

Rufus Easton

ST LOUIS BANK NOTE COMPANY

REMINISCENCES

OF THE

BENCH AND BAR OF MISSOURI,

WITH AN APPENDIX,

CONTAINING BIOGRAPHICAL SKETCHES OF NEARLY ALL OF THE JUDGES AND LAWYERS WHO HAVE PASSED AWAY, TOGETHER WITH MANY INTERESTING AND VALUABLE LETTERS NEVER BEFORE PUBLISHED OF WASHINGTON, JEFFERSON, BURR, GRANGER, CLINTON, AND OTHERS, SOME OF WHICH THROW ADDITIONAL LIGHT UPON THE FAMOUS BURR CONSPIRACY.

BY

W. V. N. BAY,

Late Judge of the Supreme Court of Missouri.

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TO

HON. WILLARD P. HALL,

Late Provisional Governor of Missouri,

WHOSE VARIED LEARNING AND PROFOUND KNOWLEDGE OF THE LAW HAVE GREATLY ADORNED THE LEGAL PROFESSION, AND WHOSE EMINENT AND VALUABLE SERVICES IN THE COUNCILS OF THE NATION HAVE ENDEARED HIM TO THE PEOPLE OF MISSOURI,

THIS WORK IS RESPECTFULLY INSCRIBED

BY HIS FRIEND,

THE AUTHOR.

INTRODUCTION.

The fact that the territory of Louisiana, out of which the state of Missouri was carved, was once under the dominion of Spain, and subsequently under that of France, rendered it indispensable to professional success that the early lawyers should become familiar with the Spanish and Civil law, and a want of knowledge of either unfitted the claimant to legal honors to cope with those who had devoted years of laborious study to their acquirement; hence most of the lawyers who became permanent residents were not only well versed in both, but, by persistent effort to become so, formed habits of study and application which gave them well-deserved eminence in their profession.

It is not the purpose of the author to furnish a complete biography of the members of the profession who contributed so much to frame and establish our local jurisprudence, but to give the reader a partial idea of the difficulties and privations they encountered, and to preserve some recollection of their professional career, and some of the incidents and anecdotes connected with their professional lives, which ought not to be suffered to pass into oblivion.

That lawyers as a class have exerted a most salutary influence upon the morals and liberties of mankind, from the beginning of the world, no one can question who is conversant with ancient and modern history.

Take, for example, our own country. What could we have accomplished in our Revolution without the aid of such

patriots as Adams, Otis, Ames, Hamilton, King, Marshall, Henry, Lee, Jefferson, Livingston, Rutledge, Pinckney, Clinton, Granger, Gallatin, and hundreds of others who belonged to the legal profession? Not only did they kindle the fires of the Revolution by their fervid eloquence, but they tendered to their country their property and their lives. The Declaration of Independence alone — one of the ablest state papers that ever emanated from human thought, and which was from the pen of a lawyer — did more than everything else to satisfy the civilized world of the justice of our cause, and to secure our recognition as an independent government. The fact is, the legal mind ever has been, and ever will be, arrayed on the side of order, good morals, and good government. A lawyer's experience in dealing with the affairs of men, his habits of thought, reading, and reflection, all tend in that direction; hence it is that he becomes the recipient of the most responsible fiduciary trusts, and his influence for good is wide-spread and unlimited. Notwithstanding, he is allotted but a small space in biographical literature.

The territory of Upper Louisiana was noted for its able and profound lawyers, whose love of adventure, romance, and novelty directed their steps to the distant West, where they encountered all the hardships and privations usually attending border life. These pupils of Blackstone, Coke, and Littleton were not only lawyers, but soldiers and patriots, for upon every Indian outbreak they shouldered their muskets and offered their lives in defense of the women and children over whose heads the bloody tomahawk and scalping-knife were raised. And yet the lives and good deeds of these noble men have almost passed out of memory; it s even questionable if human hand can trace a dozen of the graves in which their bones now lie mouldering.

When we commenced these Reminiscences we had no idea of sketching the lives of any but the early judges and lawyers, but have since been persuaded by prominent members of the profession, to whom we submitted a few pages of our manuscript, to embrace in the undertaking all of any note down to the present time, including, however, only those who have passed away — our object being to deal with the dead, and not the living.

The names of Benton, Easton, Hempstead, Pettibone, McGirk, Tompkins, Lucas, Darby, Spalding, Geyer, Gamble, Bates, Lawless, Allen, Mullanphy, Leslie, Wright, Blannerhassett, Williams, Bowlin, Field, Hudson, Polk, Lackland, Sharp, Primm, and others, of the St. Louis bar; Wells, Shannon, Campbell, and Coalter, of St. Charles; Cook, Ranney, Watkins, and Davis, of Cape Girardeau; Cole, Brickey, and Frizell, of Washington; Gardenhire, Vories, and Leonard, of Buchanan; Barton, Hayden, and Winston, of Cooper; French and Ryland, of Lafayette; Leonard, Davis, and the Wilsons, of Howard; Todd, Gordon, and Kirtley, of Boone; Hendricks and Yancey, of Greene; Lisle, Scott, Morrow, Minor, Bay, and Ewing, of Cole; Scott, of St. Genevieve; Wells, of Lincoln; Hunt, of Pike; Richmond and Pratte, of Marion; Jameison, Russell, and Ansell, of Callaway; King and Edwards, of Ray; McBride, of Monroe; Ballou, Hunton, and Majors, of Benton, are as familiar to the Missouri lawyer as household words; and it is truly sad to reflect that the only survivor of that legal galaxy is the Hon. John F. Darby, who, though far advanced in years, retains in a remarkable degree his mental vigor, and can be daily seen ascending the steps of the St. Louis Court-House to renew his early combats in the legal forum.

We by no means intend to take them up in the order of

their time, or professional or judicial standing, but shall adhere to our original design of furnishing mere scattering recollections and reminiscences. The names of some have been omitted, from the fact that it has been impossible to obtain any reliable information respecting their lives. Some died bachelors, leaving no one to inherit their name and no relative to furnish any of the events of their lives. Their omission is, therefore, a matter of necessity. In a few instances the omission has resulted from the apathy and indifference of those who promised, but failed, to impart the desired information. We spared no effort to obtain the necessary information respecting the lives of John Wilson, of Howard; Judge Leonard, of Buchanan; and Sinclair Kirtley, of Boone, all of whom stood high in the profession, but failed to elicit the knowledge necessary for a biographical sketch. Wilson and Kirtley moved to California and died there.

We take pleasure in acknowledging our obligations to many persons, both in and out of the profession, not only in Missouri, but in several other states, for valuable information contributed, without which our undertaking would have been very incomplete. We cannot mention them by name without being invidious, but one in particular cannot be passed over in silence. We allude to Levi Pettibone, of Louisiana, Pike County, a brother of Rufus Pettibone, who from 1823 to 1825, inclusive, was one of the judges of our Supreme Court. This venerable gentleman is now in the ninety-eighth year of his age, in fine health, and in full possession of his mental faculties. He settled in Pike County, Missouri, in 1818, and for many years was clerk of the Circuit Court, both under the territorial and state governments. We had the pleasure of meeting him in St. Louis in May last. He exhibited none of the infirmities of extreme age,

except deafness in one ear and a slight impairment of his vision. We had previously received from him a most interesting letter, containing eight or ten pages of foolscap, all in his own handwriting, detailing many incidents in the lives of the early lawyers which could be obtained from no other source. He is a most remarkable instance of unimpaired longevity. May his life be spared to us many years to come.

We do not expect that this work will escape the usual criticism; but when it is understood that it has been written within the last eight months, and while the author was daily engaged in the discharge of his professional duties, and that it is the first undertaking of the kind in Missouri, we have a right to hope that it will be received by a generous public with that forbearance and indulgence which so difficult a task entitles it to.

In the sketch of Colonel Easton, page 78, will be found in fac-simile a letter from Colonel Aaron Burr to Colonel Easton, written while Burr was engaged in the conspiracy for which he was tried in Richmond; also a letter from President Jefferson, defining his policy respecting appointments to office, and one from Gideon Granger, postmaster-general under Jefferson, having reference to the conspiracy. In the Appendix will be found some interesting and valuable letters from General Washington, General Putnam, Granger, and others, none of which letters have ever before been published. Those of Burr and Granger are very important, as throwing additional light upon the famous conspiracy.

It seems strange that no one has heretofore made an effort to keep alive the memory of those early judges and lawyers who did so much for the welfare of our state, and

who gave their time, talents, and labor to the formation of a constitution and code of laws which have so largely contributed to the preservation of our lives, our property, and our liberty.

If the present undertaking shall accomplish anything in that direction, it will amply repay the author for the time and labor bestowed upon it.

W. V. N. B.

SEPTEMBER, 1878.

REMINISCENCES

OF THE

BENCH AND BAR OF MISSOURI.

THOMAS H. BENTON.

When we commenced noting our recollections of the early members of the Missouri bar, a difficulty suggested itself which seemed almost insurmountable; and that was how, in a work of so small a compass as this, we could hope to give even a meager outline of the professional life and public services of so distinguished a man as Thomas Hart Benton — an undertaking which would fill a good-sized volume. The reader must, therefore, accept as an apology for the brevity of this sketch the fact that we have in no instance attempted to furnish a minute biography of any one, but simply scattering and disconnected reminiscences.

The time for writing the life of Colonel Benton has not yet arrived, and will not for some years to come; and it is to be hoped that it will then be undertaken by one competent to do justice to the memory of one of the greatest of American statesmen.

It seems as if every civilized nation has had an era of great men, which never rolls around oftener than once in a century or two. It is certain that since Fox, Chatham, Pitt, Burke, Sheridan, and men of that stamp sat together in the British Parliament, there has been no period in English history when the mother country could boast of any superiority

over the statesmen of any other first-class power. And who will pretend that since Webster, Clay, Calhoun, Benton, Hayne, Crittenden, Berrien, Douglas, and Seward were seated side by side in the American Senate, we have been able to furnish a body of men who could bear the least comparison to them; and, if we are permitted to judge of the future by the past, it will require at least another century to bring about another such era of mind and intellect. It was the classic age of American eloquence. The fact that Colonel Benton practiced law in Tennessee before his advent into Missouri, and also practiced under our territorial government, would make a work, even of as little pretensions as this, imperfect with his name omitted. He was born near Hillsborough, North Carolina, March 14, 1782. Under whose tuition he was first placed we are unable to state, but he entered a grammar school when very young, and completed his education at Chapel Hill University. Various reasons have been assigned why he did not graduate, but the only plausible one is that the removal of his mother, who was a widow, to Tennessee while he was in college placed it out of her power to meet the expense of keeping him there. Nevertheless, he succeeded in obtaining a very liberal education.

After the family moved into Tennessee he studied law, at the same time teaching school on Duck River, near the town of Franklin, and after his admission to the bar, in 1808, opened an office in Franklin. It is said by Foote, in his "Bench and Bar of the South and South-west," that he had his office in a small, one-story brick tenement, which is yet standing, and is pointed out to the passing traveler by the residents of Franklin. After practicing a short time in Franklin he moved to Nashville, and opened a law-office in that city. In 1811 he was elected to the State Legislature, but, upon the breaking-out of the War of 1812, joined the army and became aid-de-camp to General Jackson, and continued with him until the unfortunate rencounter between them, in which his brother, Jesse, participated, and which resulted in General Jackson receiving a pistol-shot wound.

Colonel Benton then joined a Tennessee regiment, and was made its colonel, and afterwards served as lieutenant-colonel in the Thirty-ninth Infantry.

In 1813 he moved to Missouri and opened a law-office in St. Louis, at the same time writing for the press, and a part of the time conducting a Democratic journal called the *St. Louis Enquirer*. At this time he was retained in several important land suits, but he paid more attention to politics than the law. As early as 1817 the people of Missouri began to think seriously of applying for admission into the Union, and Colonel Benton took a very active part in furtherance of that object. He wrote several vigorous articles in behalf of it, and also addressed the people in its favor. In 1820 a convention met and a constitution was framed, and under it a legislature convened and elected David Barton and Colonel Benton United States senators. Colonel Benton was too prominent a man to escape strong opposition, and he was elected by only one vote; Judge John B. C. Lucas, Judge John D. Cook, and others were opposing candidates. One of the members, who was sick at the time, was carried into the House on a cot to vote for Colonel Benton, and died a few days afterwards. David Barton met with no opposition. The state was not finally admitted until 1821, but no question was raised as to the validity of the senatorial election. In another part of this work will be found the reasons for the delay. Colonel Benton, by successive elections, continued in the Senate thirty years, being the longest period that any senator ever served.

To form any adequate conception of the great mental power of Colonel Benton, the reader must be familiar with his senatorial career; for the history of that portion of his public service is the history of our country for the same time, and no one can fully understand either without comprehending both. That he was inferior to Mr. Webster as a close, logical reasoner; that he was not the equal of Mr. Clay as an orator; and that Mr. Calhoun surpassed him in the power and condensation of language, all must admit. But in depth of mind, originality of thought, and the power to conceive and

execute any great measure of public welfare, he was the equal of either, and, in some respects, the superior of all; for the dominant characteristics of all were, to a great extent, combined in him. He had Webster's great depth of brain, Clay's nerve and power of will, and Calhoun's great moral integrity. Mr. Webster was, to some extent, a timid politician, and rarely disclosed his views upon any great question until he ascertained the drift of public opinion, and what the merchants of Boston thought of it. Both Clay and Webster were deficient in that great moral power exhibited in Calhoun and Benton, and Mr. Calhoun's sectional views impaired his usefulness as a statesman. Yet none of these defects could be attributed to Colonel Benton. He loved Missouri, but he loved his country more; and, in determining the course to take with reference to any public measure, he endeavored to ascertain its probable effect upon the whole country. He was the senator of a nation, and not of a state. He never permitted any personal motive to interfere with his convictions of duty, and this trait in his character was well illustrated in his refusal to support his son-in-law, General Frémont, for the presidency, though he had no particular admiration for Mr. Buchanan. We heard him on two occasions assign as a reason that Frémont was too sectional in his views, and he thought Buchanan better qualified for the place by reason of his long experience in public life.

Colonel Benton was not a man of policy, for, if he had been, he would have succeeded General Jackson in the presidency.

When he declared war upon what was known as the Nullification Resolutions of the Missouri Legislature, he might have readily crushed his enemies if he had been the least disposed to conciliate those who were halting between two opinions. Though it was well known that he was opposed to the "Wilmot Proviso," yet, when Colonel Ferdinand Kennett, an influential member of the Democratic party, and friendly to his reëlection, sent a slip of paper to the stand, from which Colonel Benton was speaking in the rotunda, of the court-house at St. Louis, requesting him to give pub-

licity to his views on the proviso, he indignantly cast the paper from him, regarding the request as an act of hostility; and thus made an enemy of one who had always been his friend. Many such instances occurred all over the state, and it resulted in building up an opposition to him in his own party which he was powerless to resist.

Colonel Benton was one of the purest statesmen that our country has produced. As the right-bower of General Jackson's administration, he could control most any appointment within the gift of the president; yet he would never permit any person connected with him by blood or marriage to accept any moneyed appointment under the government, nor would he favor any applicant for a government contract, though a political friend. Such purity in a public man is almost without a parallel.

What a contrast to the course of President Grant, who fastened upon the treasury every relation, by marriage or otherwise, to the four hundred and forty-fourth cousin.

Colonel Benton's official position placed it in his power to amass any amount of wealth; yet he died poor. His success in public life was the result of brain-power, combined with an indomitable will and untiring energy. Whatever he undertook he would accomplish, if it took a life-time.

When the resolution denouncing General Jackson for usurpation of power passed the Senate, he rose from his seat and gave notice that at an early day he would introduce a proposition to expunge it from the journal, and accordingly did so; but at the time he was almost alone in its support, which gave rise to those memorable words:

"Solitary and alone I set this ball in motion."

Even the friends of General Jackson at first opposed it, upon the ground that it involved a desecration of the Senate record, and would furnish a bad precedent; but Benton renewed his resolution at every session, each time sending to the country an able speech in its behalf, and at each session it acquired additional strength, until finally it passed, and the

obnoxious resolution was expunged by the secretary drawing black lines around it, and by writing across it in the presence of the Senate the words, "Expunged by order of the Senate." The reader of American history will notice with what violence General Jackson was assailed for his veto of the bill to revive the charter of the old United States Bank. Colonel Benton had long been satisfied that the bank was exerting a deleterious influence upon the politics of the country; that by flooding the states with its paper, thereby encouraging wild and extravagant speculation, and then suddenly curtailing its circulation, it could produce at will a money panic or crisis, which would enable it to control the elections; that by loaning money to members of Congress, and others in authority, it would be able to direct legislation — in fine, that it was an institution dangerous to the liberties of the people, and not authorized by the Federal Constitution. He therefore determined to oppose the renewal of the charter, and, as General Jackson concurred with him in opinion, a determined opposition was then and there inaugurated, and Colonel Benton brought the whole force of his intellect to defeat the bill; but it passed Congress, and was vetoed by the president. This was followed by the inflammatory speeches of Clay, Webster, *et al.*, and the country was soon brought to the verge of bankruptcy; but Benton had his grip upon the throat of the monster, and never relaxed it until he heard its last dying groan. Nearly a half-century has since passed, and time has proved the wisdom of the Democratic party in its opposition to that great political and financial operator.

Colonel Benton was a hard-money man, and hence obtained the *sobriquet* of "Old Bullion." He reposed no confidence in banks, except those of mere deposit and exchange, and regarded paper money as of no intrinsic value, and thought gold and silver should be the basis of all values. He never changed his views upon this subject, and, if we mistake not, the judgment of mankind now is that it would be a public and national blessing if every bank in the country was buried deep beneath the catacombs of Egypt.

We have often been interrogated as to the secret of Colonel Benton's popularity with the people of Missouri; for it was well known that near the expiration of his senatorial term no Democratic candidate for the Legislature could be elected without a pledge to vote for his reëlection. This pledge was exacted upon all occasions, and a refusal to give it was death to the aspirant for legislative honors. There was no personal magnetism in Colonel Benton, for he was austere, reserved, and distant, and seldom mixed with the people; and was only known by his public acts and his devotion to the interests of his constituents. His popularity proceeded from his zeal and activity in originating and carrying measures calculated to promote the welfare and interests of the immigrant and settler. He at an early period took the ground that the government should never depend upon the sale of the public domain as a source of revenue, but that the true policy was to aid and encourage immigration, by reducing the price of the public lands; and, as most of the immigrants were poor, to give them ample time to pay for their homes. With this motive, he introduced a bill to reduce the price to $1.25 per acre, and upon certain conditions to give them preëmption and settlement rights; so that they could pay for their farms out of the proceeds of their labor. The eastern states opposed this policy, as tending to deprive them of a part of their productive population; but he succeeded in his efforts, and the people of the West felt grateful to him for his services in their behalf.

Upon the subject of the tariff, he opposed high duties upon such articles as entered into the necessaries of life. For instance, he succeeded in procuring the repeal of the duty on salt, an article indispensable to the farmer, and for which, when transportation was dear, he necessarily paid a high price. The fact was that the laboring, mechanical, and agricultural interests never escaped his vigilant attention, and his true devotion to the welfare of his constituents placed them under a heavy obligation to him.

As an evidence of his great probity of character and high

sense of honor and duty, it is only necessary to refer to his course in the Senate with reference to the boundary question between the United States and Great Britain. The reckless course of a few politicians had almost committed the Democratic party and the country to the claim of what was known as 54° 40′, when we had no earthly right north of 49°. They had succeeded in raising the cry of 54° 40′ or fight, and but for the bold stand taken by Colonel Benton and a few others, would have plunged us into a most disgraceful war with the British government. Colonel Benton threw himself into the breach, and opened the eyes of the American people to the folly of attempting to despoil a friendly power of a portion of her territory. It was a noble act, for which the American people never can be too grateful. And here permit us to say, if there is any nation in the world that can afford to be just and right towards all others, it is our own; and he who attempts to place us in a false attitude is an enemy to free government.

Colonel Benton seldom traveled, except in going to and returning from Washington; yet no living man better understood the topography, climate, and resources of the country from the Lakes to the Gulf, and from the Atlantic to the Pacific; and often in the senatorial debates, particularly in reference to the organization of territorial governments, he was appealed to for information which no other senator could give. The fact was, he had for many years made it a point to invite to his house western adventurers, and even chiefs of Indian tribes, that he might exact from them all the knowledge they were capable of imparting. Upon one occasion we called to see him when he was visiting the late Colonel Brant in St. Louis, and found him closeted with the celebrated Kit Carson, who, in the midst of maps and charts, was explaining to him the character and location of what he considered the most desirable route between Independence and Santa Fé. Upon another occasion he introduced to us Collins, the great explorer and guide of the Indian country, whom he had invited to his house in Washington, and during

an hour we spent with them the subject of conversation was confined to the topography and character of the plains and Pacific slope.

It is not strange, therefore, that a man of his retentive memory should show even a greater familiarity with the western wilds and savage tribes than many who had spent years in their midst.

We have spoken of Colonel Benton as an austere man, but at his home and at his table he was one of the most interesting men we ever saw. He would frequently invite a few friends to dine with him, and upon such occasions he was the life and spirit of the party. We recollect receiving a note from him one morning, in Washington City, stating that Mr. Buchanan and Mr. Ritchie, of the old *Richmond Enquirer*, would dine with him on that day, and he would be pleased to have us present. After reaching his house he told us, aside, that he should place Mr. Buchanan and Mr. Ritchie opposite to each other at the table, and we might look for some fine specimens of wit and repartee between them — one of which we enjoyed hugely. After imbibing the usual allowance of champagne, old sherry, and hock, the scene opened by a thrust at Ritchie from Buchanan, which we here give: "Now," said Mr. Buchanan, "Father Ritchie, tell us what sudden impulse came over you to make you change your views upon the Sub-treasury Bill." "The same," said Mr. Ritchie, "that caused you, my dear Buck, to declare in a public speech, when a young man, that if you had a drop of Democratic blood in your veins, you would take a knife and let it out."

To the reader who may not be posted as to the political life of either of the distinguished gentlemen, it may be proper to state that, in early life, Mr. Buchanan belonged to the old Federal party, and, like all young politicians, was very zealous and ardent, and used the above expression in one of his public harangues; and the occasion of Mr. Buchanan's inquiry grew out of the fact that, during the administration of Mr. Van Buren, and while the Sub-treasury Bill was pending in Congress, Mr. Ritchie made in his paper a most

violent attack upon it, but, soon after it became a law, admitted his error, and supported it warmly. Other passes between them relating to their little foibles and inconsistencies took place, much to the amusement of all.

Colonel Benton was very temperate in his habits, and it was only on occasions like this that he ever indulged even in a glass of wine; but he was always fond of dining with a few friends, and it was the only kind of entertainment for which he manifested any decided inclination. In Washington City these dinner-parties were of daily occurrence, and might properly be called intellectual feasts, for they were often the occasion of fine specimens of wit and repartee. Shortly after General Scott's defeat for the presidency, he and Mr. Webster dined out with a friend, and several ladies graced the table. While they were all partaking of soup, Mr. Webster turned suddenly upon Scott and said, "Scott, I am suprised to see you eating soup, since that *hasty plate* of yours played the devil with us in 1840."

A private dinner-party is privileged, and whatever there transpires is never expected to be given to the public; and from that very fact a great latitude is given — more particularly as many things are said under the influence of wine which would be indecorous and improper upon almost any other occasion.

Colonel Benton had the reputation of being a duelist, caused, no doubt, by his killing Charles Lucas, son of Judge J. B. C. Lucas, and brother of the late James Lucas, in a duel on Bloody Island, opposite St. Louis, on September 27, 1817. The difficulty grew out of political excitement and controversy. It is no part of our province to determine who was in the wrong, but we give the facts as we have been able to gather them from contemporaneous history, and from the correspondence that passed between them.

It is evident that there had been no good feeling between the parties for some time, for at the August election Mr. Lucas challenged the vote of Colonel Benton, alleging in the presence of the judges that he had not the necessary property qualification which, under the law then existing, was

required of electors. Benton stated that he owned slaves paid a tax upon them, and was qualified; and concluded by calling Lucas an insolent puppy. Mr. Lucas thereupon challenged him, and they met on Bloody Island on August 12, 1817; Luke E. Lawless being the second of Colonel Benton, and Joshua Barton of Mr. Lucas. But one fire took place, Lucas receiving a pistol-shot in the neck, and Benton one a little below the right knee. Mr. Lucas bled so profusely that he was unable to renew the combat, and it was postponed to a future time. This gave rise to various rumors disparaging to Benton, which he supposed originated with the friends of Lucas, and on September 23d following he addressed Mr. Lucas the following note:

"ST. LOUIS, *September, 23, 1817.*

"SIR: When I released you from your engagement to return to the island, I yielded to a feeling of generosity in my own bosom, and to a sentiment of deference to the judgment of others. From the reports which now fill the country it would seem that yourself and some of your friends have placed my conduct to very different motives. The object of this is to bring these calumnies to an end, and to give you an opportunity of justifying the great expectation which has been excited. Colonel Lawless will receive your terms, and I expect your distance not to exceed nine feet.

"T. H. BENTON.

"*Charles Lucas, Esq.*"

Mr. Lucas had gone to Jackson, Cape Girardeau County, on a business trip, and did not receive this note until the 26th, but on that day returned the following answer:

"ST. LOUIS, *September 26, 1817.*

"SIR: I received your note of the 23d instant this morning, on my arrival from below. Although I am conscious that a respectable man in society cannot be found who will say he has heard any of these reports from me, and that I think it more probable they have been fabricated by your own friends than circulated by any who call themselves mine, yet, without even knowing what reports you have heard, I shall give you an opportunity of gratifying your wishes, and the wishes of your news-carrier. My friend, Mr. Barton, has full authority to act for me."

"CHARLES LUCAS.

"*T. H. Benton, Esq.*"

The parties again met on the morning of the next day, on the same island, took positions at ten paces, both fired at the

same time, and Mr. Lucas fell mortally wounded, and died within an hour. Colonel Benton approached Mr. Lucas and expressed his sorrow at what had happened, when Mr. Lucas said, "I forgive you;" and gave him his hand.

Had the friends of both exerted themselves to bring about an amicable settlement of the difficulty, it could no doubt have been accomplished; but in those days dueling was very common, and seemed to be sanctioned by public opinion. In fact, no public man could remain in the country if he failed to respond to a call emanating from one who was entitled to the appellation of a gentleman; but that Colonel Benton was opposed in principle to dueling we know from what we have heard him say on that subject. Indeed, he exerted himself to prevent the meeting between Mr. Randolph and Mr. Clay, and, though present at the exchange of shots, refused to participate as second when asked to do so by Mr. Randolph.

The reader has no doubt already asked himself how two persons so far apart in years and position as Colonel Benton and the author should be on such friendly terms. Our reply is that, when a member of the General Assembly, and one of the youngest, we exerted ourselves to the utmost to secure his reëlection to the Senate, and at a time when a part of his own party were conspiring to defeat him. Afterwards, when occupying a seat in Congress, we alone of the entire Missouri delegation adhered to him, and he manifested his gratitude by extending to us his confidence.

Colonel Benton never could stand, with any composure, an imposition of any kind, particularly if it involved, or had any reference to, a member of his own family. Upon one occasion a shrewd Yankee, while on a visit to Washington City, became somewhat reduced in his finances, and struck upon an odd and ingenious plan to replenish them. He learned that in some part of Maryland there was a horse that had a most remarkable coat of hair — long, shaggy, and bearing a striking resemblance to wool. He bought him, brought him to Washington, and exhibited him under a tent within two blocks of Colonel Benton's residence. Over the entrance was a large placard stating that the *woolly horse*

therein exhibited was caught in a wild state, on the plains, by General Frémont, and was regarded by naturalists as the greatest living curiosity of the age. Admittance, 25 cents; children, half-price. Thousands called to see the woolly horse captured by General Frémont, and our enterprising Yankee began to think that he had struck a gold mine, when out came a card from Colonel Benton denouncing it as a gross imposition. This only increased the public curiosity to see the wonderful animal, and the tent was crowded from morning till night. The colonel could stand it no longer, and took a warrant out against him charging him with a criminal offense — had him arrested and thrown into jail, and thus put an end to the exhibition of the woolly horse. The Yankee certainly deserved some credit for his bold attempt to humbug the intelligence of the nation assembled at the capital.

It has been truly said by some writer that the inside view of the character of a great man is never disclosed to the public until long after his death. This is certainly true of Colonel Benton. It was generally supposed that he had very little reverence for the Christian religion, but there never was the least foundation for such a charge. During his thirty years in the Senate he always had a pew in church — generally the Presbyterian — and attended the service very regularly, and required the same of his family. We are not posted as to his peculiar religious tenets, but his moral life, and entire freedom from vice of all kinds, furnish the best refutation of this charge. We have often heard him allude to his wonderful escape at the time of the bursting of the big gun on the steamer Princeton as a providential interposition. We shall again allude to this in connection with another charge imputed to him, equally unfounded.

He was undoubtedly a man of strong prejudices, and often very vindictive, which led him frequently to do great injustice to others; but that he possessed a cold, unforgiving, and unrelenting heart is not true — and we could give many incidents that came under our personal observation to prove the contrary, but we prefer to let another speak of him in

this respect, whose word and authority will carry conviction to the minds of all. We allude to Mr. Webster, who was his compeer in the Senate, always opposed to him politically, and between whom, until late in life, there was but little feeling of kindness or friendship. The extract we give is from a most interesting book recently published, and entitled "Peter Harvey's Reminiscences and Anecdotes of Daniel Webster." Mr. Harvey was through life a warm personal and confidential friend of Mr. Webster, and his reminiscences are entitled to the highest credit. Mr. Harvey says that a year or two before Mr. Webster's death he related to him an incident which illustrated the great change that came over Mr. Benton at one period of his life. Mr. Benton carried his political and party prejudices to the extreme.

"We had had," said Mr. Webster, "a great many political controversies; we were hardly on bowing terms. For many years we had been members of the same body, and passed in and out at the same door, without even bowing to each other, and without the slightest mutual recognition; and we never had any intercourse except such as was official, and where it could not be avoided. There was no social relation whatever between us.

"At the time of the terrible gun explosion on board the 'Princeton,' during Mr. Tyler's administration, Mr. Benton was on board, and he related to me, with tears, this incident. He said he was standing near the gun, in the very best position to see the experiment. The deck of the steamer was crowded, and, with the scramble for places to witness the discharge of the gun, his position was perhaps the most favorable on the deck. Suddenly he felt a hand laid upon his shoulder, and turned; some one wished to speak to him, and he was elbowed out of his place and another person took it, very much to his annoyance. The person who took his place was ex-Governor Gilmer, of Virginia, then secretary of the navy. Just at that instant the gun was fired, and the explosion took place. Governor Gilmer was killed instantly. Mr. Upshur, then secretary of state, was also killed, as was one other man of considerable prominence. Colonel Ben-

ton, in relating this circumstance, said: 'It seemed to me, Mr. Webster, as if that touch on my shoulder was the hand of the Almighty stretched down there, drawing me away from what otherwise would have been instantaneous death. I was merely prostrated on the deck, and recovered in a very short time. That one circumstance has changed the whole current of my thoughts and life. I feel that I am a different man, and I want, in the first place, to be at peace with all those with whom I have been so sharply at variance; and so I have come to you. Let us bury the hatchet, Mr. Webster.' 'Nothing,' replied I, 'could be more in accordance with my own feelings.' We shook hands and agreed to let the past be past, and from that time our intercourse was pleasant and cordial. After this time there was no person in the Senate of the United States of whom I would have asked a favor — any reasonable and proper thing — with more assurance of obtaining it than of Mr. Benton."

In the year of 1847, just after the discovery of gold in California, and after Colonel Frémont had wrested the territory from Mexican rule, a great deal was said about the glory of his achievements. There was a great rush of settlers to the newly-acquired territory, and universal excitement about it.

Colonel Benton was in "high feather" at the success of his son-in-law, Colonel Frémont, and was full of the topic, talking of nothing else. In almost every debate in the Senate he alluded to it. Colonel Frémont's name was in everybody's mouth, and his wonderful deeds were the subject of general laudation. Everybody who went to California sought Benton to get letters to Frémont, who was a sort of viceroy out there.

One day after dinner, as Mr. Webster was seated in his library, the servant announced "Mr. Wilson, of St. Louis," and John Wilson came into the library. Mr. Webster at once rose and greeted him. Narrating the visit to Mr. Harvey, he said:

"Mr. Wilson was a gentleman whom I had known more or less for a quarter of a century; a lawyer of pretty extensive practice, and with a good deal of talent; a man of very

violent prejudices and temper, who had spent most of his public life, after he had reached manhood, in violent opposition to Colonel Benton. It was not so much an opposition to Colonel Benton's Democracy as it was a personal feud — as bitter and malignant as any that ever existed between two men. It was notorious in St. Louis that when Colonel Benton went on the stump John Wilson would always be there to meet him, and to abuse him in the most virulent terms, and that Mr. Benton would return the fire. I had not seen Wilson for a good many years, and had only met him occasionally in court. He came to me now a broken man, prematurely old, with a wrecked fortune; and after some conversation, he said:

"'I am going to emigrate to California in my old age, Mr. Webster. I am poor; have a family; and although it matters but little to me, for the short time that remains to me, if I am poor, yet there are those who are dear to me, whose condition I might improve by going to a new country and trying to mend my fortunes. My object in calling on you is to trouble you for a letter to some one in California; merely to say that you know me to be a respectable person, worthy of confidence.'

"After expressing my regret that he should feel obliged to emigrate to such a distance — for then it looked like a formidable undertaking to go to California — I asked him if he was fully determined.

"'Yes,' said he, 'I have made up my mind.'

"Then I set about thinking what I could do for him. I saw no way to give him assistance. I had no particular influence with the government at that time, and finally I said:

"'I am sorry, Mr. Wilson, to say that, so far as I am aware, there is not a human being in California that I know. If I were to undertake to give you a letter to any one in California, I should not know to whom to address it.'

"'That makes no difference,' said he; 'everybody knows you, and a certificate that you know me will be the most valuable testimonial I could have.'

"'I will write one with great pleasure, although you prob-

ably overrate the influence of my name in California. I want to do you a service. I want to give you something that will be of benefit to you. Let me see, Mr. Wilson; Colonel Benton almost owns California, and he could give you a letter to Frémont and others that would be of first-rate service to you.'

"He looked me in the face, half astonished and half inquiringly, as much as to say, 'Can it be possible that you are ignorant of the relations between Colonel Benton and myself?'

"I said, 'I understand what you mean; I am perfectly well aware of the past difficulties between you and Mr. Benton, and the bitter personal hostility that has existed. But I want to say to you that a great change has come over Colonel Benton since you knew him. His feelings and sentiments are softened. We are all getting older. Our fiery, hot blood is getting cooled and changed. It is hardly worth while for men, when they are getting up pretty near the maximum of human life, to indulge in these feelings of enmity and ill-will. It is a thing that we ought to rid ourselves of. Colonel Benton and I have been engaged in a war of words, as you and he have; and up to two or three years ago we went out of the same door for years without so much as saying 'Good-morning' to one another. Now, I do not know a man in the Senate to whom I would go with more certainty of having a favor granted than to Colonel Benton. He feels that age is coming upon him, and he is reconciled to many of his bitterest opponents."

"'Is thy servant a dog,' replied Wilson, 'that he should do this thing? I would not have a letter from him, I would not speak to him, I would not be beholden to him for a favor — not to save the life of every member of my family! No, sir! The thought of it makes me shudder. I feel indignant at the mention of it. *I* take a letter from Mr. Benton? I —'

"'Stop, stop!' said I; 'that is the old man speaking in you. That is not the spirit in which to indulge. I know how you feel.' And while he was raving, and protesting and

declaring, by all the saints in the calendar, his purpose to accept no favor from Colonel Benton, I turned round to my desk and addressed a note to Benton, something like this:

"'DEAR SIR: I am well aware of the disputes, personal and political, which have taken place between yourself and the bearer of this note, Mr. John Wilson. But the old gentleman is now old and is going to California, and needs a letter of recommendation. I know nobody in California to whom I could address a letter that would be of any service to him. You know everybody, and a letter from you would do him a great deal of good. I have assured Mr. Wilson that it will give you more pleasure to forget what has passed between you and him, and to give him a letter that will do him good, than it will him to receive it. I am going to persuade him to carry you this note, and I know you will be glad to see him.'

"Wilson got through protesting, and I read him the note; then I said, 'I want you to carry it to Benton.'

"'I won't!' he replied.

"I coaxed and scolded and reasoned, and brought every consideration — death, eternity, and everything else — to bear, but it seemed to be of no use. Said I, 'Wilson, you will regret it.'

"After awhile he got a little softened, and some tears flowed, and at last I made him promise, rather reluctantly, that he would deliver the note at Colonel Benton's door, if he did not do any more. He told me afterwards that it was the bitterest pill he ever swallowed. Colonel Benton's house was not far from mine. Wilson took the note, and, as he afterwards told me, went up with trembling hands, put the note, with his own card, into the hand of the girl who came to the door, and ran away to his lodgings. He had been scarcely half an hour in his room, trembling to think what he had done, when a note came from Colonel Benton, saying he had received the card and note, and that Mrs. Benton and himself would have much pleasure in receiving Mr. Wilson at breakfast, at nine o'clock the next morning. They would wait breakfast for him, and no answer was expected.

"'The idea!' said he to himself, 'that I am going to breakfast with Tom Benton! John Wilson! what will people say; and what shall I say? The thing is not to be thought

of. And yet, I must. I have delivered the note and sent my card; if I don't go now, it will be rude. I wish I had not taken it. It doesn't seem to me as if I could go and sit there at that table. I lay awake,' said he afterwards, to me, 'that night thinking of it, and in the morning I felt as a man might feel who had had sentence of death passed upon him, and was called by the turnkey to get up for his last breakfast. I rose, however, made my toilet, and, after hesitating a great deal, went to Colonel Benton's house. My hands trembled as I rang the bell. Instead of the servant, the colonel himself came to the door. He took me cordially by both hands, and said, "Wilson, I am delighted to see you; this is the happiest meeting I have had for twenty years. Give me your hand. Webster has done the kindest thing he ever did in his life." Leading me directly to the dining-room, he presented me to Mrs. Benton, and then we sat down to breakfast. After inquiring kindly about my family, he said, "You and I, Wilson, have been quarreling on the stump for twenty-five years. We have been calling each other hard names, but really with no want of mutual respect and confidence. It has been a mere foolish political fight, and let's wipe it out of mind. Everything that I have said about you I ask your pardon for." We both cried a little, and I asked his pardon, and we were good friends. We talked over old matters, and spent the morning till twelve o'clock in pleasant conversation. Nothing was said of the letter until just as I was departing. He turned to his desk, and said, "I have prepared some letters for you to my son-in-law and other friends in California," and he handed out *nine sheets* of fools-cap.

"'It was not a letter, but a ukase — a command to "every person to whom these presents shall come, greeting;" it was to the effect that whoever received them must give special attention to the wants of his particular friend, Colonel John Wilson, of St. Louis. Everything was to give way to that. He put them into my hands, and I thanked him and left.'"

