, and Mr. Newton proceeded to Albany to argue his case. Soon after his arrival, he learned that the late William Curtis Noyes and Ambrose L. Jordan were to argue it against him. Alarmed by this intelligence, he sought the assistance of Mr. Hill.

"I will assist you, Mr. Newton," said Mr. Hill, "if you desire me to do so; but let me advise you to argue it yourself; you have the ability, you are thoroughly prepared—you can do much better without me than you can with me. Young lawyers often injure their cause by calling to their assistance what is termed able counsel. If you succeed in a contest like this, alone and unaided, you will be entitled to all the credit."

"But, Mr. Hill, only think of the array of talent that is against me, and the great influence of my opponents with the court," said Newton.

"As to the talents of your opponents, although I admit it is great, yet you need not fear it; the law books reveal the same truths to you that they do to them, and as to influence with the court—I hear very much said about that, but depend upon it, the influence of this or that person, in our courts, amounts to nothing at all. If you have the law with you, that is the highest influence you can secure.

"In my early practice, I was once induced to procure the aid of a lawyer, who was supposed to have great influence with the court, to assist me in urging the judge to inflict a very light sentence on a client of mine, who had been convicted of an offense in which there were mitigating circumstances, and which ad-
mitted of a severe or a light punishment, in the discretion of the court.

"The lawyer to whom I applied, was at the time a State senator, and was really a man of great influence and ability; while I was young and inexperienced, and almost a stranger to the judge. My client was a man of some standing in the community in which he lived; his sentence was suspended until the last day of the term; when he was brought into court to receive it, his wife and children accompanied him, by the advice of my associate, who believed that their presence would aid him in softening the minds of the court. I saw by this, that even he needed outside influence to aid him, powerful as he was supposed to be with the court.

"My friend made a pathetic appeal to the court. It was apparently very effective, and I believed, with his great influence he would succeed in convincing the judge that my client should only be fined some nominal amount and discharged, but what was my astonishment and horror when I listened to a sentence which was to incarcerate him in jail for one year, and compel him to pay a fine of two hundred dollars. I will not attempt to describe the scene that followed; suffice it to say, that wife, children, friends, and myself, were plunged into the deepest sorrow. The influence of my counsel had failed and my client was ruined.

"The court adjourned for dinner, but my appetite was gone,—instead of going to the table, I stole away to a grove not far from the court house to hide my own grief and sorrow, for I had taken that interest in my client which rendered his case my own. At length I resolved to make an effort myself, to induce the court to modify the sentence.

"Before the bell ceased ringing I was in the court house; the moment the crier's proclamation was ended, I was on my feet, and to the astonishment of the bar and spectators, I opened the motion for a
modification of my client's sentence. I do not know what process of reasoning I adopted, or what language I used; all I know is, that I threw my whole soul into my speech—that there was an entire surrender of what little ability and eloquence I possessed.

"After I took my seat, the judges consulted a few moments, and then I had the satisfaction of hearing the presiding judge announce that the court on further deliberation had decided to modify the sentence against Jacob Craig, so far as to remit the imprisonment, and to reduce the fine to the sum of fifty dollars. I need not tell you how great was my triumph; had a fortune been laid at my feet, had I suddenly been lifted to a sphere of worldly grandeur, it would have been nothing compared with the joy I felt at this announcement.

"My poor client was in jail, surrounded by his weeping children and heart-broken wife. I hastened to him, and when I informed him that he was released, he sunk pale and almost fainting into a chair. I shall never forget that scene—it was one which no actor could imitate. At length he found words to inquire of me how this was brought about.

"'Did Mr. M. go and talk to the court again for me?'

"'No, he was not in the court room.'

"'Whom did you get to talk for me that was powerful enough with the court to have me released?'

"'No one; I did all the talking myself,' said I.

"'What, you, such a young lawyer as you talk to the court—I thought you told me I must have a man of great influence, and one that was well known to the court?' said my client.

"'I did think so, and employed such a man, but rather than have you lay a whole year in jail, and pay so much money, I concluded to see what I could do for you,' said I.

"Tears of joy, overflowing thanks, prayers for my future success in life, followed. I have the satis-
faction of knowing that for a long time those prayers were repeated in a family rendered happy by my efforts, which restored to them a husband and father, who, ever after, was an exemplary member of society.

"I have related this circumstance to you, Mr. Newton, to convince you that there is nothing in what is termed personal influence with courts. The result of my professional experience is, that he who thoroughly understands his case and the law applicable to it, will always have the attention of the judges, and this is all the influence which the most eminent advocate can ever have in our courts. Once more let me say, argue this case for yourself; never stop to consider who is against you, there is not so much difference after all between men as some suppose, and as I have already said, the language of the law is the same to all."

This conversation made a deep impression on the mind of Mr. Newton; it encouraged him to undertake the argument of the case alone, which he did with such success that it was decided in his favor.

The hold which the domestic and social ties had on Mr. Hill, affords one of the most pleasing glimpses of his character. Such was the kindliness of his nature, that even his prodigious professional labors did not exclude those amenities to friends, those affectionate attentions to kindred, for the neglect of which multiplied cares are often admitted as an excuse.

As over the hardest stones the softest moss will force its verdure and sustain its life, so amid intense toil the gentler features of his nature developed themselves as years rolled by, rendering his relations to his friends, his associations with the gifted men by whom he was surrounded, more pleasing and attractive; causing his powerful energies to blend in harmony with all his social and family connections.

Mr. Hill's manner at the bar was calm, dignified,
natural, and unassuming. The vivacity and strength of his mind, his prodigious quickness of conception, his plain but ready language, rendered him an effectual speaker in the forum. He gained the attention of jurors by the natural force of reason; his language was never above or beyond them; it went direct to their understanding. He considered the case at bar with them, viewed it from their standpoint; and he "dexterously accommodated himself to what he detected to be the passing mood of each of the twelve," leading them instead of driving them to their conclusions.

One of the most powerful weapons which an advocate can use is candor. This was possessed by Mr. Hill, and it was, indeed, formidable in his hands. Without any parade of learning, he convinced the judges that he had examined every phase of the question he was arguing, and was, therefore, capable of enlightening their minds, and aiding them in their deliberations; hence, he was strong at nisi prius, still stronger before the court in banc.

His habits of life were regular and frugal, the only excess in which he indulged being his intense, never ceasing application to his books, the study of his cases and his briefs.

At length the physical powers of Mr. Hill, which were never strong, began to yield to constant and unreleased labors; with the flight of each week this became more and more apparent, until finally his friends persuaded him to suspend his professional toils. He yielded to their advice, and they soon had the satisfaction of seeing his bodily strength and vigor return, and his energies revive; thus he continued for several weeks, until he believed himself able to resume his usual duties. But alas, even at the moment when hope was highest with the prospect of returning health, he suddenly fell before the destroyer, and Nicholas Hill was numbered with the dead. This sad event occurred on the first day of
May, 1859. He was then in the fifty-fourth year of his age—at that period when the intellect is strongest and ripest, when he yet had years of activity, labor, and usefulness before him.

The intelligence of his death produced the most profound sorrow throughout the State, particularly among the members of the legal profession. When it was announced in the Court of Appeals, in that arena where he had so long been a prominent contestant, where he had occupied a place since the organization of the court, a scene of sorrow unequaled on such occasions and in such places followed.

Honorable John H. Reynolds, his law partner, who knew him, perhaps, better than any other person, and to whom he was tenderly attached, arose to pay a tribute of respect to his memory. For a time the emotions of the speaker overcame him, his voice faltered, and his tears flowed. The bench and bar were no less affected. Grave judges, strong and gifted lawyers wept, and in the temple of justice grief prevailed. At length, gaining sufficient composure to proceed, Mr. Reynolds pronounced the following beautiful, appropriate, and affecting memorial.

"If your Honors please—Since the last meeting of this court, one who has been accustomed to welcome your return has suddenly been called away. His place at this bar is vacant, and will be filled by him no more forever. While yet busy in the great labors of his life, and in the very fullness of his intellectual stature, Nicholas Hill has unexpectedly left the employments of earth, and entered upon the realities of another life. His departure from among us was so sudden, that those who were most intimately associated with his daily avocations, were scarcely made aware of his illness before the sad intelligence of his death was announced. An event so mournful could not fail to arrest public attention, and spread universal sorrow over the hearts of all who knew and honored him. To none beyond his immediate family circle,
did this great bereavement seem more near than to his brethren at the capital, who were the immediate associates of his professional life, and who were bound to him by the nearer relations of friendship and affection. To give expression to these feelings of respect and regard for his character and sorrow for his death, they assembled together with mournful feelings, and adopted resolutions expressing in some slight degree their esteem for his worth, their admiration for his great character as a lawyer, and their regret for his sudden and untimely death. They gathered in reverent grief around his bier, and followed to its last resting place in silence and tears, all that remained on earth of one so loved and honored. They desire to preserve some memorial of their regard for what he was, and I now present the record of their proceedings, with a request that in respect to his memory, they be entered upon the minutes of this court. It was in this place that he spent the later years of his life, and it is upon your records that the most enduring monuments of his labors exist; and we feel it to be appropriate that upon the field of his professional fame, there shall remain a fitting testimonial to his great character. The last effort of his professional life was made in this presence. It terminated the labors of the last term of this honorable court, and with him it was the close of a career that will be looked to as an example of all that can be achieved by a lofty intellect and unremitting labor. It was also the termination of a life crowded with all that is estimable in human character. I was with him as an adversary in his last public labor in the profession that he loved, and honored, and adorned. I was with him as a friend in almost the last hours that he spent in this life, and I come here to day to bring the tribute of his brethren to his exalted worth, and to add my own feeble expression of admiration for him as a lawyer, my reverence for his character as a man, and my affection for a lost associate and friend.
"It is not necessary in the presence of this court, to dwell upon the great qualities that formed the character of our lamented brother. You well know the measure of his luminous intellect, and the noble qualities of his great nature. You have been delighted and instructed with his eloquence and learning. Every volume that records your Honors' judgments bears enduring evidence of the labors of Nicholas Hill. No man at this bar ever spent more time in valuable discussion, and none ever brought to the consideration of any question a greater amount of exact legal learning, or presented in a more attractive and impressive form the severer logic of the law. He never undertook the discussion of any question that he had not fully investigated, and of which he had not by attentive study and reflection made himself the master. The leading thought of his life was his profession. He loved its labors with enthusiastic devotion. No temptation could seduce him from its pursuit. If he relaxed his severer studies, it was to beguile an hour in the freedom of social enjoyment, or amid the delights of literature. His was a life of intellectual toil and of intellectual triumph. He was indebted to no adventitious aid for the honors that he won. They are the results of his own unaided intellect and of his own unparalleled industry. The reverence that we all feel for his great character is but the just tribute to exalted merit.

"His whole life was devoted to the loftiest of human pursuits.

"The administration of justice presents the noblest field for the exercise of human capacity. It forms, as has been well said, the ligament which binds society together. Upon its broad foundation is erected the edifice of public liberty. To lend humble aid in raising this structure is a valued privilege, but to stand pre-eminent among those who at the bar or upon the bench have beautified and adorned the temple of justice, is among the loftiest positions allotted to man.
From that proud eminence in the early morning of May Nicholas Hill descended to the tomb—closing a spotless life in the full maturity of his power, in all the warmth of his affections, and while yet the sun of his existence seemed at noonday. By those who value truth and honor manhood, who reverence intellect, and love all that is generous and noble in human character, his memory will be cherished as among the most precious recollections of life, and by the purest and greatest of those who survive him, his example may be viewed with profit; and it will be well with any, who at the close of life are worthy to fill a grave such as received all that was mortal of Nicholas Hill.

"By most all of those with whom the name of our departed brother was familiar, he will be remembered only as a great lawyer. To some of us he will be cherished in a nearer and kindlier relation. Those he honored with his regard will prefer to think of him as he was when he withdrew from labor and surrendered himself to the enjoyments of the hour. They will not forget his genial and generous nature, his graceful humor, the warmth of his friendship, and the thousand nameless qualities that made up the perfection of his character. Those who knew him only as the acknowledged leader of an honored profession, knew but little of the man. It was when, in the chosen circle of his friends, he left behind him his books and his briefs, that you were made acquainted with the excellent qualities of his heart. To those who knew him not, he may sometimes have seemed austere and distant, but to those he knew and loved, he was 'sweet as summer.' I prefer to cherish him as a valued friend, who has too early left us for an undiscovered country. I shall long remember our last interview on the last day of his life. Disease had laid its heavy hand upon him, but his mind was clear, and the energy and warmth of his affections had suffered no abatement. He felt con-
scions that he had been overtasked, and, I think, regretted that he had subjected his frail organization to such unremitting and exhausting toil. But he looked forward to the return of health, and to a season of repose; and yet there was a lingering doubt in his own mind, if that day would ever come. Alas! it never came. Within a few hours he passed from sleep to death, and there remains of him but the record of his toils and triumphs, and the memory of what he was. He died in the meridian of manhood, a victim to his own ceaseless devotion to the profession that now mourns his loss.

"So the struck eagle stretched upon the plain,
No more through rolling clouds to soar again,
Viewed his own feather in the fatal dart,
That winged the shaft which quivered in his heart."

"However distinguished we may be or have been in this life, upon the bed of death man returns to his individuality. He must die unaided and unsupported by human effort. Neither the applause of his fellow men nor the affection of friends and kindred can support him in that hour. All the honors of earth are then as valueless to the possessor as the withered leaves which the winds of autumn will scatter over his grave. Those who sit in the judgment-seat and dispense human justice will in their turn bow to that fixed and unalterable law of being, which dedicates all that is mortal to decay and death. In view of that solemn hour, the impressive lesson of the life and death of him we mourn will not pass unheeded. It comes too near us to be viewed with unconcern. I need not pause to impress it upon the attention of those who but yesterday looked into the new made grave of him, who, according to the standard of human judgment was entitled to "crown a life of labor with an age of ease;" but to whom, in the mysterious Providence of God, it was not permitted to find rest..."
from his labors, except amid the habitations of the dead.

"In that silent resting place, we leave him to the rewards which are promised to the pure in spirit, the blameless in life, and the upright in heart."
DANIEL LORD.

His name intimately associated with the Bar of the State.—Lord Brougham's description of Percival applies to Mr. Lord.—Mr. Lord as a Counselor and Advocate.—His Birth.—A Son of Dr. Daniel Lord.—Character of Dr. Lord.—His Heroic Conduct During the Prevalence of the Yellow Fever in New York, in 1798.—The Early Home of Daniel Lord.—His love for it.—Daniel Prepares for College.—Studies the French Language.—His love of that Language continued through Life.—Continues to Read French Authors.—Describes Voltaire in a Letter to a Friend.—Enters Yale College.—Dr. Dwight.—The Books which Mr. Lord Read while in College.—His Love of the Bible.—Pleasing Incident on Board of a Steamboat.—Mr. Lord Believed to be a Distinguished Clergyman.—How the Mistake was Discovered.—A Pious Lawyer Found.—Mr. Lord Decides to Enter the Legal Profession.—Enters the Office of George Griffin as a Student.—Description of Mr. Griffin.—The Great Trial of the People v. Goodwin.—Mr. Griffin's Great Speech.—Scene at the Trial.—Mr. Lord Admitted to the Bar.—His Marriage.—His Discouraging Prospects as a Lawyer.—Prosperity Slowly Commences.—Death of a favorite Child.—Its Effect on Mr. Lord.—Mr. Lord Continues his Struggles to Gain a Foothold in the Profession.—Mr. Lord and Charles O'Connor.—Anecdote Related by Mr. O'Connor.—Mr. Lord at last Gains a High Reputation in the City Courts.—His First Case in the Supreme Court.—Mr. Lord as a Chancery Lawyer.—The Case of Grover v. Wakeman.—Argues it against Abraham Van Vechten and William H. Seward.—Lord Succeeds.—Case Appealed to Court of Errors.—Mr. Lord argues it in that Court against Samuel A. Talcott and Benjamin F. Butler.—Talcott and Butler described.—Mr. Lord again Succeeds.—Result of his Success.—Important Cases in which he was Engaged, described.—Mr. Lord's Love of Literature.—Mr. Evarts a Student in his Office.—Anecdote of Mr. Evarts.—Mr. Lord's Habits.—His Domestic and Religious Character.—He unites with the Brick Church in New York.—Remark of Rev. J. O. Murray.—Mr. Lord Threatened with Paralysis.—Fears of his Family.—Touching Scene in his Family Devotion.—The Dreaded Hour.—Scene of his Death.

No name is more intimately associated with the bar of the State of New York than that of Daniel Lord—no name calls up more pleasing recollections than his; for in him were blended those qualities which are admired by the man of business, the scholar, the lawyer, the judge, and all who venerate virtue, religion, and talent.

As Lord Brougham said of Percival, "He was a warm and steady friend, a man of the strictest integ-
rity and nicest sense, both of honor and justice, in all the relations of society wholly without a stain—though envy might find whereon to perch, malice itself, even in the exasperating collisions of the bar, never could descry a spot on which to fasten."

As a counselor and advocate, his characteristic features were strength and originality of thought. His intellectual efforts brought with them, both in form and style, the stamp of his own mind and of mental independence. His mind was a well arranged legal library, where he could easily lay his hand upon whatever he desired. He was always strong before a jury, and in cases which called out all his faculties, he was eloquent, often impressive, occasionally ardent, though his ardor was rather the offspring of strong reason than the flow of imagination—the result of a strong prepossession of the justice of his case, than the power of sentiment or of ideality.

He made no claim to the external graces of the orator—no parade of learning. He did not enter any field of argument in the glittering panoply of science and erudition, wielding at pleasure all its arms; but like Hercules with his club, he used a single massive weapon familiar to his hand, smoothed and polished by frequent use, and that was the law. He entered the legal profession in the glow of youthful ambition, gradually winning his way to its highest honors,—in the meridian of his life a chieftain; in its decline a veteran—a champion with his armor on, still braced for the contest—moving triumphantly over that field of strife which he never abandoned for political distinction or the emoluments of office.

He was born at Stonington, Connecticut, on the second day of September, 1795. He was an only child of Dr. Daniel Lord, a physician of respectable attainments, but a man little calculated for the rough contacts and hard struggles of life. Dreamy and scholastic in his nature, with a book ever before him, he would forget his trials in the beautiful creations of
the poet—in the realms of science, or in the scenes presented by the historian, where monarchs, heroes, and martyrs are actors; and, therefore, though he acquired a competence, he never amassed riches.

In the year 1797, Doctor Lord removed to the city of New York, where he entered into a practice which promised to be lucrative; but at a period when his professional success began to have the appearance of certainty, he relinquished it, strange as it may seem, after having won public commendation for his heroic devotion to the sick during the prevalence of the yellow fever which raged so fearfully in New York in the year 1798.

The first victim of that appalling scourge was attacked on the 29th day of July, and died after a very short illness. Though his case was attended by most malignant symptoms, such was the healthiness of the city at the time, that his death excited no alarm. The deceased was a merchant whose store was in Front-street near Coenties-slip, and it was believed he was taken ill at his store. A few days after his death, several persons in that locality were attacked with the same sickness; but as their symptoms resembled a common cold, they did not regard the matter serious enough to call a physican. When at length medical aid was sought, they learned to their horror that they were suffering with the yellow fever, and beyond recovery. In a short time the disease spread to New-slip, Cliff-street, John-street, and other parts of the city; in some places not a family escaped its ravage; death, terror and misery reigned on every side. For a time it seemed as though the death angel was hovering over the city, and many fled from it as from the caverns of destruction.

At first, funeral processions followed one another in rapid succession; but at length this respect for the dead was abandoned, and they were hurried to the grave in carts and drays, with no ceremony whatever.
Many of the physicians in the city, actuated by the love of life, fled to places of safety: in the course of time many others were stricken down by the disease, leaving scarcely enough of the medical fraternity to attend to the sufferers.

Amid this pestilence, which indeed walked in darkness, Doctor Lord devoted himself to its victims with unwearied energy and calm fortitude. In the homes of the wealthy, in the abodes of poverty, by night and by day, he was constantly at the side of the suffering and dying. Around him flew the invisible arrows of death. Still he adhered inflexibly to his duty, bravely continuing at his post. With scientific observation he watched the effect of his prescriptions, carefully noting every phase of the disease; like a skillful general, valiantly resisting the attacks of his enemies, and preparing to repulse new onsets. He thus learned the nature of the disease and the mode of treating it,—and this knowledge subsequently became of immense value to his professional brethren.

At length the pestilence passed away, health and prosperity returned to the city, and Doctor Lord retired from the duties of his profession and engaged in the occupation of a druggist.

Mr. Lord’s mother was a superior woman, who exerted an excellent influence over him, and he ever regarded her with affection and veneration.

For a time, the business affairs of Dr. Lord progressed favorably. His business, though not extensive, was sufficiently remunerative to enable him to educate his son, while it furnished him a respectable livelihood. But in the decline of his life, pecuniary difficulties overtook him, which swept away nearly all his property. Fortunately for him, his son, long before this, had entered the battle of life, and if his advance had not been brilliant, it was sure and certain; he had already won a competence, and he prepared a home for his aged parents, where,
through the remainder of their days, they were surrounded by every comfort, and their last years rendered happy. Dr. Lord died in 1845, and his wife survived him two years. If there was no other record of Daniel Lord than that of his filial devotion, his name would attract attention and respect.

When Dr. Lord removed to New York, he purchased a house which was situated on the corner of Old-slip and Water-street; here he continued to live until it was destroyed by the great fire of 1835. This was the home of Daniel during his youthful days. Although unpretending, it was attractive and respectable. From the active scenes of life, from the triumphs of his professional career, Daniel Lord often looked back to this home of his childhood with inexpressible emotions, born of a lively remembrance. How beautiful are the associations which bring such reflections to the mind; when the heart, "lone mourner of its baffled zeal," is calloused by ambition, avarice, pride—when, tired with tumult—baffled in hope—beaten by the storms of life, through many a vanished year they flash upon us as a dream of what we were, and carry us back to the scenes of our early days of innocence.

At an early age Daniel was placed in one of the best schools in the city, where he prepared for college. At this institution he gained a knowledge of the French language, which he never lost. Indeed, in the last years of his life he derived great enjoyment from French authors, particularly the tragedies and lively tales of Marmontel.

In a letter to a literary friend, with whom he occasionally corresponded, he speaks of Voltaire as follows:

"The first name in French literature, during the period through which the Marmontel Memoirs extend, was unquestionably that of Voltaire; and they contain a considerable number of anecdotes relating to him. The impression which I have formed of him
from these is not unfavorable. He is represented to be more friendly and more genial than I had supposed—full of vivacity and impatience, to a degree of childishness and folly; extremely changeable in his humor; vain, satirical and ambitious, without modesty and without measure; but he was a gifted and powerful writer. Had it not been for his abominable skepticism, his name would have been much brighter in history; but, as an eminent modern writer has said of him, 'he had nothing of Mephistophiles in him. His fault was, that he was too humane; that is, too weak and too unsteady. Besides, we must remember, that in opposing religious opinion he was opposing the opinion of Monks and Jesuits. Fanaticism discontented him with Christianity. Observe the difference with which he speaks of the Protestant faith—with what gravity and respect. Had he been in England, I doubt if Voltaire had ever attacked Christianity. Had he been born two centuries before, I doubt whether his spirit of research and his daring courage would not have made him the reformer of the church, and not its antagonist.'

It would indeed be difficult to obtain a better insight into the character of Voltaire than is here given. It is a strong mental portrait, drawn by a master's hand.

In the year 1811 Mr. Lord entered the sophomore class at Yale College, under the charge of Dr. Timothy Dwight, who, as has well been said, "possessed by nature one of the highest orders of mind—a mind in which the faculties were all great and all in harmonious proportions, forming a fine example of a well-balanced mind." A warm and agreeable friendship commenced between young Lord and Dr. Dwight soon after the former entered college. The influence which the doctor had upon him was manifested in many of the features of Mr. Lord's character—first in the college student, and then in the lawyer and citizen.

That he gained the firm friendship of Dr. Dwight,
is a sufficient guarantee of his success and abilities as a student; for, as the doctor himself was the impersonation of industry, he admired that quality in others, and had no patience with indolent students.

"I can tolerate a dull student," said he, "because that is a misfortune—an imperfection in organization—but indolence is a vice engendered by habit, and therefore I cannot endure it."

Among the works Daniel read in college, were Campbell's Rhetoric, Paley's Theology, Gibbon's Roman Empire, Chastelleaux's Travels, Hume's History of England, with a little of Moore's and Falconer's poetry, the Spectator, and the Vicar of Wakefield. The latter was always a favorite with him. He was serious, reflective and sincere, possessing great veneration for religion, though then not an avowed professor. The Bible with him was always a favorite book. He was delighted with the delicacy of sentiment, the felicity of allusion and the force contained in the Psalms, and he regarded sublimity as a characteristic feature of Hebrew poetry, heightened by the splendor and magnificence of their sacred rites and their symbols of faith.

In the summer of 1845 the Rev. J. M. Sprague, a respectable clergyman who then resided in Buffalo, being in New York, took passage for Albany on one of the splendid steamers plying between the two cities. As soon as the boat was well under way, a party of young people on board prepared for a dance, and in a few moments "music arose with its voluptuous swell," and the dance commenced.

Mr. Sprague not being particularly interested in the amusement, turned away, with the hope of meeting some person whose taste would be more congenial with his own. The saloons and cabins were filled with gay and happy people, some of whom were engaged in lively, cheerful conversation, while many were deeply absorbed over games of cards. For some time
he wandered about the boat, finding no one whose acquaintance he desired to make.

At length he discovered a gentleman seated at a table in one of the cabins, engaged in reading a Bible which belonged to the boat; his black broadcloth suit, his grave, thoughtful and intelligent face, convinced Mr. Sprague that he was a clergyman. Accordingly, he seated himself a short distance from him, took a paper out of his pocket, and began to read, determined to make the stranger's acquaintance when he closed the book.

The latter continued to read for some time, occasionally making a note in a small blank book which lay on the table before him. At length he ceased reading, and taking a small piece of paper, placed it between the pages on which he had been engaged, closed the book, and walked to the other end of the cabin.

Curiosity impelled Mr. Sprague to examine the pages thus marked, and opening the Bible, he found the mark between the thirtieth and thirty-first chapters of Deuteronomy, in which Moses as a speaker addresses the children of Israel in a solemn and interesting oration, exhorting them by the most inviting promises to the observance of the covenant, and dissuading them from the violation of it, by threats of the most exemplary punishment; and for the purpose of impressing the same more forcibly on their minds, he afterwards embellishes the subject with the elegance of a poem which bears every mark of divine inspiration. The clergyman discovered several verses in these chapters marked with a pencil, among which were the first three verses of the thirty-second chapter, beginning with the words: "Give ear, O ye heavens, and I will speak; and hear, O earth, the words of my mouth."

After some time the gentleman returned, and as he took his seat, Mr. Sprague courteously addressed him. As he was pleasant, urbane, and intelligent, an agreeable conversation commenced, which was natu-
rally connected with religious subjects and the Bible. The clergyman was delighted with his new acquaintance, and thoroughly believing him to be an eminent minister of the Gospel, was determined to ascertain who he was and where he was engaged in preaching; but before politeness would permit him to make the inquiry, the gentleman was called to another part of the boat, and he did not see him again that evening nor during the passage.

Mr. Sprague was detained at Albany the next day, and, having some leisure time, he visited the Court of Errors, which was then in session at the capitol. On seating himself in the Senate chamber where the court was sitting, to his surprise he discovered among the lawyers in the bar, the minister of the Gospel with whom he was so interested on the evening previous; but, supposing he had been invited to a seat there by some one of the lawyers present, he thought no more of the matter, until, to his utter astonishment, his clerical friend arose to address the court. As he proceeded, the court, bar, and spectators listened with the most profound attention. Mr. Sprague soon ascertained from his language that he was arguing a case of great importance.