Mr. Webster continued: "Colonel Benton afterwards came

to me and said, 'Webster, that was the kindest thing you ever did. God bless you for sending John Wilson to me! That is one troublesome thing off my mind. That was kind, Webster. Let us get these things off our minds as fast as we can; we have not much longer to stay; we have got pretty near the end; we want to go into the presence of our Maker with as little of enmity in our hearts as possible.'"

No more faithful portraiture of the natural heart and impulses of Colonel Benton could be given than is furnished by this extract from Mr. Harvey's interesting work. There is, however, in it a mistake of fact, which needs correction. Mr. Wilson did not reside in St. Louis, but during most of his public life was a resident of central and north-western Missouri. Nor did he and Colonel Benton ever meet on the stump; for it was an invariable rule with the latter never to engage with one in a political discussion. When he wished to address his constituents, he appointed a day and hour, and upon closing his speech left the room or ground. He said that such discussions were seldom carried on with any courtesy, and were, therefore, productive of no good. Colonel Benton did not live to witness the civil war, but he left upon record his belief that such a strife was almost inevitable — indeed, his prediction seems like inspiration.

He devoted several years of the latter part of his life to the preparation of two valuable works: one entitled "A Thirty Years' View; or, History of the Workings of the American Government from 1820 to 1850," in two volumes, octavo; the other, "An Abridgment of the Debates in Congress from the Foundation of the Government to 1856." These works are of inestimable value, and are becoming better appreciated every day; and in time will form a part of every well-selected library in the country.

After he left the Senate the people of the St. Louis District elected him to Congress; and in 1856 he announced himself a candidate for governor, and canvassed the state in opposition to what was termed the Nullification Resolutions of the previous General Assembly. He was defeated by Governor Polk, and after this took but little interest in pub-

lic affairs, devoting himself to the preparation of the works he afterwards published.

Colonel Benton was by no means free from faults — the chief of which was egotism. He loved to speak of his own exploits. On the day he made his celebrated speech against the "Omnibus Territorial Bill," which, by way of derision, he compared to old Dr. Jacob Townsend's sarsaparilla, and in which he kept the Senate for hours in a roar of laughter at the expense of Mr. Clay, who had opposed the bills separately, and supported them when consolidated, we overtook him on Pennsylvania Avenue as he was returning home. The first question he asked was, if we heard his speech; and, on receiving an affirmative answer, said, "Didn't I give Clay h—l?" and every few minutes repeated it with evident delight and satisfaction. But he was so exemplary a man in all his private relations, and had so few faults, that his friends were disposed to overlook this, prominent as it was.

In his family he was kind and domestic. It is known that Mrs. Benton for many years was greatly afflicted with paralysis; but to enable her to enjoy the society of her friends he would take her in his arms like a child, and carry her to the parlor, and back again to her room. We have seen him do this at least a dozen times. She was a sister of Governor McDowell, of Virginia; and no wife ever received greater devotion from her husband than she received from Colonel Benton.

He died in Washington City, on April 10, 1858, from the effects of cancer in the stomach. His remains were brought to St. Louis, exhibited in state for several days, and then interred in Bellefontaine Cemetery. As the casket containing the corpse was borne from the church, at least 40,000 people were gazing at the solemn scene. All business houses were closed, public buildings draped in mourning, flags in the harbor trailing at half-mast, and a deep gloom settled over the great city of the West. It was evident that a mighty man had fallen.

Alas! when will Missouri have another Benton?

GEORGE SHANNON.

This strange and eccentric lawyer was born in Pennsylvania, in 1787. He was of Irish descent. When a mere boy he joined the expedition of Lewis and Clark to the Rocky Mountains, and in an engagement with the Indians received a wound in the leg, and on his return down the Missouri River stopped at St. Charles and had the limb amputated. He procured a wooden leg shaped at the end like a peg, and from that time bore the *sobriquet* of "Peg-leg Shannon."

Lewis and Clark took him to Philadelphia, where he superintended the publication of their journal. While there he studied law, and was admitted to the bar, and soon afterwards commenced the practice in Lexington, Kentucky. He was eventually appointed a circuit judge, which office he held for three years.

It was in his court that young De Shea, a son of the governor of Kentucky, was convicted of murder in the first degree. Judge Shannon, for reasons satisfactory to himself, granted a new trial, which greatly incensed the people, who attributed his action to executive influence. This no doubt induced the judge to leave Kentucky, for in 1828 he moved to Missouri and located at Hannibal, and afterwards settled permanently at St. Charles. For a short time he occupied a seat in the State Senate, and was also United States attorney for Missouri, and became a candidate for United States senator at the time Colonel Benton obtained his second election. Judge Shannon was a man of considerable ability, and somewhat distinguished as a criminal lawyer.

He died very suddenly at the court-house in Palmyra, while defending a man indicted for murder. He was, at the time, in his forty-ninth year.

He was very young when his father died, leaving his

mother with a large family of children to maintain — among them four or five sons, all of whom in after-life became distinguished for their talents. His brother Wilson Shannon was at one time governor of Ohio, and, in 1844, minister to Mexico, under President Tyler. He also served in Congress, and was appointed governor of Kansas Territory, and when Kansas was admitted as a state the people elected him as their governor. He died in Kansas in 1877.

Another brother, by the name of James, became a distinguished lawyer, and practiced many years in Lexington, Kentucky. Judge Shannon was a strong and vigorous speaker, and was esteemed by the profession as one of the most effective jury lawyers in the state. His knowledge of men was very great, and before addressing a jury he studied the character of each juror, and adopted a line of argument calculated to win their support.

The county of Shannon, in this state, was named after him.

During the latter part of his life he became very dissipated, and when under the influence of liquor was wild, and at times desperate. Putting up one night at a country tavern, he became greatly annoyed at the loud ticking of a Yankee clock which hung over the fire-place in his room; and being in that nervous condition usually attending a spree, imagined that the noise was intended for his special benefit, and addressing himself to the clock, said: "Sir, your conversation disturbs my rest; be kind enough to suspend." The clock failing to comply with his request, he again said: "Sir, this impertinence cannot be endured; and unless you instantly cease I will blow you to h—l." But the clock was obstinate, and failed to heed the threat, whereupon he rose from his bed, and taking from his saddle-bags a large-bored pistol, sent a ball through the face of his disturber, shattering it into fifty pieces, and at the same time exclaiming, "Take that for your impertinence, you d—d Yankee son of a b—h." The next morning, upon ascertaining what he had done, he asked the landlord what he had paid for his clock, and, on receiving a reply, promptly handed over the amount.

Upon another occasion, while at Jefferson City during a session of the Legislature, and stopping at the Stone Hotel, on the bank of the river, he became incensed at one of his comrades, a senator, and getting the distinguished representative in a condition which offered no resistance, he led him to the river, put him in a skiff, turned the boat loose, and the unconscious senator floated about fifteen miles below the capital and landed on a sand-bar, when he was rescued in an almost perished condition.

At another time, at the same hotel, he was in a merry crowd, and one of them proposed to him that if either would do a particular act, and the other should fail to follow suit, the delinquent should treat the crowd. Thereupon Shannon took off his wooden leg and threw it into the fire; and as the other was not disposed to thus jeopardize a sound limb, he was forced to foot the bill.

EDWARD HEMPSTEAD.

By act of Congress approved June 4, 1813, the name of the territory of Louisiana was changed to that of the territory of Missouri, and at an election held on the second Monday in November of that year the subject of this sketch was elected as the first delegate to Congress from the territory.

He was born in New London, Connecticut, on June 3, 1770, over a century ago, and came to the territory of Louisiana as early as 1804, traveling all the way on horseback.

At that period the facilities for traveling were very limited — indeed, almost confined to horseback. There were no steamboats plying the western waters, and no stage routes west of the Alleghany Mountains. It is true that now and then the traveler, after reaching the Ohio River, would take passage on a flat-boat, but as a general thing he relied upon his horse — traveling weeks and months without shelter, and exposed to all the dangers and privations that a new and almost unexplored region subjected him to. When night overtook him, his place of rest was upon the bare ground, with his blanket around him and his saddle for a pillow, first having hobbled his horse and turned him loose to graze upon the shrubs and grass. Such were the facilities offered Mr. Hempstead to reach the Father of Waters.

Mr. Hempstead received a classical education, and was admitted to the bar in 1801; and after practicing three years in Rhode Island, came West, remaining a brief period in Vincennes, then in the territory of Indiana, and settled in the town of St. Charles, from whence he removed, in 1805, to St. Louis, where he resided till his death.

Mr. Hempstead filled many public positions, with great credit to himself and to the entire satisfaction of the government. In 1806 he received the appointment of deputy attor-

ney-general for the District of St. Louis and St. Charles, and in 1809 became attorney-general for the territory of Upper Louisiana, which office he filled till 1811. He was also the first delegate to Congress from the western side of the Mississippi River, and represented Missouri Territory from 1811 to 1814, and afterwards became speaker of the Territorial Assembly. It will be thus seen that almost his entire professional life was spent during the territorial government, having died four years prior to the admission of Missouri as a state. There are a few still living who remember him well, and who delight to dwell upon his virtues and his talents.

Mr. Hempstead died in St. Louis in August, 1817, and though it was seldom that an obituary notice appeared in the press, we find the following in the *Missouri Gazette* of August 16, 1817:

"Died, on Saturday night last, of a short illness, Edward Hempstead, Esq., counselor and attorney at law, and formerly a delegate from this territory to Congress. In the dear relation of husband, son, and brother, the deceased is believed to have fully acted up to his duty. The sorrow of his widow and relations offered the most eloquent expression of his domestic worth. On Monday the corpse of the deceased was attended to the place of interment (at the plantation of his father, Stephen Hempstead, Esq.) by a greater number of respectable citizens than we have ever witnessed here on a similar occasion."

As a lawyer, Mr. Hempstead was more profound than brilliant, and no one at the bar excelled him in the knowledge of the laws and regulations of the territory. He made a good delegate in Congress, and served his constituents most faithfully.

GREER W. DAVIS.

It is with great pleasure we are able to give even a brief sketch of the professional life of one who has just passed from our midst, and who was justly entitled to the appellation of "Father of the Missouri Bar;" for he practiced law in Cape Girardeau County fifty-seven consecutive years, and at the time of his death was the oldest licensed lawyer, and the oldest practitioner, in the United States.

Mr. Davis was born near Washington, Mason County, Kentucky, in January, 1799, and removed to Jackson, Cape Girardeau County, Missouri, in February, 1818, where he read law one year under the tuition of Timothy Davis, and one year in the office of Alexander Buckner, who afterwards represented Missouri in the United States Senate. His opportunity for acquiring a knowledge of the law could not have been better, for both Davis and Buckner were accomplished attorneys in full practice. He obtained his license on February 12, 1820, and immediately entered upon the practice in Jackson, where he resided until his recent death.

Mr. Davis' education commenced in the common schools of the country, and he afterwards entered Washington Academy, and finally Transylvania University; but whether or not he graduated we are unable to say. During his first year's practice he was appointed circuit attorney for his circuit, and afterwards elected by the people, and held the office over seventeen years — proving a most able prosecutor and a faithful public servant. During the first two or three years of his practice he was regarded as rather a fast young man — not, strictly speaking, dissipated, but given to frolic and pleasure; but soon after, he sowed his wild oats, and devoted himself exclusively to his profession. He was frequently solicted to become a candidate for office, and was tendered the judgeship of his circuit, but nothing could in-

duce him to leave his practice; for he loved his profession, and soon took rank among the ablest of our lawyers. He was, however, for several years register of the land-office at Jackson, a position he accepted at the urgent solicitation of the Department at Washington.

As a speaker he was fluent, logical, and impressive, never indulging in a superfluity of words, or lengthy harangue; and, like Mr. Calhoun, had the power of condensation in a remarkable degree — which always gave him strength before a court, and more than ordinary influence with a jury. In his argument he selected the strong points of his case, exhibited them in the strongest light, leaving the minor ones to take care of themselves. He never committed the error of impairing a strong point in the attempt to give an undue importance to a weak one. He was always a very successful lawyer, for, in addition to his thorough knowledge of the law, he carried with him the most exalted character for honesty and integrity; for nothing did he despise more than trickery or low cunning. No one can say that he was ever guilty of a mean act to win a cause or accomplish an end. He was, moreover, one of the most kind-hearted and benevolent of men — always ready to give to the poor and needy, and cheerfully responding to every call of deserved charity.

One of the noblest traits of his professional character was a desire to keep his clients out of litigation, if the matter in dispute could be compromised upon fair and equitable terms; indeed, it is said that he compromised more cases and settled more disputes than all the other lawyers of his bar combined. If in the attempt to compromise his fee was in the way, or presented any obstacle, he would remit a part, and sometimes the whole, rather than permit the litigation to continue — particularly if the strife was between neighbors. He was eminently a man of peace as well as law.

Another peculiarity he possessed as a lawyer was the power to concentrate his thoughts upon any subject that engaged his mind. He could sit in court with clients around him, and subject to all the interruptions attending the session of a court, and draw up a pleading, contract, or any legal paper,

with as much precision and accuracy as though sitting in his office free from all interruption. He was thoroughly versed in the common-law system of pleading, which gave him a great advantage, particularly over lawyers educated under a different system. Like most of the old lawyers, he became greatly incensed at the introduction of the "Wells Code," regarding it as a mere contrivance to aid the uneducated and ignorant practitioners. In fact, most of the well-educated lawyers of the state opposed it, upon the ground that it was an unwise innovation upon a system of pleading that had been sanctioned and perfected by the legal learning of centuries. They subscribed to the legal maxim, "*Omnis innovatio plus novitate perturbat quam utilitate prodest.*"

Mr. Davis died very recently, February 25, 1878, aged seventy-nine years and thirteen days. He joined the Methodist church as early as 1824, and lived the life of an exemplary Christian. "His death was not the darkness of despair, but was radiant with the hope of a happy immortality beyond the grave."

During the last winter we received several letters from him imparting valuable information in regard to the early bar of south-eastern Missouri. They are written in a round, legible hand, and a style indicating that he had lost none of the vigor of his mind. We had expressed to his son, who is a member of the St. Louis bar, our intention to dedicate this work to him as the only survivor of the territorial lawyers of Missouri; but, alas! before this manuscript could reach the hands of the printer, he was also gathered to his fathers.

> "Man is his own star, and the soul that can
> Render an honest and a perfect man
> Commands all light, all influence, all fate;
> Nothing to him falls early, or too late."

GEORGE TOMPKINS.

This gentleman was for many years presiding justice of the Supreme Court of Missouri, and was appointed to the bench in 1824. He was born in Caroline County, Virginia, in March, 1780. He was of English descent, and his ancestors were among the early settlers of Virginia, owned large tracts of land and many slaves, and were largely engaged in the cultivation of tobacco, which they shipped to the Old Country. His father had thirteen children, George being next to the youngest. It does not appear that his education was above that usually obtained in the common-field schools of the Old Dominion; but he must have improved himself greatly by reading, for he became a very good English scholar. It is not known precisely what time he left Virginia, but it must have been near the time he attained his majority; for on a blank leaf in an old arithmetic printed in 1797, which at his death was found among his books there is a memorandum in his own handwriting from which it appears that on April 29, 1806, he located at the "Rapids of Ohio," and had then been in Jefferson County, Kentucky, at least two years.

He left home with $100 in his pocket, given to him by his father, and rode to Kentucky on horseback. Ten years afterwards his father died, and George became entitled to a share of his estate, but for some reason he refused to receive it — most probably from the fact that he had a large number of sisters, and wished them to retain it. He remained in Kentucky about six or seven years, teaching school most of the time, and reading such law-books as fell in his way. He could not have been long at the "Rapids," for it is stated in the Illustrated History of Missouri, by Davis and Durie, "that in 1804 the first English school was opened in St. Louis by a man named Rotchford, who was succeeded by

George Tompkins, a young Virginian, who rented a room on the north side of Market Street, between Second and Third, for his pupils, and studied law at the same time." The population of St. Louis could not then have exceeded 1,500, for it had increased but little since 1799, and a census taken in that year places it at 925. It was a small village, and the inhabitants creole French, with the exception of two American families by the name of Sullivan and Adams. Mr. Tompkins, while teaching, boarded in a French family, and there obtained his knowledge of that language. Among Judge Tompkins' pupils was Louis A. Benoist, who became a wealthy banker in St. Louis.

In 1816, the year of the introduction of the common law into the territory of Missouri, he settled in old Franklin, Howard County, and entered upon the practice of the law. He was twice elected to the Territorial Legislature, which then sat at St. Charles.

In 1824 he was appointed judge of the Supreme Court, which position he held till 1845, when he was compelled to retire by a constitutional provision which prohibited any person from holding the office after reaching the age of sixty-five. He died on his farm near Jefferson City, on April 7, 1846, in his sixty-seventh year.

As a lawyer he was very successful, but we shall deal with him as a judge; for it is in that capacity he was best known to the people of Missouri. That he was a fine jurist, and a man of spotless integrity, admits of no question. His opinions published in the early volumes of our Reports evince much learning and legal research. He was a great stickler for precedent and authority, and upon one occasion led the court to a decision which was in violation of every principle of justice, and robbed many a widow and orphan of their patrimonial estate. We allude to the case of Lecompte *vs.* Seargent, reported in 7th Missouri Reports, page 351, where the court held "that no principle of law is better settled than that an executor or administrator is for every purpose the owner of the moneys of his testator or intestate which have come to his hands. Therefore, when an administrator

took a note for money loaned, in which note he was named A B, administrator, etc., the individual debts of the administrator may be set off against the note."

The same doctrine was held in Thomas *vs.* Relfe, 9th Missouri Reports, page 377; and such was held to be the law until the decision of Lessing, Mayer & Co. *vs.* Vertrees, in 32d Missouri Reports, page 431. We were then on the bench, and delivered the opinion which overruled Lecompte *vs.* Seargent, and Thomas *vs.* Relfe. The ruling in these cases seemed to us so repugnant to every principle of right and justice that we took occasion to examine with much care the authorities bearing upon the point. The chief authority relied upon, and cited in Lecompte *vs.* Seargent, was Farr *et al. vs.* Newman *et al.*, 4th Durnford and East, page 347. Judge Tompkins was misled by a reference to the case in an old English digest which he carried from court to court in his saddlebags. What he supposed was the opinion of the court was merely the dissenting opinion of Justice Buller. He never saw the report of the case, for three of the judges held to the contrary, and their opinion became the judgment of the court.

We have been particular in referring to this case for the purpose of showing the disadvantage under which the early judges labored for the want of access to books.

Judge Tompkins resided the last part of his professional life on a farm about a mile west of Jefferson City. He took great delight in horticulture, and raised the finest fruit in that section of the state. We visited him in the winter of 1836–7, and partook of some of his apples and pears, which for fine flavor and delicacy could hardly be excelled. He was a man full of whims, oddities, and eccentricities, and not unfrequently perpetrated some good, old, genuine mother wit. Many anecdotes of him have been handed down to us, some of which we shall give:

Our visit to Jefferson City in the winter of 1836–7 was to obtain a law license, which could only be granted by one of the supreme judges, and then only upon a personal exami-

nation of the applicant by the judge himself. General Doniphan, then the most prominent member of the General Assembly, was kind enough to tender us a letter of introduction, and as he did so whispered in our ear, "Don't forget to arm yourself with plenty of good cigars, and a little old Kentucky bourbon." Thanking the general for his letter and timely advice, we started for the judge's residence, who gave us a hearty welcome and some good old cider of his own manufacture — for he had a splendid orchard, and would talk fruit and horticulture from morning till night. He was as much at home on that subject as General Grant is upon the subject of dogs and horses. Said he, "Have you a room by yourself at the hotel?" We replied, "Yes." "Then," said he (for it was getting near sun-down), "I will call upon you at nine o'clock in the morning." Promptly to the hour he called, and, after passing the usual compliments of the day, began the examination.

"Can you tell me," said he, "whether Blackstone wore his hair long or short?" We replied that, from the pictures of him we had seen, he was represented with long curly hair, hanging to his shoulders, powdered white. "Wrong!" said he, "for he had no hair — was bald as a marble slab — wore a wig." This attempt at humor put us on our guard, and gave us to understand what we might expect. We invited him to a cigar, which he readily took, and then, after a short disquisition on smoking, broke out in a perfect avalanche of questions on the law of real estate, most of which we readily answered, but a few were entirely too abstruse for our dull comprehension; and when he drove us to the wall we invited him to a new cigar, or a little bourbon, as the readiest means of escape; and if that failed, we talked apples, pumpkins, and grapes, until he entirely lost the subject of his inquiry. In this way two long days of anxiety to us were spent, and as our cigars were about to give out, and the brandy had nearly reached the bottom of the jug, he asked if we had prepared the license. We told him we had not, as we had no assurance that he would grant it. "Oh," said he, "I was ready to grant it after the first hour's exami-

nation; but your cigars were so good, and your whisky so palatable, that I could not resist the temptation to prolong my visit."

We mention this by way of introducing the reader to other instances of eccentricity which we shall have occasion to refer to. The advice of General Doniphan was no doubt well intended, but it cost us no little mental anxiety, to say nothing of our expenditure in brandy and cigars. We never visited Jefferson City afterwards without receiving—when he was at home—an invitation to spend a night with him.

At times he was irritable on the bench, and would frequently interrupt counsel in their argument with some odd remark or sarcastic inquiry. He dressed very plain, but never could tolerate slovenliness in others. A lawyer from one of the south-eastern counties, by the name of Mendell, was once engaged in an argument in his court, when Judge Tompkins interrupted him, near the time of the adjourning hour, by saying, "Mr. Mendell, it is impossible for this court to see any law through as dirty a shirt as you have on; and this court will now adjourn until ten o'clock to-morrow morning, to give you an opportunity to change your linen."

In our memoir of Peyton R. Hayden, the reader will see a fine piece of repartee on the part of Mr. Hayden, in reply to an inquiry of the judge. Both were eminent men, and probably no great amount of love was lost between them; and, as both were somewhat irritable, many amusing scenes occurred between them. We will give one or more:

Mr. Hayden, in his arguments before the court, seldom used the words "plaintiff" and "defendant," but called the parties by name. Upon one occasion he was making an argument in behalf of a client by the name of Jones, and repeated the name frequently. Said Judge Tompkins to him, "Mr. Hayden, will you do me a favor?" "Yes, sir," said Hayden, "I have known your honor a long time, sir, and will be glad, sir, to do you any reasonable favor in my power." "I thought," said the judge, "if you have no objection, you might be willing to tell me the *name* of your

client." [A loud laugh from the bar at the expense of Mr. Hayden.] "Of course, sir; my client's *name*, sir, is William Jones, sir. He lives down on the Moro [a small stream about four miles below Jefferson City], sir, just below Jefferson City, sir. His name is William Jones, sir." "I thank you," said the judge; "proceed in your argument." Mr. Hayden continued his argument, and went over the same point with the same illustration several times, when the judge again became impatient, and, interrupting him, said, "I wish to know, Mr. Hayden, if you will do me another favor." "Certainly, sir," said Hayden, "with great pleasure, sir." "Then, I wish to know," said the judge, "if you don't think that when a lawyer has said the same thing 150 times, that that is enough?" Hayden paused a moment, and replied, "No, sir; I don't think any such thing, sir, and will tell you why, sir. I suppose, sir, that if I had mentioned the name of my client, Jones, in this argument once, sir, I had done so 150 times, sir, but after all, your honor, sir, forgot his *name*, and you asked me, sir, what it was, and I had to tell you. So, my plan is, not only to say a thing, *but to rub it in if I can*." [A roar of laughter by the bar and spectators at the expense of the judge.]

Upon another occasion Mr. Hayden quoted a decision of a justice of the peace in support of his side of the cause, which greatly vexed Judge Tompkins, who said to him, "What do you mean, Mr. Hayden, by quoting such an opinion here; don't you know that it has no authority in this court? I am astonished at such reckless waste of the time of the court." "I don't know why, sir," said Mr. Hayden; "I frequently find that the decisions of these justices of the peace are quite as able as the opinions of this court. I sometimes appeal to the justices of the peace from the opinions of the Supreme Court, and sometimes I appeal from the opinions of the justices of the peace to this court; and I never could tell whether the case was better settled *when I appealed up or when I appealed down*."

Judge Tompkins was not proof against flattery when judiciously applied. But in this he had many worthy exam-

ples among the judiciary. Lord Bacon, the most learned of the English jurists in the time of Elizabeth, was particularly susceptible to it, and it no doubt gave strength to the charges of misconduct against him which caused his downfall.

A little flattery, particularly if mixed with a little wit, is sometimes more effectual than the law.

In a recent number of the *Western Jurist* there is related an anecdote of a countrywoman in one of the small courts of Germany, which is a good illustration. The attorney of her opponent pestered her with so much chicanery and legal subtleties that she lost all patience, and interrupted him thus: "My lord, the case is simply this: I bespoke of my opponent, the carpet-maker, a carpet with figures, which was to be as handsome as my lord the judge, and he wants now to force me to take one with horrible caricatures, uglier even than his attorney. Was I not right in breaking off the bargain?" The court laughed at the comparison, the attorney was stupefied, and the woman won her suit.

Judge Tompkins left no family.

NATHANIEL W. WATKINS.

General Watkins obtained his military title from services rendered in the state militia; for he held the commission of brigadier-general. He was born in Woodford County, Kentucky, on January 28, 1796, and was a half-brother of Henry Clay. He came to this state in 1820, and located at Jackson, Cape Girardeau County, where he practiced law until his death, which took place March 20, 1875, at the ripe age of seventy-nine.

He served several terms in the State Legislature; was a member of the Convention which met in St. Louis immediately preceding the war, to take into consideration the relations of the state towards the Federal government — in other words, it was called by the Legislature, a majority of whom were secessionists — to adopt a secession ordinance; but the people thwarted the attempt by electing Union men. General Watkins was also a member of the late Convention called to amend the Constitution, and rendered very efficient service in that body. He was too devoted to his profession to become an office-seeker; hence he occupied but few places of public trust. Had he possessed any ambition for public honors, no doubt he would have been gratified; for he had traits of character and mind well calculated to secure public favor. He was personally popular, active, and energetic, and as a speaker very forcible, and at times impassioned and eloquent. In this respect he partook, though in a less degree, of the nature of his gifted half-brother. As a lawyer he always commanded a good practice, and was generally successful. One of his faults was a habit of sometimes denouncing the opposing counsel and party — a practice that seldom accomplishes any good, and often results in the loss of a meritorious cause.

General Watkins was a kind, amiable, and benevolent

man, and exceedingly liberal to the poor. No appeal was ever made to his sympathy to which he did not cheerfully respond. He was one of those men who took more pleasure in giving than receiving. In the younger members of the profession he always took a deep interest, and if it was in his power to do anything to aid and encourage them, he never failed to do it. He was a man of great personal magnetism, easy and polite in his manners, and made friends wherever he went. As a jury lawyer he met with unbounded success, and few criminals were ever convicted when he was retained on the part of the defense. He managed his cases with great adroitness, and always kept the opposing counsel uneasy.

General Watkins had not the benefit of a classical education, for the circumstances of his parents would not admit of it. At an early period he showed an adaptation to the legal profession, and it was fortunate that he had it in his power to pursue a regular course of legal studies in the Transylvania Law School, at Lexington, in which institution he graduated with distinction. His fondness for flowers and shrubbery was proverbial; and had he pursued the study of botany, would no doubt have become quite proficient in it. Like most of the early lawyers, he had a farm, and devoted all his spare time to its cultivation.

There seems to be an affinity between Law and Agriculture; for you rarely find a good lawyer who does not at some period of his life engage in the cultivation of the ground. All the early presidents and jurists were farmers, and many became fine horticulturists. It is said that Mr. Jefferson would follow the plow for days and weeks preceding the planting season; and there is a story extant of Silas Wright, of New York, to the effect that a distinguished foreigner, on his way through western New York, called upon him and found him plowing in his field, with his pantaloons rolled up above his knees. Mr. Van Buren always lived on a farm adjoining Kinderhook, and Chief Justice Marshall was about as well versed in farming as in the law. Mr. Webster was never so happy as when toiling on his

plantation at Marshfield. An amusing incident is told of him, which the reader no doubt recollects, but it will well bear repetition: A young man rather dandified in his appearance called upon the great lawyer at Marshfield, and when he reached the road in front of the house, found that he could not cross it without soiling his boots, as recent rains had deluged the country. Mr. Webster, whom the stranger had never seen, was standing a few rods off, and, seeing his visitor hesitate, approached him, and taking off his shoes and rolling up his pants, waded to him, took him on his shoulders, and landed him safely on dry ground. When they reached the house the visitor requested that his card might be sent to Mr. Webster. "Well," said Mr. Webster, "that is my name." "No," said the other, "I want to see Webster the great United States senator." "Well, sir, my name is Webster, and I am a United States senator, but by no means a great one." The scene became too ludicrous even for the gravity of Mr. Webster, and both broke out in a hearty laugh.

All the early judges, and most of the early lawyers, of Missouri were farmers. Tompkins and Scott had farms in the vicinity of Jefferson City. Judge McGirk lived on one of the finest plantations of the state, on Lieuter Island, in Montgomery County. Edward Bates lived for a number of years on a fine farm in St. Charles County, but he was not a very successful cultivator of the soil, for he frequently said it took all that lawyer Bates could make to support farmer Bates.

That, however, was not the case with General Watkins, for he was successful in both. But one of the chief causes of his success at the bar was the happy facility he possessed of winning the favor and confidence of witnesses, thereby enabling him to elicit more from them in behalf of his client, and keeping back more that might be unfavorable, than any of his legal associates. Probably the most laborious position filled by General Watkins was that of speaker of the House of Representatives of the Sixteenth General Assembly. To make a good presiding officer not only requires a thorough

knowledge of parliamentary law, but a cool and dispassionate head, capable of commanding, and, in times of great excitement, enforcing, obedience to the rules and regulations of the body. That General Watkins possessed these qualities in an eminent degree was conceded by all. Some men are peculiarly fitted for the place, and we can recall no one who was more so during our service in the Legislature than General Sterling Price. Both he and Watkins were endowed with the power to command respect and enforce obedience — both of which are necessary to control a deliberate body.

The memory of General Watkins is greatly revered by the people of south-eastern Missouri.

ALEXANDER BUCKNER,

One of the earliest of the United States senators from Missouri, was born in Jefferson County, Kentucky, about the year 1785, and moved from Kentucky to Indiana, where he entered upon the practice of the law; but, having become involved in a duel, emigrated to Missouri in 1818, and located in Cape Girardeau County, where he purchased a farm, and combined farming with the practice of the law — not unusual with the early members of the profession. Colonel Buckner was a member of the Convention called to frame a state constitution preparatory to the admission of Missouri into the Union; and also served in the Legislature.

In 1831 he was elected to the United States Senate for a full term, but died in 1833, about forty-six or forty-seven years of age. We are not aware of his holding any other office, except that of circuit attorney, and, for a brief period, state senator.

Mr. Buckner, or, as he was usually called, Colonel Buckner, was a lawyer of very considerable ability, and enjoyed for that period a lucrative practice; but his fondness for political life led him into a different field, so that it is impossible to say what distinction he might have reached in his profession had he devoted more time to the law, and less to politics. In him were combined many qualities that usually contribute to success in both; for he was sociable, genial, and industrious, and as a speaker, fluent, argumentative, and earnest. Pleasant in his address, agreeable and interesting in conversation, he impressed favorably all with whom he came in contact. He was not in the United States Senate long enough to obtain much reputation as a statesman, but he seldom failed to carry any reasonable measure in which his constituents were interested, which did not partake of a political character.

It is much to be regretted that so little information can be obtained regarding the early life and education of this gentleman. In fact, there is but little known of him outside of his public life. That he stood high in the estimation of the people of Missouri is well attested by their conferring upon him the highest office within their gift.

RUSSELL HICKS.

This gentleman, who for many years filled the office of circuit judge in the western part of Missouri, was born near the close of the last century, in Worcester County, Massachusetts. When not exceeding two or three years of age his parents moved into the western part of New York, where young Hicks lived till he reached his eighteenth year. He was, in the broadest sense of the term, a self-made man, for his education was only such as he could obtain from the common schools of that day. He worked during the summer to procure means to pay his way in the winter, for his father was unable to render him any assistance.

As soon as he felt able he commenced teaching a small school, and by teaching and working alternately he was enabled to support himself, and improve his mind by reading. He became what might be termed an itinerant teacher; for he traveled through many states, and never stopped long in any one place.

His first appearance west of the Mississippi was at St. Genevieve, in this state, where he took a contract for mauling rails and cutting cord-wood. He next made his appearance in St. Louis, where he engaged for a short time as a common laborer. His next move was to Saline County, where he again engaged in cutting cord-wood. It was about this time that he conceived the idea of studying law. He borrowed law-books wherever he could obtain them, reading at night, and mauling rails and performing other manual labor during the day. As soon as he thought himself capable of entering upon the practice he applied for admission to the bar, and, with his sheep-skin in his pocket, traveled on foot to Independence, where he opened a law-office, and procured a job of writing in the office of the clerk of the Circuit Court. In due time he was appointed treasurer of

Jackson County, which office he held many years. After the judiciary became elective, he was placed on the circuit bench to fill a vacancy, and about 1856 was elected to the same office by the people, and held it until 1859.

Upon the breaking out of the rebellion he boldly advocated secession, and made himself very unpopular with the Union party. He was very imprudent and indiscreet in his conversation upon the subject, and, apprehending an arrest, went to St. Louis, where he attempted to establish himself in the practice; but failing in this he took up his residence in Sedalia, and formed a partnership with Hon. John F. Phillips and Hon. George G. Vest. He soon after moved to Warrensburg, in Johnson County, where he died in 1875, at the age of seventy-five.

It will be thus seen that his life was one of constant toil and labor, yet by diligent study he made himself an excellent jurist. He was a man of strong native intellect, and only wanted education and refinement to give him an exalted position at the bar or on the bench. We have heard persons, who were competent judges, state that in natural ability, vigor of thought, and close, logical reasoning, he had no equal at the bar of western Missouri. While he resided in St. Louis we often met him in the Law Library, where he spent most of his time reading. He always appeared to us agreeable and entertaining, but he had the reputation of being cross and ill-grained. He was certainly unpopular with the lawyers in his circuit, though they respected him for his legal attainments. He enjoyed the reputation of being a fine stump-speaker, and it is said could always draw applause from a promiscuous assembly.

The success of Judge Hicks, under the most adverse circumstances, shows what assiduity and determination will accomplish, and should encourage young men who are aiming at professional distinction.

There is something in the life of Judge Hicks that reminds us of Justice Catron, late of the Supreme Court of the United States; for he also performed manual labor to enable him to obtain the rudiments of an English education, and

continued to do so long after he entered upon the practice of his profession. Indeed, it is asserted that almost up to the time that General Jackson gave him his commission as supreme judge, he was seen at almost every public gathering in his neighborhood, leading a stallion about, and descanting upon his fine blood and pedigree.

Judge Hicks was a very large, stout-built man, with high cheek-bones and dark complexion, and might readily have passed for a half-breed Indian.

He left no family.

JOHN D. COOK.

Of the place of nativity of this excellent jurist we have no information, but he came to Missouri during the territorial government, and settled in Cape Girardeau County, where he entered upon the practice of the law. He was a member of the Convention which framed our original state Constitution, and we are indebted to him for some of its best provisions.

Upon the admission of the state into the Union he was appointed judge of the Supreme Court, but on the removal of Judge R. S. Thomas from the Circuit Court by the Legislature, in 1834, Judge Cook was appointed in his place — preferring that to the supreme bench — and presided over the Tenth Judicial Circuit for many years, and became a distinguished *nisi-prius* judge. He was a thorough lawyer, and understood the common law as well as any divine ever understood the Ten Commandments — indeed, it was a common saying among his legal associates that the common law was born in him. All he wanted to make him the peer of any western lawyer was industry and energy, in both of which he was greatly wanting. He loved his ease and comfort, and cared nothing for office or position, though his name was placed in nomination in the first State Legislature for United States senator — at the time Benton and Barton were elected. He was not versed in the classics, but was a fine English scholar, and well posted in English literature. Judge Cook was addicted to no bad habits, unless laziness is one. He had fine conversational powers, was genial, pleasant, and full of anecdote, and could entertain one by the hour in the recital of them.

He died in Cape Girardeau many years ago.

Judge Cook was an extremely ugly-looking man, and, what is strange, seemed to regard his repulsive looks as a fortunate gift. Upon one occasion he was selected, with

several others, to represent Cape Girardeau in the great Internal Improvement Convention which was held in Chicago a short time before the war. They took passage on a steamer for St. Louis, and one of the party discovered a gentleman on board who struck him as being an uglier man than Cook. This gentleman proved to be Judge Wright, a distinguished man from Ohio, and on his way to the same Convention. On returning to his party the gentleman who made the discovery offered to bet a bottle of wine that there was a man on board uglier than Judge Cook. A stranger overhearing the conversation, and who was an acquaintance of Wright, immediately turned his eye upon Cook, and said, "I will take that bet," and it was agreed that it should be decided by a disinterested committee of three. It was then proposed to bring about an introduction between the two judges, and when it took place each fixed his eye most intently upon the other for several seconds without a word passing between them. At length Judge Cook broke silence by saying, "Judge Wright, before I left home I promised that if during my absence I found a man uglier than myself, I would immediately return; and now, sir, I shall leave the boat at the next landing, and take the first one on the downward trip." "Stop, my dear sir," said Judge Wright, "you may be a good judge of law, but you are an exceedingly poor judge of beauty, and the only way to settle this question is to submit it to a disinterested tribunal, and I propose to let the bar decide it; thereupon they all proceeded to the *bar*, and over several bottles of champagne drank to each other's health; and it was *held*, without a *dissenting opinion*, after due deliberation, that two uglier men were never born of woman, and that they should be adjudged to pay the *costs*.

Judge Cook was a man of large heart and great benevolence — in fact, almost prodigal in his gifts to the poor. He was, moreover, a warm friend to the younger members of the profession, ever ready to assist and encourage them. To an applicant for a law license it was almost impossible for him to give a refusal. A young cabinet-maker, with a few months'

reading, imagined that he was cut out for a lawyer, and applied to the judge for a license. The judge appointed a committee of the bar to examine him, who reported him disqualified. Thereupon he made a request that the judge should examine him in person, which was accordingly done.

"What do you understand law to be?"

"Law, sir — law — yes, sir — it is that which governs the people, and out of which lawyers make a living."

"But what does Blackstone say about it?"

"Ah [pompously], excuse me, judge, I have not yet read the learned author."

"Well, what does Kent say about it?"

"Kent, Kent — well really, judge, to tell you the truth, I have not read him either; but promise myself the pleasure of doing so at an early day."

A few other questions followed, with no better result, when the judge, with one of his kindest smiles, said: "Mr. R., I will take pleasure in granting you a license, *for I think you can do as little harm in the profession as any one I know.*"

Notwithstanding Judge Cook's amiability, he could, when the occasion called for it, be quite sarcastic. While holding a term of his court at Bloomfield, a young lawyer who had made himself very conspicuous, much to the annoyance of the court, rose — while the court and bar were awaiting in silence the return of a jury — and inquired in a pompous way, "if there was anything before the court." The judge, taking a prolonged and significant look at him, replied, "*Not much, I believe.*" The poor fellow felt the sting, and wilted down.

This is not unlike the story of Curran, who was once addressing a jury when the judge, who was thought to be antagonistic to his client, intimated his dissent from the arguments advanced, by a shake of his head. "I see, gentlemen," said Curran, "I see the motion of his lordship's head. Persons unacquainted with his lordship would be apt to think this implied a difference of opinion; but be assured, gentlemen, this is not the case. When you know his lordship as well as I do, it will be unnecessary to tell you that when he shakes his head, there really is *nothing in it.*"

JOHNSON RANNEY

Was a prominent lawyer in Jackson, Cape Girardeau County, Missouri, having practiced in the south-eastern part of the state upwards of thirty years.

He was born in Litchfield County, Connecticut, on December 19, 1789, and came from good old Revolutionary stock, his father having been a soldier during the War of the Revolution and the War of 1812, and during the latter was lieutenant-colonel of the Fourth United States Infantry. After the close of the war he settled down as a farmer in Connecticut, and being in poor circumstances, was unable to give his sons the advantages of a liberal education. Johnson, at a very early age, expressed a strong desire to acquire a good education, and entered one of the higher academies, rendering personal service for his tuition. When old enough to take charge of a school he commenced teaching, and directed all his spare time to reading and prosecuting his own studies. He was often seen at night pursuing his studies by no other light than that afforded by a scanty fire. During the War of 1812 he served as ensign in the Fourth United States Infantry, and through life manifested a strong partiality for a military life. After coming to Missouri he was made a brigadier-general of militia.

It will be noticed that nearly all the Cape Girardeau lawyers held commissions in the state militia — most of them reaching the grade of brigadier-general. There were General Watkins, General English, General Jackson, General Evans, and General Ranney; and several colonels and majors. In those days some knowledge of military tactics was regarded in a public man as an element of success, more particularly if he had political aspirations.

The state militia at that time were under thorough organization, and every able-bodied man between certain ages was compelled to muster quite frequently, or subject himself to

the payment of a fine. The practice gradually fell into disrepute, until the Legislature was forced by public opinion to so amend the law as to require simply an enrollment. We mustered on several occasions, but failed to elicit any commendation from the officers in command, nor can we say that our military education ever conferred much glory upon the state; for the highest grade we reached was that of fourth corporal. While teaching, General Ranney devoted a portion of his time to the study of the law. He could not have been licensed in Connecticut, for as early as 1814 he came West and located at Indianapolis, Indiana, and practiced there a short time. He then came to Missouri, and opened a law-office in Jackson, Cape Girardeau County. Here he encountered a difficulty which he had not anticipated. The inhabitants of Cape Girardeau were mostly from Virginia, Kentucky, and Tennessee, and were strongly prejudiced against the Yankees. Wooden nutmegs had become an article of commerce, and were just beginning to find their way into the western settlements. Many of the people of Jackson determined that Mr. Ranney should leave, and sought every opportunity to involve him in personal rencounters. In some of these fights he was badly used up, while in others he came off victorious, and showed so much pluck that he acquired the appellation of the "Brave Yankee." From this time he rose rapidly in his profession, and soon obtained the confidence and good-will of the people. He practiced in the counties of Cape Girardeau, St. Genevieve, Perry, Washington, Madison, Wayne, Scott, and New Madrid; and sometimes attended the court at Davidsonville, in Arkansas. As was the invariable practice in those days, the lawyers traveled from court to court on horseback, which led to those social and genial habits for which the western lawyer is particularly noted. He represented his county once in the Legislature, which convened at St. Charles, but with that exception we are not aware of his holding any civil office. He was too much devoted to his profession to let his name be used for office, though he was well versed in the political history of his country, and was fond of listening to the political contests on the hustings.

General Ranney was a strong, well-read, reliable, and successful lawyer. He was not a pleasant speaker, though in the argument of a question of law was clear, concise, and logical, and always commanded the close attention of the court. Before a jury he was not impressive, but his high character for integrity, and the confidence reposed in him, gave him an influence which was always felt in the jury-box. He was not a man given to conviviality, hence there are no anecdotes that attach to him. He was slovenly in his dress, and often wore a large overcoat in the hottest period of the summer. Upon one occasion he appeared in the Supreme Court to argue a case of importance, when he was reproved by one of the judges for the negligence of his toilet. The next morning he again appeared, but this time in the garb of a dandy — so completely metamorphosed that his own dog would not have known him. When he rose to resume his argument, he commenced by saying, in a serious and grave manner: "May it please the court, before proceeding further in the argument, I should like to know if the fastidious taste of the court interposes any obstacle to my recognition."

General Ranney was licensed by Judge Silas Bent, on December 4, 1815, and, to give the reader a knowledge of the form of an attorney's license under the territorial government, we here furnish a copy:

"BY THE HONORABLE SILAS BENT, ESQUIRE, ONE OF THE JUDGES OF THE SUPREME COURT OF MISSOURI TERRITORY.

"*To all to whom these presents shall come, greeting:*

"Know ye, that Johnson Ranney, gentleman, having complied with the requisitions of the existing laws of this territory, in such case made and provided, and having been by me examined and found well qualified, I do by these presents authorize and license him to appear and practice as an attorney and counselor at law in any court of record in this territory, according to the rules and customs of said courts, and the laws of the territory aforesaid.

"Given under my hand and seal this fourteenth day of December, in the year of our Lord eighteen hundred and fifteen.

"SILAS BENT. [*Seal.*]"

General Ranney died on his farm near Jackson, in August, 1848, in his fifty-ninth year. He was twice married, and left a large family in independent circumstances.

JOHN B. C. LUCAS.

This gentleman was one of the most remarkable men who ever settled west of the Mississippi River. He came to Missouri at a very early time, and soon acquired considerable prominence as a jurist.

He was born in Normandy, France, in 1762; graduated at Caen, in 1782, as Doctor of the Civil and Common Laws; practiced almost two years in his native place, and then emigrated to the United States, first settling on a small farm in the vicinity of Pittsburg, Pennsylvania. It is said that at this time he seriously contemplated abandoning his profession for the purpose of engaging in agricultural pursuits, suggested, no doubt, by a want of knowledge of the English language; but he must have soon changed his mind, for he applied himself very closely to the study of it, and in 1792 was elected to the Legislature. He also served for a time as judge of the Court of Common Pleas in his district; was sent to Congress from Pennsylvania in 1803, and in 1805 Mr. Jefferson appointed him judge of the United States Court in Upper Louisiana.

He then took up his residence in St. Louis, where he remained till his death, which took place in 1842, at the age of eighty years.

Judge Lucas also filled the office of commissioner of land titles, and this, no doubt, directed his attention to the acquisition of real estate. When he came to Missouri, St. Louis was a small French village, but he foresaw in the future a large commercial city, and possessed himself of all the soil he could obtain in and around it, which enabled him to leave a large estate, which, at this day, with the improvements, must exceed in value $15,000,000; but it is said that his net income at the time of his death was not over $2,000. As he scarcely ever improved his property, and expended large amounts in taxes, this is probably true. The ground from

Fourth Street running west, and embracing Market, Chestnut, Pine, and Olive Streets, fell by gift and inheritance to his two surviving children, James H. Lucas and Mrs. Ann Hunt.

We well recollect the old stone house on the corner of Seventh and Market, which was his residence many years, and where he died. It is the lot on which now stands the Masonic Institution. He had a residence, also, in the neighborhood of Thirteenth and Olive, now enclosed as a public park. It was then in the woods, and so far from the village that the people predicted that in three months the Indians would have his scalp.

It is evident from what has already been stated that Judge Lucas, in addition to a thorough and classical education, was a man of extensive learning and acquirements. His appointment, by Mr. Jefferson, to a Federal judgeship, shows that he must have been regarded as a sound lawyer; for in those days men were selected for such positions on account of their fitness and qualification. He was also at one time acting governor of the territory, and at the first State Legislature was a candidate for the United States Senate.

Our recollection of Judge Lucas is that he was rather small in stature, with dark complexion, and large and prominent features, and not much unlike his son, the late James H. Lucas.

We never learned that any fault was found with his administration of the laws — certainly no objection was made involving his capacity, for he understood the old Spanish and French titles as well as any man in the territory. That he was eccentric and irritable, and sometimes exhibited those defects on the bench, is unquestionable.

Upon one occasion a pompous and self-conceited young lawyer made a spread-eagle speech to a jury in his court, which annoyed him exceedingly, and the next day young Blackstone met the judge on the street and accosted him thus: "Good-morning, Judge Lucas; good-morning, sir. What did you think of my little effort yesterday?" "Ah," said the judge, "you are the young gentleman who addressed a jury in my court. Yes — yes. Well, sir, your speech

reminded me of a little yellow dog I have at home; when he wants to lie down, he starts and makes a circle, and round and round he goes, half-a-dozen times or more, and then lies down at the *very place he started from.*" The judge turned on his heel and started off, leaving the youthful Demosthenes to make the application.

In selecting delegates to a convention to frame our Constitution, preparatory to applying for admission into the Union, Judge Lucas was placed on the anti-slavery ticket, and defeated. The object was to test the sense of the people on that subject, and the result indicated no want of popularity on the part of the judge.

Towards the close of his life Judge Lucas became melancholy and dejected — the result of domestic afflictions, for six of his sons met death by violence.

ALEXANDER GRAY.

During the War of 1812 a large number of young lawyers in every part of the country joined the army; some as privates and some holding subordinate positions. Among them was Alexander Gray, who reached the grade of captain. Where he was born, and where educated, is not known to us, nor have we been able to find any record that would show it. About the close of the war he came to Cape Girardeau, Missouri, and from there to St. Louis, quite a young man, and entered upon the practice of the law, and became judge of the Circuit Court, and afterwards judge of what was then called the Northern Circuit, comprised of the counties of St. Charles, Montgomery, and probably Howard — for there were then but few counties in the state, and none west of Howard.

He was a man of fine attainments, vain of his personal appearance, and on the bench presided with much dignity. Before taking a seat on the bench he had acquired considerable reputation as a lawyer, particularly a criminal lawyer. In the case of the government against Gentery, who was indicted for the murder of Carroll, a descendant of Charles Carroll of Carrollton, and register of the land-office at old Franklin, he was retained on the part of the defense, and made a speech which attracted the attention of the bar throughout the territory, and gave him a high reputation as an advocate. He, however, became intemperate and dissolute in his habits, which caused his death sometime in 1826.

By reference to the journal of the General Assembly of Missouri Territory which held its session in 1820, in the old Missouri Hotel, on Main Street in St. Louis, it will be seen that Judge Gray administered the oath of office to the members.

He never married, and consequently left no descendants

to impart any information respecting his early life. He must have received, however, quite a liberal education; for he was a fine writer, and exhibited no little familiarity with the classics — often quoting from Latin and Greek authors.

PEYTON R. HAYDEN.

This gentleman, whose residence was in Boonville, Cooper County, was one of the most eminent lawyers in the state. We made his acquaintance as early as 1840, and always entertained a very high opinion of his legal attainments. His reputation as a lawyer was co-extensive with the state, and his practice was equal to, if not greater than, that of any other lawyer in central Missouri.

He was a native of Kentucky, and born near Paris, Bourbon County, February 8, 1796. He received an ordinary English education, such only as could be obtained from the old-field schools of that state.

Having fixed upon the law as his profession, he entered, in 1811, the office of Judge Benjamin Mills, a prominent lawyer of that part of the state, and pursued his studies with great diligence until the fall of 1817, when he came to Missouri, first settling in Cape Girardeau County, but in the following spring removed to old Franklin, in Howard County, and taught school in the neighborhood during the entire year of 1818. Kit Carson, the celebrated mountain-guide and explorer, was one of his pupils. While teaching he devoted his leisure time to his legal studies.

In the spring of 1819 he made a trip to St. Louis on horseback, procured from the Supreme Court a license to practice, and on his return remained overnight at a small log tavern in St. Charles, and there met for the first time Abiel Leonard. [The reader is referred to our sketch of Mr. Leonard for a very amusing account of this meeting, and what transpired between them on their way to old Franklin.] The town of Franklin at that time had a population of nearly 2,000, and prospectively was considered the most desirable place in the territory for a good lawyer, St. Louis not excepted. In 1819 Mr. Hayden married a sister of Judge

Wash. Adams, and immediately located in the village of Boonville, which continued to be his residence through life.

Cooper County was originally a part of Howard, and continued so until December, 1818, when it was organized as a separate county, and Boonville became the county-seat. The first Circuit Court was held at the house of William Bartlett, but the next year a court-house was erected. The new county embraced a very large territory, extending from the Osage River on the east and south to the territorial line on the west, and contained a population of about 7,000. Over this extensive country the lawyers traveled on horseback, and, as the people were poor, the fees of the attorneys were necessarily small, and most of them paid in what was called in those days, "*truck and turn-over.*" An old horse, blind in one eye and with little capacity to see out of the other, was considered a good fee. The lawyers who at that time regularly attended the Cooper court were George Tompkins, Hamilton R. Gamble, Peyton R. Hayden, John S. Bricky, Cyrus Edward, Andrew McGirk, Abiel Leonard, John F. Ryland, Dabney Carr, William J. Redd, John Payne, Duff Green, Charles French, and one or two others. Duff Green, who became distinguished as a political writer and editor at Washington City, left at an early day, and turned over his business to Mr. Hayden. Most of the above-named became distinguished in their profession, and six of them afterwards sat on the bench of the Supreme Court.

David Todd was judge of the Circuit Court. Mr. Hayden and Abiel Leonard took the lead at the bar, and were on opposite sides in almost every important case; and be it said to their credit that the utmost courtesy was observed between them, and they continued warm friends through life.

In his manner Mr. Hayden was rather dignified, but always kind, affable, and courteous in his intercourse with others —particularly with his brethern of the bar. In his movements he was graceful, easy, and polite, and if he met you a dozen times a day, would each time greet you with a bow and a smile. He was very fond of the society of ladies, and in their company was extremely graceful and entertaining.

He was also full of life and animation, had a good fund of humor, fond of anecdotes, and told them admirably. He was often the subject of them himself, and while many were unquestionably true, others were manufactured out of whole cloth; but below we give a few that are very well authenticated. He indulged largely in profane language, but his profanity was not of that kind which shocks one's sensibility, for it never proceeded from anger or depravity of heart; for no man ever lived with better or kinder impulses, or with a more enlarged reverence for good morals and Christian virtues. His habits, moreover, were moral, studious, and in all respects unexceptionable.

We have already stated that as a lawyer he ranked among the ablest of the state, and always enjoyed a most extensive practice, and had he been a financier, would have accumulated a large fortune; but he charged small fees, and frequently failed to collect them. He seemed to have but little knowledge of the value of money, and was often imposed upon by appeals for charity. He was a strong, vigorous, and argumentative speaker, never indulging in flights of oratory, but seldom failed to make a favorable impression on the minds of a jury. He prepared his cases with great care; was very methodical, and carried with him around the circuit a book which he called "Hayden's Digest." It contained a synopsis of each case in which he was retained, with the authorities upon which he relied. He had it in court with him on all occasions. He never prepared his speeches in advance, and, hence, all his efforts were *extempore;* but he was fluent, and good at repartee. The younger members of the bar were greatly attached to him, for he was kind and indulgent to them, and ever ready to assist them with his advice and counsel.

Mr. Hayden died in Boonville on December 26, 1855, in his sixtieth year.

The following anecdote of Mr. Hayden was related to us by himself, though we have often heard it from others: The judges and lawyers, in going from one court to another, traveled together on horseback, the distance between courts

being from fifty to 100 miles; and, in order to make the trip as little irksome as possible, all kinds of tricks and practical jokes were practiced upon each other by common consent, and he who complained was heavily fined in wines, liquors, and cigars—the payment of which was strictly enforced. On one of their trips to Liberty they stopped over night at their accustomed place, kept by a buxom widow, who well knew the time when to expect the judge and the attorneys, and was, consequently, prepared to receive them. Her first consideration was for Judge Todd, whose soft voice and affable and winning manners had won her esteem; and she invariably vacated her room, the best in the house, for his use. The attorneys determined to rob the judge of his comfortable quarters, which was no easy task. The widow was a high-toned, virtuous woman, and above all things abhorred incontinence in either man or woman. To carry out their object, they hit upon the following plan: They must attack the chastity of the judge, and circumstances, person, etc., were opportune. It was Mr. Hayden's first visit in that part of the circuit, and, hence, the widow was unacquainted with him. In some respects Mr. Hayden was a fair representative of a female, for his face was full, round, and smooth, and almost destitute of beard, and his complexion very florid. He had long, fine, auburn hair, which he took great care of. It was nicely combed, coiled, and secured to the back of his head with a tucking-comb. He and the judge were riding together in the rear, at a moderate pace, while the conspirators, Gamble, French, Ryland, and others, hastened on and reached the widow's first. After paying the usual compliments, she inquired after the judge. Now was the time for action. In reply they gently and darkly hinted that the judge, since she last saw him, had lost caste among the bar and the people, by the disgraceful manner in which he had treated his wife.

The widow was thunderstruck at the information, and insisted upon hearing all the particulars. They hesitated, and her anxiety increased, when finally, and *regretfully*, they told her that the judge had been for some time keeping com-

pany with a bad woman disguised in men's clothes; that he had carried her with him around the other portion of the circuit; and that she was now with him, and they would be along presently. She exclaimed with horror, and raised hands — "*Did you ever!* They sha'n't put up here! I'll drive him and his nasty hussy away. To *think* that I have put myself to so much trouble — *vacated* my comfortable room for him — *he needn't think it!* He sha'n't disgrace me and my house." She was terribly out of temper, and just then the judge and Mr. Hayden made their appearance. She turned on the judge, and in her excitement gave him a *terrible* tongue-scourging; and pointing with the finger of scorn at Mr. Hayden, her tongue fastened in the middle and loose at both ends, she let him have it *hot* and *heavy:* "You vile wretch! You nasty, stinking hussy! Dressed in men's clothes, and running around the country with *judges* and *lawyers.* You are a *shame* and a *disgrace* to your *sex. Leave* here, both of you! You sha'n't pollute my house with your presence." All this took place sooner than it can be told, and, notwithstanding the attempted explanation of the judge and his companion, the widow's wrath was undiminished, and the disgraced judge and his paramour had to remount their horses and ride ten miles further to procure a night's lodging.

We have spoken of Mr. Hayden's harmless profanity, and the following anecdote is very characteristic: They were holding court in Boonville, and occupying the Methodist church until they finished a new court-house then in the course of erection. A Methodist preacher by the name of Smith had made an appointment to preach one night, and seeing a light in the church after the usual hour of holding court, went in to ascertain if he could occupy the premises. A lawyer was addressing the jury, and Mr. Hayden was taking notes with the intention of replying. Brother Smith knew him very well, and took a seat beside him, and, casting his eye upon the notes, discovered the following: "By God! he has traveled out of the record. By God! I will travel out of the record also." Smith looked at Hayden

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with astonishment, and said, "Why, brother Hayden, do you indulge in profane language in court?" Hayden immediately replied, "Who said I ever did? If, brother Smith, you hear any person say that I indulge in profane language, you are authorized to say for me that he is a d—d liar."

Mr. Hayden was as unconscious of having violated the divine law as the parson Confederate general, Bishop Polk, was when he made his famous prayer in the rifle-pits on the Mississippi River. As the Federal gun-boats, under command of Commodore Foote, were on their way down the river, they had to encounter several Confederate batteries, and it became evident to the Confederates that if they succeeded in passing a certain bend in the river, that no earthly power could prevent them from going below. The bishop and his forces were stationed in rifle-pits, and as the shells of the enemy came roaring and buzzing through the air and over their heads, the good bishop fell upon his knees and offered a most fervent prayer to the throne of grace. He invoked the vengeance of the Almighty, and prayed that the thunderbolts of His wrath might fall upon the Yankee craft, and sink them to the lowest depths of the great Father of Waters; and as he rose from his knees he saw one of the boats poking her nose around the bend, and instantly exclaimed at the top of his voice, "*There, by God, they come now!*"

Another anecdote of Mr. Hayden is reliable. He was once employed to defend a fellow who was indicted in the Cooper Circuit Court for horse-stealing. The evidence was circumstantial, but very strong, and through the exertion and ingenuity of Mr. Hayden he escaped conviction. As they left the court-house, Hayden took him one side and told him that he had better leave at once, as the people were satisfied of his guilt, and Judge Lynch might take the case under his jurisdiction. "Why," said the fellow, "Mr. Hayden, how can I get away? I have no money, am too lame to walk, and am without a horse." "Oh," said Hayden, in a jocular way, "you have stolen one horse, and I don't think it will disturb your conscience much to steal another." The ungrateful fel-

low took the hint, and that night broke into Hayden's stable and stole his best horse. Hayden went in pursuit, and overtook him on the Osage River, about sixty or seventy miles from Boonville, brought him back, and — the court being still in session — had him indicted, convicted, and sent to the penitentiary, where he served out a full term.

Mr. Hayden often cautioned his friends against trading with a preacher, "for," said he, "he will cheat you in spite of everything." The admonition was suggested by a trade he once made with a Baptist minister by the name of Jones. Hayden owned a stud-horse which he professed to value very highly, but nevertheless was anxious to get rid of him, as he was worthless. Jones, who lived in an adjoining county, had some business with Mr. Hayden, and in the course of conversation the preacher remarked that it was his intention to remove to another county and engage in stock-raising, and would do so as soon as he could sell or trade off the little farm on which he lived. "Why," said Mr. Hayden, "possibly you and I can make a trade. I have a stud-horse, and if you will take him in part pay, we can trade without any doubt." "Well," said Jones, "I am wanting a stallion, and would as lief have him as money. What do you value him at, Mr. Hayden." "Five hundred dollars," was the reply. "What do you ask for your farm," said Hayden. "One thousand dollars," was the reply. The trade was closed, and Hayden handed over to the preacher his horse and $500 in cash, and received a deed for the land. A year afterwards, Hayden went to see his farm, and learned to his astonishment that it was not worth $200. "Why," said he, "nothing will grow on the d—d place but jimson-weeds and cockle-burrs.

The following anecdote exhibits Mr. Hayden in the role of a wit, and it is said that in repartee he was often very happy and pungent: Upon one occasion, while arguing a case in the Supreme Court, Judge Tompkins interrupted him by saying, "Why is it, Mr. Hayden, that you spend so much time in urging the weak points of your case, to the exclusion of the more important ones?" "Because," replied Mr. Hayden, "I

find in my long practice in this court that the weak points win fully as often as the strong ones."

Mr. Hayden seldom read anything outside of his profession — not even a newspaper, and his imperfect knowledge of history and geography often gave rise to amusing mistakes. He and Abiel Leonard were once engaged on the same side in the trial of an important divorce case, in which a witness who was a foreigner was introduced by the opposing counsel. Mr. Hayden was put forward to conduct the cross-examination, and, knowing the strong feeling which existed in the community against foreigners, interrogated him as follows: "State, if you please, sir, to what nationality you belong." "I am a Dane, sir." "You are a Dane, are you. Now, will you be so kind as to tell us when you left *Dane?*" "I never left *Dane*, sir; I left Denmark.

A loud laugh followed this reply, at the expense of Mr. Hayden, when Mr. Leonard, whispering into his ear, said, "Let him go, d—n him; he will kill our case."

ALBERT G. HARRISON.

In 1838 we made the acquaintance of this gentleman, who was then a member of Congress from Missouri, and a colleague of Governor John Miller. The state at that time was only entitled to two members, and they were elected under the general-ticket system.

Mr. Harrison was born in Mount Sterling, Kentucky, on June 26, 1800. At the age of eighteen he entered the junior class of the Academical Department of Transylvania University, and in 1820 took the degree of Bachelor of Arts. He made himself familiar with the French and Spanish languages, which proved very advantageous to him in the prosecution of his profession. After completing his course in college he entered the Law Department of the same university, and in 1821 obtained the degree of Bachelor of Laws, and entered upon the practice of the law in Mount Sterling.

In 1827 he removed to Callaway County, Missouri, and settled in Fulton. In 1828 President Jackson appointed him one of the visitors to attend the annual examination at West Point. In 1829 he was appointed one of the commissioners to adjust the land-titles growing out of Spanish grants; and after holding the office a few years, resigned and became a candidate for Congress, and was elected for two successive terms, but died in 1838, before the expiration of his last term.

With his fine education, popular manners, and decided ability, he bid fair to become one of the most prominent men of the West; but death, which too often seeks a shining mark, cut him off in the prime of life.

As a member of Congress he was very devoted to the interests of his constituents, and, although he seldom participated in debate, was regarded as a rising member. Mr. Harrison was well read in his profession, but embarked too early in political life to distinguish himself as a lawyer,

though it is said by his contemporaries that he evinced much skill in the trial of a cause, and by his pleasant, insinuating manner won the confidence and good-will of a jury. Prior to going to Fulton he discharged the duties of register or receiver of the land-office at St. Louis, but for what length of time we are unadvised.

He was a man of fine personal appearance, very attractive in his manners, and possessed rare conversational powers, which made him popular with the people, and gave him a passport to public favor. In his social relations he was affable, and generous to a fault, and when thrown among strangers made friends rapidly. We have conversed with several of the old citizens of Callaway, and they speak of him with much feeling and reverence.

Missouri has been very fortunate in the selection of her public servants — few, if any, having proved recreant to her interests.

RICHARD S. BLANNERHASSETT.

This gentleman became greatly distinguished at the St. Louis bar as a criminal lawyer. He was born at Conway Castle, Killorglin, county of Kerry, Ireland, in May, 1811. His mother was a second cousin of O'Connell, the famous Irish orator and agitator, and was also related by blood to the Spottswoods, of Virginia. His father, Edward Blannerhassett, of Tralee, was first cousin of Herman Blannerhassett, noted for his participation in the Burr conspiracy, and whose beautiful island home on the Ohio has been made historic by the eloquence of William Wirt.

The subject of this memoir received his early education at Tralee, under the superintendence of an elder brother, who was a graduate of Trinity College. While very young he often attended the Irish courts to hear his kinsman, O'Connell, and it is said that he then formed the determination to become a lawyer. In 1831 he married Miss Byran, a great-granddaughter of Jean Jacques Rousseau, and in the same year came with his father and family to America; landed at Quebec, and traveled from thence to Guelph, in Upper Canada, and after remaining there a short time, returned to Hamilton, where young Blannerhassett opened a school. From there he went to Lockport, and finally settled in Attica, western New York, where he taught school and studied law at the same time.

In 1835 he was admitted to the bar, and practiced in Genesee and the adjoining counties until 1841, when he determined to make his home in the West, and left for St. Louis, and obtained a license there from Judge Bryan Mullanphy, on October 2d. Before leaving Genesee the bar at that place held a meeting and tendered to Mr. Blannerhassett the following testimonial, which at his death was found among his papers:

"The undersigned, members of the bar of the Supreme Court of the state of New York, residing in the county of Genesee, having learned that Richard S. Blannerhassett, an attorney of the said court, who has for several years resided in said county, is about to leave for the West, do most cheerfully recommend him as a young man of brilliant talents, of generous feelings, and of good character. He has secured for himself, during his residence and practice here, the kindest regard of his brethren in the profession, and carries with him the best wishes of his acquaintances.

"Dated August 18, 1841.

[Signed,] "JOHN B. MURRELL,
"L. W. PRAY,
"L. A. VAPLANK,
"B. PRINGLE,
"J. M. STODDARD,
"JAMES J. PITTIT,
"LEVI GIBBS,
"J. G. HOYT."

Mr. Blannerhassett practiced at the St. Louis bar during the remainder of his life. During the years 1848, 1849, and 1850 he was city counselor of St. Louis, a highly honorable office, and one requiring a high order of legal ability. He died December 25, 1857, in his forty-seventh year, leaving a widow and several children to mourn his loss. His disease was apoplexy. The St. Louis bar held a meeting and adopted a series of resolutions expressing their high appreciation of him.

In the *Irish News*, a paper published in the city of New York by General Thomas Francis Meagher, there appeared a notice of his death, with the following tribute:

"A gifted, popular, generous, and brilliant Irishman lies dead there on the banks of the glorious Mississippi, and we, his countrymen, bring to his grave the ivy, the sweet heath, arbutus leaves, and shamrocks of his native Kerry."

Other papers, both Irish and American, paid handsome tributes to his memory.

Mr. Blannerhassett as a criminal lawyer has never been excelled at our bar. He was not as eloquent or as flowery in his declamation as Uriel Wright, but as a close, logical reasoner he was his superior. He had a fine command of language; was a ready, graceful talker, and his speeches

abounded in wit, irony, and sarcasm. One of his chief characteristics was his perfect command of temper, which always gave him an advantage over his opponents. No man excelled him in the analyzation of testimony, and no man was his equal in the cross-examination of a witness. If satisfied that the witness was honest and disposed to tell the truth, he let him off with a very few questions; but woe be to the witness who might attempt the perpetration of a falsehood. He was certain to be floored and exposed. Another peculiarity of Mr. Blannerhassett was his perfect self-possession. No unexpected development in the evidence disturbed him for a moment. Upon one occasion we happened to be present in the St. Louis Criminal Court when he was defending a young attorney — or, rather, shyster — who was indicted for forging a deed in the name of a colored woman. The accused had an accomplice, who was then in jail for another offense, and Mr. Blannerhassett was advised by his client that his evidence was material to him. He visited his cell, had a conversation with him, and with some little hesitation concluded that his testimony might be useful to his client, and thereupon brought him into court to testify. Contrary to his expectation, and contrary to what he had a right to hope from the conversation in the cell, the witness testified strongly against his client. We glanced at Mr. Blannerhassett, without being able to detect in his features any evidence of his disappointment. We remarked to him, "Mr. Blannerhassett, you were sold that time; how will you get around it?" He replied, "Yes, the d—d scoundrel sold me; but if you will wait a few minutes, you will see how I will meet it." We did wait, and when Mr. Blannerhassett, in his argument to the jury, came to that part of the evidence, he said:

"Gentlemen of the jury: You were no doubt surprised at my introducing as a witness A B. I had an object in view which I could not then disclose to you. I have long been satisfied that this witness was the man who forged the deed, and to satisfy you what a consummate liar and scoundrel he is, I brought him here that you might see him, and witness the coolness and deliberation with which he can tell a lie."

As was his custom, he had a quid of tobacco in his mouth

and rolled it from one side to the other with as much apparent indifference as any casual spectator in the room. It is a great misfortune that none of Mr. Blannerhassett's arguments have been preserved. In this respect there has been a great and inexcusable negligence, not only in the West, but throughout the country.

In the *American Law Review* for January, 1878, there is a communication by C. H. Hill, in which reference is made to a famous argument delivered by Mr. Sohier, of Boston, in 1865, in the case of Sturtevant *vs.* Allen, which was an action for slander, with an allegation of special damage, tried in the Supreme Judicial Court, before Chief Justice Bigelow, and in which there was a verdict for the plaintiff for $32,000. Mr. Hill says:

> "Those members of the Boston bar who had the privilege of hearing, thirteen years ago, Mr. Sohier's argument in the case of Sturtevant *vs.* Allen, listened to a speech worthy to rank as a piece of invective with the great efforts of Brougham; but, unlike Brougham's speeches, no report of it exists, and many of his brother lawyers never even heard of it."

This omission to preserve a record of the great efforts of American lawyers affords no excuse whatever, and now, when it is too late, we begin to see the sad effects of our negligence.

Soon after coming to the United States Mr. Blannerhassett united with the Democratic party, and, though he seldom became a candidate for office, was ever ready to aid the cause. He often addressed the people on the eve of an election, and his efforts met with great applause.

Mr. Blannerhassett had his faults, the chief of which was the birth of his generous and social feelings. He took a deep interest in the poor, and was ever ready to engage in any undertaking for their benefit. It is stated that on one occasion, while visiting the jail, a prisoner complained of suffering from cold; whereupon Mr. Blannerhassett took off his overcoat and handed it to him, and returned home without any. It affected him greatly to see any one in distress.

We shall conclude this sketch with a reference to the letter of C. C. Simmons, Esq., a member of the St. Louis bar,

and also at one time a law-partner of Mr. Blannerhassett. He says:

"During Mr. Blannerhassett's term as city counselor many important public matters came up, and his opinions in the same became the laws that govern the city's jurisdiction in regard to streets, alleys, etc., at the present day. His most important public service to the city of St. Louis (and the West generally), however, was rendered in what was known as the St. Clair County suit, the circumstances of which were these: During Judge Krum's term of office as mayor the city of St. Louis decided on filling up the river on the Illinois side of Bloody Island. St. Clair County issued an injunction, which stopped the work. The case was decided in favor of the city of St. Louis in the St. Clair County Circuit Court, and an appeal was taken to the Supreme Court of Illinois, where, after several days' argument, it was decided that the work inaugurated by the city of St. Louis could be carried on only by a special act of the Legislature of Illinois. Mr. Blannerhassett's argument before the Supreme Court of Illinois has been cited as the finest ever listened to in that state. He remained in Springfield six weeks after the decision of the court, and succeeded in having the Legislature pass the required act. The benefits arising to St. Louis and Illinois were depicted by Mr. Blannerhassett in his argument before the Supreme Court, and prophecies made for the future, many of which have been verified—the connecting of the Illinois shore with Bloody Island having fulfilled all that he believed it would. Mr. Blannerhassett's salary at that time was $600 per annum; for this additional service the city paid him $500. Fees of thousands of dollars have been paid by the city, within the last few years, for services that bear no comparison with this.

"One of the most important criminal cases defended by Mr. Blannerhassett was that of McLean, for the murder of Colonel Floyd, who resided in what was then a wilderness, but is now known as Cote Brilliant. Five men visited this gentleman's house at midnight for the purpose of robbery. Colonel Floyd was shot and lived thirty-six hours, declaring before his death that McLean was his murderer—he having been employed on the place two weeks previously in digging a well. Mrs. Floyd, whose life was spared, testified to the identity of one of the other men, Johnson, and upon her testimony he was executed. Mr. Blannerhassett always contended that neither Johnson nor McLean were among the five men; one of whom was a desperate character known as 'Buffalo Bill,' another, McCauley, and still another, Perry, by name; the names of the other two cannot be recalled. The case of McLean, which is a remarkable one, first came up for trial in the fall of 1842, the opening speech being made by Mr. Blannerhassett's partner, Mr. Simmons, and resulted in a verdict of guilty of murder in the first degree, and sentenced to be executed on March 17th, Saint Patrick's day. Mr. Blannerhassett declared no Irish client of *his* could be hanged on Saint Patrick's day; 'they shall hang me first.' He therefore carried the case to the Supreme Court, and gained a new trial. On the second trial seven of the jury were for conviction, five for acquittal. A third trial took place in the first week of August, 1844, when ten of the jury were for conviction, two for acquittal—having been out four days. A *fourth* trial took place

in April, 1845. In closing the case, Mr. Blannerhassett's address to the jury was a model, his full power being brought to bear. It was a pleasant April evening; the jury left the box, remaining out long enough to take tea, returned, and gave a verdict of 'not guilty.'

"Another important case was that of the robbery of the State Bank of Missouri by its cashier, Nathaniel Childs. Mr. Blannerhassett cleared Childs on the plea that the bank could not *prove* the loss of *any* money. The O'Blenis case was another of Mr. Blannerhassett's best efforts; where he thwarted the gallows, O'Blenis being sentenced to the penitentiary for ten years. In the year 1850, for services rendered the citizens of the First Ward, an elegant solid silver pitcher was presented to Mr. Blannerhassett. This was a contest between the owners of Duncan's Island and the city, in which the latter was victorious.

"In 1849, when the cholera was raging with violence, Mr. Blannerhassett was one of twelve citizens who volunteered as a sanitary committee, both to suppress the disease and to relieve the suffering consequent upon the scourge. Mr. Blannerhassett worked faithfully from attic to cellar, nursing the sick, bringing out the dead, and taking no heed or care of his own life. In May of the same year the 'great fire' took place, which added to the distressed condition of the city. As a member of the Board of Aldermen, Mr. Blannerhassett advised the issuing by the city of $50,000 in bonds, to meet the exigencies at hand — taking the risk of the Legislature sanctioning the act when they should again convene.

"It is needless to add the Legislature did approve the act."

JAMES EVANS.

To show how rapidly men pass from our recollection, we question whether a dozen persons outside of the old Ninth Judicial Circuit can be found who ever knew that there was such a judge in the state as James Evans; yet he presided at one time over one of the oldest and most important circuits in the state.

He was a Virginian by birth, and came to the territory before the admission of Missouri as a state; for in 1818–19 he had a fair practice in south-eastern Missouri, and for a time was brigadier-general in the state militia; and, if we mistake not, a member of the Convention called to frame our state Constitution. He was considered at one time a very fair lawyer, fully equal to the average of attorneys, but soon became very dissipated, lost his practice, and was reduced to indigence and poverty.

About the year 1842 the death of Judge David Sterigere created a vacancy on the bench of the Ninth Circuit, which was filled by the appointment of Mr. Evans. We well recollect the circumstances under which he was elevated to the bench, for Governor Thomas Reynolds, who then occupied the executive chair, did us the honor to consult us about it. Party spirit then ran very high throughout the state, and the Democrats when united could claim a majority of only about 5,000, which caused the opposition to make a good fight at every election. Governor Reynolds, though a man of ability, and who had made a good judge both in this state and Illinois, was yet a timid politician, and always afraid of being charged with a want of fealty to his party. He sent for us and expressed great embarrassment with respect to filling the vacancy. There were but two Democratic lawyers in the circuit who were eligible, and neither was fit for the place; and he was apprehensive that if he selected one from

the opposite party, he would subject himself to the censure of his political friends. We candidly told him that in our judgment he had but one course to pursue. If he was unable to find a suitable man in his own party, he should select the best man he could obtain from the opposition. He then requested us to name a man, and we gave the names of Philip Cole and Mason Frizell, of Washington County, either of whom we thought would make a good judge — giving the preference, however, to Mr. Cole, as the oldest and more experienced of the two. He acquiesced in our views, and we left him, fully satisfied that Mr. Cole would receive the appointment. Another reason for supposing that our recommendation would exercise an influence with the governor was that, in the Convention which nominated him, we (as a delegate) gave him a warm support; but, contrary to our expectations, he appointed Mr. Evans, who had not practiced law for nearly a quarter of a century, and whose dissipated habits rendered him totally unfit for the place. His judicial career was short, but it gave rise to many amusing incidents.

Before opening his court in the morning he generally took aboard about a pint of whisky, and if he exceeded that, his mind became confused, and the only thing he seemed to recollect with much distinctness was the mode and manner of passing sentence upon prisoners. At a term of the Perry court an intoxicated man came into the court-room, and, by loud talking, disturbed his honor. Judge Evans directed the sheriff to put him out, which was promptly done. Before adjourning his court in the evening he told the sheriff that he thought it was his duty to impose some punishment upon the offender, and directed that officer to hunt him up and bring him into court the next morning. At the opening of the court the next day the man was brought in, far more sober than the judge, and the following scene took place:

"Prisoner, you came into this court yesterday in an intoxicated condition, and, by loud and profane language, greatly disturbed the proceedings; and I have sent for you to impose such punishment as your conduct deserves. The court is informed that you are poor, and have a large family

dependent upon your labor for support, in consideration of which you will be treated with much clemency and forbearance. Hold up your right hand. It is the judgment of this court that you be fined one dollar, and imprisoned in the county jail one hour; and *may God Almighty have mercy on your soul.*"

Upon another occasion one of the attorneys was guilty of a contempt of court, and, refusing to purge himself, the judge imposed upon him a fine of 1 cent, and imprisonment in the county jail until the fine was paid; and concluded his sentence by saying, "*And may this be a warning to you for all time to come.*"

After the close of his judicial career he went to Kentucky, where he died. It was said that his domestic relations were not of the happiest kind, which his friends assigned as one cause for his dissipated habits. He first located in Jackson, and later in life took up his residence in Perryville.