"Am I mistaken!" thought the minister. "Is it possible that he is a lawyer! He did not talk nor act like one last evening."

After some time the speaker closed and took his seat. Mr. Sprague could control his curiosity no longer, and approaching the sergeant-at-arms who stood near to him, said:

"May I ask you who that gentleman is that has just closed his speech?"

"Certainly, sir; that is Daniel Lord, of New York."

"Daniel Lord! is it possible! Why, I have heard of him often. I came up from New York with him on the boat last night, and took him for a clergyman."

"Well, sir, you were mistaken that time, though
he's a good enough man to be a minister. He is one of the best lawyers that come here, and what is more, he's an honest lawyer, sir, and the judges all believe him," said the sergeant.

"I thank you, sir, for your information, and I am happy to know that there is now and then a pious lawyer," said Mr. Sprague, and he turned from the officer to leave the Senate chamber.

In 1814, Mr. Lord graduated with distinction, standing second in his class.

Having decided to enter the legal profession, immediately on leaving college he commenced his legal studies in the law school at Litchfield, Connecticut, in which Judge Gould was then the principal instructor. He continued at this institution one year, engaged in studying the elementary principles of law, when he returned to New York and entered the office of the late George Griffin, who, for many years, was one of the great lights of the New York State bar, the associate of Thomas Addis Emmet, David B. Ogden, Josiah Ogden Hoffman, Wells, Blake, and other eminent lawyers, whose remarkable intellectual powers were often displayed in the highest courts of the State and nation. The trial of Goodwin for killing James Stoughton was one of the occasions on which Mr. Griffin's forensic eloquence shone forth with peculiar splendor. This case was tried at New York in 1820, before the late Cadwallader D. Colden, then mayor of the city.

Both Goodwin and Stoughton were young gentlemen who belonged to the most distinguished families in the city. A quarrel having taken place between them, they continued bitter enemies for a long time. On the nineteenth day of December, 1819, they met on the corner of Broadway and Courtlandt-street. A conflict ensued between them, in which young Stoughton was stabbed to the heart, and fell dead upon the walk. Goodwin was brought to trial for the crime, and an imposing array of eminent counsel ap-
peared for both the prosecution and the defense. Mr. Griffin was the leading counsel for the people; he was ably sustained by Messrs. Wells and Van Wyck. J. O. Hoffman, T. A. Emmet, S. Price, J. A. Hamilton and Mr. Munroe, were opposing counsel.

It was a case of all-absorbing interest in the city, occupying an entire week. Mr. Griffin's address to the jury was without doubt one of the great legal speeches which have rendered the New York city bar so distinguished before the nation. He closed his speech in the following language:

"The syren voice of pity has been sounded in your ears in behalf of the prisoner's youth, and you have been invoked as you value your own salvation to temper justice with mercy. Mercy is indeed a heavenly attribute — it is the very attribute of the Godhead to which erring mortals will cling in that day of retribution when we must all appear before the judgment seat, not as judges, or jurors, or counsel, but to await our final sentence. Nor is this favorite of the skies a stranger to our jurisprudence. Our Constitution has provided a place for it to dwell, even the mercy seat of the executive. But jurors may not, must not tamper with it; an oath enjoins them to forbear. It is chiefly because the law knows that jurors have compassionate and erring hearts that it fortifies them by an oath; compelling them to lay their hands upon the word of life, and to call upon God to help them, or not to help them, as they decide according to the law and evidence. Awful alternative, cleaving unto or renouncing the help of God! And yet, gentlemen, this oath, with all its sanctions, rests upon your souls."

After an able charge from the mayor, the jury retired, and at length returned into court with a verdict of guilty. Mr. Hoffman in behalf of the prisoner prayed that the jury might be polled; accordingly they were requested to pronounce their verdict separately as their names were called. Slowly the clerk
commenced calling the jurors by name, and all answered "guilty," until the fifth juror's name was called, who, after some hesitation, answered "not guilty." "That is sufficient," said Mr. Hoffman, with a look of triumph, and the prisoner, who until that moment had remained standing, sank into his chair, overpowered by his emotions. The jury retired for further deliberation, but they failed to agree, and on a second trial Goodwin was acquitted.

It will thus be observed that the legal preceptor of Mr. Lord was well calculated by his example, as well as his teachings, to inspire his student with that professional ambition, and to impart to him that knowledge which is so necessary for a successful career at the bar.

As was said of Ogden Hoffman, Mr. Lord's legal education was laid in a thorough knowledge of great elemental principles. He was a close practical student, letting no question or subject pass until he understood it as thoroughly as his powers would enable him, always seizing the moment of excited curiosity on a subject, to solve his doubts, knowing that if he let it pass, desire to learn it might never return, and hence he would remain in ignorance. This was his habit through his whole professional life; he always adhered strictly to Franklin's practice of exegitation even to his latest hour.

In October, 1817, he was called to the bar, and from that time until two or three years before his death, when premonitions of disease compelled him to relax his labors, his life was entirely devoted to his profession.

"On May 16th, 1818, he was married to Susan, second daughter of the late Mr. Lockwood De Forest, of New York, for whom he had formed an attachment early in his college course. He, therefore, entered upon his life's career surrounded with all the great responsibilities, yet supported by all the still greater encouragements of married life. The path that lay
before him seemed both rugged and uncertain. He had chosen a profession which, though it accorded entirely with his taste, was one requiring immense exertions to secure success, and in which others could help him but little, if at all. Besides all this, his own circumstances, as well as those of his father, were such as would not admit of much waiting for fortune. He was already committed to the issues of life. The future of those he loved depended upon him, and the consequences of failure would be very serious. But he gathered up his courage, and recognizing fully his exact position, shaped his course accordingly. Gladly availing himself of his father's offer of a home with him, he brought his newly-married wife to the family dwelling. At first his practice was not sufficiently lucrative to enable him to contribute much toward the common support, but as his business increased, he gladly assumed half the burden of the family expenses, which were very moderate. He remained thus situated for many years, when his own increasing family made it necessary for him to seek an independent home for himself. After mature reflection upon the propriety of making such a hazardous experiment, and after many a calculation of the cost, he hired a small house in Laight-street, near Canal, and moved into it with his family, which then included three children. This was in 1825." While residing in this house, he was called upon to part with a lovely little boy, who was to his parents a ray of sunlight shining upon their pathway. He was with them but a year, and then amid the sober beauties of declining autumn, he left them; heaven took the treasured little one, but his removal was a heavy blow to them, particularly to Mr. Lord. For a long time

"Grief filled the room up of his absent child,
Laid in his bed, walked up and down with him;
Put on his pretty look, repeated all his words,
Remembered him of all his gracious parts,
Stuffed out his vacant garments with his form."
How many there are who can sympathize with Mr. Lord in that silent sorrow which was so long a tenant of his heart; who, like him, mourn some loved one of the past, some bud of promise, some cherub child, that in the earlier scenes of his manhood he clasped to his breast as the idol of his life, then left him for an early grave, but still lives in his heart of hearts, bright, beautiful, and loving, as when in the cradle,

"He looked on him and smiled."

Though such mourners move in the world like other men, suffering no pause in their career, "courting business—pleasures—letters—ambition; discharging life's duties, fostering its affections, fulfilling its career, yet over their hearts a wintry change has passed, the sunlight of their life is shadowed. Though the stem, as heretofore, may be proof to the blast, yet the green leaves have been severed from it forever, and the bird has forsaken its boughs."

An eminent English jurist has remarked that a lawyer can scarcely hope to begin a career of substantial prosperity until after he is thirty years of age. No lawyer could more fully appreciate this remark than Mr. Lord. As was said of Mr. Burke, he was born to no expectancy but what depended upon himself; to deserve eminence seemed the only way to obtain it. The mediocrity of his beginning saved him from a premature trial of his strength. His youth was a protracted season of preparation, neither immersed in business, nor lost in abstractions; devoutly seeking for the learning of his profession, and full of sober, serious purposes of utility, and inspired by a determination to succeed. The world lay before him in all its glittering possibilities, but it presented to him no prospect of success, except through his own unaided exertions. He had no part in its allotments. His ability and industry were his only titles. Honor and dignity to him were matters not of claim but of
achievement; difficulty was his severe instructor, for it called all the dormant powers of his mind into operative existence.

Among the many distinguished cotemporaries of Mr. Lord who still survive him, is Mr. O'Conor, whose acquaintance with him began at an early period in life; and though they were often opposed to each other in the contests of the forum, yet it was a generous, high-toned rivalry, which had in it the attraction of example, because, by the conspicuous success of one gifted and powerful mind, congenial abilities are prompted to action. Thus the success of men like Brady, Noyes, and Hoffman, was the nurse of capacity in others with whom they came in contact, which but for their example, might never have reached its maturity. From the abundance of one mind others are made prolific.

To use the language of Mr. O'Conor, "Daniel Lord was an extremely modest man, and though he had many facilities for so doing, if inclined, he did not at the outset, become at once engaged in very active practice. During the few years that intervened between his admission to the bar and my own, he was not very extensively engaged in contested causes; and whenever we were called into the same case, during nearly forty years of my professional life, it almost invariably happened that we were placed on opposite sides. I found him an exceedingly formidable contestant. Nothing that diligence could discover, no agency that truth and honor could employ, ever failed to present itself upon his side. There was something remarkable in his laborious fidelity to his clients. I remember during the first or second year of my professional life, being engaged to prosecute a wealthy merchant for a humble mechanic. It was in a justice's court, and the sum in controversy was five-and-twenty dollars. The merchant would probably have paid thrice the sum, rather than enter upon the contest; but pride often governs in these matters; he
determined to resist, and the merchant's favorite of that day, Mr. Lord, was his chosen counsel. The sixmen jury assigned by law to such cases witnessed our mutual efforts for a whole day; and I can confidently affirm, that Mr. Lord as earnestly and diligently devoted himself to the trial of that case as he ever applied himself to any similar duty, when ten thousand times as many dollars depended upon his exertions. Greater zeal, more unwearying efforts, more absolute ability, so far as the case called for it, were not exhibited in his greatest cases, than in that very small one.

"Amid the haste and excitement of the bar, the best regulated tempers will sometimes fail to preserve their equanimity. Though the instances were rare indeed, yet truth requires the admission that, occasionally, while Mr. Lord and myself were contestants at the bar, words have been elicited from each of us which might not seem to have been conceived in entire kindness, and which were not at the moment accepted with perfect amenity. Yet I firmly believe that there never existed on his part, during the long period marked by our intellectual combats the slightest rancor. I know upon mine, there never were any feelings but those of the most cordial and respectful nature. It has been said that Mr. Lord was a sincere Christian. His course in this branch of our mutual experience and intercourse afforded a strong proof of it. I perfectly remember an occasion after we had been for fifteen or twenty years contending at the bar, when contemplatively viewing the past, I recalled the fact that every sharp passage between us had been promptly reconciled by a generous advance on his part. Considering that he was full ten years my senior, and that, doubtless, I was not unfrequently the offender, this reminiscence very justly excited emotions akin to self-reproach. It imparted additional depth and earnestness to my habitual respect for him."
DANIEL LORD.

Slow and discouraging as was his progress during the earlier years of his practice, his "habits of application coupled with the mental and moral powers which he possessed, at length brought their appropriate rewards. Success in the conduct of those unimportant litigations which fall to the lot of a young lawyer, procured him new clients whom his personal qualities soon converted into friends, and, his abilities proving equal to each larger trust that was committed to him, he gradually worked his way to the front rank of his profession, at a time when the bar of New York was made illustrious by the presence of men whose names will ever be conspicuous in the history of American jurisprudence."

Though he gained a high position in the city courts and in those of the counties adjoining, it was not until the year 1826 that he appeared in the Supreme Court at General Term, and some years more elapsed before he was heard in the Court for the Correction of Errors.

He had been at the bar but a short time before he began to attract attention as an equity lawyer. The earliest important cases which he conducted were in the Court of Chancery. Among these were the cases of Wakeman v. Grover, The Fulton Bank v. The New York and Sharon Canal Company, Dickerson v. Tillingast and others.

Wakeman v. Grover is a leading case—one that first settled the doctrine of voluntary assignments in trust. Grover & Gunn, in 1827, were among the heaviest mercantile firms in western New York, being engaged in business at Auburn. In the spring of 1828, they failed in business, owing a large sum of money to Wakeman and Varnum, who were the principals in two of the heaviest jobbing houses then in the city of New York.

As the Auburn merchants were on the point of failing, they executed a deed of assignment of their goods on hand, their debts, credits, and other prop-
erty, specified in a schedule attached to the conveyance, to three individuals at Auburn, upon trust. Among the usual conditions and provisions of such instruments, there was a clause making a preference to certain creditors in the distribution of the assigned property, to depend upon the execution by them, of a release to the debtors of all claims against them.

This conveyance was drawn by William H. Seward, then a young lawyer of a few years' practice, but who had already attained considerable professional reputation.

When intelligence of the failure of Grover & Gunn reached New York, their creditors there, believing the whole transaction fraudulent, determined to make an effort to have it so declared by the courts. Accordingly, Wakeman placed his case in the hands of Mr. Lord, directing him to thoroughly investigate the whole matter; and then, if he thought it advisable, to commence proceedings to set aside the assignment.

Even at that early period the New York merchants suffered severely from the fraudulent failure of the country dealers. This transaction was soon known to all the city jobbers; and Mr. Lord saw at once the vast importance of the case, not only to his own client, but to the city merchants generally. To himself, however, the matter was of paramount concern. To succeed in a case of this nature would have an inestimable influence upon his professional life.

He therefore studied the case deeply and thoroughly. Many of the questions in it were new. He carefully examined all the authorities bearing upon the matter, comparing and contrasting them with each other with the nicest discrimination. At length he satisfied himself that the assignment was fraudulent and void; and as soon as preliminary proceedings would admit, an action in chancery was commenced by Mr. Lord to set it aside.

In the action brought by Varnum for similar relief, John L. Graham appeared for the complainant.
The defendants answered the bill of the complainants, denying all fraud in the assignment, unless it was illegal on its face; and they insisted that it was not. Mr. Seward and the late Abraham Van Vechten appeared for the defendants. Mr. Van Vechten was then one of the ablest, if not the ablest, lawyer in the State.

At length the case came before the chancellor for argument. It was an important event in the history of Mr. Lord. On his advice his client had entered into this great litigation. The attention of the legal as well as the mercantile world was directed to it. But he was thoroughly prepared. He had the aid and sympathy of Mr. Graham, who was an accomplished and thorough lawyer. Perhaps no more finished and learned briefs were ever presented to a court of equity than were those presented by Messrs. Lord and Graham. That these arguments were clear, able and convincing, is attested by the result; for the chancellor held with them, and declared the assignment void, principally on the ground that it contained a clause excluding those creditors who should not come in within a limited time and give their debtors a general discharge; and also on another, which authorized the assignees to compound with all or any of the creditors, in such manner and upon such terms as they should deem proper, &c.

The defendants, not satisfied with the decision of the chancellor, appealed to the Court for the Correction of Errors, where, in the winter of 1834, it was argued.

Mr. Lord again appeared in opposition to the assignment. This was one of the first cases of importance, if not the very first, which he conducted in that high tribunal. Here he was compelled to contend against those giants of the bar, Samuel A. Talcott and Benjamin F. Butler. The first was, in every sense of the word, a great lawyer, "who was overpowering in the weight of his intellect"—who produced in the minds
of his audience all the sympathy and emotion of which the mind is capable—all which the argumentative can produce on the hearer—all which solidity, pathos or splendor, whether derived from original or assisted powers—could convey, of pleasure or conviction to the heart or understanding;” while the second possessed those powers and attainments, which, at the bar of any court—from those of the State up to the highest Federal tribunal—rendered him strong and effectual.

To enter the contest against such men was indeed a severe though profitable test of Mr. Lord’s abilities. His argument was plain and unassuming, but a model of force and precision. He examined, with learned scrutiny, whatever could by any possibility affect his case. He was full of his subject. He saw it in all of its bearings—felt all of its strength; knew all of its weakness. He was strongly and ably sustained by Samuel A. Foote, one of the ablest and oldest members of the bar in the State. Mr. Foote first appeared in the Supreme Court in the year 1816. His name constantly appears in the legal reports of the State from that time down to the present day, and he has been honored by a seat on the bench of the Court of Appeals.

It was the good fortune of Mr. Lord to win the victory in this great contest. It was a triumph which brought to him results of inestimable value. He had now successfully measured weapons with the ablest advocates in the State, and from that time until he retired from his profession, he continued to be the favorite lawyer of the New York merchants.

While it is not pretended that the case of Wake- man v. Grover was in every sense the most important case which Mr. Lord successfully conducted, it cannot be denied that, considering the influence which it had upon his professional career, it was to him of surpassing moment.

Among the earlier cases in which Mr. Lord was
engaged were the celebrated fire causes, in which many new questions were involved, and great pecuniary interests were at stake. These he conducted successfully. Soon after these were disposed of, the Dutch Church case was intrusted to him.

As was remarked by Mr. Evarts after the death of Mr. Lord: "If we recall, as I have been led to do, by a somewhat hasty glance, the series of causes of the most excitable character, which in the Federal or State courts had engaged the attention of Mr. Lord, we shall see how large an area they covered, and how extensive a number of the most important professional employments came year by year, step by step, to be under his charge." After stating the cases which have before been alluded to, he continues, "The American Life and Trust cases, containing in so many forms questions of usury, and of corporate action, arising in the transactions of that large institution; the case of the Leake and Watts Charity, embracing questions of wills and of charitable uses; the Mason will; the Phelps will; and running through all the same period a series of insurance causes, of mercantile causes in every form, of revenue cases, either on the forfeiture side of the Federal courts, or involving the question of duties and their exaction, combine to fill up, year by year, month by month, day by day, the course of his practice embracing these important topics of jurisprudence.

"In the United States courts, the case of Carner and Astor, known as the Putman County Land case, and finally argued in the Supreme Court of the United States, in the year 1880, by Attorney-General Bronson and Mr. Webster on the one side, and by Mr. Ogden and Mr. Wirt on the other, was the termination of a great and important controversy between titles made under the Statute of Forfeitures following the Revolution, and the title under a private conveyance, resulting in the maintenance of the superior title of the private conveyance. This is understood to
have been a case in which Mr. Lord was the responsible and managing lawyer on the side of Mr. Astor, although the principal, if not the whole forensic display, at least, was in the hands of the very eminent lawyers, on the one side or the other, whose connection with the case is historical. Then, soon after the disasters of 1837, in which the downfall of the credit system of this country had induced a large series of litigations on the part of foreign bankers and foreign merchants pursuing their debtors here, there came the celebrated case of Bell & Grant v. Bruen, in the year 1843, resting upon questions of commercial guaranty. A little later, in the year 1850, the well known insurance case of Barnard v. Adams in the Supreme Court of the United States, tried first in the Circuit in New York, involving the question of the contribution in general average, to make good the loss of a ship voluntarily stranded, under peculiar circumstances of apparently hopeless peril—an interesting and novel question, upon which Mr. Lord was successful in supporting his views. The case of Jasigi v. Brown, a little later, in the year 1854, was a case of considerable magnitude, involving the question of accrediting by letters of commendation or representation, parties who were involved afterwards in debts for which suits were brought. The Methodist Church case followed—one of those notes in the prelude of the great storm which finally ended in the armed revolt and in a threatened dissolution of the country. This great controversy arose on the partition of the Methodist Church between the North and the South, and I remember the case as almost the only one which, as an observer, an interested listener from beginning to end, I have been unable to attend since I have been at the bar; a case discussed in New York on the one side by Mr. Choate, of Boston, and Mr. George Wood, of New York, and on the other, by Mr. Lord, and Mr. Reverdy Johnson, of Baltimore; a case, the splendor of whose debates astonished as it delighted our bar, and in which Mr.
Lord's peculiar traits and powers, contrasting so much as they did the brilliancy in one way and another, or the solidity of these eminent lawyers, nevertheless left the impression upon the court and hearers, that Mr. Lord's mode of style and dealing with forensic questions within the region of practical and sensible decision was as marked, as useful, and as distinguished, as any of the more brilliant or more imposing forms of forensic power which his opponents or his associates presented. Then came the series of Bank Tax cases, the prize causes in the courts of original jurisdiction, and finally the argument in the Supreme Court of the United States of the principal and interest prize cause, that of the Hiawatha, in which the doctrine of the war, as bearing upon the public law of prize, and of submission to the laws of blockade, growing out of the first emergency in which our civil war had placed the government towards the revolted States, were the topics discussed. In the case of the Savannah privateers, involving an interesting question of criminal law, in which these same questions arose, Mr. Lord appeared for the defendants.

"If to the causes which have been enumerated there should be added the large number of cases in which he was engaged, and which, though important, did not possess the magnitude of those that have been referred to, the reader would be surprised at the vast amount of legal business which he conducted during his practice.

"And yet amid this vast field of labor, he found time for extensive reading. He never discontinued his legal studies, and it was one of his habits to read leading cases in the reports, merely for the intellectual pleasure which this employment afforded; and he often remarked that nothing gave the mind a more healthy tone than the study of the older leading cases, especially those in which the points of counsel fully appear, or where there are dissenting opinions by the court. But neither the love of legal studies
nor devotion to his profession impaired his taste for literature.

"It has thus been well said that there are few traits of character more pleasing in themselves, more strongly indicative of a naturally ingenuous and uncorrupted mind, than the power of thus preserving a love for the tranquil enjoyments of literature, unimpaired by the excitement of professional life. With Mr. Lord, there was no revolt from the associations of the past, no affectation of novelty, no yielding to thoughtless progression, and hence he never abandoned entirely the studies of his youth. The amplitude of his mind was continued and enlarged by that course of reading which tended to the investigation of moral truth. He was a close and philosophic reader of history, and kept up an enlarged stock of elegant literature, and studied with increased delight the older English writers, and the splendid paraphrases of Pope never failed to afford him pleasure.

"That political ambition which is kept alive by the love of office and which calls into action the most malignant passions was always distasteful to him. Indeed he had no political ambition whatever. Had he desired political distinction, he possessed that ability and those elements of popularity with the people which would have advanced him to high distinction. Once in his life, he was made a candidate for the State Senate. He was invited twice to a seat on the bench—each time by appointment to fill vacancies—once in the Supreme Court in the first district, and once in the Court of Appeals. On each occasion he declined the appointment, not from any sordid motive—as all will believe who knew him—but from a deep grounded distrust of the plan of an elective judiciary, then recently adopted in New York, and from a consequent unwillingness to be in any manner connected with the system."

Among the many eminent lawyers who, during his long practice, studied their profession with him, and
who survive him, is William M. Evarts, who thus describes his entrance into the office of Mr. Lord:

"It happened to me," said Mr. Evarts, "to become acquainted with Mr. Lord, the first among the lawyers of New York that I ever knew. During my college residence at New Haven, I had become acquainted with his person, which had been pointed out to me in some of his occasional visits to that city, the seat of his college education. Some circumstance of family connection led me afterwards, when a student at Cambridge, upon the casual suggestion of a comrade that I should turn my attention to New York rather than remain, as I had expected to do, in Boston—to think, as a possibility, that my acquaintance, or the means that I had to make the acquaintance with Mr. Lord, then eminent in his position at the bar, might give me an introduction to his care and attention, and might afford me opportunities of education, under circumstances which required me to be very careful in regard to expense and risk, in any step that I should take which might lead me to venture to become an aspirant for the distinction and success of the profession in this great city. I therefore feel that Mr. Lord was really the reason, the occasion, the opportunity, the means by which I was permitted to be introduced to any degree of professional labor and prosperity, which may in my own sense, or that of any about me, have attended me. I remember very well the kindness with which he received me, and the willingness which he expressed to receive me into his office; and when, at the appointed time, the succeeding summer, that of 1839, I presented myself, he said:

"'Well, Mr. Evarts, you have come to commence your studies and be a lawyer in New York; and I replied, doubtingly perhaps, as I supposed, modestly,

"'I have come to try.'

"'Well, sir,' said he; 'if you have only come to try, you had better go back. If you have come to stay, we shall be glad to receive you.'"
"And when I amended my answer by the information he gave me, that it was possible for me to stay—that I had come to be a lawyer, he received me cordially; and from that time to the time of his death he was my friend, my supporter and my guide."

As has been remarked by a recent writer:

"Mr. Lord was extremely simple in his tastes and habits, and it was one of his most striking traits that he was unwilling to have any one do for him what he could by any means do for himself. He always made his own minutes of testimony, kept his own books of account, and often copied his own papers, although all of these services would have been gladly rendered by others, if he would have allowed them to do so. These peculiarities were partly owing to his extraordinary capacity for attending to details, without neglecting more important matters, but they were also partly due, and perhaps in an equal measure, to the impatience of being waited upon. He was systematical in the arrangement even of trifles. The articles on his library table were never misplaced; the papers in his pigeon-holes were always in order, his drawer contained for years the same pen-knife, seal, and pencil, and always in the same corner; and his little pocket diaries, filled with the brief memoranda of his busy life for five-and-twenty years, were, after his death, found carefully preserved and arranged in succession, according to their years. The same habits of system and order could be observed in all the operations of his intellect. His thoughts, instead of floating at random through his mind, fell naturally into logical sequences, which aided his memory in retaining them. And thus whatever he had once acquired was kept ready for immediate use, and always in the most available form."

Mr. Lord, though not peculiarly eminent for his colloquial powers, was animated, accurate and pleasing in conversation. In public and in private, he was distinguished for the simplicity of his manners.
"He had nothing of that dictatorial arrogance, that constant effort at strength and originality of expression, and those almost mechanical arts of conversation, by means of which mediocrity of intellect is too often concealed beneath well-sounding sentences, and very ordinary men metamorphosed at a cheap rate into loud and ambitious talkers, and mimic Johnsons."

The gentleness of Mr. Lord's disposition admirably fitted him for the purest enjoyments of domestic life. In his home, he was the center of the deepest love and reverence. It was a home where refinement, intelligence, affection and religion blended to render it attractive and pleasing—for him a happy retreat from the cares, struggles and collisions of life.

From his earliest years, he was a firm believer in the doctrines of the Bible, and this belief was grounded upon an earnest conviction, resulting from a serious examination of the evidences and doctrines of Christianity, and the frequent perusal of the Scriptures. There was an innate reverence of God and all his works in his heart; he recognized something god-like in man's nature, and he believed the intellect to be an emanation from Deity, the indubitable evidence of an immortal nature. He saw the marks of divine intelligence in the heavens and in the earth; but he saw it more liberally displayed in the gifted mind, in magnanimity, in unconquerable rectitude, in philanthropy, which forgives every wrong, fosters kind affection and tender love, and is animated by examples of heroic and saintly virtue. All these he regarded as the pledges of a celestial inheritance.

"In the year 1833, he united with the Brick Presbyterian Church, then under the charge of the Rev. Gardiner Spring, D. D., and in the following year he was elected a member of its session, in which connection he continued until his death, bringing to the discharge of his duties as an elder a spirit of great conciliation, as well as the best abilities at his command."
As was well remarked, by the Rev. J. O. Murray, in an address delivered at the funeral of Mr. Lord, "Religion, indeed, owes a debt to the legal profession—the pulpit to the bar—which should be readily acknowledged; not only as the high-minded and eminent jurist keeps before the mind of men the great idea of law—a binding moral force, which the very word religion in its etymology suggests; but as such a man helps to preserve the true order and stability of society, in which Christian institutions have their best growth."

This sketch cannot be more appropriately closed than by adopting the following language of one who prepared a truthful memorial of Mr. Lord, soon after his death:

"His Christian character was one of mature growth, such as results from a union of warm feelings with broad and enlightened views. He took almost equal pleasure in devotional books and in those which expounded the theoretical doctrines of Christianity, and thus while his emotions were always quick and glowing, he was also ever prepared to defend his faith with solid arguments. The inevitable absorption of his time in his professional pursuits prevented him from taking a very active part in the current benevolent and religious enterprises of his day; but, whenever an emergency arose in which his practical wisdom, or his unflinching courage in opposing error could avail the cause of truth, he stood always ready—and was often called upon to do his part. And on all such occasions he brought to the work a spirit of meekness and moderation which calmed him even in the heats of controversy. He never forgot that while good men might, and often must, differ in their views, they should never give way to bitter wranglings, nor lose sight of the truth in the pride of self-assertion. And thus his counsels were not only wise but safe; and his loss was felt in many quarters"
where the weight of his influence had been relied upon in every time of trouble and perplexity.

"For several years before his death, there had been indistinct threatenings of paralysis which justly alarmed the members of his family, and which led him reluctantly but gradually to withdraw from his much loved profession. He was not wholly insensible to their warnings, but he possessed a wonderful faculty of refusing to dwell upon evils that he could not avert, and he succeeded in maintaining his cheerfulness in spite of many dark forebodings. But his malady made steady though measured approaches, and he himself doubtless soon began to realize what had been from the first apparent to all around him, that his disease was a fatal one, and that the final issue could not long be delayed.

"Under these circumstances, his spirit became, if possible, more subdued and gentle, and the graces of his Christian character gathered even greater luster than before. The summer of 1867, which preceded his death, was one of great anxiety to his family, and they entered upon the winter with sad anticipations of coming sorrow. All went well, however, until the new year had begun—a year that to others was to bring its completed months of checkered joys or sorrows, but only a few short days of suffering to him. A trilling professional effort, made early in January, which in his years of vigor would never have stirred his pulse or left a trace of weariness upon his frame, appeared to give a new impetus to his then slumbering disease, and from that time his system seemed to lose its balance, and his bodily functions began to fail. It was a most painful thing for those who so deeply loved him, to see this physical change come over him, while his mental powers, with all their acute perceptions, remained untouched. But his own courage did not desert him, for it was founded on never-failing supports. He was deeply affected at times by thoughts which he could not entirely drive away, but he fell
back upon the consolations of religion, and they upheld him. Those who gathered with him at family prayers, one Sunday evening but a few weeks before his death, will never forget with what a subdued pathos he read and remarked upon the beauty of those verses of the seventy-first Psalm:

"‘Cast me not off in the time of old age; forsake me not when my strength faileth."

"‘Now also when I am old and gray-headed, O God, forsake me not.’

"They were plainly passages which had been often in his mind of late, and the force of which he felt most deeply as his years seemed drawing near their end.

"It would seem almost a desecration to dwell much upon the closing scenes of his life. The deep experiences and trying struggles which, even for the pure and good, hang around the hour of parting from loved ones on earth, are too sacred to be held up to the gaze of any but those who have perchance participated in the sorrow, and whose memories can best recall to them those mournful scenes. But, even were we to lift the curtain for a moment upon any part of that sad month which preceded his death, we should find him always, as it were, in a hallowed atmosphere, surrounded with all the truest affection that faithful hearts could bestow, and upheld by Christian consolations and Christian hopes. The dreaded hour came at last. Up to within a few days of the final moment his mind was clear, and he was able to communicate with those who hung around his bedside. But, as the last hour drew near, his faculties began to lose their power, and consciousness succumbed. Yet, when the change came upon him, a placid calm seemed to steal over his features, and peace and rest were plainly written there. He was in a great measure spared the dreadful agonies of mind and body which so often accompany his disease, and at the last, life seemed to
sink away from him as quietly as the sands drop through an hour-glass.

"On the morning of March 4th, 1868, it was apparent that that day would be his last. All remedies had lost their power, and nought remained but to await, in patient resignation, the long-apprehended moment. Once in the early forenoon he sank very low, but again revived to nearly his former strength, and continued through the hours of daylight with but little change, except that his respirations grew gradually quicker and fainter. At last the night came on, spreading its curtain across the sky, and casting its shadows on that upper room, where loving hearts were throbbing in silence at the thought of the long parting. A little group, where none were absent whom he would have wished to see could his eyes have opened, nor any present who could not call him 'husband,'—'father'—sat, sad and sorrowful, within the sound of his short, quick breathings, as he lay motionless upon his couch. From time to time one of the number would approach the bed to gaze once more upon his serene but pallid face, or, in helpless affection, to render some service which it was hoped might give him some relief; but it was evident that all earthly help was unavailing, and that the King of Terrors was at hand. At about 9 o'clock a few convulsive gasps gave signal that the end was near. Quickly and silently the little circle closed around him; and then, when all was hushed and still, save the sobbing, which he could not hear, he gave one struggle more, and breathed his last, surrounded by all whom he held most dear upon earth, and whom he most would wish to meet in Heaven.

"Death found him well prepared. His peace had long been made with God; and when the summons came, it was to call him from a life of useful toil below to an eternal rest above."
B. DAVIS NOXON.

Born at Poughkeepsie, in 1788.—Obtains the Rudiments of his Education at a Common School.—Enters Poughkeepsie Academy.—Completes his Classical Course and Commences the Study of Law.—Called to the Bar.—Removes to Marcellus and Commences his Practice.—His Legal Business.—His Opponents at the Bar.—Their Sagacity.—Noxon Compelled to use every Exertion to Sustain Himself against their Attacks.—Able at Last to Resist and Return the Attack.—The Attachment Case.—The Defective Affidavit.—How Noxon Sustained it.—Bridges an Error and brings his Client safely over it.—Condition of the Laws and the State Reports when he Commenced his Practice.—His Love of Fishing and Hunting.—It brings him before the Court.—His Fishing Excursion Announced by his Boots.—The Preferred Cause.—Judge Monell at the Ithaca Circuit.—Characteristics of Noxon Exhibited by an Amusing Incident in his Early Practice.—He Removes to Onondaga Hill.—His Compeers at the Bar.—Removes to Syracuse.—James R. Lawrence.—E. W. Leavenworth.—Noxon forms a partnership with him.—Noxon as a Legal Speaker.—Compared with other Speakers.—His Knowledge of Land Titles.—The Important Trials in which he was Engaged.—His Social Qualities.—His Character as a Private Citizen.—Address of Honorable C. B. Sedgwick before the Members of the Onondaga Bar, after the Death of Mr. Noxon.

B. DAVIS NOXON possessed one of those original, active, reflective minds which have a tendency to superiority. Although he seemed to be naturally constituted for the legal profession, his mental endowments would have enabled him in almost any avocation to pass the bounds of mediocrity. Bold, ardent, fond of investigation, entering deeply into fundamental principles, a ready reader of character, with a forcible and pleasing eloquence, he was admirably capacitated to attain a high position at the bar by the force of his character and his intellect, for upon these alone he was compelled to rely for advancement.

He was born at Poughkeepsie in the year 1788, where he resided until he was admitted to the bar. He obtained the rudiments of his education at a com-
mon school, where the highest faculties are often developed. At length he entered the Poughkeepsie Academy, where he remained nearly three years. Here he perfected himself in the natural sciences, and made considerable proficiency in the languages. Having thus completed a thorough academic course, he entered the office of the late Philo Ruggles, then an eminent member of the bar, with whom he remained until the year 1809, when he was called to the bar. Immediately after this event, he became a resident of Marcellus, in the county of Onondaga, where he commenced his practice. Entering ardently into the duties of his profession, the young lawyer soon exhibited a mind capable of grasping and analyzing the intricacies of the law.

At first, his practice was principally confined to justices' courts, in which, at that time, the ablest members of the profession occasionally appeared. This kind of practice opened a field of labor in which no one without considerable ability could sustain himself.

In these courts, he was compelled to contend with Kellogg, Sabin, Forman, Randall and others, who at that time constituted the fighting material of the bar in central New York. Hence young Noxon was forced to study hard, think closely, act with energy, watch every point with the closest attention, in order to sustain himself against the attacks of his subtle opponents, who often, in the commencement of his practice, entrapped and overthrew him. But at each fall, like Antæus contending with the celestial giant, he only touched the earth to spring with renewed vigor to the contest, and he soon gained the ability not only to sustain himself against the sudden onset, to disentangle himself from the meshes which art and experience threw around him, but in his turn to be formidable in the attack, and sagacious in detecting the errors and omissions of his opponents.

At a period when he had begun to evince some-
thing of his superiority and ability to protect hims.; if he commenced proceedings by attachment in a justice’s court against a dishonest debtor, who attempted to abscond with his property, intending thereby to defraud a poor honest shoemaker out of a small sum of money, which he had labored hard to earn.

Nothing could exceed the technicality of the affidavits and other papers on which justices’ attachments in those days were founded. He who possessed the ability to prepare these papers so that they would withstand the attack which was invariably made upon them, might well lay claim to considerable reputation as a lawyer. In the preparation of the papers in this case, Mr. Noxon encountered many difficulties, and when finished, they contained so many erasures and interlineations, that it was extremely difficult for any one to read them but himself. Deeming them sufficient, the justice issued the attachment, and the defaulting debtor’s property was seized. On the return day of the process, he appeared with one of the most skillful lawyers in the county, who, seizing Noxon’s affidavit, commenced studying it for the purpose of detecting some error by which he could quash the proceedings and allow his client to escape. For a long time he scanned it closely and critically, occasionally growling about the manner in which it was written. At length he became satisfied that he had discovered the omission of a material averment in the affidavit, which rendered all the proceedings under it void; and he promptly moved the court to vacate the attachment, pointing out the error, as he believed, very clearly and distinctly.

“Mr. Noxon,” said the justice, after listening to his opponent, “if that error really exists, I must grant this motion. What have you to say about it?”

The young lawyer, who comprehended his danger at once, and as quickly conceived a mode of escape, promptly said:

“I agree with your honor that if the error to which
the counsel alludes really exists, these proceedings cannot be maintained; but let the counsel show, if he can, that they do exist," said Mr. Noxon; and, taking the paper from his hand, he coolly proceeded to read it through. When he had finished, sure enough, there was nothing wanting, everything appeared in the full strength of appropriate legal diction.

"The counsel don't read it right," roared the opposing lawyer.

"What do you mean, sir? Do you mean to come here and take advantage of my poor writing, and construe my language to suit yourself? Do you think that, because everybody cannot write as well as you can, that you are to have your own way in everything?" said Mr. Noxon, giving the justice a meaning look.

"I mean to say," said the lawyer, "that your affidavit is good for nothing, that it does not contain the proper averments; and I ask the court to dismiss the proceedings."

"Gentlemen, I really don't know what course to pursue in this matter. The way one of you reads the paper it is good for nothing, and the way the other reads it, I can see no error in it. How is this to be decided?"

"By reading the affidavit yourself," said Noxon, boldly.

Accordingly, the justice commenced reading. For a time he succeeded admirably, making good progress, until he reached the region of erasures, alterations and interlineations. Entering it with great determination, he continued until fairly entangled amidst the intricacies of scratched and erased lines, which crossed and recrossed the paper in devious courses, while here and there legal phrases appeared, like distant neighbors in a wilderness, and then he came to a full stop. Taking breath, he commenced again. After much studying, he said:

"Well, I guess likely, if all these words could be
put together, just as you intended, Mr. Noxon, I
think there is nothing wanting."

"Exactly, your honor," said Mr. Noxon. "I ne-
eglected to put in one or two of those characters called
carets, which, your honor understands, show where
interlined words should be placed."

"Well, Mr. Noxon, suppose you read the paper,
and I'll look over."

Accordingly, the young lawyer again read the pa-
er, the justice and the other lawyer looking over;
again it appeared that nothing was wanting; all the
requirements of the statute were fully included, and
the paper was really a strong one.

"Yes, I see, it's all there, it's all right, very plain
to be seen, too, only them carets ain't there," said
the justice.

The opposing lawyer, seeing himself in danger of
being flanked in his attack, made a desperate struggle,
and finally proposed to read the affidavit again him-
self, assuring the justice that he could show him the
omission very plainly.

"What good will it do you to read the paper. You
don't know where them carets should come in, and
nobody else but Mr. Noxon and myself do, so you
can't read the paper right if you try. I tell you carets
are very particular things; writing wouldn't be much
without them. So I shall hold the affidavit good, and
if you have got a good defense, no harm will come to
you," said the justice.

The cause was then tried. Mr. Noxon succeeded in
a case where right and justice were entirely with his
client, and where, by bridging an error, he saved his
client's honest demand, and his own reputation. The
opposing lawyer, however, advised his client to appeal
the case, insisting that there was a perfectly fatal error
in the affidavit.

"Well, 'Square, 'spose there is a big mistake,
what's the use trying to do anything with it. That
confounded Noxon—he'll come in and talk to the
court about them 'ere carups and things, and he'll make black white, and white black, and I shall get beat again. Carups was too much for you that time, 'Square, so I'll pay up and have done with the matter," said the man.

It was the delight of Mr. Noxon to measure weapons with older and more experienced opponents, because he was well aware that in this way he gained strength and confidence. From the commencement to the end of his professional life he was a thorough, laborious and constant student. One of his most marked characteristics was his ability to understand the weak and strong points of his own case as well as those of his adversary.

At the commencement of Mr. Noxon's practice our State reports were few, reaching only to the third or fourth volume of Johnson's Reports; but he never failed to consult diligently the common law, and those works on which the careful student depended so much for light and learning. He was a close, constant and practical thinker; and although he was often charged with indolence—a charge to which many industrious lawyers have been subjected—those only called him indolent who were unacquainted with the study and thought revolving in that mind which in after years so captivated courts and juries with learning and eloquence.

Within a very short time after Mr. Noxon commenced his practice he was regarded as a successful lawyer, and his brilliant future career at the bar was plainly foreshadowed. But though his professional ambition was great, he knew how to curb it, so that it did not so far overlap itself as to render him forgetful of those enjoyments so necessary to the health and vigorous expansion of his physical and mental powers.

Fishing and hunting were his favorite amusements; and it may be safely said that, with trout-pole in hand, he threw his line, with the skill of a Walton, into
every stream where trout abounded in Onondaga and the surrounding counties, while his gun resounded on every marsh, every woody hill-side, every shaded hill-top, in every dell and deep glen within his reach, where a bird could be flushed or game of any kind started.

Many years ago he was attending the Tompkins Circuit, at which the late Judge Robert Monell pre-sided. The cause he was waiting to try was set down for Wednesday morning, the first week of the circuit. On the adjournment of court Tuesday evening, Mr. Noxon accompanied a friend home, who resided a few miles out of Ithaca, where he remained during the night.

In returning to town the next morning the axle of his friend’s carriage broke, and he was therefore considerably delayed. On reaching the court room he found another cause on trial. It happened that Hon-orable Hiram Gray, then in the midst of his extensive and brilliant practice, was waiting to try the next cause. When the case on trial was disposed of, Mr. Noxon moved his cause, claiming the precedence. Judge Gray, however, objected, on the ground that he had lost his privilege by his tardiness in the morning, and insisted that his case was the next in order. Whereupon, Mr. Noxon, as an excuse for not being present when his cause was called, informed the court of the accident which occurred while on his way to the court room.

"Had it not been for the broken axle, your honor," said he, "I should have been here in due time."

"His excuse is not a proper one, your honor," said Gray; "he has been off fishing and strayed too far away."

"How do you know that?" asked Noxon.

"Because," said Gray, "when you came into the house I heard your boots go squish, squish, squish; and that, as everybody knows, is a sure sign that you have been a-fishing."
Judge Monell, with that dignity which characterized him while on the bench, said:

"I myself often indulge in the healthy and pleasing amusement of fishing, and I am inclined to encourage the pastime in others. It is a manly art, and should be cultivated; therefore, brother Gray, you ought to know that upon your own showing the counsel's excuse will be regarded by this court as a proper one. Take a jury, Mr. Noxon."

At the dinner table that day, Gray suggested to Judge Monell the propriety of having the rules of the court so amended that when counsel desire to fish, they can enter an order to that effect in the common rule book, and thereby delay the cause without prejudice, until they return, provided they do so during the term, if not—then their causes were to go over without costs, as a matter of course.

"That would hardly do, brother Gray," said the judge; "there would soon be too many bungling fishermen about, if such a rule was adopted. If you could make the rule apply only to accomplished fishermen like Noxon, Hurlbert, and some others I could name, I think I should approve of it."

Notwithstanding Mr. Noxon's reflective and speculative mind, he acted with great energy in practical affairs; and under all circumstances he maintained his firmness and gravity.

This was illustrated in his first case before a magistrate. He examined and cross-examined the witnesses in the action with unusual ability for one so unaccustomed to the business, and when the evidence was all taken, summed it up very forcibly. During his argument, the lawyer opposed told him he lied. Noxon immediately knocked him half senseless into the lap of the justice, and then continued his remarks as though nothing had happened.

The next day, he was arrested on a charge of assault and battery, and taken before a magistrate in an adjoining town. This justice, who was a good
natures, well-meaning Dutchman, having heard the evidence against the prisoner, was very much puzzled to know what disposition to make of the case. After studying some time upon it, he called to his wife, who was sitting by the door in an adjoining room, and asked her what course he had better pursue.

Polly inquired of one of the witnesses how soon the blow was given after the lawyer told Noxon he lied.

"It was a word and a blow," was the reply.

She then continued her knitting without uttering a word. At length the justice, who was anxiously waiting for her reply, said:

"Vell, Polly, vat you tink now?"

"I think Mr. Noxon served him right," said she.

"Vell den, I tink so too; and dat ish the shudgment of tish court," said the justice, straightening up with the importance of his official position, and the prisoner was discharged.

In 1828, Mr. Noxon moved to Onondaga Hill, where the court house and clerk's office were then located.

He was then thirty years of age; and although he had been at the bar but eight years, he had already acquired a reputation beyond the limits of his county. His acquaintance increased at each successive court, and his ability exhibited itself in every trial, attracting the attention and gaining the respect of the distinguished jurists by whom he was surrounded.

He continued to reside at Onondaga eleven years; and when the court house was removed to Syracuse, Mr. Noxon also removed to the latter place. Many now living will remember the interesting and exciting trials which occurred in the old court house at Onondaga, where Spencer, Savage, Walworth and Nelson presided, and where the old gladiators of the bar contended. Among them, James R. Lawrence and Mr.
Noxon were conspicuous—contesting the rights of their clients in almost every cause on the calendar. James R. Lawrence was in his day a power at the bar. He possessed the rare faculty of causing jurors to believe in him; while his fine elocutionary powers, set off by a keen and sparkling wit, rendered him attractive and pleasing to the people. As a sensible farmer, residing in the town of Manlius, once said of him:

"Lawrence is one of the institutions of Onondaga county. Not to see him in our courts would seem like having no courts at all."

Immediately after becoming a resident of Syracuse, Mr. Noxon formed a copartnership with Elias W. Leavenworth, a lawyer of commanding talents, and a gentleman of many rare and attractive qualities. For the long period of fifty-five years Mr. Noxon's professional labors were a splendid success. It was during the last twenty years of his practice that he achieved those high honors which are awarded to a successful and popular lawyer. It is difficult to decide whether he excelled at the circuit before the jury—where words of burning eloquence convince men, and cause them to yield a willing assent to the supremacy of the gifted orator—or before the court, where abstract questions of law alone are discussed, and where the only charm which endows the speaker consists in the facility of wielding logic and in the subtlety and compass of reasoning.

But in neither place was Mr. Noxon one of those speakers who always talk as long as they are listened to—measuring the quantity of their eloquence by the time that can be afforded for its display—the quality, by the nature and patience of the audience to whom it is addressed. He knew how to express his thoughts in brief, well-timed, admirably arranged and elegant language, perfectly free from exaggeration, and suited to the capacity of his hearers. The House of Commons, it has been said, is strewn with the wrecks
of the reputations of eminent lawyers; and perhaps the same remark may, to some extent, apply to the legislative bodies of our own country. Often the most successful speaker in the parliamentary arena is he who often "abandons the point of debate altogether, and singles out from the adversary some victim whom he may torture by ridicule or reproach, or lay hold of some popular party topic likely to point the public indignation against his opponent, or flatter the passions of his older adherents. Many of the speeches in such places are not, in effect, addressed to the supposed audience, but to the people; and, consequently, are like scene-painting—which is to be viewed at a distance, and by the unskillful is more remarked for the boldness of the figures and the vivacity of the coloring than for nature and truth. It is not the genus deliberativum, but the genus demonstrativum of eloquence that is most successful there."

As Mr. Noxon confined his elocutionary powers and his ambition to his profession, he never shared the fate of those who, like actors, are permitted to wear the habiliments of office for a brief period, to appear in character for a short time, and then pass behind the scenes, out of sight and out of mind. Consequently, it is impossible to tell what he would have been, as a speaker or manager, in those places where politicians do most congregate.

That he succeeded at the bar as a powerful speaker and advocate, is certain. That his fame rests on no ephemeral circumstance, but is the result of solid acquirements and of great mental discipline, is equally certain. For twenty years his voice was heard in the court rooms of the surrounding counties, with such antagonists as Mullen and Chittenden, of Jefferson; Allen, of Oswego; Seward, Rathbun, Bronson, and Hurlbert, of Cayuga; Beardsley, Spencer, Denio, Gridley and Jenkins, of Oneida; Marvin, Worden and John C. Spencer, of Ontario; Collier, of Broome; Cady, of Montgomery; Johnson, of Tompkins; Ste-
vans, Hill and Reynolds, of Albany; J. C. Smith and Adams of Wayne; and others, alike distinguished in other parts of the State.

Perhaps no lawyer in the State was more learned in the trial of causes relating to lands in the military tract, than was Mr. Noxon. His familiarity with the titles growing out of disputes relating to lands set apart to soldiers for service in the Revolution, gave him a reputation as wide as the State; and whenever cases relating to these lands were brought before the courts, among the able and distinguished men at the bar employed in settling these titles, were to be found such men as Kellogg, Cady, Wood, Noxon, and other jurists occupying the front rank in the profession. He was familiar with the practice and proceedings in all the courts of law and equity in the State, as well as the Circuit and District Courts of the United States.

As a criminal lawyer, he often appeared in the defense of men charged with high crimes, and although the criminal law was not with him a specialty, who can forget the masterly power with which he probed to the quick an unwilling or refractory culprit on cross-examination? Who can fail to remember the scathing rebuke and lashing dishonest witnesses received on the summing up? It is impossible to give a sketch of the important trials in which he took a part as counsel during a period of nearly sixty years devoted to his profession, and it is hardly possible that any lawyer of the State had been engaged in more trials and won brighter laurels. Often when he met Spencer of Oneida at the circuit, every cause on the calendar would be stoutly contested by them as antagonists, and the fight be as hard and desperate as when "Greek met Greek." Of some of the cases in which he was engaged, and met the giants of the profession, we might mention the case of Wilbur, tried in Madison county for murder, and of Bates for the murder of Riley, tried at Batavia, in which Mr.
Noxon was counsel for the people; — of Marsh v. Hutchinson, tried at Onondaga, and in which Hurlbert, Adams, Randall, Beardsley, Lawrence, Gott, and others were engaged; of Russell, tried at Ballston Spa by Mr. Noxon and John Van Buren on one side, and Honorable J. K. Porter and Samuel Stevens on the other, and in which other distinguished counsel also participated. This last case had been previously tried at Poughkeepsie, when Daniel Webster appeared as counsel for one of the parties. He was also engaged in the case of Hubbard v. Briggs, tried at the Wayne Circuit in 1844, and afterwards at circuit six or seven times, and several times in the Supreme Court and Court of Appeals. In this celebrated case, which for over twenty years was in the courts of the State, many of the master spirits in the profession were engaged; among others, General Adams, John Maynard, J. A. Spencer, Alvah Worden, Mark H. Sibley, T. R. Strong, Daniel Pratt, George F. Comstock, C. B. Sedgwick, Judge James C. Smith, E. G. Lapham, and Francis Kernan. The libel suit brought by Elam Lynds against the proprietors of an Auburn newspaper, for charging Lynds with cruelty to prisoners as keeper of the Auburn prison, was tried at the Onondaga Circuit, and was summed up by Mark H. Sibley for the defendant, and Mr. Noxon for the plaintiff. The case of Miller v. Opdyke, tried at the Seneca Circuit, involving the title to a military lot, was tried by James Noxon as attorney, assisted by B. Davis Noxon, his father, for the plaintiff, and by S. G. Hadley, assisted by Daniel Cady, for the defendant. Other important cases might be referred to as having been tried at the Oswego, Jefferson, Lewis, Herkimer, Oneida, Madison, Chenango, Broome, Cortland, Yates, Cayuga, Tompkins, Chemung, Wayne, and Monroe Circuits, all of which Mr. Noxon was in the habit of attending and displaying there the abilities of a profound and distinguished lawyer.
Often in the trial of causes at these circuits, without knowing what was the question to be tried, Mr. Noxon entered upon the trial, carefully taking the minutes, and as step by step the case unfolded itself, he seized the main points and became master of the case long before the testimony of the parties had been given. Now came into play the wonderful gifts with which nature had so well endowed him. His strong common sense, his quick perception of right and wrong, his keen recollection of important cases and principles which bore upon the case on trial, all made him appear as if he had made of the case a careful and diligent study. Now came a motion in relation to the admission of testimony, and then a motion for non-suit, and then burst forth from his lips that native power and strength which convinced the judge, overwhelmed the adversary, and delighted the auditory. With no effort at eloquence, and no seeming choice of language, his address was the very embodiment of nature's gifted orator, and his words so apt and expressive, that it seemed as if nature had furnished first the thought, and then the word fittest to express it. But the questions of law were settled, the evidence closed, and then came the address of counsel to the jury. In addressing the jury, Mr. Noxon never flattered, never coaxed, and rarely appealed to passion. The strong points in his case, and the weak points of his adversary were held up to the jury in language so plain that no one could mistake his words. If arguments were needed to convince, they were drawn from the every-day transactions of life, and jurors were appealed to from their own good sense, from their every-day observation, and from their natural love of right against wrong. He never feared to tell a jury of the difficulties and embarrassments of his own case; he never delighted in poetic flights; he never studied to tickle the ear with enchanting words; but often in those cases where others aimed to please by well-turned periods, and choice and elegant language, as
if by inspirations his eloquence and brilliancy in the use of the most common words, and by the most natural and easy figures of speech, won the hearts of the jury and threw a spell over the crowded court room drawn thither to listen to his thrilling words.

The sketch here drawn would be highly imperfect unless we mentioned that to the rare gift and acquirements attained by great labor, and incessant toil, he was not less distinguished for those high moral qualities without which true greatness is never earned. To speak of Mr. Noxon as an honest man conveys no just idea of his true nature. That he detested fraud and abominated wickedness and trickery and every form of rascality, was conspicuous in every act of his life. Truth and fidelity shone forth in every element of his nature. His word was sacred among his professional brethren, and no client ever feared that his rights would suffer while intrusted to his hands. Mr. Noxon was not a politician in the ordinary acceptation of the word. He had no ambition for office. He loved the law and was ambitious of standing on the upper round of the legal ladder. The schemes, tricks, and caucuses of politicians were detested by him as corrupting and defiling. He entertained no higher opinion of a dishonest politician in his own party than he did of one in the opposition. He loved his principles and endeavored to persuade men they were right. He felt a bitter feeling and hatred towards all kinds of opposition that upheld fraud. He never winked at iniquity anywhere. His social qualities, his genial nature, his sympathetic heart, which, in his everyday life was exhibited around his own fireside and in his own family circle, were extended to his neighbors and friends. He loved to meet and enjoy the society of the young, and to take by the hand the young man just entering upon his professional life and point him to the stars shining in the legal horizon. His manner
was so winning, his words so kind, that no one thought of being timid in his presence.