MASON FRIZELL.

Mr. Frizell was a practicing lawyer for at least thirty years in Potosi, Washington County. He was a native of Massachusetts, and studied law part of his time with Philip Cole, of Potosi, and the remainder with Edward Bates, of St. Louis. He practiced in the Ninth Circuit until 1862, when Governor Gamble appointed him judge of the St. François Circuit, which position he held till his death, in 1865. About 1863 he took up his residence in Cape Girardeau County.

He was a man of powerful frame, and had he been trained as a prize-fighter, would have proved a dangerous antagonist in the ring. His head was nearly a third larger than the average man, his hands and feet of enormous dimensions, and his movements awkward and ungraceful, and by no means calculated to impress a stranger favorably; and probably for this reason he seldom indulged in the society of ladies.

Judge Frizell was well read in his profession, and yet, as a *nisi-prius* lawyer, a failure. He had but little, if any, command of language, and no power to entertain a jury or audience; and in the trial of a cause manifested an utter want of tact and management. He was much better fitted for an office lawyer, and those who knew him well, appreciated him very highly as a counselor and legal adviser. His briefs in the Supreme Court show much research and investigation, and whatever success he had was in that tribunal. He was an unassuming man, and one of his greatest drawbacks was a want of confidence in himself. Though a man of strong dislikes and prejudices, he seldom became involved in a personal difficulty.

After passing the meridian of life he was appointed, as before stated, a judge of one of the south-eastern circuits, and in that capacity was far more successful. His mind was slow, but his knowledge of the law deep, and he listened

patiently to argument, took time for reflection if he had any doubt as to the law, and in the end his decisions were almost uniformly correct. In addition to this, he was a man of sterling integrity.

He married a niece of Judge John D. Cook, who, with several children, survive him.

RUFUS EASTON.

There are few duties resting on mankind more sacred, and yet more generally neglected, than that of preserving a record of the lives and deeds of those who have gone before us, and who have devoted their days to the public welfare. How few can now be found who ever heard of the subject of this sketch; yet he was one of the most profound lawyers of early Missouri, and has left the impress of his mind upon the laws, statutes, and institutions of our state.

He was born in Litchfield, Connecticut, on May 4, 1774, little over a century ago. He came into life upon the dawn of our independence, and might properly have been called a child of that new birth which gave a new world to the down-trodden subjects of old empires. Of the parentage of Mr. Easton we know but little, but they were of English descent, and some of the family rendered good service in the Revolutionary War. It does not appear that young Easton was a graduate of any of our colleges, but he received a good education preparatory to entering upon the study of the law.

When eighteen years of age, and in February, 1791, he became a student in the office of Ephraim Kirby, a prominent lawyer of Litchfield, and remained with him two years. He completed his studies elsewhere, but on reaching maturity obtained a license to practice in Connecticut. To what extent, if any, he practiced in that state is unknown, but at the opening of, or immediately preceding, the present century we find him at Rome, Oneida County, New York, where he soon became known as a promising young lawyer, and attracted the attention of the prominent men of the Republican party, as will appear from the following letter addressed to him by Gideon Granger, postmaster-general under Mr.

Jefferson, and a man of transcendent ability. The letter bears date April 23, 1802, and is as follows:*

"GENERAL POST-OFFICE, *April 23, 1802.*

"SIR: Yours of the 5th of April is received. Samuel Carrington, late postmaster at Utica, resigned his office on the 9th of March, and nominated John Carrington as his successor. I endeavored to procure a nomination from your delegates. Not meeting with success, and fearing the public service might suffer, some time afterwards before the receipt of your letter, I appointed John Harrington postmaster at that place. The case of Elizur Mossley shall be considered. You recommend Samuel Starr as postmaster for Rome, yet state no objections against the present postmaster. It has not been, and it is not my wish or design, to remove a postmaster who is fair and impartial in the discharge of his duties, and who enjoys the confidence of his fellow-men.

"With esteem,

"GID'N GRANGER.

"*Rufus Easton, Rome, N. Y.*"

It is apparent from this letter that the authorities at Washington were accustomed to confer with Mr. Easton in regard to the appointments for western New York. Mr. Easton spent the winter of 1803–4 in Washington City, and the subject of the approaching presidential election was beginning to excite the public mind. DeWitt Clinton, of New York, then regarded as the foremost of American statesmen, was prominently mentioned as a candidate, and was in correspondence with the leading men of the Republican party.

The following letter addressed by him to Colonel Easton (the original being in our possession) shows that he was in confidential communication with him:

"NEWTOWN *1 Sept. 1803.*

"SIR: As you propose to visit the Seat of Govt. and as we are yet in the dark as to the arrangements that will be made on the subject mentioned in your letter, it will neither be necessary nor practicable for me to enter into any specific detail, but as you will be there in person it will be in your power to watch the progress of measures & to act accordingly. * * *

"I am with great consideration

"Your most obed. svt.

"DEWITT CLINTON.

"*R. Easton Esq.*"

* In introducing these letters, the peculiar style of the writer, in the matter of abbreviations, punctuation, and phraseology, has been followed where no fac-simile is given.

It was during that winter in Washington that Mr. Easton determined upon changing his residence to New Orleans, and left Washington in the early part of March, 1804, with the following letter of recommendation from Colonel Aaron Burr to Mr. Ellery, of New Orleans (the original in our possession):

"WASHINGTON *11 March 1804.*

"DEAR SIR: I like that my friends should be known to each other, & having had reason to rank Mr. Easton in that number, he is introduced to you as such. You will certainly be greatly amused to converse with a man who has passed the whole winter in this city — who has had free intercourse with the officers of Govt. & members of Congress — who has discernment to see beyond the surface, and frankness and independence enough to speak his own sentiments. Mr. E. is this man. He has practiced law several years with reputation in the interior of our state. Born and educated in N. England. He goes to try his fortune at the Bar in Louisiana. I recommend him to your notice and acquaintance.

"Your friend & svt.

"A. BURR.

"*Abm. R. Ellery Esq.*
"*N. Orleans.*"

This letter was never presented; for Mr. Easton, after leaving Washington, concluded to locate at Vincennes, Indiana Territory, and obtained a license there to practice, but could not have remained long, for in the same year he located at St. Louis, which became his permanent residence until within a few years of his death, when he removed to St. Charles. Mr. Easton again visited Washington City in the winter of 1804–5, and received considerable attention from men of prominence.

It was during that winter that Colonel Burr made his arrangements to carry into effect his favorite project of establishing a western empire, to embrace Mexico and the western states and territories, with New Orleans for its capital. He no doubt then calculated upon the coöperation of Easton; and, to increase Easton's influence, joined Granger and others in procuring for him the appointment of judge of the territory of Louisiana; for on March 13, 1805, Easton's commission as such was signed by Mr. Jefferson, and five days afterwards Colonel Burr addressed the following letter to him:

"WASHINGTON *18 Mar. 1805*

"DEAR SIR,

"You will have heard before this can reach you of your appointment to the office of Judge of the new Territory of Louisiana — This event gave me the utmost pleasure as well on your account as on that of several of my friends, who are about to remove thither —

"The Gov Genl Wilkinson has been long my intimate friend, and Doctor Browne the Secretary is my near relative — You will be much gratified by the acquaintance of these two gentlemen, and I shall take care to inspire them with a wish for your friendship & esteem.

"I enclose you copies of the two acts which immediately respect your Territory, which I suppose to be the most acceptable thing I could send.

"It is probable that I shall float down the Ohio & the Mississippi this season, & possible that I may visit Kas Kaskia & St. Louis —

"At all times & in all places be assured of my great regard & esteem.

"A. BURR.

"*The Hon Rufus Easton.*"

There was nothing in this letter calculated to awaken any suspicion in the mind of Judge Easton as to Burr's designs, but he interpreted it, as well as several invitations previously sent to breakfast and dine with him (which we also have), as mere evidences of a friendly feeling, and a wish to promote his welfare; but taken in connection with subsequent events, and Burr's travels through the West, the letter is of the utmost importance as foreshadowing the plot and conspiracy against the government, for which Burr was tried at Richmond.

To properly understand the bearing of these letters and others which will follow, it becomes necessary to state, for the benefit of such of our readers as may not be fully posted in the history of the famous conspiracy, that after the fatal duel with Hamilton, in July, 1804, Colonel Burr left New York to avoid an arrest, and traveled until the meeting of Congress, in December following, when he repaired to Washington and took his seat as presiding officer of the Senate. It was during that winter that he planned his famous project of a western empire, and as his term of office of vice-president would expire by limitation on March 4, 1805, he, two days previously, took leave of the Senate in a speech which created a profound sensation. He was at that time, however, a bankrupt in fortune and politics, and saw in his

contemplated revolution the only hope of again rising to the surface. His inordinate ambition rose far above any patriotic feeling that ever animated his breast.

At this time he was on the most intimate terms with General Wilkinson, commander-in-chief of the army, and who, at the close of the session of Congress just referred to, was appointed governor of the territory of Louisiana. He and Wilkinson were in the expedition against Quebec in the winter of 1775–6, and for many years afterwards carried on an intimate and confidential correspondence. To hope for any success in his treasonable undertaking, it was indispensably necessary that he should have the coöperation of Wilkinson, which he no doubt obtained, as will appear from the evidences we hereafter give; but when Wilkinson saw that exposure was inevitable, to save himself he turned against Burr, and placed in the hands of the government the cipher letter sent from Burr to Wilkinson, of which Wilkinson alone had the key, and which furnished the chief evidence against Burr upon his trial for treason. (See Appendix for a copy of this letter.) On leaving Washington at the end of his official term, Colonel Burr went to Philadelphia, and on April 10th left Philadelphia on horseback for Pittsburg, and from there he proceeded by flat-boat down the Ohio River and landed at Marietta, just below which was Blannerhassett's Island, the home of an educated and accomplished Irishman, whose wealth enabled him to entertain in a princely style. His wife was a lady of beauty and refinement, and possessing an ambition not usual in her sex, readily induced her husband to coöperate with Burr, who was then her guest, and whose fascinating manners completely won her admiration and esteem. From that time Burr frequently visited her island home, which was described by Mr. Wirt as a heavenly paradise, and there he concocted his plans for erecting and establishing a western empire. From there he visited Cincinnati and Louisville, and at the latter place left his boat and proceeded on horseback to Nashville, in Tennessee, where he became the guest of General Jackson.

Natchez 7 June 1805

Dear Sir

Before leaving Washington I transmitted you Copies of such laws as I thought might amuse or interest you accompanied by a few lines the principal object of which was to promote a friendship & mutual confidence between you & Gov: W - I have this object so much at heart and deem it so important to you, that I take the liberty again to speak and urge it — The Governor is a Man of high Sense & honor of delicate feelings & warm Sentiments - a frank ingenuous disposition are your part [redacted] fail to attach him - He is disposed to be useful to you & will exert it greatly in his power - I have prepared the Way for you

you by executing purposes in your favor which you must foster —

The Govt is intimately informed of the views of the executive — you mind not be told that your standing with the administration will depend on the zeal and ability with which you shall promote those views —

I hope to see you at St. Louis in August or September when it will afford me the highest gratification to find you not only in harmony but in confidence & friendship with the Govt —

accept the assurances of the great

[redacted]

Your friend &c

N. Biddle

The Hon.
R. Easton

In June he descended the Cumberland River, and resumed his voyage down the Ohio, and at Fort Massac, just below the mouth of the Cumberland, he again met Wilkinson, who gave him letters of introduction to persons in New Orleans, and fitted him out with an elegant barge, in which he proceeded to that city. On June 25, 1805, he landed in New Orleans, then a city of about 9,000 inhabitants, and composed chiefly of French creoles. Burr remained three weeks in New Orleans, where he was feasted with banquets, balls, and dinners. He went from New Orleans to Nashville in July, and again became a guest of General Jackson, and from there he proceeded to Louisville, Frankfort, and Lexington, and from Kentucky went to St. Louis, where he again met General Wilkinson. While, however, at Tennessee Ferry, Burr addressed to Easton the following letter:

"TENNESSEE FERRY, *30 July, 1805.*

"DEAR SIR,

"Your two very kind & friendly letters have been recd. One at Orleans & the other on my return last week through Natchez. It gave me very great pleasure to be assured of your health & of the continuance of your friendship. Having barely time to salute you & to thank you for your letters I must defer till a more fit occasion to reply to them. Yet I hope to see you at St. Louis early in Sept. In the meantime address to me at Lexington whither I am now bound.

"With great respect & attachment

"Your friend, &c.,

"A. BURR.

"*Hon. Judge Easton.*"

In June preceding, however, Burr was at Massac, a government fort on the Ohio, just below the mouth of the Cumberland River, and, in anticipation of his visit to St. Louis, was anxious to establish a good understanding between Easton and General Wilkinson, who was also governor of the territory, and for that purpose addressed to Easton a letter, the facsimile of which we here give:

"MASSAC, *June 7, 1805.*

"DEAR SIR: Before leaving Washington I transmitted you copies of such laws as I thought might amuse or interest you, accompanied by a few lines the principal object of which was to promote a friendship and mutual confidence between you and Governor Wilkinson. I have this object so much at heart, and

deem it so important to you, that I take the liberty again to repeat and urge it. The governor is a man of high sense of honor, of delicate feelings, and warm sentiments. A frank, ingenuous deportment on your part cannot fail to attach him. He is disposed to be useful to you, and will have it greatly in his power. I have prepared the way for you by exciting prepossessions in your favor, which you must foster.

"The governor is intimately informed of the views of the executive. You need not be told that your standing with the administration will depend on the zeal and ability with which you shall promote those views.

"I hope to see you in [or at] St. Louis in August or September, when it will afford me the highest gratification to find you, not only in harmony, but in confidence and friendship, with the governor.

"Accept my assurance of the great respect and regard with which I am

"Your friend and servant,

"A. BURR.

"*The Hon. R. Easton.*"

That Wilkinson, who as before stated was then, not only governor of Louisiana Territory, but commander-in-chief of the United States army, was in full accord with Burr, aiding and assisting in the conspiracy, cannot be well doubted, and the object of the meeting in St. Louis was to prepare the minds of the people for the contemplated movement, and to enlist in the cause Easton and other prominent men of the territory.

The inhabitants of Upper Louisiana were mostly creole French, and had just been transferred to the United States by treaty of 1803, and it was naturally supposed that they preferred a monarchy or empire to our form of government. It is certainly true that they opposed the change of government, and though the purchase of the territory from France by the United States immediately doubled the value of their possessions, yet they expressed much dissatisfaction and discontent.

Of this fact Burr and Wilkinson were well advised, and had nothing to fear but the opposition of the leading Americans.

Burr came to St. Louis in September—found Wilkinson there awaiting him; and soon had a conference with Easton and others which satisfied them that Easton would prove hostile to their plans; so they refused to confide in him, and

Sir Washington Feb. 22. 06.

Your commission as judge of Louisiana, according to it's own term & those of the constitution was to expire at the end of the present session of the Senate. the nomination of a successor is then, by the constitution, as free, as it originally was. in exercising the duty of nomination to office, it has never been, nor can be admitted, that after a selection made of one of the competitors, all those who are unsuccessful shall have a right to have the reasons specified for which they have been preferred, & to be heard in justification on the ground of protecting their reputation. I always recieve such documents of character as the parties or their friends offer, seek the best information I can otherwise get, make up as honest an opinion as I can, and say no more about it. I never even let it be known who asks for office, much less the grounds of not giving it. ~~a~~ every one must be sensible that kind of altercation I should be involved in on every nomination were I to specify the grounds of passing over a candidate, as you desire in your letter. however if you think proper to call on me I will verbally state to you two or three facts & hear any thing you may wish to say respecting them. it is the first time it has ever been asked, & is most probably the last time it will ever be yielded to Accept my salutations & respects.

Th: Jefferson

Mr. Easton

Mr. Rufus Easton

Washington

that ended all further conference so far as Easton was concerned.

The latter at that time was boarding with the father of General Bernard Pratt, and Burr visited him at his room. Pratt then resided in a one-story house on the north-east corner of Market and Main Streets, built in old French style, with broad porches all around it. Before calling at Easton's room, however, Burr and Wilkinson visited the quarters and encampment of the United States soldiers at Bellefontaine, about ten miles north of St. Louis.

After Burr left St. Louis, Wilkinson expressed a strong dislike for Easton, and was instrumental in circulating against him charges of official corruption, which he and others managed to bring to the ears of the president; and when Easton's commission expired, Mr. Jefferson nominated another person to his office.

Judge Easton immediately repaired to Washington, and sent a communication to the president, asking to be furnished with the charges made against him; to which Mr. Jefferson replied, defining his policy in reference to appointments.

We found this letter in a bundle of papers which Colonel Easton had carefully laid away, and which had not seen the light for seventy-two years. It is in Mr. Jefferson's handwriting, and is important as defining the policy of his administration in reference to applicants for office. As there is no letter of his extant bearing so directly upon the subject, we here give a fac-simile of it:

"WASHINGTON, *February 22, 1806.*

"SIR: Your commission as judge of Louisiana, according to its own terms and those of the Constitution, was to expire at the end of the present session of the Senate. The nomination of a successor is then, by the Constitution, as free as it originally was. In exercising the duty of nomination to office, it has never been, nor can be, admitted that, after a selection made of one of the competitors, all those who are unsuccessful shall have a right to have the reasons specified for which they have been pretermitted, and to be heard in justification, on the ground of protecting their reputation. I always receive such documents of character as the parties or their friends offer, seek the best information I can otherwise get, make up as honest an opinion as I

can, and say no more about it. I never even let it be known who asks for office, much less the ground of not giving it. Every one must be sensible what kind of altercation I should be involved in on every nomination, were I to specify the ground of passing over a candidate, as you desire in your letter. However, if you think proper to call on me, I will verbally state to you two or three facts, and hear anything you may wish to say respecting them. It is the first time it has ever been asked, and is most probably the last time it will ever be yielded to.

"Accept my salutations and respects.

"TH. JEFFERSON.

"*Mr. Easton.*"

Easton called upon him the next day, and the president doubtless became satisfied that the charges were unfounded, for, though he declined to reappoint him to the judgeship of the territory, he gave him the office of United States attorney.

Gideon Granger, who was postmaster-general under Mr. Jefferson, was one of the most profound men of his day, and exhibited a strong friendship for Colonel Easton, resulting in a friendly and interesting correspondence between them. Some of his letters to Colonel Easton will be found in the Appendix. One of them bearing date December 5, 1806, written during the excitement of the Burr conspiracy, and shortly after learning that Colonel Easton was about to engage in a duel, is so interesting, and characteristic of Granger, that we are induced to give a fac-simile of it. The original, now in our possession, we found among Colonel Easton's papers, and it is not probable that it ever met the gaze of human eye after it was filed away, until we took it from a carefully tied-up bundle. A part of the old wax seal is attached, and it bears the frank of the postmaster-general, and is addressed as follows:

"RUFUS EASTON, ESQ.,

"*St. Louis,*

"*Louisiania.*"

In breaking the seal a piece of the letter became detached and adhered to the wax, and upon it is the name *Cataline*, alluding to Burr.

Rufus Easton Esq. Washington Dec: 5. 1806 -

my dear friend. I have rec'd your Sundry communications, the last of Nov: 4th. I did not think it best to deliver the Pridents the Letter you sent & I burnt it. Let facts, actions, & concurring Opinions, prove your Innocence and your Injuries & not declarations. I may have erred - but I acted as I thought best and tho' you may deem me unfortunate or weak, I have some experience in Life. Your acquittal & last I shall disclose. This comes to the point. I shall also explain the burning of the Letter (where it ought to be).

You have referred to L Lewis's affidavit - It is false as Hell, I despise it & scorn to say more to any person. Nature made me quick as a Lamb, but at Bottom there is some of the old Spirit of the Yankee, & death is preferable to letting One's Self down. Yet I disapprove of your fighting match - fie, fie, Rufus. the State of Society is Justification for Doing wrong!! out with you, out with you, none of this doctrine

It is against reason and philosophy. It is against the great Charter of Civil Government. When you do what you feel and know to be wrong in obedience to the fashion of Society - it is not a virtue - It is not courage or fortitude - It is poor, mean weakness — an Evidence of a want of firmness & of a debilitation of principle. I beg you to be more of a man to partake more of the Divinity & not to be driven about by every blast of folly.

In your last you mention that a report from Kentucky says that I have given A. Burr the powers of the General Post Office for the Western Country, with Blanks &c to dismiss such as did not accord with him. Nothing could be more false. Since I have been in Office he never had any authority from the department, not in his Glory, to fill a single blank: and it is due to him to say he never attempted to acquire such authority. — As a Man, I have loved Burr - you know it — As a Politician and practical child of Ambition I have feared Burr and you know it. — As an Officer of Government, I have neither loved, feared, or hated any man - but have pursued the onward path of duty — And if you do not, you ought to know it. It has been my fortune in three Instances to have

his Devious Measures and The President knows it.
I believe his practices and designs are extremely
Dangerous. The Conspiracy which now exists and
at length is made known to the Public was (I believe)
first made known to the President in an Authentic
Shape — by Me on the 16th of Oct. last ——— Yet I
belong to a Small State.!!

My friend, I love truth & principle, and —
Among the Surest days of my trial will be that
One when a friend, whom in all conditions
I have advocated, shall be led to depart from
Duty and league with an electrified Catalina
Duty and league with an electrified Catalina
I dont fear it. Do Your Duty, & trust in God. —

Seven Attempts have been made to injure you in the
Post Office Department. While You conduct with
fidelity, as I know you always will, you have nothing
~~to fear.~~ I shall soon retire from Public life —
But not driven away. On the Whole the prospects
of the nation are fair. God bless You & Yours

Gid Granger

Free Franque pmk.

Rufus Easton Esq
St. Louis
Louisiana

"WASHINGTON, *December 5, 1806.*

"*Rufus Easton, Esq.,*

"MY DEAR FRIEND: I have received your sundry communications, the last of November 4th. I did not think it best to deliver the president the letter you sent, and I burnt it. Let facts, actions, and concurring opinions prove your *innocence* and your *injuries*, and not *declarations*. I may have erred, but I acted as I thought best; and though you may deem me unfortunate or weak, I have *some* experience in life. Your acquittal and last I shall disclose. This comes to the point. I shall also explain the burning of the letter (*where it ought to be*).

"You have referred to L. Lomis' affidavit. It is *false as hell*. I *despise it*, and *scorn to say more* to ANY *person*. Nature made me *quiet* as a *lamb*, but at bottom there is some of the old spirit of the *Yankee*, and death is preferable to letting one's self down. Yet I disapprove of your fighting-match. Fie, fie, *Rufus* — the *state* of *society* a *justification* for *doing wrong! Out with you, out with you* — none of this doctrine. It is against reason and philosophy. It is against the great charter of civil government. When you do what you *feel* and *know* to be *wrong*, in obedience to the fashion of society, it is not a virtue; it is not courage or fortitude. It is *poor, mean* weakness — an evidence of a *want* of *firmness* and of a dereliction of *principle*. I beg you to be more of a man; to partake more of the Divinity, and not to be driven about by every blast of folly.

"In your last you mention that report from Kentucky says that I have given A. Burr the powers of the general post-office for the western country, with blanks, etc., to dismiss such as did not accord with him. Nothing could be MORE *false*. Since I have been in office he never had any authority from the department — *not in his glory* — to fill a single blank; and it is due to him to say he never attempted to acquire such authority. As a man, I have loved Burr — you know it. As a politician and peculiar child of ambition, I have feared Burr, and you know it. As an officer of government, I have neither loved, feared, or hated *any* man — but have pursued the onward path of duty; and if *you do not, you ought to, know it*. It has been my fortune in three instances to trace his devious mazes — and the president knows it. I believe his *practices* and *designs* are extremely dangerous. The conspiracy which now exists, and at length is made known to the public, was (I believe) first made known to the president in an authentic shape — by me, on the 16th of October last. YET I BELONG TO A SMALL STATE!

"My friend, I love truth and principle, and among the severest days of my trial will be that one when a *friend whom in all conditions I have advocated* shall be led to depart from duty and league with an electrified *Cataline*. I don't fear it. *Do your duty* and trust in God.

"Severe attempts have been made to injure you in the Post-office Department. While you conduct with fidelity, as I *know* you always will, you have nothing to fear. I shall soon retire from public life, but not *driven* away. On the whole, the prospects of the nation are fair. God bless you and *yours*.

"GID'N GRANGER."

According to Mr. Granger's letter of December 5, 1806, the Burr conspiracy in an authentic shape was first made known to the president on October 16, 1806. A Cabinet meeting was immediately called, and steps taken to bring the conspirators to trial. Burr's movements were watched closely, and all officers of the government were called upon to give all information in their possession. A correspondence passed between Colonel Easton and the government, and the colonel frankly disclosed all the information he had been able to obtain. As early as January, 1805, he wrote to the president, in which he referred to the opposition of the inhabitants to a change of government, and their strong attachment to a monarchy or empire. He mentions the fact that when a rumor prevailed that there was to be a recession to Spain, joy gladdened their hearts. He expresses the belief that a traitorous project to divide the Union had existed for some time amongst influential characters of the Union. He had been conscious of the project for more than a year. On October 20, 1805, he wrote to the president "that General Wilkinson had put himself at the head of a party of a few individuals who were hostile to the best interests of America."

We hope to find room in the Appendix for several of these letters, and a few others from Burr, Granger, Clinton, Calhoun, and others, addressed to Colonel Easton. In 1808 the first post-office in St. Louis was established, and Colonel Easton became the first postmaster, proving conclusively that the government continued to repose the utmost confidence in his patriotism and integrity.

During this time he was actively engaged in the practice of his profession, and became the leading lawyer of the territory, and enjoyed the most lucrative practice at the bar. He was more noted for the soundness and vigor of his intellect than for impassioned eloquence, though he was not without many of the graces of oratory. His perceptive faculties were strong, and he expressed himself with a logical clearness and force that always favorably impressed his hearers. He would have been esteemed a strong debater at any bar. In

the argument of a question of law, he evinced so much candor and plausibility that it required an ingenious argument, well supported by authority, to overthrow his proposition. But his chief excellence consisted in his fine executive and administrative ability. He filled the offices of judge, United States attorney, delegate in Congress, and postmaster of St. Louis with great ability. No matter in what position of trust he was placed, he seemed to comprehend with great facility its duties and obligations.

From the time he came to the territory his popularity and influence gradually increased, and in 1814 he was elected a delegate to Congress from the territory, and continued such for a period of four years. Upon the organization of the state government, in 1821, he was appointed attorney-general, and continued in that office until sometime in 1826.

He died in St. Charles, July 5, 1834, and his remains repose in Lindenwood Cemetery.

Colonel Easton left a large family, including seven daughters, one of whom married Hon. Thomas L. Anderson, of Palmyra; another became the wife of Hon. Henry S. Geyer; a third one married Archibald Gamble, Esq., brother of Governor Gamble; another, who recently died at a very advanced age, was the wife of Major Sibley, of St. Charles. When but fourteen years of age, she traveled on horseback from St. Louis to Washington City in company with her father. She was a lady of fine literary taste, and jointly with her husband founded and endowed the Lindenwood Female Seminary at St. Charles, which became noted as an institution of learning.

His son Colonel Alton R. Easton is still a resident of St. Louis, and is one of the most influential and enterprising of our citizens. He organized and commanded a regiment in the Mexican War, known as the "St. Louis Legion."

At one time Judge Easton was engaged in business with Mr. Russell, father-in-law of Thomas Allen, Esq. They entered largely in real estate speculations, which, by reason of a financial crisis, proved disastrous, and caused Judge Easton to become straitened in circumstances — a condition which

greatly preyed upon his mind, and no doubt shortened his life. They owned the ground upon which the present city of Alton is located — in fact, they laid out the town, which was named after Judge Easton's oldest son, Alton Rufus Easton. Abbey Street in Alton takes its name from his daughter Abbey, and the present Compton Avenue of St. Louis was also called Abbey, and changed to its present name; and Easton Avenue, one of the most noted thoroughfares of St. Louis, takes its name after him.

Judge Easton was a man of very kind heart, and contributed to the full extent of his means to all meritorious objects of charity. He was very fond of company, and he and his accomplished lady dispensed a most generous hospitality. Few strangers of note visited St. Louis without being invited to his house.

This recalls to mind what we have heard in regard to his absent-mindedness, which was occasionally a source of much embarrassment to his family.

We give one instance as an illustration: He invited a distinguished officer of the army, who was on a visit to St. Louis, to dine with him on a particular day at three o'clock. The officer came promptly to the hour, but the family had already dined, and the judge was engaged writing in his office, having entirely forgotten the invitation, and having omitted to inform his wife of it. It proved, also, a source of much annoyance to him in his business, for, knowing this feature in his character, his clients, by way of refreshing his memory, were constantly repeating to him the story of their wrongs.

In running our eye over the *Missouri Gazette* of August 2, 1808, we stumbled upon the following letter, which speaks for itself. The judge had no doubt dropped it on the street, and some one had found it and sent it to the paper:

"Col. R. E.: The mind of your humble servant is agitated. * * * You seem not to like long talks. * * * Is my plea put in? Is the *habeas corpus* ready? Is everything else ready respecting my suit? You are my assistant counsel. My all is depending.

"I. T."

Colonel Easton was an active politician, and canvassed the territory several times as a candidate for Congress. Candidates usually announced themselves through the press, as at the present day.

The *Missouri Gazette* was a small sheet, 15×18, and published on paper as coarse and dark as common brown wrapping-paper. It was first published by Joseph Charless, in 1808, under the name of *Missouri Gazette and Illinois Advertiser*, and in July, 1818, called simply *Missouri Gazette*. It is still published, under the name of *Missouri Republican*, and has the most extensive circulation of any western journal.

Colonel Easton was a man of fine appearance. The portrait we give of him is said to be an excellent likeness, and is from a miniature taken when he was about forty years of age.

WILLIAM M. CAMPBELL.

The people of Missouri will better recognize Mr. Campbell by the name of "Billy Campbell," for by that name he was universally called. He was a native of Virginia, and born in Lexington, Rockbridge County, June 19, 1805. He was a graduate of Washington College, now known as Washington and Lee University. He finished his legal studies in his native place, and in the fall of 1829 came to Missouri, and in the spring following opened a law-office in the town of St. Charles. He made no effort to obtain business, but his ability soon became known, and from that time he was able to command any practice he wished. The next year he was sent to the General Assembly, and finally chosen to represent his district in the State Senate, where he was retained until he removed to St. Louis, about 1844. The change of residence was occasioned by his being invited to take charge of the editorial department of *The New Era*, a Whig daily evening paper published in St. Louis by Charles Ramsey, Esq.

He was shortly afterwards again sent to the State Senate from St. Louis, and remained in that body until his death, which occurred December 30, 1849. He was also a member of the State Constitutional Convention held at Jefferson City in 1845. We are not aware of his holding any other office, except the presidency of the State Historical Society.

During his editorial career he practiced but little at his profession, though he continued to attend the courts of St. Charles and Warren. Mr. Campbell was recognized as one of the ablest lawyers in the West, having, indeed, very few superiors at any bar; and as a political writer was unsurpassed. He was a fine classical scholar, and spoke both French and Spanish. His retentive memory and fondness for reading enabled him to gather a store-house of informa-

tion, which he called into requisition whenever he had a demand for it. His style of speaking was bold, logical, and fluent, and before a jury he was almost invincible. His personal popularity was so great that no party discipline could defeat him before the people. Though a very decided Whig, the Democrats of St. Charles would vote for him as cordially as his own party. It was a popularity acquired without any effort on his part, for he was as indifferent to his own personal advancement as it was possible for any man to be. He would not turn on his heel to be president of the United States. Everybody liked him, and he loved everybody. No one ever saw his temper ruffled in the slightest degree. Nothing could disturb his equanimity; nor any misfortune, his happiness. He never borrowed or anticipated trouble, but accepted everything as though it was intended for his good. Upon one occasion, while attending the Legislature, the sheriff of St. Charles County went up to Jefferson City to pay into the state treasury some revenue. He called to see Mr. Campbell, who asked about the news from St. Charles. The sheriff replied, "Nothing new, Mr. Campbell; but I am sorry to say that I had to sell out, last week, your house and lot for the debt you owed as security for Hill." "Oh, that is nothing," said Campbell, "the property is not lost — it has only changed hands."

Mentally he was one of the most industrious men in the state; physically, the most indolent. Put him in an arm-chair, with a table near him upon which he could hoist his feet, and he could write more in one hour than most men can in three. His mind moved as if driven by steam-power, while the least physical exertion was painful to him. More than half of the members of the Legislature got him to write their bills, reports, resolutions, etc.; and we have heard the enrolling clerk say that half of the bills that came into his hand for enrollment were in the handwriting of Mr. Campbell. When the House adjourned at noon-time for dinner, he would frequently remain in his seat writing, rather than undergo the labor of walking two squares. While writing he had the appearance of being half asleep, but he

would throw off editorial after editorial for his paper, *The New Era*, a statement of the proceedings of both Houses for that day, ready for the night's mail, and probably a dozen bills, and as many reports, for members who were sitting around him. He wrote with great rapidity and ease, and scarcely ever had occasion to make a correction. But his most extraordinary faculty was his wonderful memory. The following incident was related to us by Mr. Ramsey, proprietor of *The New Era:*

Bishop Soule, an eminent Methodist divine, visited St. Louis, and delivered a sermon on a subject of great interest, and it was the desire of some of the friends of the bishop that it should be reported, and one of them called upon Mr. Ramsey for that purpose. Mr. Ramsey said he had no shorthand reporter, but he thought Mr. Campbell might be induced to report it; and Campbell, upon being requested, consented to do so. He took a seat in front of the pulpit, and to all appearances slept during the whole sermon. The next day, to the astonishment of the bishop and his friends, *The New Era* came out with a full report of the discussion, embracing three long columns. The bishop said it was a *verbatim* copy of his sermon, the only mistake being the substitution of the figure "8" for "3," which probably was a typographical error. Mr. Campbell, on returning to his office, had written it out from memory.

Upon another occasion Mr. Campbell was lying on a bench one night in the Senate chamber when the Democratic members came in to hold a caucus, with closed doors. They concluded not to disturb Campbell, who appeared to be asleep. In a few days a complete report of the proceedings, with a copy of the resolutions adopted, appeared in the *St. Louis Republican.* How their proceedings were divulged was a mystery to all, and the secretary of the meeting was charged with being bribed, etc. But when the excitement of the exposure blew over, Mr. Campbell admitted that he had reported them.

He was a bachelor, had but few wants, and they were readily supplied. He placed no estimate upon the value of

money, never asked a client for his fee, kept no account of his services, and if a client called to pay him, was most likely to tell him that he had no charge against him. Upon one occasion he was appointed by the court in St. Charles to defend a man indicted for horse-stealing. His client had no money, but Campbell gave more than usual attention to his case, and produced his acquittal. The fellow seemed to be grateful, and said, "Mr. Campbell, I will pay you one of these days." About a year afterwards, while Campbell was writing an editorial at *The New Era* office, the man came in and approached him, with the remark, "Don't you recollect me? I am the man you defended in St. Charles for horse-stealing. You got me off, Mr. Campbell, but I stole the horse, nevertheless; and now I want to pay you for your services." "I have no charge against you," said Campbell. "Well, I intend to pay you anyhow," said his client, and laid a bank-bill on the table and walked out. Campbell did not appear to notice it, when Mr. Ramsey called his attention to it. It was a $100 bill on the State Bank of Missouri.

At another time a client called in and handed him a $50 bill, which he laid on the table; and when he went out, Ramsey found it among some loose, scattering papers. Campbell would never have missed it had not Mr. Ramsey reminded him of it.

At one time he had a handsome property in St. Charles, but it was soon frittered away, for he indorsed for everybody. He would give something to every beggar he met; and if he went out in the street with a pocketful of change, he was certain to come back without a cent. He was noted all over the state for being slovenly and dirty in his apparel, and the anecdotes related of him in that respect are innumerable. During one of the terms of the St. Charles court, Henry S. Geyer, who was attending the court, and whose love for fun was proverbial, saw Campbell come in with a clean shirt on and his beard newly shaved — an event that only occurred once in a month — and immediately rose and introduced him to the court, with the request that the name of the stranger might be entered upon the roll of attorneys.

With a grave and solemn look, Mr. Campbell, with pen in hand, approached the clerk and signed the roll, amid the tumultuous laughter of the bar and audience.

Upon another occasion, Hamilton R. Gamble and John F. Darby were attending court in St. Charles, and went together to Mr. Campbell's office to consult some law-books. An old sow was standing at the door of the office, eating water-melon rinds which Campbell had thrown out. Campbell had gone to the court-house. When the old sow had finished her repast, she poked her nose into the office and gave a loud grunt. Gamble gave her a kick, and told her to clear out—"for" said he, "Campbell is not here."

Upon still another occasion, as he was about leaving for Jefferson City to attend a session of the Legislature, his good sister, who was devotedly attached to him, bought him a dozen new shirts and packed them carefully in his trunk. "Now," said she, "brother, do be more particular about your dress, and don't forget to put on a clean shirt at least twice a week; for you don't know how mortifying it is to me to have you go about looking so dirty." When he returned home at the close of the session, she congratulated him upon looking so hearty. "Why," said she, "you have grown as fat as a pig; they must have fed you well at the capital!" "Yes," said he, "they take good care of us, for they are always in want of some appropriations." She then took a look at his trunk, and found but two shirts in it. "Where under heavens, brother," said she, "are all those new shirts I gave you?" "Don't you find them in the trunk?" said he. "No, brother, I see but two here." "Well," said he, "possibly I have some on me." Whereupon she commenced examining his breast, and found six shirts on him. The cause of his great improvement in flesh became at once apparent.

The late Henry S. Geyer was retained in a case pending in the St. Charles Circuit Court, involving a considerable amount of property, and Mr. Campbell was engaged on the opposite side, and knowing Mr. Campbell's great popularity with a St. Charles jury, he resorted to a little stratagem to

gain the favor and good-will of the jury. Knowing that Mr. Campbell's slovenliness in dress was well understood, he remarked in his opening speech to the jury that he came into the case with the purest motives, and expected to be met by the opposing counsel with a like fairness and candor, but was greatly surprised to find that Mr. Campbell had been guilty of offering a bribe to the jury. In an instant Mr. Campbell sprang to his feet, seemingly much astonished, and demanded to know in what manner and by what means he had attempted to bribe a jury composed of the most respectable citizens of St. Charles County. Mr. Geyer stated that he made the charge with a full knowledge of what he was saying, and was responsible for what he said. In a loud and threatening voice Mr. Campbell demanded an explanation of the charge, and said, "How, sir, did I attempt to bribe them?" When Mr. Geyer, during the most intense excitement in the court-room, replied, "By coming into court this morning with a *clean shirt on.*" In an instant the whole audience was convulsed with laughter, and with a significant smile Mr. Campbell thanked him for the compliment.