At a meeting of the bar of Onondaga county, called to give expression to the feelings of the bar upon the decease of Mr. Noxon, Hon. C. B. Sedgwick said in relation to the litigation growing out of the titles of land in the military tract:

"The nisi prius courts were held by the judges of the Supreme Court; the giants of the profession, the elder Spencer, Kent, Platt, Van Ness, Livingston, Tompkins and Yates, lawyers of the highest reputation from all parts of the State—Van Vechten, Elisha Williams, Emott, Daniel Cady, Martin Van Buren, were constant attendants upon our courts. These were the men with whom the young lawyers of that day were to measure their strength, and such the tribunals which would decide where victory was to be awarded, and among such lawyers Mr. Noxon was conspicuous. In knowledge of this branch of the law, in careful preparation, in the acumen necessary to mark every nice distinction, in the skill to detect and expose fraud and perjury, in boldness, tact, pertinacity in his hard logic for the court, and his skillful appeals to juries, he was in the front rank of his profession. Experience in the trial of such causes made him a complete and thorough lawyer, and he stood almost without a peer or rival in real estate law throughout his professional life. At the time Mr. Noxon commenced practice, the reports of this State consisted of Johnson's and Caines' Cases, and four volumes of Johnson's Reports; the statutes of the State were hardly equal in bulk to one volume of our present Session Laws; Story and Kent were busy as advocates or judges in acquiring the reputation which afterwards made their commentaries authority. The works of Tidd, Chitty, Saunders, Bacon, Coke, Sugden, Fearne, Blackstone and Phillips, upon practice, pleading, evidence, and leading legal principles, contained about the whole armory of the
common law. Mr. Noxon studied the cases which shaped and settled the law of this State as they arose. In many important ones he had a part. In all his career as a lawyer he was distinguished for his accurate knowledge of adjudged cases—their reasons, their distinctions and their limitations, and no man had a better memory to retain, or more skill to use this knowledge. From this armory he drew at pleasure, battle-axe or scimitar, and wielded them as required with a strong or a cunning hand. I should do great injustice to Mr. Noxon's professional character, if I left it to be inferred that he was merely a real estate lawyer. His mind was equally ready or nearly so in other branches of his profession. He was quick-witted and ready as well as strong in the trial of cases. I well remember the story of his defense of a man prosecuted for libel, in calling a man a buttermilk doctor, as related to me by my old preceptor. The case was tried before Judge Van Ness. It was his habit to have a pitcher of buttermilk on the bench, and to drink it freely, after the manner of his Dutch progenitors. In summing up, Mr. Noxon said:

"It is no libel to call a man a buttermilk doctor. I, as well as his honor, the judge, have some such blood in our veins, and I should not feel insulted or libeled to be called a buttermilk lawyer, nor would he to be called a buttermilk judge."

This provoked a laugh upon the plaintiff by the outsiders and jury, which was a pretty sure index of their verdict. He was master of invective, always honest, but sometimes carried to excess. A false and lying witness met with no mercy at his hands, and it required something more than ordinary cunning to hide a lie from his searching cross-examination. I think he delighted in hanging up the scalps of parties guilty of any kind of fraud, oppression, or overreaching, to dry in the smoke of his cabin. In a case he prosecuted for seduction, he quoted the lines, and it
is the only poetical quotation I remember to have heard from him:

"Are there no lightnings in the vault of heaven,
Red with uncommon wrath"

to blast the seducer and destroyer of female innocence?

In important causes, Mr. Noxon was sure to be engaged. In such contests he met the renowned men of his profession; the subtle and witty Collier, and Ben Johnson, as full of sense and learning as of drollery and good nature; John C. Spencer, of unrivaled acuteness, and his no less able namesake—Joshua A. Spencer, whose very presence was a spell upon juries, hard to break; Daniel Cady, a man whose clear and unclouded intellect illuminated and made plain the most obscure questions; these, and such as these, were the antagonists he was accustomed to meet, and he delighted in the shock of such encounters. It was the meeting of flint and steel.

One of Mr. Noxon's noticeable points was his love of nature. He took the greatest delight in the garden. I think, in the height of his fame as a lawyer, he was more gratified to raise a good seedling plum which should bear his name, than to win the weightiest cause in court. Pope never had any higher enjoyment in Binfield or Twickenham than he found in his orchard and garden at Green Point. He was a keen sportsman, and Isaak Walton never had a more zealous or admiring pupil."

In the language of Judge Allen,—"He was a great man, worthy of all admiration; he was strong in his native sense and sound judgment; strong in a knowledge of the law, in the rudiments and principles of which he was thoroughly rooted and grounded; strong in his knowledge of human nature, and his ability and tact in the use of that knowledge; strong in his self-reliance; strong in his affections and social ties, drawing to himself with the cords of love, respect, and affection, all who came to know him;
strong in his love of right and justice, truth and
equity."

The most remarkable feature shown by Mr.
Noxon in the trial of causes, was the strength he ap-
peared to gather in difficult cases. The greater the
doubt upon the questions in controversy—the stronger
the opposition brought to bear against him by distin-
guished counsel, the stronger, more beautiful and ex-
traordinary were the efforts and talent exhibited by
him in overthrowing his adversary. He seemed to
excel himself when pressed hard by his opponent.
He has gone to his rest, full of years and full of
honors. His record is pure and untarnished in the
courts, where he spent fifty years of his life in un-
raveling the intricacies of the law. His good name
and fame are justly appreciated by the judge, the
bar, the juries of the country, who have so long wit-
nessed his masterly efforts in a profession he loved so
well. His genial nature, and his social qualities, have
left behind him many pleasing anecdotes, illustrating
the happiest traits of his character. While such in-
cidents reflect in some measure the character and dis-
position of the man, they rarely exhibit that true
greatness which shines forth in that logical and close
reasoning so necessary for a successful lawyer. We
omit mention of the many anecdotes told, which
would fill a volume; we say nothing of the political
life of him who never sought to shine in the political
field. Our task is done, when we point with pride and
pleasure to the achievements and laurels won in the
battle-field of legal science. His life and success give
the warmest encouragement to the young man enter-
ing upon the profession, without means and without
the benefit of a thorough education in the schools of
the country. If his record is such as will awaken
noble aspirations in the young man starting in the
race for the highest honors in the legal profession, the
admirers and friends of him whose life was so long
spared for usefulness will be most abundantly rewarded.

Mr. Noxon was accidentally killed by being run over by the cars, at Syracuse, on the afternoon of May 13th, 1869, having at the time reached the advanced age of eighty-one years.
SOLOMON K. HAVEN.

Interesting interview between Governor Young and two applicants for a Clerkship in his Office.—One is very poorly Clad, the other fashionably Attired.—Mr. Young decides to accept the poor young Man, much to the surprise of a fashionable young Lady.—The young Man Commences his Studies.—A glance at his Career and his great Success.—This was Solomon K. Haven.—His Birth.—His want of early advantages.—The Common School.—Haven’s Success as a Scholar.—A prize offered for the best Reader.—“Does Sol Haven think he can win the Prize?”—The Contest.—Haven Victorious.—Becomes a Teacher.—Decides to Study Law.—Enters Governor Young’s Office.—Is Appointed Deputy Clerk of Livingston County, but continues his Law Studies.—His Popularity.—Offered the Office of County Clerk.—Magnanimous Reasons for his Refusal.—He leaves Genesee and Enters the Office of Mark H. Sibley, at Canandaigua.—Character of Sibley.—Haven gains the Friendship of Francis Granger.—Haven Admitted to the Bar and visits Buffalo.—Decides to remain there.—Rents an office, arranges it, and tries a Lawsuit on the day he arrives at Buffalo.—His Success as a Lawyer. His Marriage.—Enters into Partnership with Honorable Millard Fillmore and Judge N. K. Hall.—Success and Character of the Firm.—Haven’s subsequent Professional Career.—Often opposed by H. K. Smith, G. P. Barker, James Mullett, and other brilliant Lawyers.—How he Succeeded with them.—The Case of Riall v. Pulsifer.—Haven in danger of being overthrown by Mullett’s brilliant Speech.—Laughable manner in which Defeat is turned into Victory.—Haven Elected to Congress.—His Re-election.—Congressional Career.—Character as a Politician.—As a Lawyer and Citizen.—Falls a Victim to his great Professional Labors.—His Death.

In the autumn of 1828, Mr., afterwards Governor Young, who was then a young lawyer of rapidly increasing practice, desired to engage a young man who wrote a fair hand to enter his office as a student, to whom he proposed to pay a small salary. Not long after making this announcement, two young men applied to him at the same time for the position. One of them was coarsely and poorly clad, his appearance indicating the most indigent circumstances. But there was self-respect, self-reliance and a refinement
in his manner which showed that he was far above his circumstances. His clear bright eye beamed with intelligence and honest earnestness, while his countenance gave indubitable evidence of thought, intellect and determination.

The other young man was fashionably attired, everything about his dress being in strict conformity to the beau monde. While addressing Mr. Young, he tapped one of his highly polished boots, in the true Brummel style, with a light genteel walking stick, which he carried in his hand. He was easy, and even polished in his manner; but his polish was of the veneering order, put on for the occasion, and worn in a sort of jaunty manner. The look with which he regarded his plebeian competitor attested the supreme contempt which he entertained for him, and seemed to say, "Sir, there is no opportunity here for you;" it being understood that Mr. Young could accept but one of the applicants.

This interview took place at the residence of a gentleman where Mr. Young happened to be at the time. There were several persons present, among whom was Miss Harris, just from a fashionable boarding-school in Philadelphia, and who subsequently became Mrs. Young. She was a deeply interested spectator of this scene, and supposed, of course, that the fashionably dressed young man would be successful. But as Mr. Young himself was one of those who, with no adventitious advantages of birth or fortune, had won his way by the efforts of his own genius to the highest distinctions and honor, he never, even in his most brilliant career, failed to sympathize with struggling merit; never looked with disdain upon those who were at the foot of the ladder, up which he had successfully ascended. After a few moments' conversation with the candidates for his favor, he decided to accept the poorly clad applicant, much to the surprise of Miss Harris, who was then at an age when opinions are easily formed from appearances only.
“Why did you prefer him?” said she, after the young men withdrew.

“Because he has brains, and I doubt whether the other has; because he will succeed against all obstacles, and the other will fail with no obstacle in the way,” was the reply of Mr. Young.

A few days after this event, the young man commenced his studies. The road before him was long, rugged, and filled with many asperities; but the goal which he was seeking appeared in full view, thickly clustered with honors, and there ever came to him a consciousness, which throbbed through his whole being, and stimulated him to action, that he should reach this goal, and grasp the honor which surrounded it. In this consciousness of future success, he one day said to a young lady who is still living, “I am poor now, but in ten years I shall not be.” With heroic self-denial, and a stern devotion to his purpose, he pursued his studies. Now with Bracton, Coke, Bacon, Blackstone, and the great American expounders of jurisprudence, treading the labyrinths of the law, and now visiting past ages, and gathering round him sages and heroes, prophets and apostles, brave warriors and gifted bards, inhaling inspiration and intellectual vigor from statesmen, orators and legislators of the past, whose works are stamped with “the high-born majesty of mind.” Like Michael Angelo, in whose hands marble was flexible, he turned hard fortune into the tide of success, and struck enduring advantages from rocks against which others would have split.

Often he encountered purse-proud arrogance and frivolous gentility, creatures of an hour, swarmed into a useless life, in the sunshine of fortune, who decried his plain, unfashionable attire, his simple, unpretending life. But, like the eagle, whose dull, gray garb is out-dazzled by ephemeral insects and summer birds, while pluming himself for a flight immeasurably above their reach, he saw the devotees of fashion
buzz around him, and felt only silent contempt, conscious of his better destiny—conscious that struggles like his had scattered bright names along the pages of his country’s history, as stars along the cloudless sky. And thus, with no regard for adverse circumstances, in anticipation of the future, he moved forward to the success that awaited him, to grasp the honors which he won, to be the center of many influences, to awaken through a large circle sentiments of esteem and affection, to exalt the standard and become the ornament of a profession to which the administration of public justice and the care of our civil institutions are peculiarly confided, to uphold and strengthen useful associations and institutions, to stand in the council of the nation the lawyer and the legislator, to win distinction amid accomplished and gifted competitors, to quiet the clamors of rivalry, hold in check the murmurs of jealousy, and finally to die amidst general, deep, unaffected grief. This was Solomon K. Haven.

He was born in the town of Butternuts, in the county of Otsego, New York, on the 20th day of September, 1809. His parents were in humble circumstances, and unable to give him any educational advantages, except those afforded by the common district school. These, however, young Haven improved with so much success that he soon became one of the best scholars in his district. Among his early acquirements was excellence in spelling; and before he was eleven years old he attained such perfection in this art that he could “spell down” any pupil of his age in school; and at length he was enabled to challenge the best speller, no matter how old or how much advanced. In addition to this, he became one of the best readers in the town. In those days the principal reading book was the old English Reader, compiled by Lindley Murray, which will long be remembered for the purity, elegance and taste with which the extracts it contained were written.
This pleasing acquirement he attained at a winter's school, taught by a clergyman named Gould, who was an accomplished reader and scholar.

Mr. Haven, in speaking of this school, thus described the manner in which Mr. Gould encouraged his pupils to read:

"He would," said Haven, "appoint evening schools, which all his more advanced pupils were requested to attend—each one being allowed to select some piece, and stand in the center of the room, before all the scholars, and read it. On certain evenings a piece was selected, and a prize offered by the teacher to the scholar who should read it in the most perfect manner. I recollect on one occasion the piece for which the prize was offered was The Death of Altimont, by Dr. Young. I had hitherto, owing to my youth, been debarred from the privilege of becoming a contestant. This time, however, I was permitted to enter the list; and it was to me a more important event than any other which has occurred to me in my whole life. My election to Congress was nothing compared to it. There were many advanced scholars who were to contend, and my prospects of success were not considered by my friends as very bright. There was one boy in the school, a trifle older than myself, the son of one of the wealthiest men in the district, who from this fact often assumed a domineering manner over the boys, particularly over me. He too was one of the contestants for the prize. I remember perfectly well the supercilious remark he made when he heard that I was to be a contestant.

"I wonder," said he, 'if Sol Haven thinks there is any chance for him to win the prize. He'll learn that he can't contend with me in this matter.'

"I made no reply, but every day I repaired with my book to the garret in our house, and there I read and re-read the chapter, particularly the following verse, which has never escaped my memory:

"'If this is a man of pleasure, what is a man of
pain? How quick, how total is the transit of such persons! in what a dismal gloom they sit for ever! How short, alas! the day of their rejoicing! For a moment they glitter—they dazzle! In a moment, where are they? Oblivion covers their memories. Ah! would it did. Infamy snatches them from oblivion. In the long living annals of infamy their triumphs are recorded. Thy sufferings, poor Altimont, still bleed in the bosom of thy heart-stricken friend; for Altimont had a friend. He might have had means. His transient morning might have been the dawn of an immortal day,' &c.

"As the evening approached for the trial, I felt a sort of secret confidence that I was to succeed. The evening came at last. The school house was filled with spectators, who gathered there to witness the contest. It so happened that it became my turn to read next after the boy who had spoken so sneeringly of me. Oh! how I watched every word that fell from his lips. Never at the bar, in the most exciting case in which I ever was engaged, did I watch my opponent more narrowly than I did that boy. When he finished, I believed that I could exceed him; and with this conviction, I took the floor. I saw nothing, cared for nothing, thought of nothing but the chapter before me. My heart swelled with the proud consciousness of superiority.

"Carefully, slowly, observing every stop, every modulation and inflexion, I proceeded; and when I closed, a burst of applause followed, and I knew that I was victorious—that the prize was mine.

"To the success of that evening I am indebted for all that I am—all that I expect to be—for it stimulated in me not only ambition, but a confidence in my ability to succeed in the world, which never deserted me."

Such was Mr. Haven in his early youth. By hard study and great energy of character he prepared himself for a common school teacher. Though teaching was not an occupation which exactly suited his taste,
yet he was considered a successful teacher, always highly valued by the children. He was punctual and faithful to his employers; and governed his school with a mild yet perfect supremacy. No such thing as disobedience was thought of, and during the first two years of his teaching he only chastised one boy, who had committed some crime which demanded a severe punishment, and Haven gave it to him. The next evening, as the teacher was returning to his boarding-house, the father of the boy met him in the road, and in great anger asked Haven why he whipped his son.

"Because he deserved it," was the reply.

"Well, I've come to thrash you to pay for it," said the man.

"Do you think you can do it?"

"Yes, sir, I do, in just one minute," was the answer.

"Very well, try it," said the teacher.

"I'll teach you, sir, to whip my boy in the way you did."

The man was somewhat heavier and apparently stronger than Haven, but he did not possess his agility nor his muscular energy. Suiting his actions to his words, he sprang at Haven, and directed a heavy blow at his face. The next instant the assailant lay on his back in the middle of the road, with Haven's knees on his breast. For a moment the man struggled to release himself from his unpleasant position, but he was held as in a vise; and at length he ceased his efforts to escape.

"What do you propose to do with me?" said the man, at length.

"I propose to hold you here until you will promise me, on the honor of a man, that you will behave yourself, and then I propose to let you up," said Haven.

"Well, I 'spose I might as well promise," said the man.

"So I am to understand that you make me that promise, do I," said Haven.
"Certainly," said the man; and he was released.

This encounter had a tendency to cool his ire; and after talking the matter over a while, he acknowledged that the boy deserved the whipping, and that he himself deserved being thrown on his back in the street. The next morning the boy came to school, and all trouble ended.

During the winter and summer of 1827 Mr. Haven taught school in the town of Bristol, in the county of Ontario. He was then eighteen years of age. About this time he decided to enter the legal profession. Such was the characteristic firmness of his nature, that, having once come to a decision, that decision was irrevocable; and, as we have seen, he directed all his energies to the attainment of this object.

In the fall of 1828 he visited a friend residing at Geneseo. Pleased with that beautiful village, he decided to remain and pursue his legal studies there. From his friend's description of Mr. Young, he was exceedingly desirous to secure a place in his office. Accordingly, he applied to that gentleman for a studentship in his office, and with what result already appears.

He soon succeeded in gaining the confidence of his preceptor, who in various ways aided him to sustain himself while pursuing his studies.

Although he was very poor, yet his studious habits, his irreproachable character, his industry and unassuming manners gained him many friends at Geneseo, all of whom felt confident that he had a bright future before him.

In September, 1832, he was appointed deputy clerk of the county of Livingston. So acceptable were his services to Mr. Bond, the clerk, and so popular did he become with the people, that he continued in this position until January, 1835. During a large part of this time, owing to the ill health of the clerk, the entire duties of the office devolved upon him. He was
in his office from 9 o'clock in the morning until 12, and from 1 o'clock until 5 in the afternoon; and thus two years passed away. During Mr. Haven's term he made the acquaintance of many leading citizens of Livingston county, with whom he had become very popular, and he could easily have secured the office of county clerk for himself; but, being aware that Mr. Bond desired it again, he refused to accept the nomination. This one circumstance exhibits the high-toned generosity of Mr. Haven's nature; and it was fully appreciated by Mr. Bond and all his friends. He continued carefully and laboriously to discharge the duties of deputy through Mr. Bond's second term.

While thus engaged, he continued his legal studies. As soon as his duties in the office were discharged for the day, he returned to his law books, which afforded him recreation and delight. To him there was nothing which had so deep a meaning as law. Like Hooker, he saw in it that which vindicated the harmonious necessity of the universe. To such a mind as his, there could be no rest until he fathomed its depths—inquired into "its fundamental grounds and original causes."

That he read with close and critical observance is evident from the manner in which, as a practitioner, he dealt with abstract legal principles, and hence he was always able to give a cogent reason for the position which he assumed.

During these days of study, he did not forget to cultivate his oratorical powers. With a view to improvement in this respect, he subjected himself to the most persevering and laborious process of private study, being accustomed to debate imaginary questions alone with as much earnestness as before a large audience.

It is related of Curran that he was in the habit of declaiming in solitude, and that the authors from whom he chiefly borrowed the matter of these solitary
declamations were Junius and Lord Bolingbroke, but
the poet he most passionately admired was Thomson.
He occasionally declaimed from Milton, but in his
maturer age came to think less of that great poet.
It is also said that one of his favorite exercises was
the funeral oration of Antony over the body of Cæsar,
as given by Shakespeare; the frequent recitation of
which he used to recommend to his young friends at
the bar to the latest period of his life.

Like Curran, Haven used to seek some solitary
place in company with a young friend who acted in the
double capacity of audience and critic. There he would
address an imaginary jury, with close adherence to
professional peculiarities and the customs of the bar,
or rehearse some extract from his favorite authors.
The selections which he was most accustomed to de-
claim were Hamlet's Soliloquy on the Ills of Life;
Othello's Defense before the Venetian Senate; the
Speech of Cicero against Verres, and Portia's Address
to Shylock, in which she exhorts him to exercise "the
quality of mercy."

In this way, Mr. Haven succeeded in cultivating
some oratorical accomplishments, though he never
became what might be called an accomplished speaker.
Though he was always attractive, and gained the at-
tention of his auditors, he did this more by the force
of reason than by the blandishments of the perfect
orator.

There was but little imagination in the mental or-
ganization of Mr. Haven, and he took a practical view
of the sentiments and utterances of his authors, re-
garding them with the eye of a philosopher, instead of
"the frenzy of the poet."

He left the clerk's office early in 1835; after that,
he became a resident of Canandaigua, and a stu-
dent in the office of Mr. Sibley. While there, he
was fortunate in gaining the friendship of the late
Francis Granger, who discovered in the young man
those traits which had so strongly recommended him
to Governor Young. Mr. Granger took a deep interest in his welfare, which was attested by many instances of friendly assistance and aid, which from his position in life, were of inestimable value to Haven. Mr. Sibley, too, regarded him with much favor; in fact, he was singularly endowed with the faculty of making friends, and "binding them to him with hooks of steel," but it cannot be denied that he possessed those qualities which sometimes begat enmity.

While at Canandaigua he was admitted to the bar; this took place in July, 1835. He remained with Mr. Sibley nearly a year after this, perfecting himself in legal knowledge and learning the details of practice. Mr. Sibley was then one of the ablest advocates in the State. The supremacy of his eloquence at the bar and in the popular assembly was universally acknowledged. His form was manly and commanding, his voice full, rich, musical, and vibrated to the very heart of the listener, while his expressive eye kindled in unison with his theme. He knew how to blend the natural language of genius and impassioned feeling with judicious sentiments and correct reasoning, uniting the rhetoric and logic of Fox with the brilliancy of Phillips. In his private life and character, he was high-toned, generous, and noble.

Following the advice of Mr. Granger, Mr. Haven decided to make Buffalo his place of residence and the theater of his professional exertions. Accordingly, in July, 1836, he visited that city, carrying with him favorable letters of introduction from Mr. Granger and Mr. Sibley to George G. Babcock, an eminent lawyer of Buffalo. On his arrival, he called on Mr. Babcock, entered into conversation with him upon professional topics, and just before leaving the office he presented his letters of introduction; this was early in the day. He immediately found an office, rented and arranged it, and tried a lawsuit of considerable
importance before a magistrate, and all this before he had been in Buffalo one day.

With such abilities—such indomitable energy, he could not long occupy a subordinate place at the Buffalo bar, although at this time it was distinguished for its brilliant legal talent. As a distinguished member of the bar remarked after the death of Haven:

"He was of all the lawyers at the Erie county bar the hardest to beat. In everything he went by the most direct route to the point at which he was aiming. In one of my first causes he was my opponent. I was then city attorney, having but recently been elected, and the action was one in which the city was concerned. He compelled me to prove on the trial the act incorporating the city, and he even raised a knotty question as to the necessity of my authenticating the provisions of the Revised Statutes which were applicable to the case. There was always something about him to cause his opponent to dread a surprise, and yet no one could ever surprise him; finally, few men can accomplish as much as Haven did in so short a life."

Soon after becoming a resident of Buffalo, he was united in marriage to Miss Cole, a young lady of many excellent endowments, and a daughter of Doctor Cole, one of the earliest physicians of Buffalo, an esteemed and highly reputable citizen. Mrs. Haven and her father are still living.

In March, 1842, Mr. Haven was elected mayor of Buffalo. He brought to this office those singular executive abilities which distinguished him as a lawyer; while his urbanity, native sense of right, and just appreciation of his duties, rendered his administration successful and popular.

After he had been at Buffalo some years and had gained a high reputation as a lawyer, he entered into partnership with Hon. Millard Fillmore and Judge N. K. Hall, forming the celebrated firm of Fillmore, Hall & Haven.
As has been said of Mr. Fillmore in another part of this work, he possessed in a high degree, weight and strength of intellect, power of discovering what is prominent and commanding in a subject, and of throwing lesser matters into the background; thus securing unity and distinctness of impressions, and as a consequence, a powerful influence over his hearers. His arguments were always remarkable for the soundness of the principles on which they were based. He was the untiring, ever watchful sentinel who guarded his subject, and protected every avenue through which an opponent could approach it. These characteristics distinguished his legislative speeches, and tended to strengthen those able, learned and dignified State papers which emanated from his pen in those days, when, as an American statesman, he stood conspicuously before his country and the world.

As a lawyer, Judge Hall was sagacious, learned and profound, making no pretension to showy and brilliant attributes, always relying more upon the soundness and strength of his positions and arguments than upon quick and rapid originality and sparkling reason. If these qualities are useful in the lawyer, they are inestimable in the judge, and, united with his natural patience and diligence and the clearness of his perceptions, render him an eminent and sagacious judicial officer.

Such were the men with whom Solomon K. Haven became associated in the legal profession. The firm continued to exist for several years, with the most brilliant success. Each of its members attained to high honors—one of them to the highest in the gift of the Republic; one to a distinguished judicial position; the third to a seat in the councils of the nation, which he occupied with honor to himself and to the people whom he represented.

As has already been remarked, Mr. Haven cultivated to a considerable extent his oratorical powers,
and yet he did not attempt to exercise many of its graces. The character of his legal arguments and speeches was strength, power and activity of thought. He always seized upon the strongest point, and left it for no other.

He often encountered the brilliant and impressive oratory of H. K. Smith, George P. Barker, James Mullett, and others of equal power, whom he met at the circuits in the surrounding counties. There was a class of cases in which either of those eminent lawyers possessed a decided advantage over him, by the powerful appeals to the jury which they were enabled to make; but such was his force of argument, such was the perfect preparation of his cases, such his keen and well-planned tactics, the facility and rapidity with which his mental powers were exerted, that he usually proved their equal even in these contests. No circumstance which tended to his advantage was ever overlooked. He had a happy faculty of seizing upon remote circumstances, and rendering them subservient to his purpose; and he perfectly understood when and how to seize "the vantage ground of the contest." His want of burning eloquence was further compensated by a sharp and pungent satire, which no man could wield with more effect than he.

During the trial of an important cause at Ellicottville, a circumstance occurred, which exhibited the superior qualities of Mr. Haven as a tactician at the bar, the gravity with which he used his satirical powers, and the facility with which he seized "momentary advantages."

The action was brought by a Miss Riall against one Pulsifer, a wealthy farmer, for carelessly and negligently driving a lumber wagon, drawn by a span of horses, against her carriage, in which she was traveling on the highway. The carriage was overturned, badly damaged, and the lady considerably injured. The defendant insisted that the accident was the result
of the plaintiff's carelessness, and therefore he refused to make any amends for the damages which she had sustained.

The late Judge Mullett appeared for the lady, and Mr. Haven for the defendant.

The plaintiff was a maiden lady, thirty-six years of age, or thereabouts, who, prompted by a desire to retain her youthful beauty, was in the habit of tinting her cheeks with rouge. She usually did this, however, in such an artistic manner that nature was faithfully imitated, and in some instances quite outdone. At the trial she appeared by the side of her counsel, with cheeks that vied with the richest carnation. So decidedly youthful was their color, that an imaginative mind might easily have taken her for Hebe invoking the protection of the laws. It is true, that a connoisseur might have detected a surplus of the rare and delicate coloring on her cheeks, because she did not on this occasion spread it with her usual artistic skill. But she was surrounded by those who, even if they possessed the power of criticism in such matters, were decidedly too gallant to exercise it; and to those at a little distance, the lady passed for a very beautiful and youthful girl; and Mr. Haven saw the unpleasant and difficult duty of trying a cause against a pretty woman. Like all lawyers who have been similarly situated, he was well aware that this circumstance alone would operate against his client, and he feared the result of the trial; but believing that he had a strong defense—that the law was with him—he hoped to triumph over sympathy.

The trial proceeded. Judge Mullett presented his case with that masterly ability for which he was so justly celebrated. But he found in Haven a cool, collected, and wary opponent, one who, without any glow of imagination, was powerful in his knowledge of the law and the rules of evidence, and one who made up in skill what he lacked in experience.

At length the counsel for the plaintiff rested his
case, and Haven promptly moved for a nonsuit, on the ground that it appeared from the evidence of the plaintiff that the injuries which she received resulted from her own carelessness in not continuing in that part of the highway which the law assigned to her. This motion brought on a closely contested legal argument, for in those days, lengthy discussions were permitted at the circuit.

In resisting the motion for a nonsuit, Judge Mullett, after discussing the legal questions which it involved, in order to bring the facts within the law as he construed it, alluded in eloquent and pathetic language to the circumstances of the case—to the injuries and sufferings of his client, and to all those incidents which in cases of this nature arouse sympathy, and which, though addressed to the judge, always have their effect upon the jury. His address visibly affected his client; who, to hide her emotions and her tears, was compelled to bury her face in her handkerchief.

Haven felt that his client's case was suffering under the burning language of his opponent, which he saw was affecting the jury and even the judge, while it created strong sympathy for the plaintiff among the spectators and the bar, and he began to feel that notwithstanding all his efforts, his case was to be lost in the feeling for the plaintiff which her counsel was creating. For him to attempt any answer to such a storm of eloquence was quite out of the question, and he began to prepare for the worst. But it happened that just before Mullett closed his argument, Haven made a discovery which he turned to his advantage, and which neutralized all of his opponent's eloquence.

After Mr. Mullett concluded, Haven, in closing the argument of the motion, said:

"If I am not mistaken in the authorities which I have cited, and in the facts which the evidence has adduced, this motion should prevail; for, although the law is provident of remedies for injuries to person, property, and character, yet it requires, as has been
shown by numerous authorities, that he who seeks indemnity against the careless or negligent acts of another, must himself be free from carelessness and negligence. But my learned friend on the other side, has made, in opposition to this motion, one of the ablest and most eloquent arguments to which I have ever listened—an argument of surpassing wisdom and power. Though I believe there is very little upon which to found his thrilling appeal to your honor’s sympathy, yet I must admit that your honor, the bar, the jury, as well as myself, have been deeply affected by it; but more than this, his appeal has had a powerful—a strange effect upon his client; it has even changed her so that she will not know her face when she beholds it in her mirror.”

At these words, the lady suddenly removed her handkerchief from her face, which had remained there since the pathetic appeal of her counsel; and, sure enough, there was a change, and such a change! The flush of youth, the glow of Hebe, the bewitching tints had all fled. The tears which she had copiously shed, in coursing down her cheeks, removed the paint in places, leaving long and ghastly streaks of red and white, mingled with spots of such variegated hues, that one might have supposed that an amateur painter had tried his brushes on her face, not forgetting her nose in the operation. “In a moment, in the twinkling of an eye,” the effect of Mr. Mullett’s eloquence was dispelled, and amid the half-suppressed laughter of the bar, jurors, and spectators, Haven, with the most imperturbable gravity, took his seat. One of the jurors, however, in attempting to suppress his laughter, had seized his nose between his thumb and finger, and while thus holding that organ, accidentally relaxed his grasp upon it, and a noise something like the toot of an old-fashioned dinner horn ensued. The effect of this can easily be conceived; it operated so powerfully upon the risibles of all in the court room, including Mr. Mullett himself, that a
burst of laughter followed, which, for a short time, baffled the attempts of the officers to suppress.

The motion for a nonsuit was denied, and Haven wisely decided to introduce no evidence himself, but to submit the case to the jury upon the testimony of the plaintiff, thus giving his opponent no time to recover from the effects of the circumstances which had so emphatically destroyed his hold upon the sympathy of the jury, under the conviction that this was all he had to fear in the case, and believing that Mullett could not again gain the advantage which he had lost; and in this he was correct. Both counsel addressed the jurors. Haven, with his close, terse and pointed logic, was now enabled to gain and hold the attention of the jury. Mullett contended with force and power, but it was evident that his strength was not now in the case. The jury retired under the charge of the judge, and, after long absence, returned with a verdict for the defendant.

"Haven," said Mullett, when the trial was over, "you managed that paint on my client's face admirably."

In the autumn of 1849, Mr. Haven was elected a representative from his Congressional district, to the thirty-second Congress, where he soon distinguished himself as an active, industrious and influential member, commanding the respect and esteem of his fellow representatives and the entire confidence of his constituency. He continued to represent his district in this body until the close of the extra session of the thirty-fourth Congress, August 21st, 1856.

It was his fortune to enter Congress at that period in our history when the question of slavery was all-absorbing throughout the nation, when it entered into all party organizations, and exhibited itself even in religious denominations; engendering those fierce discussions which were the prelude to the "clash of arms." Though the results of those dis-
cussions are too fresh in the minds of the people to warrant any recurrence to them here, yet by the student of history, the shifting scenes which led to our civil war will ever be regarded with peculiar interest. They followed each other like those events in England which commenced in 1629 with the struggle of the popular party against the encroachments of high prerogative upon the rights of the people, leading to their appeal to a higher law than any human enactment—the unwritten law of justice and reciprocal equity, teaching that "all men are endowed with certain inalienable rights," and which culminated in the civil war of 1642. Thus "history repeats itself."

The records of Congress during the years in which Mr. Haven had a seat in that body, are sufficient evidence of his zeal in behalf of the rights of his constituents, and of the large amount of work which engaged his attention.

In politics, Mr. Haven was a Whig; moderate though firm in the expression of his opinions. He sustained the compromise measures of 1850, with many other eminent patriots of that period, under the firm conviction that they would end the agitation of a question fraught with so much danger and excitement. One of his first speeches in Congress exhibits the strong confidence which he felt in the ultimate harmonious settlement of the question of slavery. That speech abounds in strong and eloquently expressed though mistaken views of the turn which the Southern leaders would give to the slave question under the compromise act. When the Whig party in the State was divided into the factions of Woolly Heads and Silver Grays, or Conservative and Radical divisions, Mr. Haven united his fortunes with the latter. Before the expiration of his first term in Congress, he was re-elected, and he commenced his second Congressional term with the opening of Mr. Pierce's administration. The House was organized by the choice of Linn Boyd for speaker. Soon after
the commencement of this session, Mr. A. C. Dodge, of Iowa, submitted to the Senate a bill to organize the Territory of Nebraska, which was to contain all the region lying westward of Missouri and Iowa. The great discussion which took place in the Senate upon the introduction of this bill, and its various amendments, between Messrs. Sumner, Douglass, Cass, Dixon, and other prominent Senators, was reiterated in the House, where Mr. Haven participated in the contest, ably sustaining the position which the Whig party had taken in the question, in several speeches which he delivered, and by his incessant labors where ever he could exert his influence.

At the close of the thirty-third Congress, Mr. Haven desired to return to the practice of his profession and abandon his Congressional labors, but so acceptably had he discharged his duties as a representative, that his party insisted upon his renomination, and he reluctantly became a candidate for a third term. He was elected, and once more returned to his labors as one of the National Legislature. The opening of the thirty-fourth Congress was rendered memorable by a contest for the election of a speaker, so obstinately contested that it may well be regarded as the precursor of that bloody struggle which a few years later distracted the nation.

The Whig party had for some time been dissolved, or rather merged in a new and powerful organization—the Republican party—which, from its origin, had many elements of strength. It continued to rapidly increase until it could confidently demand the control of the House of Representatives, and the contest for speaker resulted in the choice of Mr. Banks, an eminent Republican.

In this struggle, Mr. Haven united with the friends of Mr. Banks. His labors during this season were very much confined to the committee room, though he participated in many of the debates which occurred on the floor of the House.
The political career of Mr. Haven is so intimately connected with those party differences not yet entirely forgotten, that to enter into a consideration of it would be but a recurrence to a controversy still fresh in the minds of the people. It is sufficient to say, that he was popular with his party in and out of Congress, that in his Congressional duties he increased his popularity and developed many abilities as a legislator. That he had his faults and frailties—his errors of omission and commission—is not to be denied.

During the life of a prominent politician, his name is usually a watchword of faction, and the constant theme for both eulogy and invective. As has been justly remarked, the characters of such men are seldom properly estimated, even by posterity, and they often continue to be seen through the mists which faction has raised around them; sometimes magnified into heroes and sages, sometimes quite as unjustly diminished into provincial demagogues and petty intriguers. So great a portion of their reputation arises from adventitious circumstances, from situation, titles, public honors, political zeal, or party management, that it is at least difficult to separate the substance from the trappings which invest it.

Mr. Haven was not a profligate politician—not a demagogue in any sense of the word, and when placed in comparison "with those simulacrum of patriotism, the politicians of expediency and intrigue," his abilities, his skill, his direct and positive nature, his sincerity, his honesty, and his consistency of character, more than compensate for the errors with which he was charged.

Mr. Haven was one of those lawyers who insensibly gain the confidence of their brethren of the bar. "The position which he won by his well-directed efforts was never lost by inattention or neglect. In his contests at the bar, he was often defeated, but never unprepared. Promptitude was the great trait in his personal dealings with his clients, and with his causes—
finally with every one. He possessed wonderful power in economizing time, a ready control of all his busi-
ness. His advocacy of whatever cause he espoused,
was always able and effective. As his examinations
were very thorough, and his opinions consequently
well considered, he never willingly relinquished their
vindication, until the final and authoritative judgment
was pronounced upon them."

In all the relations of life, he was plain and unpre-
tending. Nothing annoyed him so much as undue
display and pomp. It is related of him, that after
having decided to erect a residence, he said to his
father-in-law, Dr. Cole, who had then retired from the
duties of his profession: "I am too much engaged to
give the building of my house any attention whatever.
I wish you to look to it and give the necessary direc-
tions. I have none to give, excepting this: see that no
reasonable expense is spared in rendering the building
substantial, convenient, and comfortable. Avoid all
display. Let it be constructed with good taste; but
plain and simple in its architecture."

Few men ever possessed the unwearied industry
of Mr. Haven. He never suspended his labors, never
sought rest, and never allowed himself any relaxation
from his professional toil. He loved labor for its own
sake, and, like Nicholas Hill, he immolated himself
on the altar of his professional ambition. He died on
the 24th day of December, 1861, in the fifty-third year
of his age.

His career is a rare example to young men who
propose to enter the legal profession; teaching them
that great difficulties can be easily overcome, that they
will yield to enterprise, sagacity, and perseverance,
and that the road to professional distinction is open
to all.
MARCUS T. REYNOLDS.

A Native of Montgomery County.—A Student at Canajoharie Academy.—Singular Manner in which he Prosecuted the Study of Latin.—His Progress in this Study. —The Surprise of the Principal.—Reynolds Enters Union College.—His Career in College.—Graduated.—Commences the Study of Law with M. B. Hildreth.—The Cotemporaries of Mr. Hildreth.—The Advantage of Reynolds as a Law Student.—He is Admitted to the Bar.—Names of the eminent Lawyers who were admitted with him.—Commences Practice at Johnstown.—His Character as a Lawyer.—As a Speaker at the Bar.—His Versatile Powers Illustrated by two Important Causes.—Manner in which he Carried his Causes.—Meets with an Accident which causes the Loss of his Leg.—His Courageous Reply to the Surgeon.—His Manner of Conducting Causes after the Loss of his Leg.—His Powers of Sarcasm, and his Love of Pleasantry.—The latter quality illustrated by an Amusing Anecdote.—Personal Appearance of Mr. Reynolds.—Professional Character in his more Advanced Years.—His Dislike of Politics.—His Reply to the Committee who tendered him the Office of Member of Congress. —Reynolds, Srovers and Hill, as Lawyers from 1827 down to the Adoption of the Code.—Character of Samuel Stevens.—His Personal Appearance.—As a Politician.—Often Engaged with Mr. Reynolds.—The Position of the Two, in their earlier Practice at the Albany Bar, and the Bar of other Counties.—The Appearance of either of them at the Schenectady Bar an Intellectual Treat to the Students of Union College.—Mr. Reynolds Retires from the Bar and from Society.—Loss of his Mental Powers.—His Death.

MARCUS T. REYNOLDS was a native of Florida, in Montgomery county, New York, where he was born on the 22nd day of December, 1788. When he was ten years of age, he was placed in a very respectable high school at Canajoharie, where he remained three years. His father, desiring that he should first be thoroughly instructed in the English branches, directed the principal not to permit him to commence the study of Latin until after the expiration of one year at least.

It was, however, the ambition of young Reynolds to commence the study of that language at once; but as the teacher adhered inflexibly to the instructions of the father, he would not listen to the son. Determined,
however, to prosecute his favorite study, he procured the necessary books, and while the other boys were engaged in play, he devoted himself to them with unwearied diligence. One of the more advanced students in the institution consented to hear his recitations and give him the necessary instruction. In this way he soon mastered the Latin Grammar, and advanced as far as the three first books of Virgil. One day, as the principal was passing by the room of young Reynolds, he caught the sound of a voice apparently engaged in reading Latin. He listened; the voice resembled that of young Reynolds, and yet he thought it could not be possible, for the young student did not read Latin, as he believed. At last, prompted by his curiosity, he entered the room, and sure enough, there was the boy, with Virgil opened before him, so intent upon his reading that he did not notice the entrance of his teacher.

"What does this mean, Marcus?" he asked.

"What are you reading?"

"I am reading Virgil," was the answer.

"Reading Virgil, sir! Where did you learn to read Virgil, pray?"

"Here, in your school," said Reynolds.

The principal then directed him to continue his reading; the boy complied, reading two or three pages very readily and correctly.

"This is surprising," said the teacher. "Have you recited to any one?"

"Yes, I have recited to George Powell."

"Well, sir, you shall take your place in the class now, and I will write to your father and acquaint him of your progress."

This circumstance represents a prominent feature in the character of Mr. Reynolds; it exhibits that strong determination, that concentration of purpose, and that intellectual superiority, which exemplified themselves in every phase of his after life.

At length his preparatory course was completed,
but he was deterred from entering college for some time by ill health. Gaining his health, however, he entered Union, where he was characterized by the same love of study and powers of application which indicated his abilities during his preparatory course. Several literary productions written by him while in college gave evidence of the vigor, activity and strength of his intellect. He was continually storing his mind with valuable information, and such were the powers of his memory that a "literary production composed, but not written, and laid up in his mind, was ready to be summoned to use at any future time, and could be recalled after a long interval, with hardly the loss of an idea that entered into the original structure." This unusual strength and tenacity of memory was exhibited at the bar in referring to adjudicated cases and elemental texts.

While in college he developed those elocutionary talents, that keen and sparkling wit which rendered him so pleasing and yet so powerful as an advocate.

In the year 1808, he was graduated, standing second in his class. Immediately after this event, he commenced the study of law in the office of the late Attorney-General M. B. Hildreth, at Johnstown, New York. Mr. Hildreth was a lawyer of many rare and valuable qualifications. He was a cotemporary of the late Daniel Cady, W. W. Van Ness, Thomas Addis Emmett, D. C. Colden and T. R. Gold.

It was the rare fortune of young Reynolds while a student, to witness intellectual contests between men of such mental powers and varied acquirements as those great leaders of the New York bar. He was called to the bar in the year 1811. About this time Addison Gardner, Samuel Stevens, Benjamin F. Butler, John A. Collier, Charles O'Conor, William H. Seward, Ogden Hoffman and A. C. Page were also admitted to the bar.

Mr. Reynolds commenced his practice at Johns-
town. He was compelled to contend with the learned, high-toned and gifted Cady, a rival who shed luster upon an opponent. As the eloquent H. K. Smith, who sat at his feet as a student, drew from him those inspirations which rendered him so gifted, so Marcus T. Reynolds, as an antagonist, caught from him the same intellectual fires.

Mr. Reynolds continued to practice at Johnstown with distinguished success until the year 1828, when he removed to Albany, where he entered on an almost unprecedentedly brilliant professional career. Indeed, for many years, the history of that career is the history of the Supreme Court and the Court for the Correction of Errors. During a period of thirty-five years, he appeared as one of the contesting counsel in as many of the cases adjudicated in those courts, as any other lawyer that has ever appeared at the New York State bar.

He was one of the most consummate advocates of his day. His rich humor, his argumentative powers, his singularly rich and copious diction, his mind, stored, yet not crowded, with subjects of classical and fanciful illustration, enabled him to bring to the bar many solid and shining accomplishments.

Though he possessed considerable imagination, though, if the occasion required, he could pass from prose to verse, from history to poetry, and from poetry to the black letter of the law with great facility, yet few would observe this versatility in his speeches at the bar. He rarely appealed to the passions of the jury, relying rather upon the law and facts in the case, soberly demonstrated by the intuitive power of common sense. He had none of that alliteration and antithesis—heated passion and inflated metaphors that burst the silken covering of sense, and then glitter in empty space.

It is related of the late Mr. Justice Talfourd, that while at the bar, he occasionally ascended into high sentimental regions, quite out of the reach and under-
standing of the jury. This was illustrated in his speech in behalf of Moxon, who was prosecuted for publishing the works of Shelley.

"When the time arrived," says his biographer, "he let off a series of rounded rhetorical paragraphs which flew over the heads of the jury, bewildering, instead of guiding or convincing them; and a verdict of guilty was the mortifying result."

The legal speeches of Mr. Reynolds were natural, easy, replete with argument, never too artificial and recherché. His gestures were very few, generally with his right arm and forefinger, occasionally dropping the palm of his left hand upon the table, if one was before him, if not, he balanced it before him in an easy, natural manner.

He had the faculty of passing from "grave to gay, from lively to severe," with surprising facility. This is illustrated by his arguments in cases like Mabee v. Peck, and in cases like The People v. Lamprey. So widely did these intellectual efforts differ from each other, that a stranger would naturally have believed them to be the productions of different minds. The former case involved the consideration of mere abstract questions of law, and his argument abounded in nothing but reason, relieved by no lucid narration —no appeal to the feelings—no address to the imagination, and yet it was an intellectual triumph; those who listened to him could hardly think it possible for a feeling of pathos, sympathy or pleasantry ever to enter his bosom, so thoroughly prosaic was his speech.

Lamprey was tried for the murder of his own nephew. There were many circumstances in the case which appealed strongly to sympathy, and Mr. Reynolds interposed a powerful and successful defense, founded, not only upon the facts, but upon grave and intricate questions of law. His address to the jury was an inimitable specimen of legal oratory. It was often enlivened by momentary displays of wit and humor; it abounded in exquisitely wrought passages,
in which pathos and argument were interfused. Even on the discussion of the legal questions in this case, "he cast the playful hues of his fancy," so that it was difficult to determine whether at the bar he was the giant or the magician—Briareus or Prospero.

He carried his cases by being thoroughly imbued with them himself, and then by a clear and well-defined statement to court and jury, imparting the impression that he had no doubt as to the right of his case. Before a jury he had a sort of magnetic power, by which he photographed his own ideas and reasons upon the minds of the jury.

Many years before his death he was thrown from a horse; the fall producing an injury to one of his knees, of such a serious character that amputation became necessary. Immediately after the accident he was taken into a store, and the wound examined by one of the most skillful surgeons in Albany; who became convinced that amputation must inevitably follow, and he so informed the sufferer, stating further, that, perhaps, it had better be done on the following day.

"I wish you to proceed instantly, without any delay. I cannot have the matter upon my mind," said Mr. Reynolds.

The surgeon obeyed. This was before chloroform was used by surgeons, but Mr. Reynolds submitted to the operation without a groan.

After the loss of his leg, he generally conducted his causes sitting. Whenever it became necessary for him to address the court or jury, he would invariably make a motion as though he was about to stand upon his feet, and the court never failed to say, "Please keep your seat, Mr. Reynolds."

It was pleasing to observe the gratifying amenities between him and the bench and the bar; every attention and assistance was proffered him which a delicate sense and appreciation of his misfortune could suggest.
Mr. Reynolds, when he chose to exercise them, possessed great powers of sarcasm, and at times one of his deepest inspirations was scorn; hence he could awaken terror and shame as easily as he could melt, agitate, and arouse. His love of pleasantry never deserted him, but his manner when humorous was apparently cold and emotionless. An anecdote illustrative of this is related by Charles Edwards, Esq., in his "Pleasantries about Courts, &c."

"In a case pending before the chancellor, wherein Mr. Reynolds was counsel for one of the parties, a point had been raised before the court, that the wife of a party was not brought in, and he had granted an order staying all proceedings until that was done. But notwithstanding this, Reynolds appeared in court and was about to move in the suit, when his opponent with great warmth expressed his surprise, and objected to any proceedings until the lady was made a party. The chancellor promptly approved of this objection. Mr. Reynolds observed that he was retained to act for his client, and he believed he could show the court that he ought to be allowed to proceed. But the chancellor very peremptorily informed him that he could not proceed. Nevertheless, Reynolds, in his cold and passionless manner, observed that he was not only retained, but—something unusual—had been paid his fees in advance, and he really must be allowed to go on; still insisting that he could convince the court why he ought to be permitted to go on. But the chancellor again checked him, this time rather tartly, and as often as he tried to get in one word, the court uttered two, by way of opposition.

"'Well,' said Reynolds at length, 'if I cannot be allowed to go on, I must move the court for an order putting the cause over until my client can marry a wife and bring her into court.'

"'What,' said the chancellor, 'is he not married?"
"'No sir.'
"'Why, then, was this order made?'
"'He was married then, but if your honor please, his wife died since.'
"'Why did you not say so at first, Mr. Reynolds?'
"'Because your honor would not give me the opportunity.'"

There was at times a playfulness in his nature that would not permit him to forego a good joke, and any little pleasantry which occurred at the bar, always amused him. It is related of him that upon one occasion, he had noticed an old cause for argument at a special term held by Judge Nelson. His opponent was Mr. Colyer. At the appointed time, the case was called and promptly moved by Mr. Reynolds, but Colyer declared that he was not ready to proceed; the former however, gravely insisted upon proceeding with the argument. "'This case has laid a long time, your honor. Something over a year ago I made some points in it, but not an extended brief, and I have not looked at the papers since.'" While making these remarks his papers lay on a table by his side a little out of the range of his vision, and Reynolds adroitly drew the points out of them, and inserted his own. "'I shall insist,' said he, after Colyer had seated himself, "'that we make some progress in this case to-day, at any rate; and my opponent can use the points which he has, with the privilege of making more if he desires.'"

To this the judge assented, and Mr. Colyer took up his bundle of papers, drew from them Mr. Reynolds' brief, supposing it to be his own, and commenced his argument.

"'My first point, your honor, is'"—and he commenced reading. After proceeding a few moments, he paused, and then commenced again with considerable emphasis. "'My first point is,'"—and he read several lines then came to a dead pause. "Well," said he,
"that point does not seem to me to be exactly like the one I drafted, and I confess it does not bear much on my side of the case; however, I will, if the court please, consider my second point," and he commenced reading his second point.

He proceeded a short time, when he paused, and looked at the authorities to which it referred.

"Well, well; I must confess when I drew these points, I was thinking that I was employed on the other side, or else my clerk has made a horrible mistake in copying them. If your honor please, I cannot proceed with this argument; if I do, I shall be beaten by my own showing. Mr. Reynolds," he continued, turning to his opponent, "under the circumstances, I beg that this"—here he was interrupted by a general explosion of laughter from the bar, who had been a witness to the change of points.

It was quite impossible for Judge Nelson to maintain his gravity, and he, too, joined in the laughter. At length, when order was restored, Mr. Reynolds arose and with much dignity remarked to the court that, as he did not desire the counsel's aid in arguing his side of the case, he would consent to have it go over, for the purpose of giving his opponent time to prepare a brief for himself.

In person, Mr. Reynolds was slightly above the ordinary stature; his frame was slender, but well proportioned. In his earlier years, his form was more athletic. His face was thin. His high forehead evinced intellectual power. On the whole, his countenance was one upon which a physiognomist would look with pleasure; it indicated that "he read much—was a great observer, and looked quite through the deeds of men." A special element in his character was his comprehensive vigor, and the accuracy with which he separated truth from error, the facility with which he methodized and elucidated his arguments. His success as a lawyer was the reward of constant mental elaboration.
"He was well instructed in the great principles which underlie the administration of justice, and with inexhaustible resources always at command, he was never at fault for a reason or an argument. No man was ever able to master a case with greater ease and facility, or present it with greater clearness. If unsound, he was always plausible, if unprepared, he was always ready with the keen weapons of wit, irony, and argument; and if unable to convince, he never failed to hold the attention and interest the most learned and grave judges. No man was ever gifted with more fertility of resources, or knew how to use them with greater effect; there was about him that which made him a favorite among men of eloquence, learning, wit, and fancy. In fact, in this sphere he was the peer of all, and the imitator of none.

"He lived a life of devotion to his profession. He never sought or held public office. Simple and retired in his tastes and habits—a warm and generous friend, an open and manly adversary. He was alive to the obligations of charity, and dispensed with a lavish hand, to every good and worthy object. Many of the religious, charitable, and literary institutions of Albany are indebted to him for pecuniary aid and influence. For many years he was one of the vestry and a member of St. Peter's Church, in that city."

His abnegation of politics was more thorough than that of Mr. Hill or Mr. Stevens.

The secret of this was his utter distaste for those practices and associations which are so necessary for the complete politician.

He was often solicited to become a candidate for office. In the autumn of 1881, a committee of gentlemen waited upon him for the purpose of tendering him the nomination for Congress for the Albany district.

After listening to their statement, he said:

"Gentlemen—I am not politician enough to accept
this nomination. If I should be elected, I could be of no service to you as a partizan."

"We do not care for that, Mr. Reynolds; we tender you this nomination for your talents and your qualifications for it," said one of the gentlemen.

"But I have just informed you that I have no qualifications for the office. I have no capacity for pulling the political wires, and if I attempted that delicate business, ten to one that I pulled the wrong one, and thereby ruined your best plans. No, gentlemen, you want a wire-puller; I cannot be that man, and, therefore, I cannot accept those honors which you have so courteously and generously tendered me," and the committee withdrew.

In his social relations, Mr. Reynolds possessed those qualities which accompany a refined and sensitive mind, and which made him beloved in the sacred circle of home.

From the year 1837 down to the adoption of the Code of Procedure, Marcus T. Reynolds, Samuel Stevens, and Nicholas Hill were leading lawyers in the State. The two former had been distinguished at the bar of the Supreme Court and the Court for the Correction of Errors, long before the latter appeared there; but soon after his removal to Albany, Mr. Hill, as we have seen, ranked with the ablest at that bar, and was considered a rival of Mr. Stevens and Mr. Reynolds. The three were constantly engaged in the principal courts of the State, sometimes on the same side, but more frequently opposed to each other. It is proper, therefore, in this connection, to consider the character of Samuel Stevens.

He was a lawyer of rare accomplishments, an advocate of great power. He conducted his causes with dexterity, avoiding unnecessary exaggeration. Like Ogden Hoffman, he contrived to give interest to a dry detail of facts, by a happy adaptation of his mind to them; he could on the instant select out of a variety of matters those which would make the best appear-
ance and be least exposed to observation and to answer; "he could estimate the probable case which was hid in his adversary's brief, and prepare his own to elude its force—decide between the advantage of producing a witness, and the danger of exposing him; if he represented the defendant, he knew how to apply evidence to a case new in many of its aspects, or take the grave responsibility of offering none. Besides the opportunity which the forms and mode of trial gave to the exercise of skill, the laws of evidence afforded him still greater play for his ingenuity and grounds of caution, possessing even on the most trying occasions imperturbable self-possession, always having a full comprehension of the law and facts in his case."