Mr. Campbell remained a bachelor through life.

RUFUS PETTIBONE.

Rufus Pettibone, the son of Giles and Margaret Holcomb Pettibone, was born in the county of Litchfield, in the state of Connecticut, on May 26, 1784. In his boyhood Rufus was robust and healthy, and was among the foremost in his class at school, and a leader in their sports on the play ground. He was the youngest of a large family of children, and it was generally understood in the family that Rufus was to receive a collegiate education. With this understanding the course of study at the district school was so shaped that, when he applied to enter college, he experienced no difficulty whatever in passing the necessary examination. After the summer vacation following commencement in the year 1801, he applied for and was admitted to Williams College, in northwestern Massachusetts, and passed four years of his life in diligent study at that college; and at its expiration, in 1805, was graduated with high honors. After he graduated he returned to his father's house to debate and advise with him as to the battle of life, upon the threshold of which he was about to enter.

Following the bent of his own mind, and conforming to the wishes and desires of his friends, he adopted *law* as his profession, and in the early part of 1806 began the study of law in the office of a lawyer of large practice, in Onondaga County, in the state of New York. He remained in this office for about two years, and then entered the office of Abraham Van Veckten, a leading lawyer of that day in the city of Albany, in the same state. After remaining here for one year he was, after examination, admitted to the practice as an attorney and counselor. This was in the latter part of the year 1808, or the early part of 1809.

After looking around for a suitable location to practice his profession, he finally settled in the village of Vernon, in

the western part of the large and wealthy county of Oneida, in the year 1810, and was elected in 1812 to represent the county in the lower branch of the State Legislature. While serving as a member of the Legislature he became acquainted with Louise Esther De Russey, to whom he was married in the same year. She was the daughter of Claudius Le Droit De Russey, who emigrated from France to the Island of San Domingo prior to the year 1791, but who during that year was fortunate enough to escape the insurrection by taking refuge on board a vessel that took him and his family to New York, in which state he settled.

In 1817 Rufus Pettibone concluded to remove to St. Louis, in the then territory of Missouri, and cast his lot among the pioneers of that section; and accordingly, in May, 1818, reached St. Louis with his family, at that time consisting of his wife and three children. Upon his arrival he was offered a partnership in the practice of law by Colonel Rufus Easton, one of the most experienced lawyers then at the St. Louis bar. This he accepted. During the agitation of the question of the admission of the then territory as a state into the Federal Union, the subject of slavery was a most disturbing element in the settlement of the question of admission. A large number of the settlers in the territory of Missouri were opposed to the further spread of slavery, or its recognition in the then proposed Constitution. The persons who held to these views were in a great minority, but so earnest were they to give expression to their sentiments that a ticket with names of representative men thereon was presented to the people for their suffrages. On that ticket were John B. C. Lucas, Rufus Easton, Rufus Pettibone, Robert Simpson, and Caleb Bowles.

The election of state officers followed close on the adoption of the Constitution, which was in July, 1820. At the election Alexander McNair was chosen governor, and William H. Ashley lieutenant-governor. The representatives chosen from the several counties assembled in St. Louis in September, 1820, and organized the first State Legislature. The remainder of the year 1820 had nearly passed before every department of the state government was organized —

especially was this the case in the judicial department. No courts were held under the state government until the year 1821. The senators chosen by the Legislature were David Barton and Thomas H. Benton, and were elected in the order here given.

Rufus Pettibone was appointed judge of the Second Judicial Circuit, which was then composed of the counties of Ralls, Pike, Lincoln, St. Charles, Montgomery, and Callaway on the north side of the Missouri River, and Gasconade County on the south side. After his appointment, Judge Pettibone removed to the town of St. Charles. His first court was held in Louisiana, Pike County, in February, 1821. He served the people of the circuit as judge, with credit to himself and acceptability to them, until 1823, when a vacancy occurred on the supreme bench of the state, which vacancy he was appointed to fill. He held the position of supreme judge of the state from the time of his appointment until July 31, 1825, when — in the prime of his power and usefulness — he died.

In the winter of 1824–5 the Legislature of the state chose Hon. Henry S. Geyer (afterward a United States senator from the state of Missouri) and Judge Rufus Pettibone to revise the laws of the state, and to prepare the same for enactment by the Legislature.

Judge Pettibone was a ripe scholar and a sound lawyer, and in his death the young state of Missouri lost a most valuable citizen.

For an account of the parentage and early life of Judge Pettibone we are indebted to a brother of his, Levi Pettibone, Esq., of Pike County, Missouri, who is now in his ninety-eighth year. At this advanced age he retains with wonderful power all of his faculties, and his letters addressed to Mrs. Hunt (wife of the late Judge Hunt), his niece, and to us, touching the life of his brother, and the father of Mrs. Hunt, are remarkably clear, and most beautifully written.

A notice of Judge Pettibone would hardly be complete without referring as we have to his elder brother, who, fifty-three years after the death of the former, is enabled to give us the *data* upon which this notice is predicated.

JOHN S. BRICKEY.

We became acquainted with this venerable lawyer in the fall of 1836. He was a native of Richmond County, Virginia, and was born November 2, 1791. He was of French Huguenot descent. His education was obtained in the old-field schools. His father being in reduced circumstances, and incumbered with a large family, young Brickey determined to go West and become the architect of his own fortune. When only eighteen years of age he went into the western part of the state, and taught school there the first winter. In the spring he took up his march for Tennessee, and in the summer opened a school there, and taught until 1810, when he again started for the West, landing at St. Genevieve, and after resting there a short time proceeded to Potosi, in Washington County, with the intention of opening a school there; but changed his mind and proceeded to St. Louis, and entered the office of Edward Hempstead as a student at law. After completing his studies he was admitted to the bar, and located at old Franklin, in Howard County. After practicing there about two years he returned to Washington County, and settled at Potosi.

At the first session of the General Assembly after the organization of the state government, in 1821, Mr. Brickey was chosen secretary of the Senate. At the election which resulted in the elevation of Mr. Monroe to the presidency, Mr. Brickey was chosen elector, and gave his vote for Monroe and Tompkins. He also represented Washington County several times in the Legislature, and for about eighteen years was prosecuting attorney for the Ninth Judicial Circuit.

Mr. Brickey had some experience in military life, having, in 1812, joined the Rangers, a body of men sent out by the government to protect the settlers from the ravages of the Indians, who had been instigated by the British government

to deeds of violence and cruelty. Mr. Brickey received a pension from the government, which was paid him regularly till his death.

After becoming too far advanced in years to continue the practice of the law, he moved to a small farm in St. Louis County, and after remaining there a few years went to St. Louis, where he died in 1872, in the eighty-first year of his age.

When we saw him last he presented a most patriarchal appearance; his hair falling upon his shoulders, and his beard reaching nearly to his waist, and both perfectly white.

When we made his acquaintance, in 1836, he was then prosecuting attorney for his judicial circuit, but we never regarded him as a very vigorous prosecutor, by reason of his inability to withstand the appeals to his mercy and clemency. Through his kindness and forbearance many a prisoner escaped who well deserved severe punishment. He was a kind-hearted man, and as free from guile as a child. As a speaker he was fluent and pleasant, but seldom attempted a close, logical argument. He, however, had the faculty of impressing a jury with a sense of his great candor and earnestness, and, if it became necessary to invoke their sympathy, could shed tears and weep without an effort — in fact, his tears would flow as naturally as water from a fountain-head. In this way he once victimized us to our heart's content.

Dr. M., a man of wealth and a kind and estimable citizen, loaned a horse to one H., out of pure charity, with the understanding that he was to be returned in a few weeks; but, instead of returning him, he sold him for a mere trifle to a German by the name of Coatjohn, who well knew that it was the doctor's property. We brought suit to recover him, and upon the trial established our title beyond question; and the only proof that Mr. Brickey, who was retained for the defense, made was that Coatjohn had a wife and eight children, and not a dollar to support them; and that his only reliance for bread was upon making a little corn upon a small piece of rented land. The instruction of the court left the

jury no alternative but to find for the plaintiff. Mr. Brickey, however, made a strong appeal to the jury, alluding to the doctor's wealth and Coatjohn's poverty, and wound up by exclaiming: "Gentlemen of the jury! Will you take from poor Coatjohn his only horse, and his only means of making bread for his poor starving children, and hand it over to this rich Shylock, who has not a child in the world, though able to support a hundred? No, gentlemen, you cannot do it. God forbid! God forbid!" and down he sat, sobbing and crying as though his heart would break. We glanced at the jury, saw them wiping away their tears, and told the doctor his horse was gone. In vain did we direct the attention of the jury to the facts as developed by the evidence, to the instruction of the court, to the oath they had taken, and their duty under the oath. In vain did we insist that the only issue they had to try was as to the ownership of the horse; that not an iota of proof had been given to show any title whatever in Coatjohn; that the whole thing was a put-up job to swindle the doctor out of his horse; that it was not the mere value of the horse that the doctor was contending for, but he did not wish to be swindled out of his property in such a manner. We told them that they must not expect us to cry, as the value of the property was not sufficient to induce us to compete with Mr. Brickey in that respect. Our speech produced no visible effect, and the jury, after an absence of five minutes, returned a verdict for the defendant. Mr. Brickey gained his case, and the doctor lost his horse.

Mr. Brickey raised a large family, and was greatly esteemed throughout life. He was a very small man, not exceeding in stature five feet three inches, and always rode a very large horse, which gave him, in the saddle, rather a ludicrous appearance. He gave as a reason, that it enabled him to ford streams and rivers with greater facility; but the real cause was, no doubt, his love of contrast, for he displayed the same taste in his marriage, as he united himself with a very large lady, and physically much his superior.

JOSIAH SPALDING.

No institution of learning in this country has been so prolific in furnishing able men to the different professions as old Yale; and among those sent to the far West was Josiah Spalding, who graduated, about 1817, with the first honors of the institution.

Mr. Spalding was a native of Connecticut, and after leaving Yale became a tutor in Columbia College, New York, and, while teaching, pursued the study of the law.

In the winter of 1819–20 he removed to St. Louis, where he entered upon the practice of his profession. For a short period he was connected with the editorial department of the *Missouri Gazette*, then published by Edward Charless. Though a strong and vigorous writer, he had little relish for political strife, and soon relinquished the editorial chair to devote himself to the duties of his profession; and in a short time acquired a large and lucrative practice, which enabled him to accumulate a fair competency. Mr. Spalding ranked among such men as Geyer, Gamble, Bates, and Leonard. It has been said that his chief excellence was as a case lawyer, but this is a wide mistake; for he had a logical, mathematical, and discriminating mind — qualities that are always wanting in a mere case lawyer. The error doubtless arose from the fact that he was prolific in authorities — always ready to sustain any position he advanced by reference to well-adjudged cases; but he used them as a means of success, and his love of research and investigation placed them at his command. His briefs in the Supreme Court were not surpassed by those of any other lawyer, and always commanded the closest attention; for he never cited a case in which there was a mere apparent analogy, but selected such as squarely met the question involved, and which were founded upon reason and principle.

Like Judge Ezra Hunt, Mr. Spalding had no taste for public life, and avoided, rather than sought, popular applause. Though a very decided man in his political tenets, he seldom mixed with the people, and was but little known by them. Domestic and retiring, he lived in the midst of his immediate family, to whom he was devotedly attached, and who in return almost idolized him. He married an accomplished lady, who still survives him.

Mr. Spalding was a true and consistent Christian, practicing what he preached, and making his life comport with his profession. He was a good man without being a great man, and his heart never failed to respond to the calls of charity and benevolence. At this day his name is never mentioned among those who knew him without eliciting words of praise and commendation.

In alluding to his Christian life, we are reminded of a popular delusion which has been attached to the public mind from time immemorial, and that is that a successful lawyer cannot be a consistent Christian. It is one of those popular errors that are most difficult to disprove, because unsustained by reason or experience, and presenting no ground for discussion. Not the shadow of a reason can be given why a lawyer should ever be required to resort to any act not consistent with truth and propriety. The law itself is based upon reason and good morals, and exacts from every citizen a strict compliance with every duty necessary to the welfare and happiness of mankind. And history teaches us that some of the greatest promoters of the Christian religion were to be found among the brightest ornaments of the legal profession. The greatest of American lawyers, Daniel Webster, though not given to any outward exhibition of religious feeling, has left upon record his high appreciation of the Christian religion, and the necessity of a proper observance of the Sabbath and the ordinances of the Church. Peter Harvey, in his reminiscences of Mr. Webster, publishes an extract from one of his letters to Charles W. Ridgely, Esq., secretary of a society organized to promote the better observance of the Sabbath, in which Mr. Webster said:

"The longer I live the more highly do I estimate the importance of a proper observance of the Christian Sabbath, and the more grateful do I feel toward those who take pains to impress a sense of this importance on the community. The Lord's Day is the day on which the gospel is preached. It is the day of public worship throughout the Christian world; and although we live in a reading age, and in a reading community, yet the preaching of the gospel is the human agency which has been, and still is, the most efficaciously employed for the good of men. That the poor had the gospel preached to them was an evidence of His mission which the Author of Christianity himself proclaimed; and to the public worship of the Deity, and to the preaching of the gospel, the observance of the Sabbath is obviously essential."

Mr. Harvey also says that at a private dinner-party in New York Mr. Webster was asked what was the most important thought that ever occupied his mind; and his reply was: "The most important thought that ever occupied my mind was that of my individual responsibility to God." He belonged from his boyhood to the orthodox Congregational church.

The same reverence for the religion of our fathers has been entertained by the legal profession throughout the Christian world. We cannot deny the almost universal prevalence of the opinion among mankind that a lawyer may utter a falsehood without incurring the opprobrium that would attach to a person of a different vocation. This is well exemplified in a good story we clipped out of a paper.

It appears that there had been rumors afloat of a scandalous nature concerning the relations existing between a well-known Cincinnati woman of great beauty, but of doubtful virtue, and the two gentlemen in question. One day the lawyer, upon hearing those rumors for the first time, became very much agitated, and forthwith rushed into the private office of the banker, and in a state of great excitement told the banker what he had heard.

"Well, Judge," said the banker, "what do you propose to do about it?"

"Do about it?" retorted the lawyer, "Why, sir, deny it. By G—d, sir, deny it."

"Let us see about that," said the banker. "Now, you are a lawyer, and I am a banker. It may do very well for

you as a lawyer to deny it, but as a banker I consider my reputation for truth and integrity of more consequence to me than my character for chastity."

As a commercial lawyer Mr. Spalding had no superior, if any equal, at the St. Louis bar; for though he did not make that branch of the law a specialty, still most of his business grew out of commercial transactions. The early Reports of our Supreme Court are replete with his briefs, and to show his great power of research, reference is made to one of them filed by him in cause of Hamilton and Treat, Judges, *vs.* Saint Louis County Court, reported in the 15th Missouri Reports, page 3. By act of the General Assembly of March 3, 1851, it was provided:

"SEC. 1. That the County Court of St. Louis County is hereby authorized and required to pay out of the county treasury of St. Louis County to the judge of the St. Louis Circuit Court, the judge of the St. Louis Court of Common Pleas, and the judge of the St. Louis Criminal Court, each, such sum, in addition to the amount now allowed to such judge by law, as will make the total amount of compensation received by said judge not to exceed the sum of three thousand dollars.

"SEC. 2. The additional compensation herein provided for shall be paid at the same stated periods as the salary of said judges respectively are now paid by law."

The County Court, regarding the act as unconstitutional, refused to comply with it; whereupon the judges applied to the Supreme Court for a *mandamus* to compel the County Court to audit and allow the claim, and a conditional *mandamus* was awarded. The County Court made return to the writ — among other grounds — that the act of the Legislature was unjust, oppressive, void, repugnant to our system of government, and unconstitutional; and that the payment of money to the judges out of the county treasury would be a misapplication of the county treasure, intrusted by law to the administration of the court." A peremptory *mandamus* was asked for, and the constitutional question raised by the return of the County Court was thus brought directly before the Supreme Court. The most eminent counsel at the bar were retained in the case, and the constitutional question discussed at great length by Mr. Spalding and R. M. Field

for the relators, and Edward Bates and Thomas T. Gantt for the County Court.

It is not our purpose to enter into a discussion of the merits of the case, but simply to direct the attention of the reader to the voluminous and exhaustive brief of Mr. Spalding, which exhibits in a marked degree his great powers of research and investigation, and his capacity to deal with an important constitutional question.

Mr. Spalding made no pretensions to oratory, and his style of speaking was purely conversational. He was a very laborious man, prepared his cases thoroughly, and rarely had occasion to crave the indulgence of the court. He wrote with great facility, was a fine special pleader, and it was not often that a declaration or plea filed by him required an amendment.

Our acquaintance with Mr. Spalding was very limited; indeed, we never saw him while engaged in any important case, and hence have to rely upon the judgment of others for a proper elucidation of his professional characteristics.

Mr. Spalding was one of those men that the public always look to for advice in times of peril and commotion, for he was a safe counselor — never led astray by excitement or sudden impulse, nor would he ever permit party spirit to interfere with his sense of duty. He was, in fact, one of those men whose great usefulness is never appreciated until death takes them from our midst.

Mr. Spalding was a very hopeful man, and never indulged in those gloomy forebodings that are common after any great public disaster. He believed that Providence regulated everything for our good, and that in times of adversity we should be consoled with the hope of a better day. This hope has been beautifully described by Goldsmith:

> "Hope, like the gleaming taper's light,
> Adorns and cheers the way;
> And still, as darker grows the light,
> Emits a brighter ray."

He died leaving a large family to mourn his loss.

PHILIP COLE.

In the spring of 1837 we made the acquaintance of Philip Cole, John S. Brickey, and Mason Frizell, of the Washington County bar, all of whom enjoyed a fair practice and possessed a large influence in that part of the state.

Mr. Cole was born in Belmont County, Virginia, February 22, 1789, and studied law under Allen Taylor, of that state, and came to Potosi, Missouri, in 1820, where he resided during the remainder of his life. Potosi was then the largest town in south-east Missouri, and older than St. Louis. St. Genevieve, St. Charles, Potosi, and St. Louis are the oldest settlements in the state; St. Genevieve and Potosi being noted for their wealth, and refined society. In the former lived the Vallés, Rosiers, Seargants, Scotts, Menards, Bogy, Dodge, Jones, St. Gem, and, at a later period, Missouri's popular senator, Dr. Louis F. Linn; while in the latter, then called Mine la Burton, resided the Austins, Rectors, Whites, Caseys, Dunklins, McElvains, Bryants, and others. Both towns were in the center of a rich mining country, and exported large amounts of lead; and as mining is always a fruitful source of litigation, it is not strange that many lawyers settled there in preference to St. Louis, which in that day was scarcely more than a mere French village.

Philip Cole was one of the most profound lawyers in the state, and as a special pleader had no superior — indeed, it was claimed by his co-laborers in the law that upon all questions of pleading he was as good authority as old Chitty himself. He was a laborious student, and owned the best law library south of St. Louis, consisting of about 400 volumes of well-selected books of the then latest editions, embracing not only most of the text-books, but the leading American and English chancery and common-law reports, all of which he kept under lock and key, and never would

permit one to go out of his office unless under the most imperious necessity.

In declamation he was very deficient, and rarely attempted a speech, even to a jury—his main reliance being his skill in pleading, and his ingenuity in drawing instructions. His want of adroitness in addressing a jury gave rise to an amusing incident which we witnessed. A boy by the name of P., about seventeen years of age, and belonging to a noted family of horse-thieves, two of whom were then in the penitentiary, was indicted for grand larceny, an offense which then, as now, consisted under the statute of feloniously stealing and carrying away property of the value of $10 or more. The boy was smart, shrewd, and, for his age, well educated in crime. His father employed Mr. Cole to defend him. The state made out a strong case, leaving his counsel no possible ground upon which to predicate a defense. But it occurred to Mr. Cole that if he could impress the jury with the belief that his client was *non compos mentis*, or at least so deficient in intellect as to be incapable of distinguishing between right and wrong, he might possibly produce an acquittal or a hung jury; and, acting upon this idea, he addressed the jury, first having obtained from the court an ingenious instruction applicable to such a defense. He stated that several of the boy's ancestors had died from insanity, and that the boy himself, on divers occasions, had given his parents serious apprehensions that he would probably take the same direction; that witnesses had been summoned to prove acts and conduct that, even for his age, exhibited almost an entire want of mental capacity, but his client was without means, and unable to compel their attendance. "Why," said he, "gentlemen of the jury, you can see from his very appearance that he has no sense." Scarcely had the word "sense" left his lips, when the boy rose and told the jury that he had just as much sense as Mr. Cole, and, rather than be acquitted on the ground of being a fool, he preferred spending the balance of his days in h—l or the penitentiary. In an instant the court, jury, and spectators burst out in tumultuous laughter, in the midst of which Mr. Cole picked

up his hat and left the court-room, a thoroughly disgusted man. But the event saved the boy; for the jury were so pleased that they found him guilty simply of petit larceny, though the proof made a clear case of grand larceny. There being no sufficient jail in the county, the judge directed the sheriff to take him to his farm, work him a month, and then turn him loose.

Mr. Cole, though undoubtedly a man of integrity, would sometimes resort to a mode of practice very reprehensible. He would quote decisions which had never been made, and cite authorities that existed only in his imagination — not unfrequently quoting book and page; but the book was one which he supposed could not be produced, and in this way he would sometimes succeed in imposing on a stupid court.

He was certainly an admirable case lawyer, and his briefs in the Supreme Court indicated much research and legal acumen, and no little familiarity with the rulings of the Federal and state courts. Like Rufus Choate, of Boston, he could scarcely ever read his own handwriting, and the lawyers gave him no little annoyance by calling upon him, in open court, to do so. He sometimes said, by way of apology, that any lawyer who could, was deficient in learning. It bore some resemblance to a Chinese inscription upon an ancient tablet; but it gave him one advantage, for, when assailed by criticism, he could give it any interpretation that suited him.

He died in Potosi, August 1, 1862, in his seventy-first year. For some time immediately preceding his death he was afflicted with softening of the brain, involving a total loss of memory, particularly with reference to names. He was unable to call by name some of the members of his own family. This strange mental disorder did not seem at first to have any visible effect upon his physical organization, for he continued strong and robust till within a few weeks of his death.

It was often said that Mr. Cole was wanting in candor and sincerity, but, though practicing in the same courts with him many years, we failed to observe it. We recall, however, one amusing incident that might be taken, unexplained, as evi-

dence of it. A lawyer—whom we will designate as Mr. J.—residing in the same circuit, and on friendly terms with Mr. Cole, was once on his way to Potosi to attend court, and was riding in company with a gentleman by the name of T., who was also an old acquaintance and client of Mr. Cole. When within a few miles of Potosi, Mr. J. suggested that as Mr. Cole had often invited him to call and spend a night with him, and as it was getting late, they would give him a call; the propriety of which Mr. T. acquiesced in, saying he also had often received a similar invitation. When they reached Mr. Cole's residence, which was on the main road, and within two miles of Potosi, they dismounted at the gate, and, throwing their saddle-bags over their shoulders, started for the house, which was about seventy yards distant. Mr. Cole saw them from his porch and met them half way, and the following took place: "Very glad to see you, gentlemen. On your way to Potosi, I presume; but little over a mile; will get there before dark. But you must be careful not to miss the road; it forks near the corner of my field. But to avoid any mistake I will walk that distance with you, and put you on the right track." And suiting the action to the word, he led them to the appointed place, and, bidding them good-night, returned to his house. The truth no doubt was that he had a dislike for T.

He was a large, athletic man, and seldom failed to attend all the courts of his circuit. Mr. Cole displayed much ingenuity in collecting his fees, though his charges were usually very moderate. A man once called upon him to get a continuance in a suit upon a promissory note. Under the law then in force, if a plea was filed, and verified by affidavit, the defendant was entitled to one continuance. Mr. Cole asked him if he had any defense to the action, and received for a reply "that he had not," but that it was very *inconvenient* for him to pay the debt at that time. "All right," said Mr. Cole, "hand me $10, and I will file a plea." He received the $10, and drew up the following plea: "Now at this day comes said defendant and says upon his solemn oath that it is not *convenient* for him to pay said debt at this time." The

plea was sworn to and filed, and the lawyer who brought the suit, neglecting to examine the plea, paid no further attention to the case, and it was continued.

Mr. Cole and Mr. B. were employed to bring a suit for trespass to land, and after a tedious trial obtained a judgment for $45, which amount was paid to them, each taking $20, and leaving $5 for their client. The fact was, their services were of much greater value, but the client complained bitterly that his lawyers had eaten the turkey and left him the bones to pick.

This, however, is not half as bad as the case mentioned by Edwards, in his "Pleasantries," where a witty lawyer was stopped by a man holding a bank-note for $5 in his hand, with, "Mr. G., pray give me your opinion on this bill; is it a good one?" Mr. G. carefully examined it, and then said: "Yes, it is a good bill," at the same time deliberately putting it in his pocket. The interrogator expressed his thanks, and asked him to return the note; but all he got was: "I never give an opinion under $5."

Mr. Cole raised a large family, several of whom still survive him.

JOHN SCOTT.

Among the prominent public men of Missouri who figured both before and after the state organization was John Scott, of St. Genevieve, a lawyer and politician of considerable eminence. He was born in Hanover County, Virginia, about the year 1782, and graduated at Princeton in 1802. He came West soon after graduating, and located in Indiana; and in 1804 came to Missouri, and entered upon the practice of the law in St. Genevieve, where he remained until his death.

In 1817 he was chosen as a delegate in Congress from Missouri Territory, and upon the admission of Missouri as a state was elected to the Federal House of Representatives, the state being entitled to but one member.

At one time he was as popular and almost as prominent in the state as Colonel Benton, but the unfortunate vote which he gave in the contest for the presidency between Jackson and Adams, in 1824, drove him from public life, and destroyed his usefulness as a public man. He was the only representative from Missouri, and gave the vote of the state to Mr. Adams, contrary to the wishes of his constituents, and against the expostulations of his most intimate personal and political friends. Mr. Scott was a warm admirer of Mr. Clay, who no doubt, to some extent, influenced his opinion. That he sincerely believed that it was not good policy to elevate to the office of chief magistrate a military man, and that Mr. Adams, in his opinion, possessed in a higher degree the qualifications of a statesman, is no doubt true; but he should have recollected that he was not casting his own vote, but that of his state, and should have conformed his action to what he must have known was the wish and will of the people. He made no further effort at political promotion, but spent the remainder of his life in the practice of the law.

We met Mr. Scott at the Washington and St. Genevieve

courts several times. He was then in full practice, and in the full vigor of his intellect, and stood unquestionably at the head of the bar in his circuit. He made no effort at forensic display, but was a strong, logical, and impressive speaker. He was also a man of quick perception and unbounded resources, which he could always command in a sudden emergency, as the following incident will illustrate: General Dodge, who became noted for his services in the Black Hawk War, and Jack Smith T., a very noted man in Washington County, who had fought several duels and killed five or six men, were involved in a personal difficulty, and went armed to the teeth in anticipation of a meeting. Both were desperate and fearless, and it was well known that if they ever met it would result in the death of one or both. By the merest accident they arrived in St. Genevieve on the same day, and about the same hour, but fortunately put up at different hotels. Mr. Scott had business with Smith, and a specified time was agreed upon for a meeting at Scott's office; but, near the time, Dodge called to see Scott, and as soon as he entered the office Scott remarked to him, "General, you had better leave, for I am expecting every minute Jack Smith T." Dodge, not wishing that his friend's office should be the scene of a personal encounter, said he thought so, too, and was in the act of taking up his hat, when Scott heard the step of Smith approaching his office, and, as there was no time for Dodge to escape, immediately opened the door, and taking Smith by the arm led him to Dodge, and said, "Colonel Smith, permit me to introduce you to my friend, General Dodge," whereupon both bowed politely, and Dodge remarked, "I presume, gentlemen, you have business together, and I will call at another time," and left the office. The ingenuity of Scott, and his remarkable presence of mind, enabled him to prevent his premises from being the scene of a bloody tragedy.

He was a man of medium size, quick and active in his step, and very rapid in his enunciation. He always wore a cloth cap which almost covered his eyes, and no one ever

saw him with pantaloons that were not four times too large for him. In his attendance upon court he carried a large bag made of green baize, in which he placed his papers; and that bag accompanied him wherever he went, even to the table, or on a visit to a friend. They were one and inseparable. The custom so common among English lawyers and barristers, of carrying green bags in Westminster Hall and the provincial courts, dates back to an early period; for, according to Jeafferson, angry clients in the time of Charles II. were accustomed to revile their lawyers as "*green bag carriers.*" In Queen Anne's time, to say that a man intended to carry a green bag was the same as saying that he meant to adopt the law as a profession. Mr. Jeafferson, in his admirable and interesting work on lawyers, quotes the following passage from Dr. Arbuthnot's "History of John Bull," to show the prevalence of the phrase:

"I am told, Cousin Diega, you are one of those that have undertaken to manage me, and that you have said you will carry a *green bag* yourself rather than we shall make an end of our lawsuit. I'll teach them, and you too, to manage."

The green bag was regarded as a badge of honor, and the privilege of carrying it confined to a certain class of solicitors. In our own state we have no recollection of its being a constant habit with any lawyers except John Scott and Edward Bates; but it is more than probable that many others followed the same practice.

In his intercourse with others, Mr. Scott was pleasant and entertaining, and took great delight in recounting the scenes of his youth and early manhood. Though an honorable man, he had his faults and frailties, among which was the habit of using profane language on all occasions, even in the society of ladies. Like a certain senator whose name it is unnecessary to give, he could not control it. It was said of the senator that on one occasion, when he arose to address the Senate, one of his friends, a Southern senator, requested him to yield for a moment, as he held in his hand a resolution which required the immediate action of the Senate; and he

at once offered a resolution to suspend, until the senator from —— finished his speech, the rule of the Senate forbidding profanity in debate. Neither could make a grammatical speech without disobeying the third commandment.

Mr. Scott was also in the habit of carrying pistols and knives about his person, a custom which he probably acquired in early life, when traveling from court to court on his circuit.

In 1817 he was chosen delegate to Congress, over Rufus Easton, by the following vote: Scott, 2,406; Easton, 2,014. When the returns came in from St. Charles, many votes were found for John *Scoot*, at which Scott became very indignant, supposing that it was an intentional mistake; but the vote was counted for him, and no difficulty grew out of it.

After he had passed his three score years and ten, we often met him at the Planters' House in St. Louis, and found him a most agreeable and entertaining gentleman. He took great delight in referring to his early days, and the early settlement of the state, and recounted to us many events in the pioneer life of the West which were not only new to us, but extremely interesting and entertaining. The people of St. Genevieve idolized him, and cherish his memory with the utmost devotion; for he was a man of the highest courage and most generous and noble impulses. He encountered several domestic afflictions, which doubtless lessened his days. He died in St. Genevieve in 1861, in his eightieth year. He left a family.

EZRA HUNT.

There is no position more difficult to fill, and which furnishes so large a field for dissatisfaction and complaint, as that of a *nisi-prius* judge; and it is gratifying to be able to name one whose judicial administration was the subject of universal praise.

Judge Ezra Hunt for many years presided over the circuit comprising the counties of Pike, Lincoln, St. Charles, Warren, Ralls, and Montgomery. He was born in Milford, Massachusetts, on April 7, 1790, and entered the freshman class at Harvard in 1812; became greatly distinguished in mathematics, which subject was assigned him at commencement when he graduated.

Upon leaving college he was appointed preceptor of Leicester Academy, a position which he held till the latter part of 1814, when he returned to Cambridge with the intention of studying divinity, but was soon after persuaded to take charge of an academy in Pulaski, Tennessee. His health failing him there, he determined to cross the Mississippi, and reached St. Louis in 1819 or 1820, entered the law-office of Judge William C. Carr, and while pursuing his studies became tutor to the judge's children; was in due time admitted to the practice of the law, and soon after settled in Louisiana, then the county-seat of Pike County, where he remained about three years, when he removed to St. Charles.

In 1831 he returned to Pike, and in 1836 was appointed judge of that circuit, the duties of which he discharged many years; then returned to the practice, and finally died in Troy, Lincoln County, in 1860, at the ripe age of seventy years.

It will thus be seen that Judge Hunt not only possessed all the advantages of a classical education, but was a diligent

student throughout life. His fondness for literary pursuits, and his love for legal research, caused him to accumulate a fine library, by the use of which, aided by a discriminating and logical mind, he became a sound lawyer and ripe scholar. As a husband and father he was kind and indulgent; and as a jurist, learned, just, and true.

Our acquaintance with Judge Hunt commenced about 1840, at Warrenton, where he was holding a term of his court. It was under circumstances which impressed us most favorably towards him. We had been retained in the Franklin court to defend a man charged with perjury, and upon examining the indictment found it substantially defective, but did not think it advisable to move to quash, as the grand jury was in session and another indictment was certain to follow. We therefore deemed it good policy to apply for a change of venue, and the case was sent to the Warren court. There we filed our motion to quash, containing eighteen objections to the indictment. The next morning it was called for argument, when we arose and read it, and as we were about to enter upon the argument, Judge Hunt interrupted us with the remark, "*The motion is sustained; for any indictment which can elicit eighteen objections must be fatally defective.*" Thus I lost my speech, but saved my client. Whispering to a lawyer near us, we remarked, "How does he know that the indictment is defective, when he has not heard it read?" The reply was, "Never you mind; he knows more about that indictment than you suppose." Seeing a smile upon the face of the clerk of the court, we asked him if the judge had seen the indictment. "Why," said he, "*he took it to his room last night, and kept it till early this morning.*"

It has been said by some that he was wanting in dignity. This no doubt grew out of the fact that, when counsel were engaged in a long and tedious argument to the jury, he would frequently leave the bench and take a seat by some old farmer in the audience to indulge in a pleasant conversation; but we never regarded this as any exhibition of a want of that dignity which is necessary in the administration of justice. He was not a man who would attempt to impress

an audience with a sense of his own importance, for he was very unassuming, and cared nothing for office except so far as it enabled him to accomplish something for the public good.

Judge Hunt had no political aspirations, though in 1845 he took a seat in the Convention called to revise our State Constitution; but that was more of a judicial than political body — and gave a wide scope to the exercise of his judicial mind. He was made chairman of the Judiciary Committee, and rendered valuable service to his adopted state. In his private intercourse he was social and genial, and had a vivid appreciation of the humorous. We recollect upon one occasion, when a most ludicrous scene took place in the court-room, he left the bench, went to the rear of the court-house, and laughed till his very sides shook. He loved a good joke, and could take as well as perpetrate one. The sallies of wit that often passed between lawyers, and sometimes between the bench and the bar, he relished hugely.

In the latter part of his life he was much troubled with weakness of his eyes, and when unable to read would cause others to read for him. He was, in fact, what is termed in common parlance a book-worm; and to take from him the pleasure of reading, or hearing others read, was to deprive him of one of the chief enjoyments of life.

One of his chief characteristics was his kindness to the younger members of the profession. He always received them on terms of intimacy, and in court endeavored to relieve them of the embarrassment that most generally attends a young practitioner. It was a pleasure to practice before him, and it was seldom that any one ever spoke disrespectfully of his rulings or decisions. On his way from the court-room to the hotel he was accosted every few steps by some old farmer who desired to shake hands with him. In fact, he was a universal favorite with the people, and fully justified the confidence they reposed in him.

His death occurred September 19, 1860, and was very sudden. He was at the time engaged in a very pleasant

conversation with a young lady, and in an instant fell and expired. Half an hour before, he had closed a speech in the court-house. He was over *seventy* years of age, and had been a citizen of Missouri about forty years.

He fulfilled to a larger extent the requirements of a *nisi-prius* judge than any one before whom we practiced; and it was very gratifying to witness the kind feeling existing between him and the bar. No murmur or expression of disappointment followed his decisions, and very few indeed were reversed by the appellate court.

Judge Hunt, in his social and private relations, was one of the best men we ever met. He was never heard to speak in harsh terms of any one, and we question if his heart ever bore malice to any living being. In sentencing criminals he never indulged in harsh or unfeeling language, but, on the contrary, manifested much sympathy for their unfortunate condition — more particularly if the offender was young in years, and not inured to crime.

To show the great confidence reposed in his honesty and uprightness, we give an incident that occurred when he was at the bar. An elderly lady called to retain him in a case in which she was a party, and commenced to relate the facts, when Judge H. interrupted her by saying, "Stop, stop, madam; I am sorry to say that I am already engaged by your opponent, and am not allowed to act on both sides." "Why not?" said the good, confiding woman; "I want nothing but what is right, and I know you will not do anything that is wrong; so, why can you not settle this matter at once?" It is said when he looked further into the case he found that there was really no substantial ground for a suit, and at his instance it was amicably settled to the satisfaction of both parties.

Judge Hunt was noted for his illegible writing. A man by the name of Gregory once called upon him for his opinion in a land suit, and the judge promised to write out and send it to him as soon as he could consult his books. In due time the opinion came; but neither Gregory nor any other person could read it. Some time afterwards Gregory called upon

the judge to read it for him; and after a partial examination of it, the judge said, "Some d—d fool has been trying to write, but failed." Gregory then said, "Judge, did you ever write to me about that case of mine?" The judge took the *hint*, got the cue, and read it off easily, saying, "Anybody but a d—d fool could read that."

Judge Hunt greatly relished a piece of genuine wit, and was himself the author of many witty sayings, particularly when on the bench; and, like Lord Ellenborough, never permitted any opportunity to pass without indulging in it.

It is said that the great English jurist would not even spare an unoffending witness. In the progress of a trial before him a surgeon was placed on the witness-stand, and the first question put to him was as to his occupation. He replied, "I employ myself as a surgeon." "But," interposed Lord Ellenborough, "does anybody else employ you as a surgeon?"

SAMUEL H. GARDNER.

Nothing affords us more pleasure than to place upon record our recollection of this gentleman, who was our dear friend, and who was greatly esteemed by the people of the city of St. Louis.

His father was a very intelligent farmer in western New York, and took great pains to educate his children; and at a very early age sent Samuel to the academy in the village of Canajoharie, where he obtained the rudiments of a good English education. In another institution of the same town, called the Ames Academy, where Latin, French, and the higher branches of mathematics were taught, he completed his education, and soon after commenced the study of the law in the office of Cagger & Hill, at Albany, a firm noted for their great ability and extensive practice. The studious habits of Mr. Gardner, and the great advantages he enjoyed under the tuition of such eminent men for a period of three years, could not otherwise than qualify him for the practice of his profession. He obtained a license to practice there, but not with any intention of making New York his home, for he had determined upon emigrating to the West and joining his brother, A. M. Gardner, Esq., in St. Louis, then a practicing lawyer at that place. Mr. Gardner reached St. Louis in 1847, which must have been in his twenty-third year; for he was born some time in 1824.

In 1852 the author moved to St. Louis, and opened an office adjoining Mr. Gardner's, which soon brought us in very intimate relations with him. We found him a whole-souled, genial gentleman, of generous impulses and a high sense of professional honor. He had a fair practice, which was daily increasing, and he was held in high estimation by his fellow-citizens.