As a speaker, he was as effective before the court as either Hill or Reynolds; as a jury lawyer he was more successful than the former, because he was more emotional than he, more vivacious and vehement. His gesticulation was active and frequent, and he often illustrated his argument with a humorous story, which contained point and force. His good nature prevailed at the bar, always accompanied by a keen wit, which was ever at his command, and ever agreeable, because it never descended to pungent or offensive satire. In his manner he was what might be called free and easy; his mouth was always occupied by a quid of tobacco, by no means belonging to the infinitesimal size. He was popular with the people, who thoroughly believed in him, and thus he had one quality of the successful politician, and he was more of a politician than either Hill or Reynolds.

He was first known to the political world as one of most able and eloquent supporters of De Witt Clinton in the State.

In 1825 he represented his native county of Washington in the Assembly, and although one of the youngest members of the House, was regarded as a leader of the Clintonians in that body.
In the year 1827, he was again elected to the Assembly. In February of that year, he delivered a speech on that part of the governor's message which referred to internal improvements, which for brilliancy, point and effect, was unsurpassed, while it established his reputation as a profound thinker, an ingenious reasoner, and an accomplished speaker. He afterwards identified himself with the Whig party, and in the legislative caucus held in February, 1839, was strongly sustained as a candidate for attorney-general; Willis Hall, of New York, was, however, the successful candidate, on a vote of forty-five to forty-two. It was in this caucus that John C. Spencer was nominated for secretary of state. It is said that Mr. Stevens himself was quite indifferent as to the result of this contest. He was never again before the public for any civil office, excepting once, when he was nominated for lieutenant-governor.

In personal appearance, Mr. Stevens differed materially from both Hill and Reynolds. He was short, thick set, tending to corpulence—his eyelids were always partly closed, as though they were affected by the light. He was of a nervous temperament, active, energetic, and restless.

These three eminent lawyers, as has already been said, often opposed each other at the circuits, especially during the years 1836, '36 and '37. They were frequently engaged at the circuits in distant counties, and were always at the Schenectady courts.

When it was known at Union College that either of these distinguished lawyers was engaged in the trial of a cause, the court room would be thronged with students, as it was a custom of the faculty to excuse them from recitation on such occasions. When either of these advocates addressed the jury, "scarcely any sound could be heard except the pens of the reporters, and those of the opposing counsel taking notes."

At the Albany bar there was scarcely a case of im-
portance tried in which one of the three did not appear as counsel. "They opened their briefs with apparent unconcern; stated complicated facts and dates with marvelous accuracy; conducted a cause with zeal and caution through all its dangers; replied on the instant, dexterously placing the adverse features of each side in the most favorable positions for their clients; and, having won or lost the verdict for which they struggled, as if their fortunes depended on the issue, dismissed it from their minds like one of the spectators. The next cause was called on; the jury were sworn; they unfolded another brief and another tale and were instantly inspired with new zeal, and possessed by a new set of feelings; and so they went on till the court adjourned." Among the many distinguished qualities which they possessed, there were two with which each was liberally endowed, and which were "essential to their splendid success—a pliable temperament and that compound quality, or result of several qualities, called tact, in the management of a cause."

Mr. Reynolds died on the 13th day of July, 1864, in the seventy-seventh year of his age.

Ten years previous to his death, owing to ill health, he retired from the bar, and nearly withdrew from former associations and society, save that of his immediate family. And at last his splendid intellect vanished from the dome of thought, and his last years were passed in mental darkness.
WILLIAM G. ANGEL.

His Ancestry.—Birthplace.—Description of his early home in Otsego County.—His Love of Knowledge.—His Poverty.—The Commencement of his Education.—The Circulating Library.—His Struggle to obtain access to it.—His Ultimate Success.—Engages as a Clerk in a Dry Goods Store.—Deposits a large quantity of Whiskey in the wrong place and Leaves the Store.—Dr. Buckingham and his School.—Young Angel a Pupil.—How he Obtained a Copy of Murray's Grammar.—His Progress in the School.—Becomes a Medical Student.—Abandons the Study.—Is a Witness in a Lawsuit.—The Novelty of the Scene.—Colonel Farrand's Report and Honorable William Dowse, of Cooperstown, the Opposing Counsel.—Angel's Personal Appearance.—The Wonder with which he Witnessed all the Proceedings.—A New Field of Ambition opens.—Enters the Service of William Dowse as a Laborer.—How he managed to become a Law Student.—Dowse Elected to Congress.—His Death.—The Struggle of young Angel to obtain his Profession.—Success at Last.—Discouragement of his early Professional Life.—His retiring nature and embarrassment in Courts of Record.—An Incident occurs which causes him to overcome his Embarrassment.—Samuel A. Starkweather.—Angel's Professional Career.—He becomes Prosperous, and gains Distinction at the Bar.—Is Elected to Congress.—Is repeatedly Re-elected.—His Congressional Career.—His relations with Calhoun, Claytons, Silas Wright, General Houston, and Ogden Hoffman.—Retires from Congress.—Removes to Hammondsport, New York.—Forms a Partnership with Morris Brown, Esq.—Martin Grover a Student in their Office.—Angel removes to Angelica, and enters into Partnership with Mr. Grover.—Character and Success of the Firm.—Mr. Angel enters into Partnership with Honorable Wilkes Angel.—Is Elected a Delegate to the Constitutional Convention.—His Labors and Services in the Convention.—After its adjournment, he is Elected County Judge of Allegany County.—Character as a Judge.—Retires from the Bench.—His Death.—Characteristics.

BLOCK ISLAND, which is nominally a part of Rhode Island, was the birthplace of Wm. G. Angel. Early in the seventeenth century, his ancestors emigrated from Warwick, England, and settled in the colony of Massachusetts. They belonged to the Society of Friends; and accompanied Roger Williams to Rhode Island, and settled at Providence, where many of the descendants of the family still reside. At length the grandfather of Mr. Angel removed to New London, Con-
necticut, where his father was born. His mother was a daughter of Stephen Gordon, of Colchester, Connecticut. She, too, belonged to the Society of Friends.

During the Revolutionary war, his father was favorably disposed to the cause of liberty, and furnished such aid as was consistent with the principles of the sect to which he belonged; yet he was subjected to many annoyances, and serious losses—losses which reduced him nearly to poverty itself. He eventually removed to Block Island, where, on the 17th day of July, 1790, his son, William G. Angel, was born; being the youngest of seven children. When William was two years old, his father removed to Richfield, Otsego county, New York; then, an almost unbroken wilderness. Amid the wild scenes—the grand woods—and by the side of the bright shimmering streams of Otsego, Mr. Angel received his first impressions of life. In a house formed of logs, covered with strips of elm bark—the floor of which was made of split logs faced with an ax, he first knew the sacred and tender affections of home—the unwearied watching and cheerful sacrifices of parents, and all the endearing offices of brothers and sisters, which shed a serene and holy light in that humble home. In the years of his prosperity and success, when mingling with the great, the learned, and the gifted, memory often carried him back to that home of poverty:

"And again returned the scenes of youth,
Of confident and undoubting truth,"

and he sighed for the happy hours, which even amid toil and privation he had passed there—for the loved ones he should see no more.

As the boy increased in years, he developed a bright, inquiring mind. At length he began to share with his father the labors and hardships of the day, and these were great; for their nearest grist mill was at Fort Plain, on the Mohawk, thirty miles distant, and the nearest store was at Cooperstown, eleven miles
away. For several years the family depended upon the deer which abounded in the forest, and the trout which swarmed in the streams, for the meat they used. When William was old enough, it was his delight, with dog and gun, to hunt for deer or fish for trout. Occasionally while hunting, a black bear would cross his path, and then a steady hand, a sure aim, always brought Bruin to the ground. Sports like these enlivened his life of labor, and lent a charm to its hardships.

The family of Mr. Angel had been at Richfield several years before a school was established there, and William learned the alphabet from an elder sister, who, in due time, taught him to read. When he was seven years old, a school was opened, four miles from the residence of his father. A relative resided near the school, and with him the boy boarded for the term of seven or eight months and attended school. His studies were confined to the spelling book. So rapid was his progress, that at the close of his term, he could repeat almost every word in Webster's spelling book, and was an excellent reader. Leaving this school, he returned home and remained with his father on the farm, until he attained his seventeenth year, laboring during the summer, and occasionally attending school during the winter. The common schools of that day afforded, at best, indifferent advantages. The only books to which young Angel had access during these years, were the Bible, a part of Shakespeare's works, Barclay's Apology for the Quakers, Webster's Third Part, and the Columbian Orator. These works he studied with the most unremitting industry, committing large portions of them to memory. Like many whose lives have adorned the "Bench and the Bar," Mr. Angel ever derived from Shakespeare a never-failing source of intellectual delight. He always had a true and just appreciation of that "great poet of humanity, whose every page furnishes us with intensified expressions,
where some happy word conveys to us a whole train of ideas condensed into a single luminous point.'

At length a circulating library was established in the neighborhood. To gain access to this, was the ruling desire of his heart. But there was an almost insurmountable obstacle in his way. Before he could be admitted to this intellectual banquet, he was obliged to pay the sum of two dollars—an amount far beyond his reach. So limited were the means of his father—so pressing was his need of money, that he could spare none to his son, and as the young man had no friend from whom he could borrow, fortune seemed to deny him access to the books.

Learning that a man living some distance from his father owned two shares in the library, one of which he desired to sell for the sum of two dollars, he immediately sought this man, and made an arrangement with him by which he was to take the share, and in payment, work for the owner on his farm. And now the coveted treasures were open to him. The ‘Meccas of the mind’ were before him, and his every faculty paid tribute to them. His mind was enlightened and disciplined by the accuracy of the logician—the penetrating spirit of philosophy—the intuitions of genius—the researches of history—the science of the mind—the spontaneous utterances of the gifted and inspired poet. Compelled to labor in the field, like Ben Jonson who carried a trowel in one hand and a book in his pocket,—young Angel carried a book in his pocket, and seated on the plow beam, while his team was resting, he studied the classic page. When moving over the well-turned furrow, he meditated upon his studies, and grafted on his mind all he had read. When night came, his book was again his companion; and thus for several years, his life was the scene of labor and study. Thus, struggling with all the disadvantages of his narrow circumstances, gifted with great industry, and a retentive memory, he mastered every minute portion of the works he
read; thus his acquirements were lasting and valuable. His mind had now become too active, and his ambition too great, to be contented with his manner of life; he therefore left his father's home and entered a store, which had been established near the residence of his father, in the capacity of clerk and salesman. But he soon learned that in this, he had mistaken his calling. So much of his time was given to his books, that his employer complained of him.

One day, with book in hand, he was engaged in transferring a quantity of whiskey from one barrel into another. At length his book caused him to forget his occupation, and before he was aware of it, several gallons of the liquor found a lodgment on the cellar floor. After remaining in the store four months, he became thoroughly disgusted with trade, and leaving the business, he returned again to the labors of the farm.

In the autumn of 1808, Doctor Buckingham, a graduate of Yale College—a physician of fine attainments and a ripe scholar—settled in the neighborhood, and in the winter following opened a grammar school. It had long been the desire of young Angel to attain a knowledge of English grammar, and this was the first opportunity which presented itself for his pursuing this branch under a competent teacher; he therefore resolved to attend Doctor Buckingham's school. Upon consulting with his father he found him at first opposed to the project, as he desired his son to follow the avocation of a farmer, and believed that his education already sufficiently qualified him for that business. But at length he gave his consent, with the understanding that William should see that the winter's wood was drawn to the door, and prepared for the fire, and that he should also take care of the stock on the farm, nights and mornings. To this, the young man readily consented. But now another difficulty presented itself. He had no grammar, and what was still worse,
no money with which to buy one. He endeavored

to find some employment by which he could earn

sufficient means to purchase the desired book, but

failed in this. What could he do? The school was

soon to commence, and he was entirely unprepared.

At length fortune favored him. In a part of the

house which was seldom visited, stood an antique
desk, which had been removed from Rhode Island.

It was the receptacle of a confused mass of rejected

trumpery of little value.

One day, while searching for some article in this
desk, he accidentally discovered a pair of solid silver

shoe buckles, once worn by some pains-taking ances-
tor. The thought at once occurred to him, that with

those buckles he could gain the means to obtain the

book he so much needed. His plan was instantly

formed, and although it was a cold and stormy day,

late in November, and now ten o'clock in the fore-

noon, he started on foot for Cooperstown, a distance

of eleven miles. Through sleet and rain, he reached

that village, and succeeded in disposing of the orna-

ments to a silversmith residing there, receiving in

payment the sum of one dollar and thirty-five cents,

which was a sufficient sum to purchase the book, and

some refreshments. With his highly prized volume,

he reached home before night, chilled and weary, but

happy in the possession of a copy of Lindley Murray's

Grammar.

Early in December, 1807, he entered the school of

Doctor Buckingham. He was obliged to walk a mile
to reach the school, and yet, with all the difficulties
in his way, he made such progress in his studies, that
his teacher declared that he had pursued the
study of grammar before entering his school. He
continued under the tuition of Doctor Buckingham
during the winter of 1807–8, and in the following
spring entered the office of the doctor as a medical
student. After pursuing the study of anatomy with
energy eight months, he became satisfied that nature
never intended him for a physician or surgeon. He therefore returned again to his labors on his father's farm. Young Angel was now in his nineteenth year. He had been a farmer, a merchant's clerk, and a medical student—all of which were alike distasteful to him. He was at a loss to decide upon an occupation which he could follow with any pleasure and profit. During the summer of 1800, he continued to labor on his father's farm, devoting every leisure moment to his books, but without any plan for the future. At length an event occurred which changed the whole current of his life, and directed him to that profession for which nature had so well adapted him.

Early in September, 1800, a suit was commenced before a justice of the peace, residing in a neighboring town, by a man who charged the defendant with fraud and deceit in selling him a cow. It was to be a jury trial, and the interest in the suit was increased when it was known that Colonel Farrand Stranahan was to try the case for the plaintiff, and William Dowse, Esq., for the defendant. These gentlemen were then young, but eminent members of the Otsego bar, residing at Cooperstown. The former subsequently attained a high position in the political history of the State, and represented his district in the Senate of the State several years.

On the day appointed, the trial took place in the presence of a large number of people. Among the witnesses subpoenaed for the plaintiff, was young Angel. He appeared at the trial fresh from the plow field, attired in a tow frock, and pantaloons of the same material, large enough for meal bags, so short that they hardly reached to the top of his half-worn blue stockings, which were thrust into a pair of cowhide shoes, the toes of which were open to the weather, while his hat had the appearance of having once belonged to some trans-Atlantic ancestor.

In addition to this he was covered with dust and perspiration,—in fact, he stood before the court the very
picture of rusticity. He had never witnessed the trial of a law-suit—never seen a lawyer. He had read of such beings, it is true—but precisely how they appeared or acted, he had not the remotest idea. To him, therefore, the proceedings of this trial were invested with more than dramatic interest. With wonder and astonishment he watched every movement in the case. When an objection was taken to the introduction of evidence, and counsel argued for and against its introduction, he believed himself in the presence of the most wise and learned men in the world. Even the little squint-eyed justice, whom the lawyers addressed as “your honor,” in his eyes was clothed with grand judicial power and authority. In after years, when standing before Spencer, Tompkins, Platt, Yates, Cowen, and Marcy, surrounded by the great lawyers of the State, he did not regard them with half the reverence and awe which he felt for the justice who repeated to him his first oath.

Young Angel was the principal witness for the plaintiff, and he gave clear, distinct and intelligent testimony. The rigid and searching cross-examination to which he was subjected was endured with a self-possession which exhibited a well-poised and enlightened mind. The keen lawyers soon learned that beneath the homely garb of the rustic witness, there breathed a gifted soul,—replete with thought—energized by reading and self-culture.

After the evidence was closed, he remained to hear the counsel “sum up,” and listened to their remarks with a feeling of wonder and delight—almost of awe. During the entire discussion, he seemed laboring under the spell of enchantment, and thought he would exchange the wealth of the world, were it his, to be able to talk as they did on that occasion. The novelty of the event undoubtedly enhanced its importance in his mind, and never having heard a public speech of the kind before, he very naturally attributed to the remarks of the counsel a degree of excellence at least equal to
their merits. From that moment he conceived a wish to become a lawyer. The idea, however, was but imperfectly entertained, and, on contemplating the subject in all its aspects, the difficulties that presented themselves to his mind left him only a vague and undefined hope, rather than any settled purpose or determination. When the trial was over, Mr. Dowse requested him to assist in catching his horse in the pasture, which was very bad to catch. He very readily consented to do so, and displayed so much activity and tact in quieting and catching the animal as to attract the favorable attention of Mr. Dowse, who proposed to take him into his employ, to do the work in his garden and about his house and office, take care of his horse, make fires, and assist in the cultivation of a small farm, for which he offered to pay him eight dollars a month besides his board. Upon consulting his father, he consented to the arrangement, and on the 17th day of September, 1809, William went to reside with Mr. Dowse, at Cooperstown. He commenced his services with his employer in harvesting a field of buckwheat, and soon found that he could do all the work required of him in one or two hours in each day. Having much leisure time, he asked Mr. Dowse to allow him to read some of his books, to which he cheerfully assented. Mr. Dowse had a partner at this time, of the name of Flagg, who was a graduate, and who instructed Angel in some of the higher branches of mathematics, and under his advice he commenced reading Blackstone. Much of his time was spent in the office, and he soon became deeply interested in the study of his book, which seemed to open to his mind not only a broad field of investigation, but also principles and a science more congenial to his genius and intellect than had ever before fallen under his observation.

Mr. Dowse was a man of social feelings and familiar habits. Mr. Angel occasionally asked him ques-
tions in relation to matters he had been reading, and he freely explained whatever appeared obscure and was not readily understood. After having on several occasions discussed the subject of his reading, he was one day surprised by Mr. Dowse exclaiming:

"Young man, you must study law—you are a lawyer already—you have it in the natural way."

To this he suggested an objection in his situation in life. He informed Mr. Dowse he had not a shilling in the world, nor a friend who was able to help him; and as it would require a period of seven years to complete his studies, he regarded the project as almost impossible of accomplishment. That gentleman, however, encouraged him to undertake it, assuring him he would succeed, and pointed out to him a variety of ways in which he might soon be able to earn sufficient to pay his expenses; and in the benevolence of his heart set earnestly at work to aid him. He prepared the necessary certificate of clerkship and filed it in the proper office, and at the age of about twenty Mr. Angel found himself regularly installed as a student at law. And here commenced his first great struggle in the battle of life.

He remained with Mr. Dowse several years, during which time he supported himself by managing causes in justices' courts and by teaching school, for which latter occupation he had qualified himself by the severest application.

In 1812 he was married, and, thus subjected to the additional expense of providing for a family, his determination and perseverance strengthened with every new difficulty which presented itself, and he never dreamed of a failure.

In the autumn of 1812, Mr. Dowse, his friend and patron, was elected representative in Congress from the fifteenth Congressional district, but he was prevented by death from reaping the honors thus bestowed upon him; he died on the 18th of April, 1813. This event was a severe blow to Mr. Angel. Through
all the eventful scenes of his life, the memory of this friend remained fresh in his mind.

After the death of Mr. Dowse, Mr. Angel was for a time under the instruction of Colonel Stranahan, with whom he made rapid proficiency in his studies.

In the autumn of 1816, he removed to Sherburn, in the county of Chenango, and entered the office of William Welton, Esq. Mr. Angel was now so advanced in the knowledge of law and the detail of practice, that Mr. Welton offered him a salary of three hundred dollars per year and his board.

Under this arrangement he remained at Sherburn several months, when Luther Elderken, of Burlington, Otsego county, a lawyer controlling a lucrative practice, desired him to enter his office as an equal partner, although he was not yet admitted to practice. This offer was so advantageous to Mr. Angel that Mr. Welton generously released him from his engagement, and the former accepted the offer of Elderken. This relation continued until October, 1817, when Angel was duly admitted to practice. After that event, he still continued his business relations at Burlington.

At length Mr. Elderken absconded, taking with him large sums of money collected by the firm, belonging to various clients, leaving Mr. Angel to refund the amounts out of his own means. This was a serious misfortune; but his creditors were exceedingly lenient, and he remained in practice, conducting the business alone.

Mr. Angel at length found himself established alone in business, and admitted as an attorney, but incumbered with a family and largely in debt, not only on his own account, but on account of the late partnership, from which he had derived a bare subsistence. His business was still further crippled and reduced by the passage of a law by the Legislature in 1818, extending the jurisdiction of justices of the peace to fifty dollars, which destroyed nearly one-
half of the business of attorneys. Relying upon his own strength, he set himself resolutely at work, with no thought of yielding for one moment to this load of accumulating evils. From the time Elderken left, he labored incessantly, night and day, in season and out of season, saving all he could, and neglecting no opportunity of earning a shilling in any honest and laudable manner. Necessity had somewhat improved his habits of economy, and on a calm survey of his condition, he saw no occasion to despair. Too poor to keep a horse or to hire one, he repeatedly walked ten miles on foot, to attend a suit in a justice's court, and carried his books under his arm, returning in the same manner when the trial was over. About this time, also, there were many applications to do surveying. Not having any knowledge of the science, he resolved to learn it, and immediately procured the necessary books and instruments, and commenced the study without any instructor. In connection with his study, he commenced practicing upon an old farm adjoining the village, which was laid out into large fields for pasturing, and with the aid of some boys to carry his flags and chains, he surveyed this farm into lots of all conceivable shapes and dimensions. In this way he acquired a complete knowledge of surveying, and was frequently employed at that business. He was then appointed a commissioner of deeds, which, together with his surveying and making conveyances, was soon a very considerable source of revenue. From this period, his friends multiplied, business increased, and in two or three years he had discharged all his own debts, and all the debts with which his late partner had incumbered the firm, including the money of the clients which he had applied to his own use.

An obstacle in the way of his early success as an advocate was found in a feeling of diffidence and reserve, that it was almost impossible to overcome. A nervous embarrassment seemed to beset him whenever he entered the court and mingled with his seniors in
years and in the profession, which appeared somewhat inconsistent with the tremendous energy and unyielding fortitude he had exhibited in his struggle for a place at the bar. To account for this feeling or to overcome it was equally difficult, and for three or four years after his admission to practice, he did not venture to address a jury in a court of record.

The bar of the county of Otsego at this period was one of the ablest in the State, embracing such men as Samuel Starkweather, Isaac Lulye, Jabez D. Hammond, Robert Campbell, Levi Beardsley, and Alvan Stewart, then in the vigor of manhood and in the full tide of successful practice. To assume a rank among such men, required no ordinary talent and preparation, and no slight degree of resolution and moral courage. The difficulty of overcoming the feeling of reserve which seemed to control the energies of Mr. Angel was daily increasing; but at length he was indebted to an unforeseen incident which developed the latent strength of his nature. He was employed to collect a promissory note, and brought a suit upon it in the Supreme Court. The defendant appeared in the action, and merely interposed the plea of the general issue, which did not, however, as the rules of pleading then were, apprise the plaintiff of the real nature of the defense; and it was only a day or two before the sitting of the court, that Mr. Angel learned that the defendant intended to contest the note on the trial, on the ground of forgery. Supposing that he could readily engage some of the older members of the bar to aid in trying the cause, he waited until the opening of the court, when, on applying to them, he found every lawyer whose services were worth employing already engaged on the opposite side, with Mr. Starkweather for the leading counsel against him. The cause came on, and he sat down to the trial alone, with feelings that can be better imagined than described. The evidence commenced in the morning and was not closed until evening, when the court ad-
journeyed for tea. The trial was severely contested, every inch disputed, and called out all the skill and legal acumen of the respective counsel. Mr. Starkweather at that time held a commanding position as an advocate, ruled the bar by his influence, and was considered almost invincible before a jury. He summed up the cause for the defendant in an able, eloquent and brilliant manner, exceeding many of his proudest efforts, and took his seat with a confident air of anticipated triumph. When he had concluded, Mr. Angel rose to reply under a depressing degree of embarrassment. He felt the full importance of the occasion to himself as well as to his client, which at the moment seemed almost sufficient to overwhelm him, and when he commenced speaking he could hardly articulate a single sentence. Nerving himself, however, for the effort, he gradually recovered his self-possession, and proceeded to review the evidence and the arguments of the opposing counsel. It was the first time his intellect had been taxed to the utmost, and as much to his own surprise as that of others, he found himself possessed of resources sufficient for the emergency. He brought to his aid a clear mind and discriminating judgment, with a faculty for plain and familiar illustration, that is seldom met with in the mind of an advocate to an equal extent. He proceeded deliberately to dissect and overturn the arguments and positions of his adversary, who throughout his entire address to the jury manifested great uneasiness, and repeatedly interrupted him by calling upon the court to protect him and insisting that Mr. Angel was out of order. The court refused to interfere, and decided that he was strictly in order, and that his argument was entirely fair and legitimate. The effort was a complete and most gratifying triumph. The court charged the jury on the law of the case, who then retired, and after an absence of only five minutes, returned into court with a verdict for the plaintiff for the entire amount of his note.
On the morning succeeding the trial, Dr. Yates, who was foreman of the jury, went to Mr. Angel's room at his hotel, and stated that he had come at the request of the jury, and in accordance with his own inclination, to thank him for doing complete justice to the case and the opposing counsel, who, in the consciousness of his strength and the force of his influence, was sometimes overbearing and oppressive towards those who were younger and more humble than himself.

From this time forward, Mr. Angel experienced no difficulty whatever in his professional pursuits, or the discharge of his professional duties. His business increased rapidly, and very soon equaled in amount the practice of any lawyer in the county, and never after, when able to attend to business, has he been without a client or something to do. He rapidly rose to distinction as an advocate, and acquired an influence with juries that seemed to know no limit. His style of speaking was plain, deliberate, and impressive, enforcing his positions with a clearness and logical precision that usually amounted to little less than demonstration, and presenting his conclusions and the reasons upon which they were based with a candor that never failed to carry entire conviction of his sincerity to the mind of the hearer.

In politics, Mr. Angel was a Democrat of the strictest sect, and early attached to the Bucktail party. In 1821, he was appointed surrogate of the county of Otsego, which office he held for several years, and discharged its important and perplexing duties with the greatest satisfaction to all parties concerned, and to the public at large.

In the fall of 1824, at the time of the election of John Quincy Adams to the presidency, he was the candidate of the Republican party for their representative in Congress from the district of Otsego. His opponent was Dr. Campbell, of Cherry Valley, an estimable and popular man, connected with several large
and influential families of the early settlers of the county. The contest was warm and spirited, and Mr. Angel was elected by a handsome majority.

On entering Congress, he took early and decided ground against the Tariff and the Bank, and steadily opposed every species of monopoly, entertaining the opinion that it was not the legitimate function of government to regulate the private business affairs of the people by means of special legislation. He was placed on the Committee on Territories, of which the late President Polk was also a member, and a feeling of friendship and confidence, which was never impaired, existed between them until the president's death. During the term for which he was elected, he was emphatically a working member, seldom participating in debate. At the period of his election, there were three papers published in Otsego county, two at Cooperstown and one at Cherry Valley, all of which supported the cause and administration of Mr. Adams. Immediately upon entering Congress, he united himself with the supporters of General Jackson, and continued a firm and consistent friend of him and his administration during the remainder of Jackson's political life.

In the fall of 1828, he was again elected to Congress by a large majority over General Crafts, of Laurens, one of the most wealthy and influential men in the county. At the same election, General Jackson received a large and decided majority in Otsego county.

During his second term, in consequence of a defect in his eyesight he was excused from serving on any of the committees, and devoted himself generally to the business of the House, which he perfectly understood, and made himself familiar with its minutest details.

During the winter of 1830, many important and exciting questions were the subjects of discussion in the House, embracing the Tariff, Internal Improvements by the general government, and the removal of
the southern Indians beyond the Mississippi river. In all these questions Mr. Angel took a deep interest, and often participated in the debates. On the first day of April, 1830, the bill for the construction of a road from Buffalo by way of Washington to New Orleans being under consideration, he submitted his views on the general principle of the bill, in an earnest and forcible speech against it, and in favor of the doctrines afterwards promulgated by General Jackson, in his celebrated veto of the Maysville road. This was the first set speech he had ventured to make in Congress, and it attracted attention for the plain, pointed, and direct manner in which the subject was treated, and the strong common sense that characterized its positions. It received the compliment of the profound attention of the House, and produced no little sensation.

In the fall of 1830, Mr. Angel was again put in nomination as a candidate for re-election. In the convention, several prominent members of the party were also presented for nomination, and their claims were zealously urged, but without success, and Mr. Angel received the nomination by a large and decided vote. His opponent in the canvass was Horace Lathrop, Esq., of Cherry Valley, an intelligent lawyer and worthy man, who had once been elected clerk of the county, when the political majority was largely against the party to which he was attached. In this contest, the entire strength of the opposition was put forth, and a combination of interests and feeling evoked to defeat Mr. Angel, which for a while appeared likely to prove successful.

One of the unsuccessful candidates in the convention also thought it his privilege to oppose him at the polls, and in a remote town where Mr. Angel was but slightly acquainted, produced a large defection against him, and while the regular Democratic ticket received a majority of thirty, the majority against him was one hundred and sixty. Never before in the his-
tory of the county had a candidate been so fiercely and violently opposed. The whole contest turned upon the Congressional candidate, and the rest of the ticket on either side was left to take care of itself. But while the wealth of the county interested in manufactures, combined with the religious fanaticism of some, and the disappointed ambition of others taking revenge at the polls, was arrayed in confident force against him, he was nobly sustained by the sturdy yeomanry of his district, whose votes could not be controlled by political jobbers, wire-pullers, and small politicians, and Mr. Angel was elected by a small majority.

Under the circumstances, his election may be regarded as one of the greatest political and personal triumphs ever won in the county of Otsego. To the managers of the opposition it was equally a matter of surprise, disappointment and mortification, and they were at a loss to understand the cause of the extent and strength of the devotion manifested by the mass of the people for their favorite candidate.

At the succeeding session of Congress, the only question of interest in the discussion of which Mr. Angel took part, was the claim in behalf of James Monroe. While the subject was under consideration, Mr. Angel submitted his views at length against the principles of the bill, in a speech of great clearness and power. It is sufficient to say of this speech, that subsequently, when some of the members from New Hampshire, who acted and voted with him in relation to this matter, were in nomination for re-election, and were assailed for having opposed this claim, the speech of Mr. Angel was published and circulated in their districts as containing a perfect vindication of their conduct and their votes. And still more recently, in 1844, when Mr. Polk was assailed while a candidate for the presidency, on the same ground, in some of the Southern States, this speech was extensively circulated and with great effect, for the purpose of re-
moving any unfounded prejudice that might exist on
the subject.

With the termination of this Congress, Mr. Angel
closed his Congressional career, and again retired to
private life. During the entire period of his last two
terms, he had been nearly blind, and was dependent
upon his friends for his reading, and employed an
amannensis to conduct his correspondence and pre-
pare his notes for the debates. So great was this
difficulty, that when about to address the House on
the subject of the Buffalo and New Orleans road, he
was unable to read the title of the bill, although dis-
played in coarse print, and was under the necessity
of asking a friend to read it for him. It was under
these disadvantages that his most important Con-
gressional labors were performed, and we are
better able to appreciate their character for this un-
derstanding of the matter.

Mr. Angel was the intimate personal friend of Mr.
Calhoun, who manifested for him an undiminished
feeling of friendship and regard during his life, not-
withstanding the rupture of their political relations
when Mr. Calhoun severed his connection with the
party. Among his intimate personal associates and
confidential friends while in Congress, were Judge
Clayton, of Georgia, General Houston, then of Ten-
nessee, and Ogden Hoffman and Silas Wright, of New
York. With this class of men he was held in high
esteem, and it is no light matter of praise that he
was counted worthy of their confidence and regard.

On retiring from Congress, he found his profes-
sional business so much disturbed, and his health
and sight so greatly impaired, that he hesitated to
engage again immediately in such arduous duties.
But shortly recovering both health and sight, he form-
ed, early in the summer of 1838, a copartnership with
Honorable Morris Brown, then a resident of Ham-
mondsport, New York, an eminent member of the
Steuben bar, and now a leading member of the Penn
Yan bar. Mr. Angel's reputation gave him a prominent position in his new field of action, and the business of the firm was exceedingly prosperous.

At the time he decided to leave Otsego county, Martin Grover was a student in his office. Mr. Grover had become so attached to his preceptor, that he accompanied him to Hammondport, and in the office of Messrs. Brown & Angel completed his legal studies. After his admission to the bar he removed to Angelica and there commenced the duties and responsibilities of an active and successful professional life.

Judge Grover entered upon his practice with the most unflagging industry. He is a native of Otsego county, and at an early period of his life, entered Hartwick Academy, where he won the commendation of his teachers by a practical and successful prosecution of his studies. "The ardor with which he sought for knowledge, in every useful form, may be compared to a miser seeking for gold." The same love of knowledge and investigation characterized him as the law student and the practitioner.

Often when professional labor occupied his time during the day, instead of retiring to rest at night, he sought his library and rarely left it until long after midnight. When the duties of his profession began to press him, he seemed to be indifferent to sleep.

An eminent lawyer who knew him intimately during the earlier years of his practice, once said to the author:

"I often admired Mr. Grover's stores of legal learning, and I was always attracted by his vast fund of information on other intellectual subjects, for he was equally familiar with others, natural philosophy, history, biography, metaphysics, statistics, and politics. He possessed, in a remarkable degree, the power of retaining what he learned, and his stores of knowledge were ever ready at his command."

The devotion of Judge Grover to his profession, the ardor with which he explored its vast fields of
learning, led to a day of results and triumphs; he soon became one of the most popular lawyers in western New York. His intellectual and moral constitution, his education, his habits and his sympathies, all conspired to render him a favorite with "the sovereigns," and while he continued at the bar he was emphatically the people's lawyer, whom they have delighted to elevate and honor. He has represented them in Congress, and for many years has pronounced the laws for them from the bench, and they have recently given another proof of their confidence by placing him for a term of years upon the bench of the highest court in the State.

In 1835, Judge Grover, prompted by his confidence in Mr. Angel's legal attainments and abilities, prevailed upon him to remove to Angelica, and enter into business with him. This arrangement was fortunate for both parties; it combined strength of intellect, long experience and research, which soon brought the well-deserved emoluments of ardent professional devotion. The firm of Angel & Grover, during a period of nine years, was engaged in nearly every important case which was tried at the Angelica bar—a bar by no means inferior in ability and versatility of talent.

From the days when Ambrose Spencer sat upon its bench down to the present time, it has been an arena where the most gifted intellects of the State have contended, and there every kind of legal combat has been witnessed. There, John C. Spencer, S. A. Talcott, J. A. Collier, Luther C. Peck, John B. Skinner, Henry Wells, Robert Campbell, George Miles, Fletcher M. Haight, Martin Grover, and William G. Angel, have contended.

It was the fortune of Mr. Grover not only to contend with these eminent lawyers, but with a class equally powerful who came to the bar after them—men like David Rumsey, Wilkes Angel, M. B.
Champlain, Washington Barnes, S. G. Hathaway, Ward, Hawley, and others.

The firm of Angel & Grover continued until the year 1843, when it was dissolved, and Mr. Angel formed a copartnership with his son, Hon. Wilkes Angel, now of Belmont. This relation continued to exist until 1847, when the senior partner was elected county judge of Allegany county.

In 1846, Judge Angel was elected a delegate to represent Allegany county in the constitutional convention which met at Albany on the first day of June, 1846. The proceedings of that convention attest the ability and labor with which he devoted himself to the discharge of his duties.

As chairman of the committee on the appointment or election of all officers whose power and duties are local, and their tenure of office, he performed severe as well as delicate duties. The report on the matters submitted to that committee, which he made to the convention on the fifteenth of July, 1846, was a document prepared with masterly skill and ability, and reveals the vast amount of labor and investigation which it required and he gave.

Of the many speeches which Mr. Angel delivered in the convention, the one which he made on the ninth of June, on the qualification and the duties of the executive, was not excelled by any speech on that subject in the convention. His speeches on the apportionment—on the election and tenure of office of the Legislature—on the judiciary articles—on the canals and finances, and on the rights of married women, were pregnant with practical, useful and liberal suggestions, and furnished the convention with a fund of valuable information which greatly aided the members in their deliberations.

With the adjournment of this convention, Mr. Angel resumed his professional duties. But he was not permitted to continue long in practice. In June, 1847, he was elected county judge of Allegany coun-
ty. He discharged the duties of that office in the most acceptable manner four years and a half, and then retired forever from all public duties.

The learning, experience, ability, sound sense and impartiality which he brought to the bench, rendered him a favorite with the bar, and inspired the community with a general respect for him.

Judge Angel died at Angelica, on the thirteenth day of August, 1853, in the sixty-seventh year of his age.

Through life, his manners and habits were plain and unassuming; he delighted in the society and conversation of the learned and the intelligent. The sunny playfulness of his nature remained undimmed by the approach of age, giving peculiar grace to the autumn of his life, for it seemed like hoarded treasure, purified by the ordeal through which it had passed, "preserving his mind fresh and green from the frosts which bowed his form and whitened his locks."

Down to the latest period of his life, books were his delight, and when the author pleased him, he read and re-read his productions, gathering new beauties with each repeated reading; and thus the sun of his life went down, clear and unclouded.
BENJAMIN F. BUTLER.

Born at Kinderhook.—His Early Life.—Is Sent to Hudson Academy.—Makes the Acquaintance of a Young Lawyer.—Friendship of the Lawyer for him, and the Reasons.—Butler becomes a Student in his Office.—The Lawyer's Career.—Is Elected to the Senate.—Martin Van Buren, at Hudson.—Removes to Albany.—Hostility of the Federalists to him.—Boswell's Description of Wilberforce applies to him.—His Characteristic.—Butler Accompanies him to Albany and Continues his Studies with him.—Butler as a Law Student.—Unites with Dr. Chester's Church.—Incidents.—Is Admitted to the Bar, and becomes a Partner of Mr. Van Buren.—His Marriage.—The Cases of Wilkes v. Lion, and Varick v. Johnson.—The Medof-Eden Case.—Aaron Burr Associated in the Cases with Butler and Van Buren.—Interesting History of the Cases.—Butler's Early Cases in the Supreme Court and Court of Errors.—Appointed District-Attorney.—Appointed to Revise the Statutes of the State with John C. Spencer and John Duer.—The work which Butler performed on the Commission.—The manner in which the work was performed.—Character of the Work.—Adopted in other States and in England.—Butler Elected to the Assembly.—His Labors in that Body.—John C. Spencer and Ambrose L. Jordan in the Senate.—Character of the latter.—Regent of the University.—Butler Tendered the Office of United States Senator.—Declines.—Appointed a Commissioner with Theodore Frelinghuyzen to settle Difficulties with New Jersey.—Appointed Attorney-General of the United States.—Popularity of this appointment.—Appointed Secretary of War in Jackson's Cabinet.—Holds both offices.—Butler's Opinions as Attorney-General.—Felix Grundy.—His Opinion of Butler.—President Van Buren.—Butler Resigns his Seat in the Cabinet.—Subsequently resigns the Office of Attorney-General.—Removes to the City of New York.—Resumes the Practice of Law.—Is Tendered the Office of Secretary of War under Mr. Polk.—Declines.—Death of Mr. Butler's Wife.—He Visits Europe.—Sudden Return, and the Cause.—Mr. Butler and Judge Kent Engaged in the great Case of Levitt v. Curtis.—Butler's labors in it.—Effect on his Health.—Butler's Professional Life Referred to by Judge Kent.—Other Incidents in his Life.—His Literary Tastes and Acquirements.—Characteristics as a Lawyer.—Visits Europe.—Interview with Judge Kent before Sailing.—Travels on the Continent.—Reaches Paris.—Sudden Death.

BENJAMIN F. BUTLER was born at Kinderhook landing, in the county of Columbia, on the 17th day of December, 1796. His father began life as a mechanic, but subsequently became a merchant. He
was a man of strict integrity, industrious in his voca-
tion, and honorable in his relations to the society in
which he lived.

The early years of young Butler were passed in at-
tending a common district school and aiding his father
in his store. He is represented as a boy of respectful
manners and of an intellectual turn of mind. While
engaged in the store, he became a favorite of a Pres-
byterian clergyman whose residence was near his
father's. He was a man of great piety, generous and
high-toned, liberally educated, and endowed with
those qualities which are naturally attractive to young
and ardent minds.

This good man duly appreciated the constitution
and susceptibilities of Butler's mind, and inscribed
upon it traces of light and beauty which were never
erased. He sowed in it those seeds of religious truth
which bore abundant fruit in after years. From this
clergyman Benjamin received his first knowledge of
books, and his first impressions concerning the plea-
sures and business of life; by him he was taught to
explore the records of past ages, in order to observe
the footsteps, not only of conquerors, statesmen, and
orators, but of the benefactors of the human race,
"martyrs to the interests of freedom and religion,
men who have broken the chain of the captive, who
have traversed the earth to bring consolation to the
cell of the prisoner, and whose lofty faculties have
explored and revealed useful and ennobling truths."

At fourteen, Benjamin was sent to the Hudson
Academy. His mental endowments, close applica-
tion and pleasing manners gained him many friends,
and he was regarded as a promising scholar.

A few years previous to this, a young lawyer who
had practiced some time in a small village in Colum-
bia county, received the appointment of surrogate of
that county, and removed to Hudson. He had the
reputation of being a young man of much promise,
and had already gained a respectable position at a
bar where William W. Van Ness, Elisha Williams, Thomas P. Grosvenor, and Jacob Rutsen Van Rensselaer were the ruling spirits. These gentlemen were Federalists, distinguished at home and abroad, not only for their legal ability, but also for their political influence. But the young lawyer was an active Democrat; and as this was a period when political dissensions were peculiarly bitter, he was compelled to contend in the political, as well as legal arenas, against these powerful men. For him, the struggle was trying, and the labor intense, for he had no powerful friends and no wealth to aid in the unequal contest. But he belonged to the people, his sympathies were with them, and they in turn regarded him with favor. With this advantage, and by the most unwearied exercise of his abilities he held his ground, gaining each day in strength, popularity, and in the confidence of the community.

At the period when Butler became a student at Hudson, this lawyer had just been elected to the State Senate against a distinguished Federal politician, and in spite of a strong opposition. It was, therefore, to him, a day of triumph and rejoicing. Among those who aided him in achieving this success was the elder Butler, who had long been his intimate friend.

The senator elect extended the friendship and esteem which he felt for the father, to the son, and often invited the latter to his office and house, encouraged him in his studies, and saw with pleasure his rapid progress. When finally his academic course ended, the lawyer took him into his office as a student at law. The intimacy thus begun never ended in life.

Step by step the advocate ascended to the summit of fame, and indelibly wrote his name on the page of his country's history; that name is Martin Van Buren. The student followed closely in his footsteps; and though he did not ascend as high as his preceptor, he has yet left a bright and imperishable name, and a
personal history instructive to the student, the lawyer, and the statesman.

In the spring of 1816, Van Buren moved to Albany, where he entered upon his extraordinary professional career. His devotion to the Democratic party, his incessant efforts in its behalf, subjected him to the fierce attacks of the proud and powerful Federal leaders, who early foresaw that he must be disposed of ere he became a lion in the pathway. No effort was spared which tended to his political and even social degradation. His humble origin was often referred to in language of contempt, his want of early education was enlarged upon, his character traduced, and his talents depreciated. Being slight in form and moderate in stature, his person was also sneered at; but those who watched his career attentively were reminded of Boswell’s description of Wilberforce, when addressing the electors of York from the hustings. After his triumphant return in 1784, “I saw,” says Boswell, “what seemed a mere shrimp mount upon the table; but as I listened, he grew and grew, until the shrimp became a whale.” So with Van Buren; the Federal leaders adhering to the custom in politics, denounced him as feeble in intellect—as a shrimp mentally and physically; but at the bar, in the popular assembly, his eloquence and thought caught the attention of court, jurors, and electors, and he rapidly passed beyond the reach of his assailants, who beheld him occupy one distinguished position after another until he reached the highest in the nation.

That the Federal leaders detected faults in the political character of Mr. Van Buren, cannot be denied; for with his consummate skill and ability—with his strength of character as a statesman, he possessed those unscrupulous arts without which political power is rarely attained. One of the secrets of his success was the skill and discernment with which he selected his friends. In this, he imitated the
subtle power of Cardinal Richelieu, Buckingham, and Halifax.

When Van Buren removed to Albany, Mr. Butler accompanied him. He soon attracted the attention of several distinguished gentlemen, who regarded him "as a student of great brilliancy and promise." This reputation was justly due to him, for he studied with untiring industry; his mind took a deep hold upon the subject he sought to investigate, and the tenacity of his memory was most extraordinary. Whatever he learned was not easily obliterated from his mind. He cultivated with great assiduity the power of reflection—one of the best qualifications that a student can possess; yet as it is susceptible of cultivation, it is within the power of all.

While a student, Mr. Butler became a member of the Presbyterian Church then under the charge of the late Doctor Chester, and, soon after, the superintendent of its Sunday school. In this capacity he gained the affection and confidence of teachers and scholars, by means of his winning character and that unflinching devotion to duty which was his ruling trait. His addresses were short, but well considered and impressive. The devotional exercises were conducted with great simplicity of manner, but with genuine earnestness, and hence, lasting effect.

In October, 1827, he was called to the bar. In 1818, he was married to Miss Allen, a young lady of many accomplishments. She was a sister of the gallant Lieutenant William H. Allen, who distinguished himself in the engagement between the frigate United States, and the British ship of war Macedonian, in 1812, and who was afterwards killed by pirates in the Gulf of Mexico.

Immediately after he was called to the bar, he became the partner of Mr. Van Buren, a relation which continued until 1817, when the latter was appointed a senator in Congress, and partially withdrew from the profession. Such, however, was Mr. Van Buren's
brilliant reputation as a lawyer, that he was often compelled to assume the management of important cases brought to him by old clients. Among those which he consented to conduct, after his appointment to the Senate, was Wilkes v. Lion, and Varick v. Johnson, in the Court for the Correction of Errors. The labor bestowed upon their preparation was immense; but he was ably assisted by Mr. Butler, who manifested those powers of application and research for which he was afterwards so distinguished. Aaron Burr was Mr. Van Buren's colleague.

These cases, or rather this case, for they were in fact but one case, is the well-known Medcelf Eden case, with which the courts of the State were engaged so long that "it became as familiar as the cause of Jarnidge v. Jarnidge." It was commenced by Colonel Burr, after his return from Europe, when reduced to poverty and want, and was the great object of his life for several years. "His management of this case," says Mr. Parton, "was remarkable and characteristic. Medcelf Eden was a New York brewer, who made a great fortune, and dying in 1798, left his two sons a large amount of real estate upon the island of Manhattan. The two sons were to share the property equally, and if either died childless the survivor was to inherit the deceased's share. These young men, partly through their own extravagance, but chiefly through the dishonest sharpness of creditors, ran through their property in two or three years and were reduced to poverty. Their case was submitted afterwards to the two leaders of the New York bar, Alexander Hamilton and Aaron Burr, and the question was proposed, whether the estate could be recovered. Hamilton said it could not; Burr was of the opinion that it could. Hamilton's opinion was adopted; no proceedings were attempted; the matter was forgotten; and the Edens lived on in poverty. After Burr's return from Europe, he was reminded of it by hearing of the death of one of the brothers.
Meanwhile the estate had enormously increased in value. Inquiring for the surviving brother, he found him in Westchester county, immersed in debt, and residing within a debtor's 'limits'. The result was, that Burr, moneyless and in debt as he was, undertook to recover the estate; Eden agreeing to follow his advice in all things, to be in fact the passive instrument in his hands. Burr brought Eden, his wife, and two daughters to the city, established them in his own house, sent the daughters to school, and labored with the same assiduity for their mental improvement as he had done in former times for his own daughter, Theodosia's.

"He went craftily to work. The valuable parts of the estate lay in the city itself, held by banks and other wealthy corporations. He let these alone, for a while, and confined his first efforts to the recovery of a small farm in the upper part of the island, his object being to get the principle quietly established, upon which to found the more important suits. The owner of the farm was informed of this intention, and it was further intimated to him, that if he would not seriously contest and prolong the suit, he should be allowed to buy back his farm on his own terms. Mr. Burr won the suit. The case was appealed. He was again successful. Then he came down upon the owners of the city lots with a pelting storm of writs of ejectment, to their surprise and alarm. Mr. Burr won suit after suit, and recovered in time a very large amount of property."

These cases involved the most intricate questions known in the law, and by the time they came to the knowledge of Mr. Butler, the points and questions to be examined were innumerable. While he was engaged on them, Colonel Burr often visited Albany, making valuable suggestions to him. A week before the argument of the first case took place, he was almost constantly by the side of Mr. Butler in the office. Mr. Van Buren was present enough of the time to un-
nderstand the case sufficiently to conduct the argument. At the earnest solicitation of Mr. Burr, Mr. Butler was present at the argument of both cases, and opened the last one, much to the satisfaction of his distinguished associates.

The last causes which Mr. Van Buren ever tried before a jury, were the Astor case and that of the Sailor's Snug Harbor. They were tried in New York city, in the autumn of 1837; and in both he was assisted by Mr. Butler.

For two or three years after his admission to the bar, Mr. Butler confined himself to the Circuit Courts, attaining a respectable reputation as a jury lawyer.

In 1820, he argued the case of The People v. Foot. His opponent was the late Thomas J. Oakley, who was then ranked among the great lawyers of the State. Soon after this, he argued the celebrated case of The President and Directors of the Bank of Auburn v. Blanchard and others. He was opposed by Daniel Cady. One of his first cases in the Court for the Correction of Errors, was that of Manahan v. Gibson, a case of great importance. The opposing counsel was that giant at the bar, J. V. Henry.

In the argument of the celebrated case of Troup v. Smith, and also in that of Morton v. Cragan, he was associated with Samuel A. Talcott. Between Mr. Butler and Mr. Talcott there existed a warm personal friendship. The mighty intellect of the former was linked to many high-toned and generous sentiments. He who in his speeches made those magical transitions from the subtlest argument to the deepest pathos, saw in a mind like Butler's something highly attractive to him, and they were frequently associated in important cases. As we have seen in the life of Daniel Lord, on his first appearance in the Court of Errors, they were opposed to him.

Mr. Butler soon appeared so often in the Supreme Court and Court of Errors, that a history of his cases would amount to volumes. He took his place with
the ablest and most distinguished lawyers then at the bar—many of them the great lawyers of the nation.

In 1821, he was appointed district-attorney of Albany county. He had then been at the bar as an attorney four years, and one year as a counselorm—
which sufficiently explains his standing as a lawyer. He held that office until January, 1825. Though the labors it entailed were heavy, and the responsibilities great, yet his success was in proportion to his labor, and he retired with the well-earned commendations of the public.

Before his official term expired, a law was passed by the Legislature of 1824, appointing Chancellor Kent, Erastus Root, and Benjamin F. Butler, commissioners to revise the laws of the State; but as these gentlemen did not enter upon the duties thus assigned them, the Legislature of 1825 passed another act, by which Mr. Butler, John Duer, and Henry Wheaton, were made commissioners to revise the statute laws. Soon after this appointment, Mr. Wheaton became charge d'affaires to the Court of Berlin, and Mr. Spencer was appointed in his place. The participation of the latter in the revision has been referred to in another part of this work.

As has been well said by a distinguished member of the bar, "the selection of Mr. Butler, who had then so recently commenced his practice, carried with it evidence of the high estimation in which he was held by the Legislature. It was an undertaking of great hazard to his professional reputation, as well as of great labor. It necessarily involved for a time the almost entire sacrifice of his business, as he was obliged to devote himself almost exclusively to that duty. He undertook it; and, notwithstanding the prejudices which it at first encountered, it was carried through to a successful termination." And, in the language of Judge Kent, "All who knew the indomitable energy of John C. Spencer, will readily believe that his spirit pervaded the whole work, but judging
from internal evidence, I cannot avoid believing that much of the essential excellence of the Revised Statutes, and more of the labor which adapted them to our general system of jurisprudence, the plan and order of the work, the learning of the notes, the marginal references, and the admirable index which accompanies it, should be ascribed to the labor, the patient touches of unwearied art, bestowed by Mr. Butler."

Those statutes, however, reveal the learning, skill, labor, and masterly ability of each of their great authors. If we trace upon them "the patient touches of unwearied art bestowed by Mr. Butler," if we find upon them evidence of the energy of thought, "knowledge of the law, and power of analysis," which characterized Mr. Spencer, we also find the indubitable evidence of the scholastic, mature, and lucid intellect of the gifted Duer, whose mind was replete with legal learning, rendered practical by long experience at the bar, and daily observation of our system of jurisprudence.

The revisers applied themselves without interruption to the discharge of their duties, until the completion of their work. The professional engagements of Mr. Duer, however, prevented him from fully participating with his co-commissioners in preparing the third and fourth parts of the statutes, as presented to the Legislature, although he occasionally met and advised his colleagues.

When the work was completed, the revisers, instead of arrogating to themselves all the honor which was naturally due to all who shared in it, publicly acknowledged the obligations they were under to various persons who aided them. "It is due to truth and justice," they said, "to remark that in the course of enactment, many alterations were made. Some of them were proposed by the joint committee from the Senate and Assembly to whom the several chapters were referred, and others were suggested by indi-
vidual members of the Legislature, who brought to
the task the various and practical knowledge so es-
sential to the perfection of the work; and who with
unw earied diligence devoted their time and labor to
its completion.”

In 1813, John Woodworth and William W. Van
Ness, two of the most distinguished lawyers at the
bar of the State, who subsequently became jus-
tices of the Supreme Court, had prepared two vol-
umes called “Revised Laws of the State.” The abil-
ity and research which the authors manifested in
their preparation, rendered the Revised Laws of great
advantage to the revisers of 1825.

“The public statutes in force at the time of the
revision, constituted the base of the Revised Statutes;
while in numerous instances, the rules of the common
law were reduced to a written text, and inserted in
their proper place in connection with the statutory
provisions on the subjects to which they relate; and
in other instances, those rules were enlarged, modi-
fied, and varied, more fully to conform to the nature
of our government and the habits and exigencies of
the people.”

Like the laws of the twelve tables, which were
engraved on brass by the jurisconsultes, and set up in a
public place, in order that every one might know his
rights and their extent; so the Revised Statutes dic-
tate to every citizen his rights under the laws.

At length a new edition of the statutes was de-
manded by the people from all parts of the State, and
the revisers were once more called to the work. They
acceded to the request. The whole existing statute
law of a general nature, all the acts of the Legisla-
ture, passed since 1828, were carefully examined, and
the statutes themselves critically reviewed and rear-
ranged with annotations and references to the deci-
sions based upon the Revised Statutes, made by the
Supreme Court, the Court of Chancery, and the Court
for the Correction of Errors.
"In preparing this edition, the statutes collated, and the copy of the text as published, were furnished by John C. Spencer; while the labors of Mr. Butler and Mr. Duer were confined to the examination of the text so prepared, and the preparation of the extracts from the reports of the revisers, with the accompanying notes, and other matters which are inserted in the third volume."