In 1856 the people of St. Louis selected him as one of

their representatives in the State Legislature, where he soon took a prominent part both in the debates and on important committees. His excellent judgment, business tact, and fine practical common sense gave him great weight with the members, and enabled him to accomplish much for the good of his constituents. His style of speaking was cogent and logical, and he aimed to convince the understanding rather than please the fancy. He regarded eloquence as a very desirable gift, but only useful when well directed. On his return from the Legislature he made a partnership with his brother, which continued till his death.

In 1862, during the height of the Rebellion, and when a reign of terror prevailed throughout the state, Mr. Lincoln appointed him collector of the internal revenue for the St. Louis District, which office he filled till his death, on December 24, 1864. Considering the excited state of the public mind, and the embarrassed condition of the country, it was one of the most difficult and responsible offices to fill within the gift of the president. Millions upon millions of dollars had to pass through his hands, and he was daily called upon to give a construction to revenue laws of recent enactment. Yet, when his books and accounts were examined, after his death, everything was found in perfect order, as he had accounted for every dollar that came into his hands. Mr. Lincoln had no better revenue officer during his administration; and when Mr. Gardner died, the city of St. Louis lost one of her most valued and esteemed citizens.

We loved him as a brother, stood at his bedside when his spirit took its flight, and beside the grave that was prepared to receive his mortal remains.

His patriotic devotion to the Union, and his love of country, showed most brightly during the darkest days of the Rebellion. In that eventful period, when the dark cloud of secession hung like a heavy pall over our state, and everything portended evil and disaster, his confidence in the final result never wavered for a moment. His support of Mr. Lincoln's administration, aside from any interest growing out of the position he held, was steadfast and unwavering. He

was in daily intercourse with Frank Blair and General Lyon at and during the Camp Jackson time, and the course pursued by General Lyon was in accord with his views.

Among strangers Mr. Gardner was reserved and distant, but with his friends, full of life and merriment. Nothing gave him so much delight as to get a good joke on a friend, and he made it tell for all it was worth. He married a Miss Van Rensselaer, of Albany, New York, who, with three interesting children, survived him. His domestic relations were exceedingly happy, and to no man was life more desirable. The day before his death we drew his will, and when it was signed and witnessed he said, "I am content; and the only regret I feel in meeting the summons is the necessity it imposes of leaving behind me those I so dearly love." He left us in his forty-first year.

"Man that is born of woman is of few days and full of trouble. He cometh forth like a flower, and is cut down."

EDWARD BATES.

In referring to the early lawyers of Missouri we can recall no one whose memory is more revered than that of the subject of this sketch, who was attorney-general under President Lincoln.

He was born in Belmont, Goochland County, Virginia, September 4, 1793, and received an academic education. His ancestors were Quakers, but his father, though belonging to that sect, was too fervid a patriot to stand by and see his country struggling for her independence without lending a helping hand. So he joined the army and fought through the Revolution; and for so doing was disowned by the Quakers. He had twelve children, Edward being the seventh son. The latter came to Missouri in 1814, his brother Frederick being secretary of the territory, and afterwards governor. He immediately entered upon the study of the law, in the office of Rufus Easton, and was admitted to the bar in 1816, at the time we adopted the common law.

In 1820 he was chosen a delegate to the State Constitutional Convention, and rendered valuable assistance in the formation of our fundamental law; and in the same year was appointed attorney-general. In 1822 he became a member of the first Legislature, the state not receiving final admission into the Union until 1821. In 1824 he was appointed, by President Monroe, United States attorney for the Missouri District. In 1827 he was elected to Congress and served a full term. In 1830 he was sent to the State Senate, and in 1834 was a member of the popular branch of the General Assembly. In 1850 President Fillmore tendered him a seat in his Cabinet as secretary of war, which he declined, though he had been confirmed by the Senate. In 1853 he was elected judge of the St. Louis Land Court, a court created

for the purpose of taking special cognizance of cases involving real-estate litigation.

Upon the assembling of the Whig National Convention at Baltimore, in 1856, he was chosen president, and presided over its deliberations with marked ability. In 1858 he was honored by Harvard University with the degree of Doctor of Laws. In 1861 he was selected by Mr. Lincoln as his attorney-general, and held the office until his resignation in 1863, and died in St. Louis, March 25, 1869, at the age of seventy-six.

Mr. Bates belonged to the old Whig party, and when we consider that he had allied himself to an organization which in Missouri was always in the minority, his public life was certainly a success. At one time he was regarded as a violent partisan, and published a pamphlet in denunciation of Colonel Benton marked with great vindictiveness and violent prejudice — so much so that it was regarded as an ebullition of ill-will, rather than a calm and dignified accusation. We have reason to believe that in after-life he much regretted it, and would have recalled it if it had been in his power, for it was in conflict with every instinct of his nature.

Our acquaintance with Mr. Bates commenced in the winter of 1836–7, just before we obtained our majority. He was attending the Franklin Circuit Court, and was engaged in an important chancery suit, in which issues were framed and sent to a jury to be tried. The questions involved were rather intricate, and after a tedious trial of several days the jury failed to agree, and were discharged. The fact leaked out that after the jury retired to consider of their verdict, one of them, a fellow by the name of Childers, rose and addressed his fellow-jurors as follows: "Gentlemen of the jury, without intending to arrogate to myself any superior wisdom, yet I must be permitted to say that in my humble judgment I have more sense than all of you put together, and I'll be d—d if I know anything more about this case now than I did at the commencement of the trial; and, to avoid doing injustice to either party, I move that we agree to disagree. All in

favor of that proposition will raise their hands;" and up went the hands of the entire panel. Bryan Mullanphy was attending the court, and made a profile of the jury, which circulated through the court-room to the great amusement of the bench and bar. Among the older citizens the panel is known to this day as the "*intelligent jury*." In after-years Mr. Bates often alluded to it as an *incident* in his professional life.

Few men in the state were better known to the profession than Mr. Bates, for his social and genial habits rendered him a universal favorite; and when lawyers from the different parts of the state visited St. Louis, they made it a point to call upon him. He always took a deep interest in those who were starting out in the profession, and gave them every aid in his power—invited them to his house, and introduced them to other attorneys. In his manner he was easy, polite, and affable, and if you met him a dozen times a day, he would each time salute you with a pleasant smile or word.

Mr. Bates was a natural orator, and gifted with all the graces of elocution. He had a sweet, musical voice, and words fell from his lips without any apparent labor. Whether in a deliberative or promiscuous body, at a dinner-party or social gathering, he could make an interesting speech without a moment's preparation, and upon any subject that could be introduced. No sudden or unexpected call could disconcert him for a moment. When he was called upon to preside over the Internal Improvement Convention held in Chicago previous to the war, he arose to return his thanks, and delivered an address which perfectly electrified the assembly, and gave him a national reputation as an orator. All his efforts were extemporaneous, and some of the finest were delivered upon the spur of the moment. In legal acumen we never thought him the equal of Mr. Geyer, Mr. Gamble, Mr. Leonard, or Mr. Field; but as an elocutionist he was superior to either.

In 1823 Judge Bates married Julia D. Coalter, of South Carolina, a most estimable lady, who still survives him. He also left eleven or twelve children. He was not only prolific

himself, but came from a very prolific family, for he, as before stated, was the seventh son out of a family of twelve children.

While Mr. Bates was judge of the Land Court he did us a favor for which we have thanked him a thousand times, yet we then thought it an act of unkindness. In November, 1855, we received from the Pacific Railroad Company an invitation to join in the expedition to Jefferson City intended to celebrate the opening of the road to that point. On the day set apart for the expedition we had a land case docketed for trial, and with other attorneys who had cases set for that day and the day following we united in a strong appeal to the judge to adjourn his court for a few days, to enable us to join in the celebration; but he positively refused, and seemed a little irritated at the request. Of course there was no other alternative but to remain. The next morning the train started with 600 souls on board, and at the Gasconade Bridge fifty of them found their graves.

It was one of the most terrible disasters that had occurred in any part of the United States. Nearly the whole train went down with the bridge, killing members of the General Assembly on their way to the seat of government, prominent ministers, physicians, merchants, and lawyers; besides seriously injuring a large number, some of whom can still be seen on the streets of St. Louis, hobbling about upon crutches. Judge Bates often referred to his refusal to adjourn court, and seemed to regard it as a providential act.

There are a few anecdotes of Mr. Bates worth preserving. He was a great admirer of the common-law system of pleading, and could almost repeat Chitty from memory; but Chitty once involved him in a difficulty which resulted in the loss of a good friend. A man by the name of Mackay was the confirmee of a Spanish grant in St. Charles County, embracing several thousand acres of fine land. Upon this grant, as was not unusual in those days, divers people had squatted and made good improvements, and were living comfortably by cultivating Mackay's soil; and many were in the habit of cutting cord-wood and selling it to the boats plying on the

Mississippi River. Upon the death of Mackay his widow and executrix determined to bring suit against those who had thus trespassed, and retained Mr. Bates (who then resided in St. Charles) for that purpose. Mr. Bates had in his office some printed blank declarations for actions of trespass, after the form laid down by Chitty, and directed his clerk to fill them up against about fifteen defendants, which he did — charging each with cutting down 10,000 oak trees, 10,000 hickory trees, 10,000 ash trees, 10,000 maple trees, 10,000 sycamore trees, and 10,000 walnut trees.

The sheriff of the county called upon the defendants to serve them with process, one of whom — a man by the name of Burdyne — was a great admirer of Mr. Bates. When the sheriff finished reading the declaration to Burdyne, the latter became greatly excited, and remarked that it was "all a d—d lie," and he did not see how "so good a man as Mr. Bates could write so many d—d lies on so small a piece of paper." Burdyne no doubt became fully impressed with the moral depravity of mankind in general, and Mr. Bates in particular.

In addressing juries Mr. Bates not unfrequently digressed from the subject under consideration, and launched forth into an interesting and elegant description of the early settlements, the habits, customs, and privations of the pioneers, etc. More particularly was it the case when he found on the jury one or more men of advanced years. Upon one of these occasions, while engaged in the trial of a land suit in the United States Circuit Court at St. Louis, before Judge Catron, involving questions of boundary, settlement, and cultivation, Mr. Bates in his address to the jury, most of whom had passed the meridian of life, indulged freely in his favorite theme, and in the midst of one of his most eloquent flights, while a breathless silence pervaded the court-room, Judge Catron, who was as void of imagination as a Berkshire pig, suddenly interrupted him:

"Mr. Bates," said the judge, "you have given us a very interesting history of the early settlement of the country, and of the privations and difficulties encountered by the

early inhabitants; you have given us a glowing description of the velvet forests with their creeping vines and honeysuckles, and of the beautiful prairies carpeted with lovely flowers; you have talked of the red men and their scalping-knives and tomahawks — *now, Mr. Bates, please tell us something about the case we are trying.*"

In early times Mr. Bates and Elijah Bettis, of Wayne County, were members of the Legislature. Mr. Bates stood first on the roll, and Bettis next. They differed in politics, and a further distinction was, Bates was full of mischief, and Bettis knew as little how to vote as any member of the House. This annoyed him, and he was advised, whenever a political question was up, to watch Bates and vote just the opposite way. This came to Bates' ear, so he often voted wrong on purpose, and was followed by Bettis, who made it a point to be "*agin* Bates." Then, when the call of the roll was through, Bates would arise and obtain leave to change his vote, and Bettis in turn would ask leave to change his. Bettis' "id-e-e was, so he voted *agin* Bates it was *sartin* to be *Democratical.*"

Mr. Bates was a monomaniac on the subject of "tax titles," and while on the bench of the Land Court resorted to every conceivable plan to overthrow a title predicated upon a tax sale. In an action of ejectment pending in his court the plaintiff relied upon a tax title, and when he introduced his deed in evidence the judge scrutinized it very closely, and found the land described as "N. E. qr. of S. E. qr. of S. 4, T. 40," and the following scene took place:

"Mr. Counsel, what do the letters 'N. E.,' in this deed, stand for?"

"*North-east*, if your honor please."

"North-east? North-east? What evidence is there before this court to show that they mean any such thing?"

"The letters 'N. E.' are usually used by surveyors to designate the points of the compass."

"How is this court to know that they were not intended to represent 'New England,' or 'New Edition,' or 'Nothing Ex-

tra,' or any other words to which the initials may be applicable?"

"The point raised by your honor is new, and I am not prepared to give any additional explanation."

"The objection to the introduction of the deed is sustained upon the ground of uncertainty in the description of the premises. Plaintiff takes nonsuit, with leave," etc.

Judge Bates at times was very technical, and would sustain a trivial objection if it afforded the means of getting rid of a case which he did not wish to try, or which he was satisfied was destitute of merit.

Mr. Bates possessed many qualities which, combined, tend to form the highest type of character. His easy, dignified, and refined manner made him very accessible to all, and his society was greatly sought, particularly by the younger members of the profession, in whom he always took a deep interest. By them he was almost idolized.

The want of a contemporaneous record of his speeches in some of the important criminal trials in St. Louis is greatly felt — particularly by the bar of our state. We have looked in vain to find even a synopsis of his great speech in case of the Montesquiou brothers, French counts, who were tried in our Criminal Court for murder, about thirty years ago. The state was represented by James R. Lackland and Uriel Wright, and the defense conducted by Mr. Bates, Henry S. Geyer, Wilson Primm, and Charles Gibson. There is no report of the trial in print. It was one of the most interesting cases that had transpired in the United States, and a detailed statement of the facts has been given to the St. Louis Historical Society in a recent communication from Charles Gibson, Esq., the only surviving counsel for the defense. By way of preserving some slight record of this novel and unparalleled case, we give an extract from Mr. Gibson's communication:

"ST. LOUIS, *April 25, 1878.*

"To the Missouri Historical Society:

"GENTLEMEN: I am the last survivor of the members of the bar who were connected with the trial of the Counts de Montesquiou. As it was the most celebrated and dramatic trial that ever took place in Missouri, I presume it is

proper for me to state, as nearly as I can now remember, all the facts connected with it, as a part of our local history.

"It is within a few months of thirty years since these events occurred. The change in everything around me is so complete that I do not exaggerate when I say that I feel as if I am speaking to a new generation and another people. Those individual characteristics and peculiarities which then marked all our prominent citizens have yielded to the necessarily severe discipline of a great city. The uniforms of the officers of the regular army, then so common on the streets and at all social gatherings, have gone, with the military posts, far to the west of us. The courtesy and civilities in manners and language which the then still existing code undoubtedly fostered and sustained, especially among members of the bar, have, to a certain extent, disappeared with the code itself. The contrast between a great criminal trial thirty years ago, in which the entire community took a profound interest, and the proceedings of the present day in the Four Courts, has to be seen in order to be understood and fully appreciated. Still, it may be useful to preserve the main facts of this case.

"The Counts Gonzalve and Raymond de Montesquiou came to this country, for the purpose of making the tour of Canada and the United States for health and pleasure, in 1849. They first went to Canada, bearing letters of introduction from the French minister of foreign relations, one of which I have here. After spending some time at Niagara, they visited Chicago, and from there started out on a hunt through Illinois. In one day they killed two hundred and fifty-odd prairie chickens, showing, not only how plentiful the chickens then were, but how deadly was the aim of both of them.

"After spending a day at Alton, they came on to St. Louis and took rooms at the City Hotel, corner of Third and Vine Streets, then kept by the late Theron Barnum, Esq. In the evening, after they had retired to their rooms, and about bed-time, but while some persons were still in the hall, Gonzalve, the elder one, who had previously given no sign of the deadly monomania which had seized him, took up his shot-gun, rushed out into the hall, and fired twice, killing Albert Jones and Kirby Barnum (a nephew of the landlord), and severely wounding three other men — all well-known and worthy citizens. Fortunately for the two brothers they were instantly arrested and hurried off to jail, corner of Sixth and Chestnut Streets, where the Laclede Hotel now stands. Afterwards a great and angry crowd, filling Chestnut and Sixth Streets for some distance, assembled at the jail with the avowed purpose of lynching the prisoners. The danger became so great that they were slipped out of a side door and taken through the alley running from the jail to Market Street, and thence to Jefferson Barracks. The jail was guarded by the St. Louis Greys, Captain West, and the prisoners were escorted by them beyond the city. At first the opinion was general among all classes that they were not noblemen, but impostors and murderers. It soon became known, however, who and what they were. Their grandfather was a nobleman of the ancient *régime*, and also a high officer in the army of Napoleon. He was wounded in battle, the ball tearing away the skin of the abdomen, so that the bowels protruded; but he pushed them back, had himself wrapped round

about with a bandage, again mounted his horse, and riding to the front was swept down in a shower of bullets. Their grandmother was the governess of the King of Rome, a great favorite of Napoleon, and is spoken of in Theirs' 'Consulate and Empire' as the good Mme. de Montesquiou. Their brother-in-law, the Viscount de Cessac, who came here from Paris to attend the trial, was the son of Lacue, duke and minister of war under the republic and the empire. He it was whom Bonaparte, when a young officer, so importuned for a command that he was politely ordered out of the war office. The emperor, however, not only forgave the act, but loaded his faithful servant with the title of duke, and many other high honors. De Cessac had himself been decorated with the cross of the Legion of Honor by Napoleon III. M. Borg, French vice-consul at New York, attended both trials in his official capacity.

"The first trial was held in the west wing of the court-house, then in one apartment, covered with a brick floor. Judge J. B. Colt, who had been recently wounded in a duel on Bloody Island, presided. James R. Lackland was prosecuting attorney, and was assisted by Uriel Wright. The defense was conducted by Edward Bates and Henry S. Geyer, Wilson Primm, an accomplished French scholar and lawyer, and myself, as a young attorney, assisting. Gonzalve declared all through that he killed the men by God's direction, and that he was ordered by a special providence to kill two men. On the other hand, Raymond was willing to die if they would release his poor insane brother.

"The trial lasted many days. The forensic contention was magnificent. Lackland, severe and inexorable, and Wright, eloquent and brilliant, portrayed the scene which sent two innocent men so suddenly to early and bloody graves with such effects, and aroused the feelings of their personal friends and relatives and the native American and foreign elements to such fury, that a special guard was appointed to protect the prisoners in going to and from the jail to the court-house during the trial.

"On the other side, the trial was largely attended, not merely by our best citizens, but nearly the whole of the spacious apartment was filled by the most refined and aristocratic ladies, old and young, of the city. Cool and sensible people considered the act of firing without the slightest cause upon a crowd of promiscuous strangers as, *ipso facto*, conclusive proof of insanity.

"The misfortunes of Raymond, the younger brother, were romantic and touching to an extraordinary degree. He could not speak English, and was, therefore, practically deaf and dumb. He was in a foreign land, and belonged to an order opposed to its institutions and the feelings of its inhabitants. He was yet in his teens, and the brother, on whom he naturally would rely, was hopelessly insane. The Revolution of 1848 had driven kings and emperors from their thrones, and threatened the entire extinction of the nobility to which he belonged. Young, handsome, amiable, and intelligent, a nobleman of the first rank, with an ancestral name whose luster shone far back into the Middle Ages, he stood at the bar of justice to answer with his life and honor an indictment for murder!

"Such a case as this, presented to the court and jury by such lawyers and orators as Geyer and Bates — peers of Clay and Webster, and the conceded leaders of the bar — could not fail to be thrilling and profoundly impressive.

"The prosecution contended that both brothers had participated in the homicide. Both of them wore long beards, had a certain family resemblance, and foreign airs and appearance. Now, prior to the Rebellion, the beard was almost unknown in the United States, and the prominence of these features obscured the observation of the by-standers to the distinctive individual traits. One or more of the witnesses testified that the man who did the shooting wore a peculiar dressing-gown. It was brought into court and identified. It was then put on Raymond, and was twice too large. It was then put on Gonzalve, and fit exactly. The case was plain enough; but one man, named McPhetridge, a carpenter by trade and a Native American in politics, hung the jury. The second trial was held in the east front of the court-house, second floor. It was but a repetition of the first, and resulted likewise in a hung jury. The prisoners were never acquitted by court or jury.

"This was almost the last criminal trial conducted by either Geyer or Bates.

"It was the last one generally attended by the *élite* of our female society. Nothing could exceed the interest they took in it. Besides the bloody tragedy on one side, and the poetic and touching misfortunes of the defendants, especially Raymond, on the other side, it was *so* aristocratic to side with a handsome young *real* French count, when set upon by Native American mechanics and German *acht-und-vierziger* — forty-eighters.

"A French count in those primitive days attracted much more attention and admiration than a king would now.

"At that time the creole element was still a very prominent, and perhaps even a preponderating, portion of our people. Always gentle, pure, and affectionate, devoted to their own '*La Belle France*' and all its glorious histories and memories, they were, of course, deeply moved to see two of its illustrious noblemen charged with crime which was due to the visitation of God alone. Many of them, especially Mr. Charles P. Chouteau and his family, showed them devoted attention from first to last.

"Their pardon by the governor was anomalous, and although I may have to act somewhat as my own trumpeter, it may not be uninteresting to relate the manner in which it was obtained.

"Notwithstanding the failure to convict after two trials on the merits, the state refused to enter a *nolle prosequi*. Mr. Louis Borg, the consul, suggested privately that it appeared to the French authorities that the defendants were being subjected not merely to the demands of impartial justice, but to the prejudices of a mob. I had been employed as a young attorney to do some out-of-court work in the case, and had become quite intimate with the defendants. Mr. Borg gave me a letter from their mother (which I have here) appealing to him, with the vehemence of a mother's affection for her children, to get them released, and I undertook on my own account and in my own way to do it."

So thoroughly did the public become convinced of the insanity of the brother who committed the deed, that the gov-

ernor was compelled to extend a pardon to both. Gonzalve died a few years afterwards — a raving maniac.

There is a very fine portrait of Mr. Bates hanging up in the Law Library of St. Louis, and a bronze statue of him is soon to be unveiled in Forest Park. Upon his death the St. Louis bar, and various societies of which he had been a member, met and paid glowing tributes of respect to his memory. He was greatly idolized by the people of the state — particularly of St. Louis — who will long cherish their pleasant recollections of him.

WILLIAM Y. SLACK

Was a lawyer of some prominence when we first met him in the General Assembly of 1846–7. From the reputation he brought much was expected of him, and he soon evinced a readiness in debate, and during the entire session participated largely in the discussions. His style of speaking was by no means oratorical, for he never indulged in flights of fancy, nor was he very graceful in his manner. Earnestness, sincerity, and vigor, with a faculty of presenting facts in a strong light, were his chief characteristics as a debater. Being a very laborious man, he rendered efficient service on the committees — in fact, he was very attentive to all his legislative duties; always on hand at the call of the roll, and never absent unless confined to his room by indisposition. He commanded the respect of all the members, and when addressing the House was listened to very attentively. There was nothing particularly attractive about him, but his seeming candor and sincerity always enabled him to command the respect of his brother members.

General Slack was a Kentuckian by birth, born in Mason County, on August 1, 1816. His parents moved to Missouri at an early day, and settled in Boone County, where the subject of our sketch received as good an English education as the schools of that day could afford, there being no state educational institution. The want of one was greatly felt, and it is said that General Slack took a very active part in establishing the present University at Columbia. He pursued his studies with J. B. Gordon, an eminent lawyer of Boone, and upon being admitted to the bar, in 1837, located in Chillicothe, Livingston County, which continued to be his residence until his death. He manifested an inclination for military life at an early time, and in 1846 raised a company of volunteers for the Mexican War, became a captain, and

joined the volunteer regiment of Colonel Sterling Price, and was with his regiment during its entire service.

In 1848 he became a member of the State Convention called to revise the Constitution. During the time he served in the Legislature the subject of slavery had not become one of debate, for there was a great unanimity in opposition to the Wilmot Proviso, but Mr. Slack was understood to be a strong pro-slavery man in his views, and upon the breaking out of the Civil War earnestly espoused the cause of the South, and received from Governor Jackson a commission as brigadier-general in the state militia, and immediately entered upon active service, participating in the battle of Wilson Creek, where he was severely wounded. In the battle of Pea Ridge, which soon followed, he was mortally wounded, and died March 20, 1862, near the forty-sixth year of his age. He was a brave man, and in both battles sought the post of danger.

General Slack was regarded as the leading lawyer at the Livingston bar; always commanded a good practice, and was generally successful. He was very laborious in the preparation of his cases, and seldom went into trial unprepared. The qualities already referred to, in addition to the public confidence which he always inspired, gave him unusual weight with a jury.

He was, also, a man of will, energy, and determination, and under strong opposition rose with the occasion, and appeared to greater advantage. As a soldier he was true, faithful, and brave, and though, in our judgment, under a mistaken apprehension as to his duty to his country, was nevertheless sincere and earnest.

CHARLES LUCAS,

Son of Judge John B. C. Lucas, was born near Pittsburg, Pennsylvania, September 25, 1792, and removed with his father to St. Louis in 1805, but was sent to Jefferson College, Pennsylvania, to receive his education, where he remained five years, and in 1811 returned to St. Louis and commenced the study of the law in the office of Colonel Rufus Easton.

At the commencement of the war in 1812 he joined a volunteer company in St. Louis, and afterwards organized with others a company of artillery, which was stationed near Portage des Seoux. His brother Robert was captain of the company, and upon his resignation Charles was commissioned to fill the vacancy. In 1814 he was admitted to the bar, and in the same year became a member of the Territorial Legislature, and was afterwards appointed United States attorney for the territory.

On September 17, 1817, he was killed by Colonel Benton in a duel on Bloody Island, opposite St. Louis, the particulars of which are given in the sketch of Colonel Benton's life.

Mr. Lucas could not have been over twenty-five years of age when this unfortunate event occurred, and, therefore, was not old enough to have established a high reputation at the bar; but from all we can learn he was regarded as a promising young lawyer, and inherited much of the legal ability of his father.

It has frequently been asserted that upon the occasion of his duel with Colonel Benton he was seized on the ground with fear and trepidation, but this is not sustained by those who were present. On the contrary, there is ample evidence that he acted with much coolness and deliberation. That he knew that Colonel Benton was the better shot, and that in all probability the meeting would prove fatal to him, is

clearly evidenced by the following letter, written the day before their first meeting, and which, after his death, was found among his papers:

"ST. LOUIS, *August 11, 1817.*

"DEAR FATHER: Embarked as I am in a hazardous enterprise, the issue of which you will know before you see this, I am under the necessity of bidding you, my brothers, sister, friends, adieu. May my brothers and sister procure to you that consolation which I cannot. * * * I request my brothers William and James to pursue their studies with assiduity, preserving peace and good-will with all good men. Father, sister, brothers, and friends — farewell.

[Signed] "CHARLES LUCAS."

This meeting, however, resulted simply in the wounding of both, and Mr. Lucas became so weak from the loss of blood that it became necessary to postpone the fight to another day; and they again met on September 27th following, when Mr. Lucas fell at the first shot, and died within an hour. After he fell, Colonel Benton approached him and expressed his regret at what had occurred, when Mr. Lucas extended to him his hand, saying, "*I forgive you — I forgive you.*" The correspondence between them, and the particulars of the meeting, will be seen more at large in the sketch of Mr. Benton's life.

The death of Mr. Lucas was a serious loss to the profession, not only on account of his exalted character, but because he was rapidly rising as a lawyer.

Five of his brothers met death by violence.

ANDREW S. HUGHES.

Clay County, Missouri, has always been noted for the ability of its bar, among whom still living are those distinguished jurists, General A. W. Doniphan and Hon. George W. Dunn, and among the pioneers were John Thornton and Andrew S. Hughes.

Of the life of Mr. Thornton we have already given a brief sketch, and will now endeavor to preserve some recollection of the latter, who was born in Bourbon County, Kentucky, on February 9, 1792. His father, David Hughes, was a gallant soldier of the Revolution, and emigrated from Virginia to Kentucky in 1785, where the subject of this sketch received an academic education, and studied law in the office of his brother, James Hughes, and was admitted to the bar by the Supreme Court of Kentucky in 1816. Mr. Hughes practiced law in his native state for eight or nine years, and then removed to Clay County, in this state, where he continued the practice till his death, in 1843. One of his sons, the Hon. Bela M. Hughes, is one of the most distinguished citizens of Colorado, and at the last election in that state was the Democratic candidate for governor. We served with him in the Legislature of Missouri.

Andrew S. Hughes was a sound lawyer, and enjoyed a fine practice in north-west Missouri. He was, moreover, a man of fine literary tastes, and in English literature very few excelled him. Before leaving Kentucky he served in the Senate of that state, but after settling in Missouri, showed no inclination for public life — in fact, ignored politics altogether, and devoted himself to his profession, in which he was very successful. As a jury lawyer few excelled him, for he was noted for his keenness, wit, and great power of sarcasm. In his intercourse with others he was social, urbane, and dignified, and sustained throughout life a character for

unbending integrity. There are some still living in Clay County who knew him well, and speak of him as a man of great force of character.

He was one of the few whose acquaintance we failed to make.

HENRY S. GEYER.

The subject of this sketch, who was of German extraction, his father having been a subject of Prussia, was born in Frederick County, Maryland, in 1798, and received an ordinary English education. His legal studies were pursued chiefly in the office of his maternal uncle, Daniel Sheaffee, who was a lawyer of considerable repute.

Mr. Geyer volunteered in the War of 1812, and reached the grade of pay-master, and was stationed for some time at Norfolk, Virginia.

After the close of the war he removed to St. Louis, still holding the office of pay-master, at the same time pursuing the study of the law. At the end of the year he resigned, and entered upon the practice of his profession. About this time he was chosen captain of the first military company organized west of the Mississippi River; hence his title of captain, by which he was always afterwards known. Not long after this he became involved in a personal controversy with Captain George Kennerby, a most worthy gentleman, and who in after-life became one of our warmest friends.

There is no living person who can give a reliable account of the origin of the difficulty, but it seems Captain Geyer considered himself affronted, and challenged Captain Kennerby, who without hesitation accepted it, and they met at Bloody Island, and, with pistols, at ten paces exchanged shots. Kennerby was wounded in the leg, and so severely as to be unable to stand, and therefore the parties separated to renew the fight at another time; but by the interposition of mutual friends the difficulty was honorably and amicably settled, and they continued friends through life.

Captain Geyer was a prominent member of the Convention called to frame our State Constitution, and served two sessions in our State Legislature, during the last of which he was

speaker. No man ever sat in our General Assembly who rendered more efficient service to the state than Captain Geyer, for there is scarcely an important law upon our statute-book which does not bear the impress of his labor and genius. Instead of spending his time in political discussions and party wranglings, he was constantly employed in amending and improving our laws, repealing such as had been found injurious, and adding to others such provisions as experience had shown necessary. Particularly did he give his attention to the Code of Practice as found in the revision of 1835. His handiwork can be traced to almost every page of the Practice Act under that revision; and if we live a thousand years we shall not have a better one. Pleading was then a science, founded upon the wisdom and experience of centuries; but it was in the way of the legal quacks, and to-day we live under a system that is next to a farce, for half of the time of the courts is spent in a vain endeavor to ascertain what issues are to be tried — what is the real matter in controversy — and, at last, we go into trial blindfolded, feeling our way like the pilot of a vessel in a dense fog, and it is only when we approach the end of a trial that the court and jury begin to discover the real matters in dispute. In 1825 he published the best digest of our laws we have ever had.

Captain Geyer was retained in nearly all of the important land suits growing out of Spanish grants, New Madrid location, etc., and in the Supreme Court of the United States came in contact with the brightest lights of the profession, such as Webster, Ewing, Reverdy Johnson, and others; and it is no disparagement to them to say that, in the class of cases referred to, he was a match for any of them.

In the Dred Scott case, which excited so much interest throughout the country, he made a masterly argument, and succeeded in eliciting a decision adverse to the preconceived opinions of the profession.

But the case in which Captain Geyer gained his greatest reputation was that of The State *vs.* Darnes, which was tried in the Criminal Court of St. Louis in 1840. Darnes was

indicted for manslaughter for the killing of Davis, and Mr. Geyer appeared for the defense. Davis was the publisher of a Democratic newspaper called *The Argus*, printed in St. Louis, and Colonel William Gilpin was the editor. An article appeared in the paper denouncing a certain class of politicians, and Mr. Darnes assumed that it applied to him, and addressed a note to Mr. Davis asking for an explanation. Davis refused to give it, and the next morning Colonel Gilpin announced himself as the author, and proclaimed his readiness to give satisfaction to any person who felt himself aggrieved. Gilpin was well known to be a fighting man, while Davis, who had nothing to do with the editorial department of the paper, was a small, inoffensive man, who never engaged in broils or difficulties with any one. Darnes, who was a large, stout man, instead of meeting Gilpin, waylaid Davis and struck him several severe blows with an iron cane, the butt end of which was lead covered with leather. The first blow was struck with the small end, and the others with the butt end, resulting in some fractures of the skull. It occurred near the old National Hotel, on Third and Market Streets. Davis was immediately taken to the hospital, and died on the eighth day. On the day of the difficulty Dr. Beaumont, a skillful surgeon, in presence of other surgeons, performed the operation known as trephining.

For the benefit of such of our readers as may not understand the nature of that operation, we would state that the trephine is a circular or cylindrical saw with a handle like that of a gimlet, and a little, sharp perforator, called the center-pin, and is used in fractures of the skull causing compression of the brain. The skull-bone is raised so as to relieve the compression. It is a dangerous operation, requiring great skill, and only resorted to in extreme cases. It was contended by Mr. Geyer that the death of Davis resulted from this operation, and not from the injury inflicted by Darnes.

The most eminent surgeons and physicians of St. Louis were called upon to testify as to the nature and effects of the operation, and it was agreed between counsel that the writ-

ings of Sir Astley Cooper and other eminent surgeons on that subject should be received as evidence in the cause. This opened a very wide field of inquiry, and Mr. Geyer spent two days in the delivery of one of the most profound arguments ever heard in a court of justice. It was published in pamphlet form, and republished in Boston, and to this day is referred to as authority by the New England bar in all analogous cases. It gave him at once a national reputation as a lawyer and jurist.

To give the reader some idea of his style of declamation, and the power of language which was always at his command, we give an extract from that portion of his speech in which he referred to the licentiousness of the press:

"There are other considerations which will account for the unusual throng, the deep concern in the issue, manifested here and elsewhere. It is, indeed, a trial of extraordinary importance, involving the most momentous questions, far exceeding in importance the mere conviction or acquittal of Darnes — questions affecting the best interests of society, in which you, and I, and every member of this community, present or absent, are as deeply concerned as the accused. You are now called upon to decide whether the people of this country are to be exposed to the arbitrary tyranny of the press — the defenseless victims of its relentless cruelty; whether it is to be cherished and encouraged in its licentiousness, by denying to its victims all adequate redress, and punishing them as felons if they attempt to redress themselves and by accident or misfortune exceed the just measure of retribution; whether we shall foster and protect in our midst a vampire gnawing at the very vitals of social order, and assailing with remorseless cruelty our most cherished professions; whether in this country a man may be struck to the dust by merciless assaults upon his character and honor, or wounded to the heart through his domestic relations, the cherished objects of his fondest affection, without a remedy — for over all these a licentious press asserts its usurped jurisdiction, and all are equally exposed to its blighting and withering influence, all equally unprotected. You will determine, then, whether these are not injuries for which the law affords no redress; abuses against which it interposes no shield to protect us; wrongs which we must resent, or be dishonored and disgraced; damages against which we not only may, but must, protect ourselves."

The prosecution brought into court a part of the skull of the deceased, for the purpose of letting the jury see the effect of the blows, and to better enable the surgeons who were witnesses in the case to explain the method of trephining. The same thing was done by the prosecution in the

celebrated case of John C. Colt, who was convicted, in 1842, of the murder of Samuel Adams, committed in the city of New York in September, 1841.

Apprehensive that it might tend to prejudice the jury, Captain Geyer attempted to evade its effect by the following ingenious appeal. Said he:

"I now approach a subject which I would gladly have avoided. It is one, however, which we did not introduce — it was pressed upon us against our wishes; but, since our adversaries will have it in the case, I will not shrink from it, unpleasant as it is. Still, I enter upon it with reluctance, because, in speaking to the testimony, I may be compelled to deal harshly in relation to professional acts of gentlemen toward whom I entertain no unkind feelings, and with whom, personally, I maintain friendly relations. But I am coerced into the examination by the extraordinary exhibition gotten up on this trial; and for the consequences our adversaries, and not we, are responsible.

"It seemed to me evident from the beginning, as well from what I saw as what I had heard, that some extraordinary appliances were to be resorted to, and that the gentlemen had determined upon a scene. The skull was prepared for the occasion, not for the purpose of scientific illustration, or the elucidation of any surgical question, but for show. It was exhibited, not as evidence, but for theatrical effect; and as soon as it had subserved its purpose it disappeared. Nor was it all brought — only so much of it as suited their purpose was exhibited. We had not even an opportunity allowed us to test the skill of the operators by an examination of the fragment; even that vanished as soon as the show was over. [Mr. Engle then said, "It was deposited with the clerk."] It is on file, is it? There let it remain; nobody could expect to find it there — certainly I did not. It is well hidden where it is. I don't desire now to repeat the revolting exhibition."

It is only necessary to state that the prisoner was convicted of manslaughter in the third or fourth degree, amounting virtually to an acquittal. During the trial the most intense excitement prevailed throughout the city, and the court-room was densely packed from morning till night.

The prosecution was conducted by Mr. Engle, the circuit attorney, and Hon. Thomas T. Gantt, late judge of our Court of Appeals; and in the defense Captain Geyer was assisted by Beverly Allen, Esq., and Joseph B. Crockett, the latter being one of the present judges of the Supreme Court of California. This array of eminent counsel added greatly to the interest of the case, and we regret that

the scope of this work will not permit us to give a few extracts from the able speech of Judge Gantt.

Captain Geyer was a bold, logical, fluent, and argumentative speaker, never indulging in mere flights of rhetoric or oratory; but was without an equal in sarcasm, invective, irony, and ridicule, and when he had occasion to use them, was terrific. We do not claim that he was a finished orator, but one of the chief standards of oratory, the power to convince and sway the minds of his hearers, he certainly possessed in an eminent degree.

If called upon to decide who, in our judgment, was the greatest lawyer at the Missouri bar, we should unhesitatingly say Henry S. Geyer; not that he was the superior of Gamble, Leonard, or Field, in his knowledge of the law relating to real estate; not that he was the equal of Josiah Spalding as a commercial lawyer; nor the equal of Edward Bates in impassioned eloquence; yet, taking everything into consideration, he was the superior of all.

He mingled but little with the people, and was generally regarded as a cold, selfish, reserved, and austere man, which no doubt was in many respects true; for no one — not even those who were allied to him by blood — could claim to be on terms of intimacy with him. He never manifested any feeling or fondness for any of his associates, and, outside of his own family, never reposed in any one that confidence which is indispensable to pure friendship. Notwithstanding this, he exhibited a relish for fun, humor, and anecdote, and not only enjoyed a good joke himself, but was the author of many on others.

He told a very good one on Governor Polk. He and Mr. Polk were attending court in one of the adjoining circuits, and one morning several prisoners were brought into court to receive sentence, and among them one who had been convicted of murder in the first degree. An old lady came into the court-room, and seeing Captain Geyer sitting near the counsel-table, and supposing him to be a lawyer, requested him to point out the murderer. Mr. Polk was standing, at

the time, near the prisoners' dock, and Captain Geyer pointed to him. The old lady took a good look at him through her spectacles, and ejaculated, "The wretch! What a horrible countenance! The mark of Cain is upon his face."

Upon another occasion, while attending court in Franklin County, the judge directed the sheriff, who had been lately appointed and knew but few of the lawyers, to call at the door Mason Frizell. The sheriff not hearing the name very distinctly, made inquiry of Captain Geyer, whom he supposed to be a lawyer, and received for reply, "Mason Freeze-hell." Three times did the sheriff call the name at the top of his voice, placing the accent upon the word "h—l." The court and audience were convulsed with laughter, and in the midst of it in stepped Mr. Frizell, greatly excited, and wanting to know why he was thus insulted. The sheriff, who had been made aware of his mistake, arose, and apologized by stating that, being a little deaf, he did not catch the name as given by the court, and made inquiry of a gentleman near him, and whom he supposed was an attorney, but who (taking a good look over the court-room) was not then present. Captain Geyer, seeing Mr. Frizell enter one door, quietly walked out of the other, and went to the hotel.

In his long experience at the bar he sometimes became involved in personal difficulties, occasionally with counsel, and not unfrequently with parties litigant; but he had an adroit way of extricating himself.

Upon one occasion he was defending a suit brought by one John Withington, a farmer in good circumstances, but afflicted with an inordinate love of litigation. He was naturally a good-hearted man, but took great delight in attending the sessions of the court, and, to avoid the charge of loafing about the temple of justice, always contrived to have two or three cases of his own on the docket; but if he ever met with success in one, it had escaped the recollection of the oldest inhabitant of the county.

Captain Geyer knew him well, for at least on one occasion he had been his counsel. In the case of which we are speaking, Withington received from the captain a terrible tongue-

lashing, which he determined to resent; and, meeting him after court, approached him with a raised cane and demanded a complete retraction. "Withing on," said Captain Geyer, "what do you mean? I have not said a word against you." "Did you not," said Withington, "tell the jury that I was a pest to society; that I spent half of my days in creating trouble among neighbors; that I was a promoter of broils and dissensions; and that I was an imp of the devil, and a most faithful servant of his satanic majesty? Did you not say all this, and much more?" "Why," said Geyer, "Jack, you are a fool. Is it possible that after your long experience in the courts you have never yet learned that what falls from the lips of a lawyer in court his client is responsible for—that it is his client speaking through him?" "Well," said Jack, "I had not thought of that, Captain, and I will go and hunt up Smith and settle it with him."

Jeafferson, in his book about lawyers, an English work, gives a somewhat similar scene between Curran and a witness whom Curran had abused most unmercifully. The witness called at his room the next morning, before he was up, and, waking the barrister, said: "I am the gentleman whom you insulted yesterday in his majesty's court of justice, in the presence of the whole county; and I am here to thrash you soundly." Thus speaking, the intruder waved a horsewhip over the lawyer. "You don't mean to strike a man when he is lying down?" said Curran. "No, bedad, I'll just wait till you have got out of bed, and then I'll give it to you sharp and fast." Curran's eye twinkled mischievously, as he rejoined, "If that's the case, by G—d I'll lie here all day." So tickled was the visitor with this humorous announcement, that he dropped his horsewhip, and, dismissing his anger with a hearty roar of laughter, asked the counselor to shake hands with him.

To speak of all his resources upon the trial of a cause would lengthen this sketch beyond proper limits. We will, however, refer to a few. If trying a cause before a jury, unexpected or damaging evidence never disconcerted him for a moment; nor could the jury discover from his counte-

nance any apprehension as to its effect. Mr. Polk and Uriel Wright possessed the same faculty, but in a less degree. Another faculty which he often employed to good effect was the power to evade the effect of evidence by turning it into ridicule. There is no weapon that a lawyer can employ more profitably than this; but very few possess it. No lawyer in the United States ever had it to such an extent as the late Rufus Choate, of Boston.

In Parker's reminiscences of him the following instance is given. Mr. Choate was prosecuting a case against a railroad company for killing a man who was attempting to drive across the track. The theory of the defense was that death resulted from the carelessness of the deceased, and not from any fault or negligence of the employees of the road. A witness testified that the deceased was intoxicated at the time, which doubtless contributed to the accident. In his comments on this part of the evidence, Mr. Choate said:

"This witness swears he stood by the dying man in his last moments. What was he there for? Was it to administer those assiduities which are ordinarily proffered at the bedside of dying men? Was it to extend to him the consolations of that religion which for eighteen hundred years has comforted the world? No, gentlemen of the jury. He leans over the departing sufferer; he bends his face nearer and nearer to him — and what does he do? [In a voice of thunder] What does he do? *Smells gin and brandy!*"

To show the control of Choate over his countenance, Mr. Parker says that he was once engaged in a trial in the Federal court, and in cross-examining a witness (a seaman) who had turned state's evidence, and had stolen money from the ship on the distant shore, the witness stated that Choate's client instigated the deed. "Well," said Choate, "what did he say?" "Well," said the witness, "he told us there was a man in Boston, named Choate, who would get us off if they caught us *with the money in our boots.*" This terrible thrust at the counsel produced an uproar of laughter, and although every eye was turned upon Choate, not the slightest effect upon his countenance was observed; and he continued the examination as though nothing of the kind had occurred.

We do not pretend that Captain Geyer had this power to

the same extent, but he had it, and it added greatly to his efficiency as an advocate.

We shall have occasion to refer to other notable instances of this rare gift when we come to speak of the life and character of Mr. Blannerhassett, formerly of the St. Louis bar, and who was esteemed one of the ablest criminal lawyers in the state.

Captain Geyer had often expressed a desire to obtain a seat in the United States Senate, and when he finally succeeded, in 1851, his friends entertained a strong hope that he would make a fine reputation as a statesman; but in this they were greatly disappointed, for he fell far below public expectation. The fact is, he was a mere lawyer, and as much out of his place in the Senate as he would have been at the helm of a ship. It is a great mistake to suppose that a successful lawyer necessarily makes a successful statesman. Some of the qualities of mind essential in one often prove detrimental in the other. In Mr. Webster, Mr. Pinckney, Mr. Berrien, and a few others there was a happy combination which enabled them to excel in both; but, on the other hand, Mr. Choate, who had no superior as a lawyer, made an indifferent statesman, while Stephen A. Douglas, who had few superiors as a statesman, never exhibited any superiority as a lawyer. In Marshall's short career in the Senate he distinguished himself only by an argument in the Jonathan Robbins case, which was emphatically the work of a jurist. Had Judges Kent and Story been placed in the Senate, the probability is that they would have proved eminent failures. The course of education required in each is essentially different; and to succeed in both, one must be educated in both.

It is not strange, therefore, that Captain Geyer, who had obtained a national reputation as a lawyer, should have failed as a senator to meet the expectations of his political friends.

He died in St. Louis, March 5, 1859, at the age of sixty-one. He was married three times, and left a widow, one son, and two daughters.

AUSTIN A. KING.

Missouri has been fortunate in the selection of her chief magistrates; for, with few exceptions, they were men of learning, ability, and integrity. Such was Austin A. King, who was born in Sullivan County, Tennessee, on September 21, 1801. He came from an old Revolutionary family, and inherited their patriotism and love of country. He received an ordinary English education, but after determining to follow the law as a profession, took private lessons in Latin and Greek, and became a fair Latin scholar. His father was a farmer, and Austin rendered him efficient aid in the cultivation of his farm, and by so doing acquired habits of industry and labor which proved very serviceable to him in after-life. After reaching his majority he commenced the study of the law, which he pursued for several years with great diligence; then removed to Columbia, Boone County, Missouri, and commenced the practice, having to contend with such men as Leonard, Todd, Gordon, Rollins, Clark, and Davis.

He had not long been a resident of Boone before he was elected to represent that county in the Legislature — no small honor when we reflect that Boone was then, as now, one of the oldest and most intelligent counties in the state, and the abode of some of our ablest men. He took an active part in the debates of the House — proved an energetic, hard-working member, and soon acquired a wide influence in his party.

In 1837 he removed to Ray County, and was soon after appointed judge of the Fifth Judicial Circuit, which office he held until the people of the state, in 1848, elected him to the office of governor. It was during his administration that the railroad system of the state, which has contributed so largely to our population and wealth, was inaugurated. He was a strong advocate of internal improvements, and

lent his aid and influence to all public enterprises which he deemed worthy and commendable, particularly where they tended to develop our mineral and agricultural resources. He was, however, cautious and prudent, and avoided as far as possible the incurring of any unnecessary debt.

At the expiration of his term of office he returned to the practice in Ray County, where he had to encounter such able jurists as Doniphan, Dunn, and Hughes, and soon took rank with them at the bar, and attained a large and lucrative business.

In 1860 he was selected to represent his district in the National Democratic Convention, and in the published proceedings of that body he is frequently referred to as participating in the debates. When the dark cloud of civil war rolled over the country he raised his voice in behalf of his government, and was very bitter in his denunciation of secession.

In 1862 he was selected by the Union party to represent his district in Congress, and voted for a vigorous prosecution of the war, and for all measures necessary to put down the Rebellion. This closed his public life, and he died while on a visit to St. Louis, in April, 1870, in his sixty-ninth year.

Governor King was a man of vigorous intellect, and rendered a faithful discharge of duty in every position to which he was called. In no sense was he brilliant, yet few surpassed him in forensic debate. He took that common-sense, practical view of all public questions which gives strength to a speaker, and makes him formidable before a popular assemblage. He was thoroughly posted in the political history of the government, and when he encountered in debate one who was not, he scarcely ever failed to win a signal victory. Though opposed by one of the most popular and gifted men of the state, his majority for governor was larger than that of any of his predecessors, showing the great confidence reposed in him by the people. As an orator he never could have obtained distinction; for, though fluent and logical, he had a disagreeable voice, little imagination, and none of the graces of gesture which are so effective in many of our pub-

lic speakers. He was an eminently practical man, with great energy and endurance, which enabled him to overcome obstacles that to many would seem insurmountable. He was, moreover, a man of fine habits, and free from those vices which so frequently beset our public men.

As a judge he was learned, patient, and impartial, and gave universal satisfaction to the bar; and with the younger members was a great favorite, for he was kind and indulgent to them, and, when it was in his power, would aid and assist them. In his private relations he was social and domestic, and a truly practical Christian. We met him on several occasions, transacted business with him when governor of the state, and always found him a practical, high-toned gentleman.

He left a large family, and some of his sons have since filled positions of honor and trust.

JACOB T. TINDALL.

Upon the bloody field of Shiloh fell many a patriot who died that his country might live. Such was Colonel Jacob Toriam Tindall, of Grundy County, Missouri, one of God's noblemen, and in the Grand River country universally esteemed for the kindness of his heart and the brightness of his intellect.

Colonel Tindall was a native of Kentucky, born on April 25, 1826, and with his parents removed to Howard County, Missouri, where the subject of our sketch was chiefly raised. When Jacob was only seventeen or eighteen years of age, his father settled upon a farm near Trenton, Grundy County, and the only education received by the son was in the common schools of that day; but his fondness for books enabled him to some extent to overcome the want of a collegiate course. At intervals for two or three years he taught school, and when quite young developed a taste for fishing and hunting. It was his delight to stroll through the woods with his dog and gun, and the want of success never deterred him from its repetition. So devoted was he to this favorite source of amusement that his friends became apprehensive that he never would apply himself to any professional pursuit, or business of any kind; but those rambles through the forest tended to enlarge his imagination, and give greater scope to his fancy. Many a speech did Patrick Henry make in the solitude of the forest, and it is not improbable that Mr. Tindall may have there acquired some of the graces of oratory which so distinguished him in after-life. As he grew up he developed a manhood that was commanding and striking; for he was fully six feet high, straight as an Indian, with dark complexion and dark and piercing eyes — in fact, the whole contour of his face was so marked that a stranger could scarcely fail to notice him.

After pursuing the study of the law for about the usual period he was admitted to the bar, and in a short time took rank among the ablest lawyers of his portion of the state. There was no better logician in the Grand River country, and his commanding figure, clear and distinct enunciation, and easy, graceful gesture stamped him as an orator of no ordinary pretensions. He indulged largely in anecdote, and had a keen appreciation of the ludicrous, which he often employed to great advantage. Some thought that he impaired the force of his argument by too great indulgence in anecdote, but his happy application often gave them the force of argument, particularly when attempting to illustrate the weakness of his adversary's position. In cutting satire and bold invective he had no superior at the bar. As a jury lawyer he was very successful. His methodical mind enabled him to grasp and present to the jury the facts of the case in the most impressive form, and his rapid enunciation gave him the power to say a great deal in a short time, and thus avoid encroaching upon their patience.

In his intercourse with others Colonel Tindall was social, genial, and entertaining — in fact he was the life of any company in which he was thrown; and here his fine conversational powers appeared to great advantage, for no one knew better how to adapt himself to the taste and character of his hearers. His fund of humor was inexhaustible.

Colonel Tindall was a great lover of horses, and it was said that no one could cheat him in a horse-trade, for he was a shrewd observer of their points and traits, and scarcely ever failed in his judgment of them. He was very much attached to a horse he called "Sam," which he usually rode on the circuit. He took "Sam" with him into the army, rode him in the battle of Shiloh, and there fell from his back, pierced through the heart with a musket-ball. "Sam" was also severely wounded, but whether he survived the battle is not known.

Soldiers frequently form very strong attachments for their war-horses. General Taylor took old "Whitey" to Washington, and no one about the White House was more petted

or accorded kinder attention. The general would go to the stable daily to hold pleasant converse with his good old steed, and "Whitey" was as much impressed with his importance as any other *attaché* of the president.

Colonel Tindall manifested very early in life a desire to engage in military service, and before his admission to the bar volunteered in the Mexican War, and served in the battalion of Missouri volunteers commanded by Lieutenant-Colonel Gilpin, in which he held an important commission, and obtained the entire confidence of his commander.

When barely of the constitutional age he was elected to the Legislature; but as he served but a single session, he had no time to establish much reputation as a law-maker.

Colonel Tindall had a large, comprehensive mind, and in the performance of his duty as a citizen knew neither North nor South, East nor West, but took in his entire country, regarding the Union as a solemn compact sealed with the blood of our fathers, and too sacred to be touched by sacrilegious hands. He was opposed to secession in every shape and form, as furnishing no remedy for wrongs real or imaginary. It could not be said of him that he was influenced in this respect by any prejudice against the institution of slavery, for he was born and reared in a slave state, and never lived in any other. He undoubtedly felt that many wrongs had been perpetrated against the South by incendiary publications and fanatical speeches, but in his judgment the floor of Congress was the place to obtain redress, and not in the severance and overthrow of the government. He esteemed it the duty of every citizen to aid in maintaining the Federal authority at all hazards, and he was among the first to tender his services to his government by creating and organizing the Twenty-third Missouri Regiment. He commanded that regiment in the battle of Shiloh, sought the post of danger, and was shot down while leading his column in the thickest of the fight.

Colonel Tindall manifested his devotion to the Union at the commencement of the Rebellion, by taking a seat as a Union delegate in the Convention called to take into consid-

eration our relations towards the Federal government. He seldom spoke in the Convention, but when he did, took the strongest possible ground against secession. His main work was on the Military Committee, of which he was chairman. He framed and reported the bill under which the state militia were organized. It was during one of the recesses of the Convention that he organized the regiment which he commanded at Shiloh. He possessed in an eminent degree those traits of mind and character which pave the way to distinction, but his career was cut short in the morning of his life. His memory is fondly cherished by the people of the Grand River country.

As before stated, he fell at the head of his regiment, in the battle of Shiloh, April 6, 1862, in his thirty-sixth year. When the news of his death reached the Constitutional Convention, of which he was a member, that body adopted a series of resolutions, among which were the following:

"*Resolved*, That in the death of Colonel Tindall this Convention has lost a valued member, whose intellect and energy, patriotism, and conservative views rendered him an able and efficient member of this body. That by his untimely fate the nation has lost a devoted patriot in the hour of her peril; the army, a prudent commander; the society in which he moved, an ornament; and his family, an affectionate husband and father.

"*Resolved*, That in testimony of our appreciation of the deceased, and from due regard to his memory, this Convention will now adjourn until to-morrow morning at nine o'clock, and that the members wear the usual badge of mourning during the present session."

No one who knew Colonel Tindall in life can visit the spot where his remains repose without dropping a tear upon his grave.

"Death loves a shining mark, a signal blow."

CARTY WELLS.

The name of this gentleman is very familiar to the profession, for he was not only a prominent lawyer, but a leading politician, and for many years judge of the Lincoln Circuit.

He was born in Prince William County, Virginia, February 8, 1805, and moved with his father to Shelby County, Kentucky, in the fall of 1810, where the subject of our sketch resided until he reached his twenty-second year. He never entered any college, but obtained as good an education as the schools of that day could give. He applied himself closely to his books, and became a good English scholar. After studying law upwards of a year, in the office of Judge Venable, he came, in 1827, to Missouri, and continued his studies under the instruction of Judge Beverly Tucker, of St. Charles, a prominent lawyer.

To avoid some of the difficulties which the laws of Missouri imposed upon an applicant for a law license, Mr. Wells went to Jacksonville, Illinois, in the fall of 1828, and was there licensed by the Supreme Court of that state, and, returning to Missouri with his license in his pocket, applied to the Supreme Court, then in session at Bowling Green, Pike County, and obtained a license to practice in Missouri; settled in St. Charles, and attended the courts of St. Charles, Lincoln, Pike, Ralls, and Marion. Upon the organization of Warren County, in 1833 or 1834, Mr. Wells was appointed clerk of the Circuit and County Courts of that county, which office he held several years; but, being desirous of returning to the practice, resigned and moved to a farm near Troy, Lincoln County, and about 1840 or 1842 was elected a representative to the Legislature from that county, became a prominent member, and took an active part in all the discussions. About 1843 he again changed his residence, and removed to Palmyra, then the largest town in north-east

Missouri, and practiced there until about 1846 or 1847, when he was appointed circuit judge of the Lincoln Circuit, then embracing the counties of Lincoln, Pike, St. Charles, Warren, Montgomery, and Ralls, and returned to his farm near Troy. While living in Palmyra he was elected from the Marion District to the State Senate, made a useful and influential member, and either at the expiration of his term, or shortly thereafter, received the appointment of circuit judge.

As a politician, Judge Wells was not altogether successful; for at times he failed to work in the harness with that devotion to his party which was exacted of all Democratic politicians. Indeed, he was regarded as vacillating and unreliable; for in those days the least departure from the faith consigned a man to his political grave.

As a speaker, Judge Wells was fluent and argumentative, but never made any pretensions to oratory. He was well posted in the political history of the country, and generally commanded the close attention of his audience. He never aimed at applause, and seldom received it; for he addressed himself to the understanding of his hearers, and endeavored to secure their confidence and good-will. In his intercourse with others he was genial and pleasant, and readily made friends — mixed freely with the people, and never assumed an air of superiority. We knew him well, but our relations were not intimate.

He died in Troy, in January, 1860, or 1861, at the age of about fifty-five.

Mr. Wells displayed much ingenuity in the cross-examination of a witness, but on one occasion was completely floored by an old English doctor, who was a witness in a case brought to contest the validity of a will, upon the ground of incapacity in the testator.

The witness testified that he had known the testator for a long period of time, and that he did not think his intellect was sufficient *to set the river on fire.*

"What," said Mr. Wells, "do you mean by that expression?"

"I mean what I say, that I do not think he had sufficient strength of intellect *to set the river on fire.*"

"Could you name any well-known person in the community, who, in your judgment, would come under that category — whose brain was not large enough to set the river on fire?"

"I think I can name several."

"Name one, if you please."

"Carty Wells."

Amid a roar of laughter, Wells told the witness to stand aside.

This is not unlike the following, told by Edwards:

On a trial at Auburn, New York, the counsel for the people, after severely cross-examining a witness, suddenly put on a look of severity, and said:

"Mr. Witness, has not an effort been made to induce you to tell a different story?"

"A different story from what I have told?"

"That is what I mean."

"Yes, sir; several persons have tried to get me to tell a different story from what I have told, but they couldn't."

"Now, sir, upon your oath, I wish to know who these persons are."

"Well, I guess you've tried as hard as any of 'em."

It also reminds us of the story related by Jeafferson, of George Jeffreys, a celebrated barrister in the time of Charles II., who was famous at browbeating witnesses; but upon one occasion he met his master in a countryman he was examining. Said he: "You fellow in the leather doublet, pray what are you paid for swearing?" The witness replied, looking the barrister full in the face, and speaking with a voice of hearty good humor, "God bless you, sir, and make you an honest man. If you had no more for lying than I have for swearing, you would wear a leather doublet as well as I."

Judge Wells, while on the bench, frequently indulged in witticisms. In this respect he was not unlike Judge John W. Edmonds, of New York. Edwards, in his "Pleasantries,"

says that Edmonds once had a divorce case before him, which he took under advisement. He was asked by counsel to give a speedy decision.

"Why," asked the judge, "what occasion is there for hurrying about it?"

"If your honor please, my client is engaged to be married again, and is only waiting the termination of these proceedings."

"Well," said the judge, "can't they sleep together *de bene esse*, and get married *nunc pro tunc?*"

Such pleasantries were not uncommon with Judge Wells, and those who attended the sessions of his court naturally expected them.

He had, however, no patience with a witness who attempted to equivocate, and often reprimanded them very severely. Judges do not, as a general thing, make sufficient allowance for the oddities and peculiarities of men who are called upon to testify. In our experience we have heard witnesses give evidence who were undoubtedly honest, and under no circumstances would depart from the truth, and yet there was an evident disinclination to tell all they knew. Edwards mentions one of this character who testified in one of the New York courts. The case was this:

Sol S. missed an ax, and remarked to a hired man he believed old Wheaton had stolen it. The latter, hearing of this, brought an action for defamation of character. Ben Beebe was a witness.

"What is your name?"

"Bees."

"Well, witness, are you acquainted with Mr. Wheaton?"

"What, old Jo there? Know him? I should think so."

"Well, what is Mr. Wheaton's general character in the neighborhood where he resides?"

"I'd rather not testify to that question, squire. I am not the man to speak agin my neighbor."

"Please answer, witness. What is Mr. Wheaton's general character, and do you think he would steal an ax?"

"If I must, I must. As to general character, I think the

least said about *that* the better; and as to stealing an ax, that's a leading question."

The Court — "Answer the question, witness."

"Well, squire, don't know that I can swear that the old man would steal Sol's ax; but I'll tell you what I can swear to, squire: *when old Jo wants an ax, he is bound to have it!*"

SAMUEL M. BAY

Was born in the city of Hudson, state of New York, in the year 1810; was educated chiefly in the Hudson Academy, an old and honored institution, in which, besides the ordinary branches of an English education, were taught Latin, Greek, and the higher branches of mathematics. For the benefit of his health, and to escape the severe winters of the North, he visited his uncle, Dr. Joseph Lovell, who was the surgeon-general of the United States army, holding his office in Washington City. He remained in Washington about two years, during which time he was a pupil in a private school taught by Salmon P. Chase, who afterwards became so distinguished in life, filling successsively the positions of governor of Ohio, United States senator, secretary of the treasury under Mr. Lincoln, and chief justice of the Supreme Court of the United States.

Upon completing his studies with Mr. Chase, he returned to New York, and, with the purpose of becoming a merchant, entered as a clerk in a large French importing house in the city of New York. Such was the confidence reposed in him by the firm, that in less than fifteen months they sent him to Europe on business, where he remained five or six months.

It was while there that he came to the determination to study law, and on his return to the United States took a trip to the West, and while in Columbus, Ohio, was persuaded by Judge Swayne, since one of the judges of the Supreme Court of the United States, to enter his office as a student. Judge Swayne often said that Mansfield Bay read more law in three months than any other student he ever had, in a year. His fondness for books commenced very early in life, for when a boy he would retire from the sports his comrades were engaged in to peruse some book that had fallen in his hands. This passion never deserted him, for he was a con-

stant reader to the day of his death. Whenever a new law-book of any repute issued from the press, he was almost certain to obtain it. He studied law as a science, and read it with as much delight as a school-girl would read the latest novel, but we never thought that he took the same pleasure in the practice, though he became a very successful practitioner.

It is not strange that he should have taken to the law, for his father and grandfather were successful lawyers, the former being contemporary with Martin Van Buren, Joseph D. Monnell, Elisha Williams, John W. Edmonds, Ambrose L. Jordan, James Van Derpool, and Killian Miller, all of whom practiced at the bar of Columbia County, New York, and became distinguished in the profession, and the latter the law-partner of Ambrose Spencer, who was for a long period presiding judge of the Supreme Court of New York. Shortly after returning from Europe he visited Columbia, South Carolina, and there met for the first time his grand-uncle, Judge Elisha Hall Bay, who was judge of the highest court in that state forty-nine years, and when he died, at the advanced age of eighty-six, was still a judge. President Jefferson tendered him a seat on the bench of the Supreme Court of the United States, which he declined. We have often thought that this visit to South Carolina had much to do in influencing his choice of a profession.

In Judge O'Neall's "Sketches of the Bench and Bar of South Carolina" there is a fine biography of Judge Bay, in which he gives an anecdote of the judge that will bear repetition.

He was engaged in the trial of a criminal, and the state's attorney, or solicitor, as he is there called, put upon the stand a rather quizzical sort of witness, to prove that the defendant had attempted to escape, and asked the question, "Did not the defendant elope?" The witness replied, "She pulled string." "Pull, pulled string," said the judge, "what do you mean by that?" "She cut dirt," was the witness' reply. "Cut, cut dirt? — pull, pull string — what do you mean?" said the judge. "I mean," said the witness, "she puffed the gravel." "Pull, pull string — cut, cut dirt — puff,

puff the gravel!" said the judge; "the man is crazy! Take him out of court, Mr. Sheriff." The solicitor said, "He means that she eloped." "Well, well, my man, why could you not say so?" The witness replied, "Every man to his notion, as the woman said when she kissed her cow." This startled the judge, as a monstrous thing; and he said, in his most emphatic way, "This woman kiss a cow! Take him out of court, Mr. Sheriff."

O'Neall tells another anecdote of the judge: A case of assault and battery was pending in his court, and Mr. Bowie appeared for the defense. He pleaded *molliter manus imposuit.* The proof turned out that his client knocked down the plaintiff with *a fence-rail.* The judge, in his excitement, said, putting the accent on the first syllable of Mr. Bowie's name, "Mr Bowie, Mr. Bowie, do you call that *molliter manus imposuit*, to knock a man down with a fence-rail, like a bullock?"

On completing his studies, in 1833, S. M. Bay came to Missouri, and settled in Union, the county-seat of Franklin County, and in the first year obtained the best practice at that bar. In 1836 he was elected to the Legislature, and at the close of his term removed to Jefferson City, where he soon obtained a lucrative practice. He was soon after appointed, by Governor Boggs, attorney-general of the state, which, in addition to other duties, required him to perform the labor of prosecuting attorney for that circuit, embracing five or six counties, and also made him *ex-officio* reporter of the decisions of the Supreme Court, all of which he discharged with ability and faithfulness. The decisions reported by him will be found in volumes 5, 6, 7, and 8, commencing in the year 1837 and terminating in 1843.

He was a vigorous and successful prosecutor, and few criminals escaped punishment during his administration of the office. His prosecution of Burr, who was convicted and executed in Jefferson City for the murder of his wife, gave Mr. Bay a wide reputation over the state. It was one of the most remarkable cases in the history of crime. Burr was living with his third wife, who was taken sick, and, after lin-

gering several weeks with a slow fever, died. The disease completely baffled the skill of the attending physicians, who were unable to account for the strange symptoms which the case developed. Burr was a wagon-maker and blacksmith, and was carrying on a large and successful business in Jefferson City. He was, moreover, a man of excellent character, a class-teacher in the Methodist Church, a man of means, who took a large interest in all public enterprises. There had been no difficulty between him and his wife, and, to all outside appearances, they lived together happily and affectionately. It is not, therefore, strange that no suspicion of foul play was suggested until the funeral procession reached the cemetery. Then a young man who was an apprentice in the blacksmith-shop disclosed to General T. L. Price his belief that Burr had murdered her by administering pounded glass in her medicine. General Price did not think there was any foundation for the suspicion, but immediately approached Burr, and advised him to insist upon a *post-mortem* examination, as the only means of escaping an unjust accusation. Burr opposed it, alleging as a reason that it would be harassing to his feelings. Price insisted, and caused the procession to return to the city, where an examination was had, which resulted in the finding in the stomach a large quantity of pulverized glass. Upon the coroner's inquest two of Burr's apprentices, who boarded with him, testified that on repeated occasions when they entered the shop, on returning from their meals, they heard Burr pounding something above, and on going up after he left, found on the bench particles of pounded glass, which gave rise to their suspicions.

Burr was immediately arrested and thrown in jail, and when his trial took place few believed that a conviction was possible, as there seemed to be no evidence except that of the apprentices, and that was only circumstantial. But General Bay had given the case the closest scrutiny, and found many corroborating circumstances, among which was the fact that Burr himself administered to her the medicine prescribed by the physicians, and would not permit any other

person to do it. It was also ascertained that his first and second wives died under similar circumstances, and with apparently the same disease. Upon the trial the state produced a chain of circumstances pointing to his guilt which the ingenuity of his counsel was unable to break, and a conviction necessarily followed. On the part of the defense many witnesses were introduced whose testimony tended to show that he had lived happily with all his wives, and nothing had ever occurred to disturb their marital relations. After the conviction, Burr was manacled with the irons he had forged for others.

Prior to his execution he made a confession of his guilt, and stated that he had murdered his other wives in the same way, and assigned as the only reason that he became tired of each, and wanted another wife.

General Bay prosecuted several other cases of homicide which resulted in convictions and executions.

Upon the trial of Judge Leland, of the Howard Circuit, before the Legislature, upon articles of impeachment alleging incompetency, General Bay and General Stringfellow were retained on the part of the defense, both of whom made powerful arguments; but the point made by the defense in the summing up of the case, and which produced the greatest effect upon the minds of the triers, was the fact, as made evident by the production of the State Reports, that in proportion to the number of appeals taken to the Supreme Court from the decisions of the circuit judges, there were less reversals from Judge Leland's circuit than any other circuit in the state. This fact, though by no means conclusive of the defendant's competency, had a powerful effect upon the Legislature, and was no doubt the chief cause of the acquittal; for a very few votes the other way would have procured a conviction. The fact that General Bay had been a reporter of the decisions led him to suppose that such might possibly be the case, and a most laborious investigation on his part proved that his supposition was well-founded. But even if untrue, the managers had no time to make the investigation, and the fact was taken as confessed.

While General Bay resided in Jefferson City he formed a copartnership with the Hon. Abiel Leonard, of Howard County, in their practice in the Supreme Court, which continued until the former removed to St. Louis, in the latter part of 1846 or early part of 1847.

Shortly after General Bay commenced the practice in St. Louis he was appointed attorney for the State Bank, and soon attained a large and lucrative practice. In July, 1849, he fell a victim to the cholera, which at that time was raging most fearfully. He had been for several months engaged in erecting a dwelling on the Carondelet Road, just outside of the city limits, and it was thought that in superintending it he had exposed himself too much to the sun.

It is not strange that a man of his industry, energy, close application to business, and exemplary habits should be successful as a lawyer; but one element of his success must be attributed to his thorough knowledge of the common-law system of pleading, which was then in force in this state. If engaged in a cause the merits of which were against him, he was very apt to get some advantage in framing the issues, and often by adroit pleading forced the affirmative upon the opposite party, when he should have assumed it himself. Many a case did he win in this way, and counsel opposed to him always felt uneasy until the issues were fully made up. Not unfrequently were counsel forced to take a nonsuit, when they supposed that victory was within their reach.

As a speaker, General Bay was fluent, concise, and logical, but never eloquent. He selected the strong points in his case and paid no attention to the weak ones. In drawing an instruction he was exceedingly ingenius, and often drew from the court a declaration of law which, though not objectionable as an abstract proposition, was yet calculated to mislead or deceive the jury. No counsel opposed to him felt safe until the final termination of the case.

Had he have been spared a few years longer, he would unquestionably have ranked among the ablest lawyers of the West.

General Bay was a strong political writer, and often con-

tributed to the press very able articles, more as a matter of pastime than anything else; for he never appended his name to his articles, preferring that they should appear as editorial. A short time before his death a series of papers appeared in the *Missouri Democrat* which attracted much attention, and were copied generally by the country press. After his death the *Democrat* announced that S. M. Bay was the author. He wrote and composed with great rapidity, and the press were constantly besieging him for contributions to their columns. Though affiliating with the dominant party of the state, he never would accept an office which was not within the line of his profession.

In his demeanor he was rather reserved and dignified, which made him appear to a stranger haughty and overbearing. His studious habits had much to do with this.

He died comparatively young, leaving a widow and four children — three sons and a daughter — to mourn his loss.

He was the oldest brother of the author.

EPHRAIM B. EWING.

The gentleman whose name is at the head of this article was a prominent lawyer of the state, and for several years one of the judges of our Supreme Court. He was born in Todd County, Kentucky, in May, 1819, and was the youngest son of the Rev. Finis Ewing, a distinguished divine of the Cumberland Presbyterian Church. The family came to Missouri in 1820, and first settled in Boonville, Cooper County, and then removed to New Lebanon, in the same county. In 1831 they again changed their residence to Lafayette County. Young Ewing received his primary education in the common schools, and was then sent to the Cumberland College, at Princeton, Kentucky, where he received a very thorough and classical education. On his return from college he commenced the study of the law under Judge Buckner, a distinguished lawyer from Kentucky, who for a while taught a private law-school in St. Louis. He then went to Richmond, in Ray County, and completed his studies there in the office of his brother, Hon. Robert C. Ewing, an able lawyer, and at the present time the head of the Law Department of Trinity University, in Tehuacana, Texas. Ephraim was admitted to the bar in 1842, and commenced the practice in Ray County, in partnership with his brother. In the winter of 1846–7 he was chosen secretary of the State Senate, and in 1848 a presidential elector on the Democratic ticket.

In the following year he was appointed, by Governor Austin A. King, secretary of state, and continued in that office during Governor King's administration. The position was very responsible and laborious, for he was, *ex officio*, superintendent of common schools.

In 1856 the triangular fight for governor took place. Colonel Benton was the candidate of one wing of the Demo-

cratic party, Trusten Polk of another, and an opposition convention in St. Louis nominated Mr. Ewing's brother, Judge Robert C. Ewing. The subject of our sketch was nominated for attorney-general on the ticket with Mr. Polk. It was a most exciting contest, and the two Ewing brothers frequently met on the stump in opposition, not permitting, however, their affectionate relations to be disturbed. The state was most thoroughly canvassed, and the ticket headed by Governor Polk elected.

In 1859 Mr. Ewing resigned his office, and was elected judge of the Supreme Court in place of Judge John C. Richardson, resigned. In 1861, by an ordinance of the State Constitutional Convention, the judicial offices were declared vacant, and Judge Ewing resumed the practice in Jefferson City. We became one of the judges of the Supreme Court, and Judge Ewing appeared before us on several occasions in the argument of causes in which he was retained. In 1864 he removed to St. Louis, and, after practicing several years at that bar, was elected judge of the St. Louis Circuit Court for a term of six years, but in 1872 resigned, and was again elected to the Supreme Bench, but in the following June fell a victim to cerebro-spinal meningitis, which was prevailing in a most malignant form. He was then in his fifty-third year. He left a large family, and his loss was greatly deplored in and out of the profession.

Our opportunities of forming an estimate of Judge Ewing's professional ability were very good, for while, as before stated, we were on the bench of the Supreme Court he often appeared before us, as we had frequently appeared before him when he was clothed with the same position. To say that Judge Ewing filled every public office held by him with ability and fidelity is only according that merit which was universally conceded to him. He was by no means a brilliant man, but was thoroughly educated in the law, and, in his arguments before a court or jury, was clear, lucid, and logical; indeed, he could not be otherwise, for he not only had a good legal mind, but was a diligent student, with unexceptionable habits, and pursued the study of the law with a

devotion not excelled by any other member of the profession.

Judge Ewing had none of the gifts of oratory, but was always listened to with close attention, for he made but few points in a case, and presented them with force and perspicuity. His decisions on the bench read well, and are well sustained by authority, for he seldom made a citation which did not directly bear on the subject discussed.

He was a very reserved man, seldom mingling with the masses, and the secret of his popularity can only be attributed to the fact that the people of the state had unbounded confidence in his integrity and honesty of purpose.

Upon the occasion of his funeral we listened to a very able discourse, delivered by the Rev. Dr. Linn, in the Methodist church, the subject being "The dead jurist." The church was very large, and filled to its utmost capacity, evincing the high appreciation of the people for Judge Ewing's public services, and his great moral worth.

Judge Ewing was a tall, thin, spare-made man, with a very sedate look, and always had the appearance of being in ill health. He raised a large family, one of whom is the wife of United States Senator Cockrell. Upon his death the St. Louis bar met in one of the court-rooms and paid the usual tribute of respect to his memory.

JOHN THORNTON.

Among the pioneers of the Missouri bar was John Thornton, whose acquaintance we made in the winter of 1836–7. He was a native of Lancaster County, Pennsylvania, and born in 1786. When John was only seven years of age his father moved into Kentucky, and the son was sent to the schools of that day and received a common-school education. He then studied law and was admitted to the bar, but what success attended him in that state we are unable to say.

In 1816 he came to Missouri and located at old Franklin, where he practiced under the territorial government. In the same year the common law was introduced into Missouri, five years in advance of the state government. After residing a few years in old Franklin he changed his residence to Liberty, in Clay County, where he continued during life. He had an extensive practice, and enjoyed a fine reputation as a lawyer. He also became a prominent Democratic politician, and commenced public life as a member of the Legislature from Clay County in 1824. He continued in the Legislature until 1832, and was speaker of the House during the sessions of 1828 and 1830. The position was then regarded as next in the line of promotion to the governor. In 1836 he again represented Clay County in the General Assembly, and it was during this session that we first saw and became acquainted with him.

Unfortunately for his political promotion, he opposed General Jackson's anti-nullification proclamation, which caused him to lose caste with the Jackson wing of his party, and he never again sought public life. He was an ardent State-rights Democrat of the Calhoun school, and looked upon the proclamation as a Federal measure, and in conflict with the reserved rights of the states.

Colonel Thornton was a lawyer of considerable ability, always able to command a good practice, and always occupying a high position at the bar. He was a fluent and impressive speaker, and popular and genial in his manners. He had a tall, manly, and imposing figure, and was attractive in person. He possessed a large fund of humor and wit, the indulgence of which on one occasion involved him in a personal difficulty with the landlady of the hotel at Jefferson City, where he was boarding during a session of the Legislature.

His seat was at the head of the table, and in front of him was placed a roast pig, which appeared and reappeared for four or five successive days — a little oftener, in the opinion of Mr. Thornton, than was required by the etiquette of the table. On its last appearance, however, Mr. Thornton took his usual seat, and fixing his eye intently upon the face of the pig, remarked with a comical expression, and in the hearing of the landlady, "Your countenance is very familiar; we must have met frequently before." In an instant the good lady grasped the pig by both ears and hurled the carcass at the head of Mr. Thornton, which barely escaped him. It occurred in the presence of forty or fifty boarders, and the scene can better be imagined than described.