This new edition was reported to the Legislature at its annual session in the winter of 1836, and by appropriate acts was passed as the statutes of the State. Other editions have succeeded it, embracing the acts since passed; and they are voluminous, but indispensable works in the library of the practicing lawyer.

"The principle of the revision was wise and conservative. Acknowledged evils were removed; doubts were cleared away; the doctrines of important decisions were extended; anomalies were suppressed or reconciled; but all the essence of the old laws was preserved, and even the habits of lawyers were wisely respected."

The statutes, when completed by these revisers compared favorably with any code of laws which had ever before appeared. They resemble in the manner of their preparation and the material of which they were composed, the works of Justinian, who in 528 appointed ten lawyers, with directions to make a selection from all the constitutions of his predecessors, including those contained in preceding codes, and modify them so that they would conform to the usages of the times, and to arrange the whole under appropriate titles. This work was known as the Codex Vetus. It consisted of twelve volumes, and occupied the commissioners fourteen months. When it was completed, Justinian appointed a new commission, consisting of seventeen jurists, chief of whom was Tribonian, who had belonged to the former commission. The new commissioners were directed to sub-
ject the writings of the old jurists to the same process as the previous commission had the constitutions, and the old codes; that is, they were to read and correct (elimare) all the works of the ancient jurists which were considered as authoritative, and to compose therefrom a body of jurisprudence which should contain nothing superfluous or contradictory, and which should take the place of those old works, excluding from the collection all that had not been authorized by the imperial authority, or sanctioned by usage. This work was contained in fifty volumes, and called the Digests or Pandects. It occupied the time of the commissioners three years, and when completed, Justinian prohibited any one from incumbering the work with the verbose interpretations with which the civil law had been inundated. Perhaps the caution of that sagacious emperor would not be out of place in the present age.

It is said that Mr. Butler, with great patience and persevering industry, investigated the plan upon which the Roman commissioners proceeded with their work, and applied the same process to the codes of modern Europe. It is no exaggeration to say that the works of the New York revisers are destined to exist as long as laws are respected and obeyed. The Revised Statutes have been adopted as models by many of our sister States; "while many of their provisions have been incorporated in the legislation of Great Britain, as will be apparent to any one who examines the British statutes."

"Mr. Butler's exertions in regard to this great work were not confined to his proper task as a reviser; for he was elected a member of the Legislature of 1828, and during the extra session, which convened September 9th of that year, for the special purpose of considering the proposed revision, he was indefatigable and prominent in regard to the subject. The only consideration which induced him to accept a seat in
the Assembly, was his desire to aid that body in its deliberations on the work which he and his colleagues had submitted to it, and his services were therefore invaluable. John C. Spencer was then a member of the Senate, and held the same relation to that body which Mr. Butler did to the Assembly.

"One of the most distinguished members of the Senate at this time, was Ambrose L. Jordan, of Hudson, N. Y. He occupied even at that early period an enviable position at the bar of the State; his great learning and legal abilities are evinced by a long and brilliant professional career. He was peculiarly qualified for the work which was then before the Legislature, and entered upon it with great alacrity, devoting to it all his abilities and energies. The deliberations of the Senate upon the statutes were materially aided by him. Both Mr. Spencer and Mr. Butler publicly acknowledged the value of his services. This extra session closed on the 10th of December, 1828, all its proceedings having been harmonious, and all the provisions of the Revised Statutes having been adopted subject to such amendments as were incorporated in the act or acts by which they became the legal statutes of the State."

Early in the month of February, 1829, William L. Marcy, one of the regents of the university, resigned, and Mr. Butler was soon after appointed in his place. It has been said that this is the only office he held that did not impose upon him responsible and toilsome duties.

In 1833, Mr. Marcy again gave him an opportunity for advancement. The former was then United States senator; but having been elected governor of the State, he resigned his seat in the Senate. The friends of Mr. Butler desired him to become Mr. Marcy's successor; but although his party was then dominant in the State, and there was no doubt of his unanimous nomination, he declined the distinguished honor, adhering rigidly to a determination which he
early adopted, "never to accept any office which would withdraw him from his professional studies and pursuits." Soon after this, he was appointed to another position, more congenial to his tastes and his profession.

During a period of fifty years, a dispute had existed as to the boundary line between New York and New Jersey. So serious was this difficulty, that it frequently led to bloody collisions between the citizens residing near the disputed line. At length a commissioner was appointed by each State, with full power to adjust it. Mr. Butler was appointed such commissioner for the State of New York, and Theodore Frelinghuysen, for the State of New Jersey. The acknowledged ability, the large experience, and extensive learning of these commissioners, the similarity of their minds, and more than all, their great caution and conscientiousness, rendered their appointment exceedingly fortunate for both States. They gave the matter a patient, thorough, and impartial investigation, and then, in the spirit of an enlightened and liberal compromise, brought the difficulty to an adjustment which was satisfactory to all parties and to every conflicting interest.

In the autumn of 1833, before the labors of the New Jersey commission were terminated, Mr. Butler was appointed attorney-general of the United States, in place of the late Roger B. Taney, who was made chief justice of the United States.

This appointment was exceedingly gratifying to all parties, a fact which was manifested by the following circumstance. A few days before Mr. Butler's departure for Washington to enter upon the duties of his office, the citizens of Albany, without distinction of party, assembled and expressed their regard for his virtues as a citizen, and their admiration for his talents as a lawyer. Among those who addressed the meeting, were Stephen Van Rensselaer, Abraham Van Vechten, and Harmanus Bleecker. This circum-
stance alone, speaks volumes for the private and professional character of Mr Butler.

In October, 1836, while still discharging his duties as attorney-general, he was appointed secretary of war in the Cabinet of President Jackson, and held the two offices until the 4th of March, 1837. This last appointment was accepted by him with great reluctance, and only at the earnest solicitation of the president. In the department of war, there was at this time a large accumulation of business, owing to the Seminole war; "but Mr. Butler, by his assiduity, care, and systematic method, brought up the arrears of business, and left the department in a satisfactory state to his successor."

The legal opinions rendered by him while attorney-general, are written with much force and perspicuity, evincing an extended and intimate acquaintance with all the duties of the office. They abound in learning and research. The questions submitted to him were examined with a depth of thought and calm reflection, and with a large perception of relations which left no obscurity or vagueness. Indeed, his opinions were regarded as dignified state papers bearing the impress of an accomplished and enlightened mind, losing nothing when compared with those of his great and learned predecessors.

On the 10th of April, 1835, he gave his opinion on the acts of the postmaster-general, and how far they are conclusive. Perhaps none of his opinions attracted more attention or gave more general satisfaction than this. From the organization of the government down to that time, many of the duties and powers of the postmaster-general had remained undefined or uncertain. Mr. Butler thoroughly examined the duties, responsibilities, and powers of that officer, and his conclusions were entirely satisfactory to the large number of persons interested in the opinion. His learned and able successor, Mr. Grundy, of Tennessee, in referring to this opinion, says:
“My distinguished predecessor, Mr. Butler, of New York, has examined this question so thoroughly —has brought to the consideration of it so much legal learning, and has arrived at such equitable and reasonable conclusions, that I do not regard it necessary for me to spend a moment’s time in considering it, for I am confident that I could arrive at no conclusions which would differ from his.”

In March, 1888, he gave his opinion upon the duties of the attorney-general, in which, among other things, he decided that this officer has no authority to settle questions of fact, nor to give any decision or advice on questions of law, except for the assistance of the officer calling for his opinion on points stated; that he is obliged to take the facts of a case to be as they are stated to him, and to predicate thereon. His opinion, delivered May 20th, 1887, on the question of damages for the unlawful detention of vessels, exhibits a laborious and discriminating examination of a very large number of adjudicated cases, both in the State and Federal courts, each one of which is considered and compared with judicial wisdom and discernment.

His various opinions on pre-emption; on the question of extending relief to the sufferers by the great fire in New York; and others, are all characterized by thorough, systematic and learned examinations, and equitable conclusions.

On the 4th of March, 1887, President Van Buren entered upon the duties of his administration, and Mr. Butler resigned the office of secretary of war, but retained the position of attorney-general until January, 1888, when he resigned that office also. Soon after this, he removed to New York city, and resumed there the practice of his profession. He continued a resident of that city the remainder of his life. Within a few months after his removal to it, the office of district-attorney for the United States became vacant, and Mr. Butler was appointed to it. He discharged
its duties until the inauguration of General Harrison, when he resigned, and once more resumed the practice of his profession.

In 1844, Mr. Butler and Daniel S. Dickinson were the electors at large in the electoral college of the State, and cast their votes for James K. Polk. He tendered Mr. Butler the office of secretary of war, but the offer was respectfully declined, for reasons which were entirely satisfactory to the president. After his inauguration, he conferred upon Mr. Butler the office of United States district-attorney. This position Mr. Butler did not hesitate to accept, as it did not interfere with the duties of his profession. He continued to occupy it until the election of General Taylor, when he was removed.

Early in 1848, Mr. Butler, John C. Spencer and Alvah Worden were appointed commissioners to codify the laws of the State. It was the desire of the profession throughout the State, that these gentlemen should accept the trust thus committed to them, but both Mr. Butler and Mr. Spencer declined to act.

"In 1843, the former sustained a great calamity—the great irreparable calamity of his life. He was fond of domestic life. The felicity of his home was very great; but the time had come when it was to be invaded by the unrelenting enemy of man; the endeared companion of his life—who had cheered his toils and lightened his cares—who was the light and joy of his happy home,—was removed by death. It was a bereavement in which he had the deep sympathy of his friends; but it brought out the force of Christian principle by which he was ever actuated and guided, and he bore his affliction with serene resignation—although not without deep and abiding sadness."

In the summer of 1856 he made a visit to England, but returned very soon to complete a professional engagement of great importance. This was his con-
nection with the great case of Levit v. Curtis, which had been before the courts a long time, and was then pending in the Court of Appeals. He was compelled to terminate his tour in Europe in order to conduct the argument of the case at a term of the court which was approaching. The case is reported in 15 N. Y. Some idea of its magnitude and importance may be inferred from the fact, that the statement and points in it made a book of over three hundred and six pages. The late Judge William Kent, who was associated with him in the case, in an address delivered after the death of Mr. Butler, said:

"I was engaged with him and two other lawyers in the conduct of a case, which for voluminous and complicated pleadings and proofs, was, perhaps, unparalleled in our courts. It was deemed necessary that a condensed statement of the evidence of the whole case, and legal points, with minute references to the proofs and authorities affecting every point, should be prepared for the Court of Appeals. Two of the associate lawyers were prevented by other engagements from undertaking the work; I shrunk from it as utterly beyond my powers, and it fell to the self-sacrificing industry of Mr. Butler. Our conferences in relation to it were of daily occurrence; and I observed, with alarm, its gradual effect on his health. Often I have left him bending over his desk, late of a July night, and found him the next morning in the same posture; which had been varied in the interval by only a brief period of intermission, in which he has told me that sleep was often sought in vain. I remonstrated often, seriously, almost angrily. I remember he once answered me by repeating Wordsworth's 'Ode to Duty.'

"It was impossible to withdraw him from his work; and thus health was wasted at the midnight taper—life itself consumed in the severe labors of his office—and when his task was finished to the admiration of his associates and his opponents, the anxious
eye of friendship saw too surely that the stamina of his constitution was gone. It enhanced our idea of his energy, to know that this too protracted labor was in part performed while mourning a bereavement the most affecting that could occur to a man of his domestic affections; and our admiration is increased when we think that he carried on his work, enduring in silence and composure, a heartfelt wound, which had touched a nerve where agony resided."

Mr. Butler's professional life extended through the long period of forty-one years—a period the most interesting and important in the legal history of the State. During this time, he practiced under the provisions of three different State constitutions, and under many innovations in our judicial system. He was the compeer of many of the great lights of our early jurisprudence, he saw many of them pass away, and when he was summoned from earth there were but few of them left.

"The student in pursuing his studies is surprised to find in all his books, such various memoranda of the professional labors of Mr. Butler. He finds his arguments in all the old, ingenious, and artificial rules of special pleading, both at law and in equity. He finds evidence of his professional learning and subtle distinctions of the English law of real property, and in all the doctrines which govern the creation and devolution of estates, the interpretation of devises and the construction of settlements and deeds, tracing with the erudition and intellectual subtlety of Fearne, Sugden and Preston, the rules which control real property, through numberless and bewildering cases, to their deep sources in the obscure recesses of the mediæval law. The books are filled with his arguments on the ordinary law questions which occupy our courts, exhibiting the extent of his studies in constitutional and commercial law.

"It is a pleasure for me to allude to his treatment of the junior members of the bar. His briefs, his
memoranda, all the treasures of his learning and fruits of his investigation were offered to his associates. He encouraged the young lawyer in his timid efforts, and unrestrainedly presented all he knew to the compeer counsel who was associated with him. He was indifferent to his position in the argument, aiding the lawyer who preceded him with suggestions or with citations of authorities; with briefs, which, perhaps, had cost him hours of studious labor, in entire abnegation of his own interests, and, indeed, unconscious of vanity or selfishness."

Mr. Butler's sense of justice and morality governed and guided him in all the duties of his profession. No reward, however great, could induce him to undertake a case which he believed corrupt or dishonest.

He was once applied to by a lady of great wealth to aid her in procuring a divorce from her husband. The application was in writing, and contained a carefully drawn statement of the facts on which she relied for success. It was accompanied by an exceedingly liberal fee. The statement convinced Mr. Butler that the lady's case had little merit in it, and that she expected to succeed by certain adroitly laid plans. Within a few days after the receipt of this proposal he returned it, inclosing in it the fee, and also a beautiful letter in which he declined to engage in the case and advised her to abandon her design.

"Even in the event of success," said he, "there will be a time in your life, when the gayety, fashion, and, pardon me, the follies and sin by which you are surrounded, will pass away with your youth, and in the eventide of your life, as you meditate upon the past, the voice of conscience will come to you, overwhelming you with sorrow and regret. I pray you, therefore, do not now in the summer of your life sow those seeds which in its autumn will produce a profusion of miseries. . . . . As has been said by one wiser than myself, it must be
carefully remembered that the general happiness of the married life is secured by its indissolubility. When persons understand that they must live together, except for a very few reasons known to the law, they learn to suffer, by mutual accommodation, that yoke which they know they cannot shake off; they become good wives and good husbands—for necessity is a powerful master in teaching the duties which it imposes. I therefore decline to undertake your case, and trust that my words will dissuade you from making any further effort in a case which I am sure you will upon mature reflection abandon."

This letter had its effect; it brought the lady to reflect seriously upon the step she proposed to take, and in after years she blessed the day that she submitted her case to a man like Mr. Butler.

In the year 1835, the council of the University of the City of New York, having decided to establish a faculty of law in that institution, Mr. Butler was requested to prepare a plan for its organization. He complied with the request, and on the 29th day of May, 1835, submitted to Rev. J. M. Mathews, then the chancellor of the University, a document entitled "A Plan for the Organization of a Law Faculty, and for a System of Instruction in the Legal Science in the University of the City of New York."

Very soon after this, the council met, and adopted the following resolution:

"Resolved, That this council do fully approve of the plan now submitted by the Honorable Benjamin F. Butler, for the organization of the law faculty, and that the same be and hereby is adopted by this council; subject to such modifications as may hereafter be deemed advisable."

This resolution was accompanied by the following statement of Chancellor Mathews.

"From their first incorporation, the council had very generally cherished a strong desire to place the law department of the University under the charge of
Mr. Butler. They were led to this selection both from their own conviction of this gentleman's eminent qualifications for the duties and responsibilities of the station, and from the knowledge that his appointment would meet the cordial approbation, not only of the bench and the bar in this State, but also of distinguished lawyers throughout the nation.

"This desire was naturally increased by the adoption of the plan proposed by him; and although it was well understood that his engagement as attorney-general of the United States would not permit him immediately to enter upon the duties of the professorship, it was thought that the advantage to be derived from his services, if they could be secured within a reasonable time, would justify some delay in their commencement. Under these impressions, he was therefore unanimously elected principal professor; and, as will be seen by the following communication, has accepted the appointment, and will enter upon his duties in March, 1837."

The ability and learning with which this plan was prepared, is fully attested by the foregoing resolution and statement.

Mr. Butler's plan recommended, among other things, a course of three years' study before graduating; a certain proportion of that time, if spent in a law office, to be deducted from the course. It also recommended departments, as primary and secondary. Among the studies proposed for the third year, were forensic duties and professional ethics.

The following comments of Mr. Butler upon the last branch of study, are of the highest importance to the student, the lawyer, and the private citizen. They are entirely characteristic of him in his professional as well as in his private character.

"Under this head, the advantages of diligence and integrity may also be enforced; and the true method of acquiring public esteem, and of rising to eminence in the profession, may be pointed out and
recommended. On this subject, early and sound instruction is of the first importance. It is true that our courts, by their rules and decisions, carefully inculcate on gentlemen of the bar the high obligation of fidelity and justice, and, when occasion requires, they enforce these precepts by appropriate penal sanctions. But there are cases of chicanery and illiberality in practice, and sometimes of professional delinquency of a more serious character, which cannot be brought to the notice of courts, and therefore, pass without judicial censure.

"One of the most effectual methods of promoting so desirable an end, is to combine moral training with professional education, and to imbue the mind of the student with correct notions of the nature and purposes of his calling, and of the responsibilities which belong to it. He should be taught that though many of its duties grow out of the misfortunes, the errors, and the vices of mankind, the great object of his profession is not, as is supposed by many without, and some within its pale, to derive wealth or livelihood from those evils, but to mitigate and correct them. He should also be informed that the display of rare ingenuity or of great intellectual power, in forensic discussions, is by no means the most useful of professional labors. On the contrary, he should be instructed that it is an important and very honorable part of the business of a lawyer, by his learning, skill, and sound advice, to aid his fellow-citizens in the correct transaction of their affairs, in the solution of difficult questions without resort to litigation, and in the amicable settlement of angry controversies. Above all, he should be impressed with the conviction that in conducting such legal proceedings either in or out of court, as may be necessary to the interest of his clients, he is called to the high dignity of ministering in the sanctuary of justice, and that it behooves him to come to the altar 'with clean hands', and 'a pure heart,' — that frankness and integrity towards his an-
agonists are perfectly compatible with the manly support of the rights of his employers—that chicanery and artifice are not only in the long run injurious to professional success, but utterly inconsistent with the first principles of a science whose grand basis is to 'command what is right, and to prohibit what is wrong'—and that to form the character of a great jurist, it is necessary, first of all, TO BE A GOOD MAN."

In the year 1884, John C. Spencer was invited to prepare a plan for the organization of a law school on the Maynard endowment, at Hamilton College, by the trustees of that institution. He accepted the invitation and submitted a plan worthy his rare talents and unrivaled industry. He was afterwards invited to execute in the law professorship of Hamilton College, the plan so prepared by him; but he was compelled by his numerous engagements to decline. Thus it will be seen that both Mr. Butler, and Mr. Spencer, who were so intimately connected in remodeling the statute law of the State, were also engaged in preparing a course of instruction on the common law.

Some time previous to Mr. Butler's commencing his labors of preparing his plan for the University of New York City, he received from the Baron De Roenne a full translation of Savigny's celebrated essays on the state of the German universities, including copious extracts from lectures delivered in those universities on various branches of juridical science, among which were lectures on the Digests or Pandects, which included the whole system of the Roman law in its detail; also on the forms of judicial proceedings (process) founded upon the Roman and ecclesiastical law, and upon the statutes of the German empire. The value and importance of this work to Mr. Butler was very great, and its instruction materially aided him in other duties which he was called upon to discharge.

"His love of literature and his cultivation of it,
amid all the demands of his profession, were remarkable." By intense application and study, he made himself a thorough scholar. From the time of leaving the academy at Hudson, to the close of his life, he continued a student of the languages, so that he read his favorite authors of antiquity in the original with great facility.

He possessed a poetic fervor which underlay his apparently prosaic and literal nature, and which was exhibited in conversation with his familiar friends in beautifully expressed thoughts, or pleasing quotations from his most admired poets. This was illustrated, in a happy manner, on the occasion when Judge Kent remonstrated with him against his habits of excessive professional labor. In his writings, particularly in his letters to his clerical friends, he exhibited great familiarity with the Bible, especially with its great poets, whose lofty conceptions were both the offspring of human genius and emanations from heaven. He believed that poetry had a higher end than mere amusement; that in the hands of genius, it tended to advance truth, philosophy, and religion—that it laid aside the severity of the preceptor, and displayed as in a picture, "the practice, the actions, the manners, the pursuits, and the passions of men; that by the force of imitation and fancy, by the harmony of numbers, by the taste and variety of imagery, it captivates the affections of the readers; and imperceptibly—perhaps reluctantly, impels him to the pursuit of virtue."

As a lawyer, Mr. Butler read with pleasure in the writings of the Hebrews, the regulations of their commonwealth, the structure of their codes, and their ratification; their manner of administering justice, and all their relations of civil and domestic life.

His consistent religious principles were the most attractive features of his character; for they were just to his own understanding—they spoke with a tone of reality—with a genuine sensibility—with an ingenious
and deep sincerity. They were sustained by the high cultivation and full development of his intellectual nature. Instead of thinking that religion was a system of dullness, and tame submission to sullen dogmas, that crush the light, generous, and pleasing emotions of the soul, he believed it opened new fields for the intellect—gave it a new consciousness of its own powers and of its divine original; that it raises the statesman and the lawyer to the discovery of the true interest of the State, causing them to seek without fear or favor the common good, teaching them to understand that "a nation's mind is more valuable than its soil, and prompting them to originate and give stability to institutions by which society is carried forward, and to confide in justice and virtue as the only foundation of a wise policy and of public prosperity."

It has already been said that Mr. Butler was fond of domestic life. This attachment undoubtedly caused him to refuse those eminent positions which were so frequently tendered to him, for his attachment to home was paramount with him. "It would be injustice to his memory and the memory of his affections, not to allude to that amiable and happy partner with whom he lived from early manhood to that very recent period when he was bereaved of the graces of a beautiful woman, whose strong sense, warm affection, and accomplishments, charmed his home, who encouraged and adorned his labors and lessened the fatigue of a studious and rightly ambitious life. His house was the seat of elegant hospitality; a place in which to find men of the highest distinction in the State, and his door was never shut to persons of the most modest pretensions, whose merits were merits of the heart."

Mr. Butler continued to devote his entire energies to the duties of his profession, until the autumn of 1868, when his friends prevailed upon him to visit Europe again. Accordingly, on the 16th day of Oc-
tober, 1868, he embarked at New York in the steamship Arago, bound for Havre, intending to remain abroad two years. On the 20th of October, he landed at Havre. He then visited Harfleur and Rouen, and on the third of November, arrived at Paris. The next day he wrote a long and interesting letter to his son, William Allen Butler, Esq. "In the evening of that day he was taken ill, and notwithstanding all that kindness, attention, and medical skill could do, the disease progressed rapidly. He retained his consciousness, however, until noon of Monday, November 8th. In the evening of that day, his earthly career terminated."

Judge Kent thus describes his last interview with Mr. Butler:

"A few days before he sailed, I met him in Nassau-street, and heard with unmingled pleasure the anticipations he had formed of his tour. He spoke of Italy and Rome, of the Tiber and the Anio, the haunts of his favorite Horace; of the Tuscan retreat of Cicero, and sportively promised to write me a letter from the ruins of the Forum. I spoke to him of England, which he hoped to revisit,—and anticipated the pleasure of his wanderings in the homes of the great jurists whose works had been his life-long study, and who, like him, had mused on the common law, and brought philosophy and learning to aid in its progress and improvement; of Hargrave, and Charles Butler, Mansfield, and Romilly. Why think of death, was my reflection, to one so full of joyous hope and expectation! I left him in a pleasant delusion as to his health and future life—to be suddenly startled by the intelligence that his earthly career was ended, and that his gentle and generous spirit, worn by toil, had sunk on the highway of life."

It has been said with much truth that the legal profession has produced two men whose characters and acquirements were similar to Mr. Butler's, and that these were Sir Samuel Romilly, and William Wirt;
that "no two men have been in the profession whose merits were more extensive, or whose memories were more deeply cherished; that in the character of the latter, the proportion of his virtues was that of harmony in all their relations." And yet he had enemies who saw, or pretended they saw, many moral blemishes on his character. Such is the corruption of party, that no character, however pure, is free from censorious attacks. That he shared in whatever there was erroneous in the principles of the party with which he was connected, is certain,—that he did not pass through the vicissitudes which attended his own political fortunes and those of his friends, unscathed by their political faults, is equally certain; but that his moral character was tainted cannot be proven.

His connection with the Washington and Warren Bank, in the earlier years of his life, has been the subject of bitter reproach, in which even his religious principles were attacked. And yet, when it is remembered that this attack fell upon him in the course of a heated political contest, intensified by the recriminations of a disappointed adventurer, it must be regarded only as partisan and private malice.

A dispassionate estimate of the character, talents, and services of an eminent man, may, however, disarm partisan feelings which are often proof against all the eloquence of enthusiastic admiration. "The great poet of human nature has taught us that it is in the power of the honest chronicler alone to preserve the honor of the illustrious dead from corruption, and to extort from the most prejudiced enemy the confession that"

"Whom I most hated living, thou hast made me
With thy religious truths and honesty,
Now in his ashes honor."
A WORKING LAW LIBRARY.

This List has been carefully prepared for us by Prof. THEODORE W. DWIGHT, of Columbia College Law School, as an example of an Efficient Working Library for General Practice, without which no Lawyer is prepared for ordinary emergencies.

*Abbotts' N. Y. Digest.
*Abbotts' U. S. Courts Practice. Abbotts' Practice Reports, N. S.
*Angell & Ames on Corporations.
*Bishop on Criminal Law.
*Bishop on Criminal Procedure.
*Bishop on Marriage and Divorce.
*Boulviers Law Dictionary.
*Broom's Legal Maxims.
*Clerk's Assistant. The.
*Clinton & Wait's N. Y. Digest.
*Court of Appeals Reports.
*Edwards on Bills and Notes.
*Equity Draftsman.
*Greenleaf on Evidence.
*Hanes' Digest of Criminal Law.
*Hill on Trustees.
*Hilliard on Mortgages.
*Kent's Commentaries.
*Leading Cases in Equity. White & Tudor.
*New York Code.
*Parsons on Contracts.
*Parsons on Maritime Law.
*Parsons on Partnership.
*Parsons' Mercantile Law.
*Reeves' Domestic Relations.
*Redfield on Wills.
*Riddle on Supplementary Proceedings.
*Sharswood's Blackstone.
*Smith's Leading Cases.
*Story on Agency.
*Story on Bailments.
*Story on Bills.
*Story on Conflict of Laws.
*Story on Constitution.
*Story on Equity Jurisprudence.
*Story on Equity Pleadings.
*Story on Sales.
*Taylor's Landlord and Tenant.
*Tillinghast & Sherman's Practice
*Walker's American Law.
*Washburne on Real Property.
*Wharton & Stille's Medical Jurisprudence.
*Wheaton's International Law.
*Willard on Real Estate.

* Works of paramount importance.

Cooly's Edition of Blackstone, just published, is now recommended by Prof. Dwight in place of Sharswood—the notes being twelve years later.

** Gentlemen desiring either to purchase a single volume or to collect an entire Law Library, who may apply to us either personally or by letter, will be cheerfully furnished with full information, and, if they decide to purchase, supplied at the lowest rate.

** A full supply of Text-Books, Reports, Digests, &c., including many out of print and scarce, constantly on hand, or procured without delay.

** Any volume sent by mail or express, prepaid, on receipt of price.

** Second-hand Law books bought, sold, and received in exchange.

** Foreign Law Books imported to order.

N. B. Our Cash Prices are Lower than those of any other Dealer.

DIOSSY & COMPANY,
86 Nassau St., N. Y.