This story of the pig is not unlike the one told by Stephen F. Miller on the late Judge John M. Dooley, of Georgia. On one occasion he was most happy in giving a hint to a landlord in one of the counties of his circuit, who had been presenting the judge every day for dinner during the court a half-grown hog in the shape of a stuffed baked pig. The clever, *punctual gentleman* had attended upon the table every day without injury; no fork had pierced him. When first asked to take some of the *pig*, the judge replied that he was certainly a well-grown *pig;* that he was much larger, and in better order, than any of his fattened hogs. At the close of the term, on finishing the dinner of the last day, he called the sheriff to him and ordered him to discharge the *pig* upon his own recognizance to be and appear at the next term of the court, with the thanks of the court for his prompt and faithful attendance during the term.

Colonel Thornton raised a large family; one of his daughters became the wife of that distinguished lawyer and soldier, General A. W. Doniphan. He was a high-toned man, and, in the enunciation of his opinions, outspoken and fearless, paying little regard to popular opinion — an element in his character not calculated to advance his political interests.

He died in 1847, in the sixty-first year of his age.

THOMAS R. ANSELL.

This lawyer was a resident of Fulton, Callaway County, Missouri, and practiced his profession there at least a quarter of a century. He was an Englishman, and born in London in 1796. He received a good English education, and at the age of twenty-five went upon the stage, and performed for several years with Edmund Keene and other distinguished actors. In 1828 he came to America, and took a tour through all our large cities, playing with Forrest, Parsons, and the elder Booth. At the conclusion of an engagement at Louisville he determined to abandon the stage, and went to Lexington, Kentucky, where he taught school for nearly two years.

In 1833 he came to Missouri and opened a school in Callaway County, and was very successful as a teacher. He was rigid and exacting in his discipline, and exceedingly punctilious in his demands of grammatical accuracy upon the part of his pupils, however small and untutored. After teaching a few years he went into the office of J. C. Hockaday, Esq., clerk and recorder of the county, and wrote for several months. In recording deeds he exhibited his wonted exactness by insisting upon changing the orthography where it was faulty, and reforming ungrammatical sentences; and but for the remonstrance of Mr. Hockaday would have made the record anything but a true transcript of the deed. While in Mr. Hockaday's office he acquired a taste for the law, entered upon its study at once, and in 1839 was admitted to the bar, and commenced the practice in Fulton, where he resided until his death, in September, 1866. He attempted, also, to cultivate a small tract of land, but as a farmer was eminently unsuccessful. He became a very laborious student, and was thoroughly read in the law, as is shown by his briefs in the Supreme Court, which have been rarely excelled

for legal research and learning. His proper field in the profession was that of a counselor. As a practitioner he was too eccentric, vehement, impracticable, and tedious, and while addressing the court or jury would enter so largely into detail as to weary, if not exhaust, their patience. At times he would say something that was quite brilliant, yet in the next sentence destroy its effect by some act or remark which made himself the subject of ridicule. A noted instance of this occurred upon the trial of a cause in which he and Mr. Hayden were engaged, on opposite sides. He was arguing before the jury the proposition that the mere declaration of a party that he *would* do a certain thing was no evidence that he *had* done it, and to illustrate his idea he hallooed out at the top of his voice, and in his dramatic way, "Gentlemen of the jury, I am going to jump out of that window [the window being about fifteen feet from where he was speaking]. I tell you I am going to jump out of that window;" and suiting his action to the word, immediately ran for the window, placed his hands upon the sill, as though in the act of jumping, when Mr. Hayden, who had followed him, caught him by the shoulder, and, to make the thing as ludicrous as possible, cried out in his peculiar and solemn way, "Judge Ansell, don't jump out of that window — it will hurt you." A roar of laughter followed, and the judge's illustration was turned into a farce. But to recover himself he turned to the jury, when quiet was restored, and said, "Gentlemen, I told you I would jump out of that window, but did I do it?" At this point Mr. Hayden replied, "No, gentlemen, he did not; but it was because I prevented him." This produced another outbreak of laughter, which was only suppressed by the court fining Mr. Hayden $5.

As may well be supposed, Judge Ansell's (he obtained his title by serving on the bench of the County Court of Callaway County) style of speaking was very dramatic, and he was very profuse in his quotations from Shakspeare and other dramatic writers, and frequently with fine effect. He never entered the political arena but once, and that was during the war, when he became a candidate for the State

Senate. Had he exhibited any prudence he might have been elected, for the people were disposed to gratify his political aspirations; but unfortunately he issued a circular dealing some heavy blows against disloyalty. In the concluding part of it he stated in italics that the sentiments he had expressed were intended for the *she devils* as well as the *he* devils of his district. As a large majority of the people of Callaway were secessionists, and the ladies decidedly so, Judge Ansell's circular destroyed all prospects of his election, and he met with an inglorious defeat.

The judge was a man of kind heart and generous impulses, and during his long professional career no one ever questioned his integrity. He was full of sympathy for the poor and unfortunate, and never failed to respond to the calls of charity. He had a high temper, was quick to resent an intentional insult, but ever ready to forgive upon the tender of a proper apology or reparation. Judge Ansell never married, though he was fond of the society of ladies, and placed a high estimate upon the gentler sex. In their company he was very polite, but oftentimes committed gross blunders, producing much laughter among the girls, and yet he seemed totally unconscious of the cause of the merriment.

At one time he was seized with a mania for hunting, and, being unable to distinguish one bird from another, frequently made himself the butt of ridicule. On one occasion he killed a buzzard, supposing it to be a wild turkey, brought it to his boarding-house, and became so jubilant over his success that he directed how it should be cooked and dressed, and actually invited one or two friends to dine with him, and partake of the feast. Upon being told by the landlord of his mistake, he became greatly enraged, and left his house; but it put an end to his hunting exploits.

He once hired a horse to ride to Jefferson City, a distance of thirty miles, to attend a session of the Supreme Court. He remained in Jefferson several days, and when about to leave for home, went to the stable for his horse, and the stable-keeper delivered him the wrong horse; but the judge

rode him home, and never discovered the mistake until he went to return the animal he had hired.

Our acquaintance with Judge Ansell commenced about thirty years ago. We met on a steamer going up the Missouri, and both of us were on our way to the Chouteau Springs, at that time a favorite watering-place about ten miles from Boonville. There were at least thirty others on board destined for the same place, and when we landed at Boonville, a little after dark, we learned that the town was crowded with people, the occasion of which we do not now recollect. Mr. McPherson, the proprietor of the principal hotel in the place, came on board and expressed his regrets at not having a vacant bed in his house. The ladies of the party were in great tribulation, and the captain of the boat was obliging enough to remain over an hour to enable us to seek quarters for the night. Several reports came in that no quarters could be found. While the judge and myself were standing on the wharf, cogitating over our dilemma, Mr. S., a young lawyer from St. Louis, with whom we had a slight acquaintance, approached us, and, after the usual salutation, remarked, "I understand you are looking for a place to put up; I have a large room at McPherson's, with two double beds, one of which is at the service of yourself and friend." Most gladly we accepted the offer, and wound our way to the hotel. The room was one of the best in the house, and contained two large beds. At about twelve o'clock the judge and myself retired, and were soon in the land of happy dreams. S. came in about an hour afterwards, and ensconced himself in the other bed. About three o'clock in the morning we were aroused by S., who jumped into our bed, seized the judge by the throat, and a scuffle ensued which no language can describe. In a few minutes S. relinquished his hold upon the judge, ran out of the room yelling at the top of his voice, and in a moment the hall was filled with guests in their night-clothes, male and female, greatly alarmed and wanting to know the cause of the disturbance. The judge looked wild and scared, unable to comprehend the situation, until we told him that our quondam

friend had merely received a visit from the *man with the poker*, and as soon as he could extricate himself from the *snakes* would be all right again. We brought S. back to the room, kept him awake for the remainder of the night, and next morning we started for the springs. In relating the adventure afterwards, Judge Ansell always called it the "battle of the snakes."

Shortly prior to the presidential election of 1844 the Democrats of central Missouri held a mass meeting at Fayette, and a number of speakers were invited from the different counties, and among them Mr. Ansell. He made an excellent speech, but near the close of it an incident occurred which completely destroyed its anticipated effect. He was depicting in glowing colors the different measures of General Jackson's administration, and enumerating the prominent acts of his life, and at the conclusion of each act would say, "Who did that?" and without answering it, proceeded to another with the same inquiry, "*Who did that?*" and after enumerating a dozen or more, raised his voice to the highest pitch and said, "I will tell you, gentlemen; it was the great General—" and before he had time to finish the sentence some one in the audience hallooed out, "*Macbeth.*" In an instant the meeting was convulsed with laughter, which the presiding officer was unable to suppress, and Mr. Ansell sat down a thoroughly disgusted man. The theatrical attitude which he assumed, and his dramatic way of propounding the question, no doubt suggested the interruption.

JOE DAVIS

Was a prominent and well-known lawyer in Fayette, Howard County. He was born in Christian County, Kentucky, January 14, 1804, and came with his parents to Missouri in 1818, who settled near Fayette. Young Davis was very solicitous to obtain a good education, for when quite small he often expressed his intention to become a lawyer, but his father was able to give him only such advantages as the common schools of that day afforded. He, however, took private lessons in Latin from a gentleman in the neighborhood, and became a very good Latin scholar. This, added to his fondness for books and habits of reading, prepared him to enter upon the study of the law. He had procured a clerkship in the land-office at old Franklin, and devoted his leisure hours to study. He pursued the study of his profession part of the time with General John Wilson, of Fayette, and the remainder with Edward Bates, of St. Louis; and on reaching his majority obtained a license to practice, and opened an office in old Franklin, but soon after removed to Fayette, where he continued to practice through life.

Before commencing the practice, however, he was appointed by the government one of the commissioners to mark and lay out a route for a road leading from our state border to Santa Fé, in New Mexico, which was a very laborious undertaking; for the commissioners had not only to camp out in all kinds of weather, but were constantly exposed to attacks from hostile Indians, who were always jealous of any encroachments upon their hunting-grounds. Young Davis, however, was bold, fearless, and enterprising, and this early adventure gave him a taste for Indian warfare; for he afterwards served in two wars, in one of which he was colonel of a regiment in General J. B. Clark's brig-

ade. When we became involved in what was known as the Mormon War, Governor Boggs placed him in command of a brigade of state militia.

Our acquaintance with him commenced in 1844, and we served two sessions with him in the State Legislature commencing in that year, though he continued to represent Howard County till 1864. He was very fond of political life, and at least once became a candidate for Congress on the Whig ticket; but, as his party was in the minority, had necessarily to encounter a defeat. He was regarded in the Legislature as a strong and vigorous speaker, severe and sarcastic upon his political adversaries, and took every occasion to give the Democrats a rap on the knuckles for alleged inconsistencies; but his attacks were characterized by so much fun and good humor that no offense was taken, and he in fact was popular with all parties. When he rose to speak, every one expected a good anecdote, and he scarcely ever disappointed them. In relating one he looked as grave and serious as a Quaker preacher, and the louder the laugh the graver he looked. He had a strong voice, generally raised it to a high pitch, and spoke slowly and with much deliberation.

He took a deep interest in all efforts to advance the cause of education, and for years was a curator in the Central College at Fayette, and always contributed largely of his means to sustain that and other institutions of learning.

As a lawyer he was successful, and enjoyed a large practice, and but for his generous disposition might have accumulated a good fortune.

He died at his residence in the vicinity of Fayette, on October 7, 1871, in his sixty-eighth year. He left an interesting family to mourn his loss.

JOHN JAMEISON.

Of the early public men of Missouri few were better known, and none more popular, than John Jameison, of Fulton, Callaway County. Of the early life of Mr. Jameison but little is known beyond the fact that his education was obtained in the common schools of Montgomery County, Kentucky, where he was born near the close of the eighteenth century. In 1825 he came to Missouri, and settled in Fulton, entering the law-office of William Lucas, brother of the late James H. Lucas, with whom he completed his studies, which had been commenced before leaving Kentucky. In 1826 he was admitted to the bar, and opened a law-office in Fulton. He soon obtained a fair practice, considering the small amount of litigation that then obtained.

In 1830 he was elected from Callaway County to the lower house of the General Assembly, and served until 1836. During a part of the time he was speaker. He was by no means a thorough parliamentarian, yet few appeals were taken from his decisions, as both political parties reposed confidence in his judgment and integrity. In 1839 he was elected to Congress to fill a vacancy created by the death of Albert Harrison, and served three terms. At that time congressmen were elected in Missouri under the general-ticket system, and not by districts, as at present. Mr. Jameison's career in Congress was in no sense brilliant, yet he made a fair member, and proved a strong advocate of Western interests. His dislike for Speaker Winthrop was so great that he took particular pleasure in annoying him by appeals from his decisions, and by rising to points of order, and upon one occasion, when under considerable excitement, made a violent speech against him, charging him, among other things, with gross partiality. It was occasioned by the failure of Mr. Winthrop to award him the floor when he

thought he was fairly entitled to it. Captain Jameison exercised considerable influence in Congress by his pleasant and affable demeanor, and by the good practical sense which he exhibited on all occasions; but his want of application and study prevented him from obtaining a national reputation.

As a lawyer he was not profound, but as a jury advocate was not excelled by any one in central Missouri, and by few, if any, in the state. His power consisted in his strong and forcible presentation of the strong points in his case, and in exposing the weak ones in his adversary's. He was, also, an excellent judge of men, and seemed to divine almost at a glance what particular line of argument would reach and influence each juror — in fact, he could almost read by intuition the thoughts of each juror on the panel. If an instruction of the court was unfavorable to his cause, he would gradually lead the attention of the jury from it, and thus escape partially its pernicious effects.

His reluctance to labor and research made it necessary for him to have a law-partner, and for many years he was associated with the Hon. James K. Sheely, now of Independence, a fine lawyer, and a gentleman who has filled most creditably many places of public trust.

We became Mr. Jameison's successor in Congress; and soon after he studied divinity, and became a licensed preacher in the Christian Church. His success in the ministry was by no means equal to that at the bar. He commenced too late in life, and was wanting in animation and zeal.

He died in 1855 or 1856, leaving a widow and four children.

Captain Jameison was generous to a fault, and the meanest beggar could impose on him. He was, also, a social and convivial man, and during that part of his life when engaged in politics he would sometimes imbibe a little too freely, producing a slight unsteadiness in his walk, which he seemed to apprehend would be noticed; and it was said that upon such occasions he would tie over his knee a large silk handkerchief, and complain of rheumatism, and if any one

expressed sympathy for him, would remark, "Oh, it is immaterial." Whether this was an invention of his friends (for he had no enemies), to produce a little merriment at his expense, we are not advised; but the expression "it is immaterial" was used by him on all occasions, until he got the name of "Immaterial John" thoroughly fastened upon him.

There are many anecdotes told of Mr. Jameison which illustrate the influence he exercised with juries. He was once engaged in the defense of a man charged with stealing corn. The evidence disclosed the fact that the accused had been seen carrying away several small loads, but Mr. Jameison, by an ingenious cross-examination of the state's witness, forced him to admit that the corn was in *shucks*, and that he did not see what was in the shucks. He brought in several ears in shucks, and paraded them before the jury, and asked each by name if he could see any corn through the shuck; and, in a manner peculiar to himself, asked the jury what faith they could put in the testimony of a man who would deliberately and coolly swear "*that he could see through shucks.*" The prisoner was acquitted, but the shuck story stuck to his counsel through life.

Mr. Jameison was once engaged in an argument in the Supreme Court with Edward Bates on the opposite side, and frequently took occasion to say: "When the plaintiff did so and so, *I turned round* and did so and so." "When the plaintiff proved so and so by John Smith, *I turned round* and proved so and so by John Jones." "When the plaintiff—" Here he was interrupted by Judge Tompkins, who said, "Now, Mr. Jameison, do you really mean to state that upon every motion made by the plaintiff, and upon every step he took in the cause, *you actually turned all the way round?*" "I will explain, if you honor please," said Mr. Jameison; and, suiting the action to the word, turned upon his heel, and, picking up his hat, walked out of the court-room, to the great amusement of the audience and the discomfiture of the court.

Mr. Jameison's tact in trying a cause before a jury was unsurpassed. He seemed to know how to turn everything to

his own advantage, and how to bring ridicule upon his adversary.

O'Neall, in his "Bench and Bar of South Carolina," gives a sketch of a lawyer in that state, by the name of Carnes, who had this power in a remarkable degree, and though uneducated, and with but little knowledge of the law, scarcely ever failed of success when he could get his case submitted to a jury. He gives the following as an illustration of his ingenuity: He once brought an action for assault and battery, in which the lawyer for the defense pleaded, "*molliter manus imposuit.*" The proof showed an aggravated assault and battery. When it came to Carnes' turn to address the jury, he said: "Gentlemen, you all know I am no Latin scholar, but I think I can translate the gentleman's plea: *molliter*, he mauled; *manus*, the man; *imposuit*, and imposed on him. Now, gentlemen, did you ever hear of such impudence?—to shamefully abuse my client, and then to come into court and brag of it!" The argument was irresistible.

We never saw Mr. Jameison in the pulpit, but it is said he occasionally delivered a sermon of much force and effect. He was greatly beloved by the people of Callaway, who fondly cherish his memory.

WILLIAM PORTER.

In 1848 we took a trip on horseback to the north-eastern part of the state, and spent one night and part of a day in Troy, the county-seat of Lincoln County, a pleasant village of about 400 or 500 inhabitants, and there became acquainted with Mr. Porter, a resident lawyer in good practice. He was a native of Virginia, born in Frederick County; about 1797 or 1798. About 1825 he married Miss Ann Anderson, of Frederick, and about five years thereafter left Virginia for Missouri, and settled in Lincoln County, where he practiced law up to the time of his death, in 1866, living part of his time on a small farm near Troy. He survived his wife about fifteen years, and remained a widower until his death. He raised two children, both of whom married, and some of his descendants are now living in Ohio, and the remainder in Missouri. Mr. Porter's married life was a very happy one, and he took the death of his wife very hard, and went but little in society afterwards.

He was a sound and reliable lawyer, and seemed much devoted to his profession; and, although he took a deep interest in public affairs, never would permit himself to be drawn into politics. The only public position he ever filled was that of prosecuting attorney, and he would not have accepted that had it not been in the line of his profession. Though not a brilliant man, he was very successful in his practice, for he was faithful to his client, and made his client's cause his own.

In his habits he was frugal, moral, and industrious. He had been many years connected with the Presbyterian Church, and always appeared to be embarrassed when called upon in public to pray. He was once asked the cause of this, and in reply said it was one thing to address a judge or

jury, and a very different thing to address the Almighty, from whose decrees there could be no appeal.

Mr. Porter was a very domestic man, fond of the society of his friends, and to the poor, kind and benevolent. His death was regarded as a great loss, more particularly to the county of Lincoln, for the people were accustomed to look up to him for counsel and advice.

THOMAS B. HUDSON.

The subject of this sketch was a steadfast and highly-valued friend of the author for nearly a quarter of a century. Though belonging to the same political organization, and working side by side in a common cause and for the attainment of the same political end, we occasionally differed respecting both men and measures, but that difference of opinion never in the remotest degree disturbed the pleasant relations existing between us.

Though the career of Mr. Hudson was not as eventful as that of some whom we have attempted to portray in this volume, yet it is in many respects more difficult to describe; for no one can draw a life-like picture of him who did not know and see him in the various relations of life. His strong disinclination to assume a trait of character which did not belong to him not unfrequently led him to doubt the possession of others to which no person had a higher claim.

He was a self-made man, and the architect of his own fortune. With scarcely any of the advantages which tend to pave the way to success in life, he entered upon his professional career in a land of strangers, where he had to encounter the prejudice of wealth and the jealousy of strong competition, with no other weapons but a strong, vigorous native intellect, and a self-reliant, indomitable will. He found at the St. Louis bar such men as Geyer, Gamble, Bates, Darby, Spalding, Allen, Lawless, and Mullanphy, who had already achieved professional distinction; while others, nearer his own age, were rapidly ascending the ladder of fame. With all this formidable competition, Mr. Hudson soon obtained rank and position, and was never wanting in clients as long as his health did not interfere with the active pursuit of his profession.

Mr. Hudson was born in Davidson County, Tennessee, in

1814. His father, who was originally from Maryland, was an upright, intelligent farmer, and, fully appreciating the advantages of an education, sent his son to the best schools that the country then afforded. He then took a regular academic course, and at the age of eighteen commenced the study of the law with S. C. Pavet, an able lawyer of Tennessee. His mother was an excellent Christian lady, who implanted in the heart of her son that veneration for truth and integrity which adhered to him through life. It is not probable that Mr. Hudson applied for admission to the bar in Tennessee, for on reaching his majority he came to St. Louis, and shortly afterwards was licensed by the Supreme Court of our state. The examination of students applying for admission to the bar at that time was very strict, and generally conducted by one or more of the supreme judges in person; and it is said that they complimented Mr. Hudson upon the good examination he had passed.

The first public position held by him was as a member of the City Council of St. Louis, during the administration of Mayor John F. Darby. He made an efficient and active member, and originated several measures which proved highly advantageous to the city. From 1842 to 1843 he was city counselor of St. Louis.

In 1842 he was elected by the people of St. Louis to a seat in the popular branch of our State Legislature, and was soon recognized as one of the leaders of the Democratic party. We held a seat in the same body from Franklin County. Mr. Hudson belonged to the old Jeffersonian school of strict constructionists. For one of his limited experience he was a good parliamentarian, and as a ready and fluent debater had but few equals in the House. He was not an orator in the usual acceptation of that term, for he had none of the graces of elocution, and seldom indulged in figurative speech. He aimed to convince the understanding, rather than please the fancy. He belonged to the Douglas school of speakers, and his fine power of analyzation and discrimination, aided by a fervid and impressive delivery, made him a formidable opponent in forensic debate.

He was also good at repartee, and not deficient in good old mother-wit.

Mr. Hudson was at one time the law-partner of James B. Bowlin, and, at a later period, of James S. Thomas. They did a very large business, particularly in reference to boating and maritime contracts. We had no railroad connection then with the South, and had to rely almost exclusively upon boats for transportation. This gave rise in our courts, both Federal and state, to a large amount of litigation; for under our law the employees of the boats, and all who furnished materials, had a lien upon the boat, and, to enforce the lien, had to go into the courts. Mr. Hudson had given this branch of business special attention, and had the credit of being the best maritime lawyer at the bar.

In 1840 the country was brought to the highest state of excitement, growing out of the presidential contest between Harrison and Van Buren. Mr. Hudson was a Democratic candidate for the Legislature, and addressed the people at Creve Cœur Lake. It was a day for a general discussion, and all the candidates were present, and many delivered addresses. A disturbance at the meeting came very near resulting in a general row, and a writer in the *Missouri Democrat*, over the signature of "Veritas," undertook to assign the cause of it. This brought out a reply from Vespasian Ellis in the *Missouri Republican*, and on the day of its publication a paragraph appeared in the editorial column, calling attention to Mr. Ellis' letter, and virtually charging Mr. Hudson with being the author of "Veritas," and containing other matters that were deemed by Mr. Hudson offensive. He immediately challenged Colonel A. B. Chambers, who was editor and proprietor of the *Republican*, and the parties met and exchanged three shots on Bloody Island, on July 17, 1840. To properly understand the subject-matter of the controversy we give the editorial which appeared on the 13th:

"We invite the reader's attention to the communication of Mr. Ellis in to-day's paper, giving an account of the proceedings at Creve Cœur Lake meeting.

"We have the words of several gentlemen, and some of them *Loco-focos*, saying that a more disgraceful and unbecoming proceeding has not transpired during the canvass than this was. We particularly invite the attention of the author of 'Veritas,' reputed to be the 'bold and fearless Mr. Hudson,' to this communication.

"As to the authorship of 'Veritas' but one opinion prevails in the community, and that is that, in this as many other cases, this fellow is the trumpeter of his own 'bold and fearless' character.

"If he did not write it, he at least furnished the materials for it. No one but himself would ever think of applying such terms to him."

It will be seen that this paragraph not only contained an imputation upon Mr. Hudson's courage, but charged him with giving publicity to a false statement as to what occurred at the meeting. Colonel Chambers was evidently mistaken, not only as to the authorship of "Veritas," but as to the courage of Mr. Hudson, for a cooler and braver man never shouldered a musket.

The reader must not conclude from the promptness with which this challenge was sent that Captain Hudson was a duelist, or favored that method of settling personal controversies; for at that day the custom was sanctioned by long usage and a perverted public opinion; and no young man, particularly if he belonged to the profession of the law, could live in this country without acknowledging its obligation.

Mr. Hudson was attended on the field by Charles Bent and John H. Watson, and Colonel Chambers by Martin Thomas and W. Gordon. The choice of ground and the privilege of giving the word was won by Mr. Gordon. They fought with rifles, at forty paces; exchanged three shots without effect, and by the interference of friends the difficulty was amicably arranged. On recrossing the river about ten o'clock A. M., by invitation, all parties, including seconds, surgeons, and friends, repaired to the residence of Colonel Chambers, and spent the day in song, merriment, and feasting. We are happy to state that from that day Colonel Chambers and Captain Hudson were life-long friends. The attendants at the duel published a card complimenting both parties for their coolness and bravery.

The election of 1844 was one of the most exciting ever

witnessed in Missouri. The Democratic party for the first time became divided — one wing adhering to Colonel Benton, and adopting his views upon the slavery question and the currency. They took the name of "Hards." The other took strong pro-slavery ground, and espoused the policy of Mr. Calhoun, taking the name of "Softs." Each wing brought a ticket into the field. The Whig party declined to make nominations, but quietly threw their votes to the anti-Benton party, hoping thereby to widen the breach and secure their own ascendency at a subsequent election.

Captain Hudson and Leonard H. Sims were the anti-Benton candidates for Congress, and canvassed the entire state; for at that time we had not abandoned the general-ticket system. The canvass was very spirited, and conducted with much ability on the part of Mr. Hudson. About ten days before the election Mr. Parsons, of Pike County, one of the Benton nominees, died; and as we were then without any telegraphic communication with the remote Democratic counties, the information did not reach there in time to secure their vote for the party substituted for Parsons. This rendered it certain that either Hudson or Sims would be elected, and as Captain Hudson was much the strongest man, it was generally conceded that the honor would fall upon him. Sims was clearly of that opinion, and not wishing to be left at home without company, suggested to the captain, as he did not think it would confer any honor upon either of them to go to Washington in a dead man's shoes, that the lucky one should decline. In this view Captain Hudson acquiesced, for he had already determined, and so informed his friends, that unless the returns showed that his election would have been secured without the death of Parsons, he would not accept the certificate of election. To the surprise of all, Sims was elected; for Captain Hudson had given the Whigs of St. Louis and the adjoining counties too many castigations upon the stump to secure their undivided vote. When the time approached for the assembling of the new Congress, Sims (who lived in Greene County), whose memory had become too treacherous to enable him to recall the understanding

between Captain Hudson and himself, quietly pocketed his certificate and left for Washington City. He did not forget, however, to draw his mileage and *per-diem*, and that was about the only thing he did during the two years he was in Congress.

Upon the breaking out of the Mexican War, Captain Hudson raised and equipped a cavalry company for General Doniphan's regiment, and was unanimously elected its captain. This was one of the finest companies mustered into service, and accompanied Doniphan in his march to Chihuahua—a march second only in modern historical importance to Sherman's great march to the sea. Captain Hudson shared in all the danger and glory of that brilliant campaign, and proved himself a most gallant soldier.

In 1844 he married Miss Eliza Chambers, daughter of Charles Chambers, Esq., and granddaughter, on the maternal side, of John Mullanphy. We knew her father well. He was an educated, high-bred, polished Irish gentleman, and for many years dispensed the most liberal hospitality at his beautiful country residence in Florissant.

About 1854 Captain Hudson's health began to fail, and he was advised by his physician to give up his practice altogether, and retire to the country. This he did, and spent the balance of his days at his country seat, "Glen Owen," in the beautiful valley of Florissant, about ten miles north of St. Louis. He there devoted himself to agricultural pursuits, for which he had always manifested a fondness. He took an active part in the establishment and organization of our agricultural and mechanical fairs, which have not been excelled, if equalled, by any other part of the United States. He was one of the first directors, and contributed largely in time, talents, and money. He took great delight in fine stock, was a most excellent judge of horses and cattle, and a liberal patron of the turf as one of the means of stimulating our farmers to laudable exertions in that behalf.

Captain Hudson was a tall, spare-made man, with dark hair and eyes, and a very commanding person. No man had more personal friends, for he was social and genial in dispo-

sition, and affable and agreeable in his manners. He always met you with a smile and a strong grip of the hand, denoting his gladness to see you. He had a warm heart, which never failed to respond to the calls of charity. He took a deep interest in all measures calculated to promote the interests of his adopted state, and at one time was president of the North Missouri Railroad Company, in which position he developed rare administrative capacity. He took a very active part in the construction of the Ohio and Mississippi road; procured a meeting of the citizens of St. Louis to be held at the court-house, at which he offered, and caused to be passed, the following resolution:

"*Resolved*, That a committee of seven be appointed by the chairman of this meeting, whose duty it shall be to petition the Legislature for the passage of a law authorizing the city of St. Louis to subscribe for $500,000 of stock in the Ohio & Mississippi Railroad, and that said committee be instructed to use all proper exertions to secure the passage of such law."

Mr. Hudson was placed on the committee, drew the act, went to Jefferson City, and by his influence caused its passage. The people of St. Louis sanctioned it by a vote at the polls, and the subscription contributed largely towards the construction of the road.

Captain Hudson died at home, in the early part of May, 1867, at the age of fifty-three. His death was not unexpected, for he had been long suffering from debility, and weakness of the lungs. Still, it was a great shock to his friends, particularly his professional brethren, with whom he was always a favorite. They met at the court-house to take action with reference to the loss sustained by the bar in his death, and paid a feeling tribute to his memory.

The *Missouri Republican*, the leading Whig paper of Missouri, which had always been opposed to Mr. Hudson politically, thus announced his death:

"The death of Thomas B. Hudson, Esq., on Wednesday last, at a comparatively early age, is the occasion of much regret to a widely-extended circle of friends, who hold his memory in esteem as recalling much of personal worth, and many agreeable social qualities. Mr. Hudson commenced the practice of

his profession as a lawyer in this city, about thirty years ago, and practiced with ability and success. An active politician, he was for some years among the prominent members and leaders of the Democratic party in Missouri. As a representative of St. Louis County in the Legislature he distinguished himself as one of the most influential of its members. At one time he was president of the North Missouri Railroad Company. Latterly he had retired from the more public sphere in which he formerly moved, and devoted his time to the improvement of a handsome estate, and the pursuits of agriculture, at his home in the county, not far from St. Louis."

HORATIO COZENS.

Of the early life, birth, and education of this promising young lawyer there is no one living who is able to give any information. He came from Virginia to Missouri soon after the organization of our state government, and commenced the practice of the law in St. Louis. He had received a good academic education, and soon attracted the attention of the people by his good address and fine oratorical powers. At that time most of the litigation was conducted before magistrates, and Mr. Cozens enjoyed a large practice in those courts. He was a ready, fluent, and attractive speaker, and was considered the most promising young advocate at the bar. There are a few of his contemporaries still living, and they represent him as a natural orator, and before a jury almost invincible — in fact, no lawyer at the bar was thought to excel him in fervid and impassioned eloquence.

When only about twenty-six or twenty-seven years of age he was involved in a personal difficulty with a lawyer by the name of George F. Strother, a dissipated and unprincipled man. Strother had a nephew named French Strother, also a young lawyer, and he undertook to vindicate his uncle. It was supposed that the matter in controversy grew out of some political misunderstanding. While Mr. Cozens was engaged in the trial of a cause before a justice of the peace by the name of Penrose, whose office was on Elm Street, between Main and Second, French Strother entered the court-room, and indicated to Mr. Cozens, by signs, that he wished an interview with him. Mr. Cozens went out on the side-walk, and Strother immediately approached him, and, with a long dirk-knife, stabbed him to the heart. He died within a few minutes. It was a cold-blooded, unprovoked murder, and it was with the utmost difficulty that the officers who arrested Strother could save him from the immediate ven-

geance of the people. The murderer was taken before Peter Johnson, a magistrate, and committed to jail to await the action of the grand jury. He soon, however, broke jail, escaped to Mexico, were he led a most dissipated life, and finally died at Matamoras with *mania a potu*. Thus, without a moment's warning, was this young and promising advocate sent into the presence of his Maker. He left a wife and two or three children to mourn his loss.

EDWIN G. PRATTE.

We saw this gentleman for the first time at Palmyra, in Marion County, in 1848. He was born and educated, and studied law, in the state of New York, and settled at Palmyra about 1833. His education was classical, and his knowledge of the law very profound, but as a practitioner at the bar he was neither brilliant nor attractive. He was about six feet high, with dark hair and complexion, and a large head, with a broad and expansive forehead. He was one of the earliest of the Marion lawyers, Benjamin Clark and John Anderson having preceded him. Mr. Pratte was a man of moral and studious habits, and wholly devoted to his profession. Though fluent, he was not an attractive or pleasant speaker, but greatly excelled in his knowledge of special pleading. His faithfulness to his client and his close attention to business gave him a fair practice. He neither held nor sought public office, but had the reputation of being a good political essayist. He wrote largely for the *Palmyra Courier*, a caustic and ably-conducted Whig paper which had a large circulation in north-eastern Missouri.

Mr. Pratte was in some respects eccentric, and in addressing a jury always commenced with some quaint and odd remark which invariably produced merriment in his audience. Upon one occasion he was appointed by the court to defend a negro woman charged with larceny. She was a most disagreeble specimen of the African race — very dark, and slovenly and dirty in her person. The day of the trial was exceedingly warm, and, occupying a seat between her counsel and the jury, she was very offensive to the nasal organs of both. Mr. Pratte opened his speech by saying:

"Gentlemen of the jury, you have learned by this time that my client's name is Rose, and I assure you upon my

honor as a lawyer, and from painful experience, *that she will smell as sweet by any other name.*"

Mr. Pratte married a Miss Wright, sister of Major Uriel Wright. But one child was born of the marriage. Mr. Pratte died in Knox County two or three years ago, leaving a widow and son to mourn his loss. He was a good-hearted man, and of unquestionable integrity. He had read a great deal, and his mind was well stored with varied learning.

SILAS BENT.

Of the early inhabitants of St. Louis there are none living who do not recollect Judge Silas Bent, who was not only an influential and prominent man of the territory of Upper Louisiana, but for many years was a judge of the Supreme Court of Missouri Territory, and a lawyer of eminence and ability. He came from good old Revolutionary stock, for his father, Silas Bent, who was born in Ludbury, Massachusetts, in 1744, and educated at Cambridge College, was commander of the "Tea Party Regiment" of Boston, and was one of the disguised men who threw the tea overboard from the British ships in Boston harbor. He had seven children, the eldest of whom, the subject of this sketch, was born in Massachusetts, April 4, 1768, and educated at Rutland, Worcester County, Massachusetts.

In 1788 he came to Ohio, and was one of the earliest settlers of Marietta, where he purchased a home for his parents, who shortly afterwards moved to it. He then studied law under Philip Dodridge, at Wheeling, Virginia. After completing his studies, he concluded to embark in mercantile pursuits, and opened a store at Charleston, Virginia, and soon after married Miss Martha Kerr, who resided near Winchester.

In January, 1802, he was made postmaster at Brooke Court-house, Virginia, and in 1803 became a deputy in the office of Rufus Putnam, who was surveyor-general. On February 17, 1804, he was commissioned as associate judge of the Court of Common Pleas for Washington County, Ohio, by Governor Edward Tiffin. In July, 1805, he became deputy surveyor under James Mainfield, who was surveyor-general. In July, 1806, he was appointed by the secretary of the treasury of the United States, Albert Gallatin, principal deputy surveyor for the territory of Louisiana, and

was ordered to St. Louis, which place he reached on September 17, 1806. On August 20, 1807, he was appointed by Frederick Bates (the secretary and acting governor of Louisiana) "first judge of the Court of Common Pleas and the Court of Quarter Sessions of the Peace for the District of St. Louis." In November, 1808, he was appointed, by Governor Merriweather Lewis, auditor of public accounts for the district of St. Louis. On November 9, 1809, he was made presiding judge of the St. Louis Court of Common Pleas, with Bernard Pratte and Lewis Lebaum as associates; and on that day signed the first charter for the town of St. Louis. On January 5, 1811, Frederick Bates, who was then secretary and acting governor, appointed him auditor of public accounts, and in September following he was commissioned judge of the Court of Common Pleas and Quarter Sessions, by Governor Benjamin Howard. On February 21, 1813, President Madison commissioned him as judge of the Supreme Court of Missouri Territory, and on January 21, 1817, he was recommissioned as such by President Monroe, and held the office until it was abolished by the admission of Missouri into the Union, in 1821.

Upon the admission of the state he was appointed clerk of the St. Louis County Court, which, in addition to county business, exercised probate jurisdiction. Colonel Bent held this office some time, and until his death, which occurred on November 20, 1827, at his country residence, just north of the St. Louis Arsenal. He died in the sixtieth year of his age.

He left seven children, the eldest of whom, Charles Bent, became governor of New Mexico, and was killed while governor, January 19, 1847. His second child, Julianna, married Governor Lilburn W. Boggs, and died in 1820. His third child, John Bent, became a noted lawyer in St. Louis, and died May 18, 1845. Dorcas, his fifth child, married Judge William C. Carr, and she is still living. His youngest son, Captain Silas Bent, formerly of the United States navy, and at present one of the Board of Police Commissioners of St. Louis, still resides in St. Louis, and is one of the most prominent and influential citizens of that city.

It will thus be seen that almost the entire life of Judge Bent was spent in the public service, and the fact that no complaint was ever made against the manner in which he discharged these numerous and responsible trusts furnishes the best evidence of his marked ability and incorruptible integrity.

He was not only an able jurist, but a man of varied and extensive information — just such a man as the government needed in the early settlement of the West. In early times it required months for any communication to pass between the government and its officials; hence our public men had frequently to act without instructions, relying altogether upon their own judgment and sense of propriety. A man of Judge Bent's fine executive and administrative powers was too much needed to permit him to remain in private life; hence we find him many years on the bench, and at other times discharging the duties of United States surveyor — a most onerous position in the West, where the public domain had to be subdivided for settlement and sale, to say nothing of the conflicting claims growing out of Spanish concessions and the imperfect surveys thereunder.

Judge Bent's life was one of great usefulness, and we who are now reaping the benefits of his labors should not permit his memory to pass away without at least this tribute to his worth.

The proverbial honesty of our early public servants is a pleasant theme, in these days of degeneracy, for contemplation. Then dishonesty was an exception to the rule, and the official was content with the salary attached to his office, and he knew nothing of outside perquisites or inside stealings. But now, if he has the opportunity and fails to steal enough to start a bank or build a railroad, he is regarded as deficient in mental resources. Our government is but a century old; yet we have made that progress in corruption which took many centuries under the ancient republics to attain. Who can lift the veil that hides the future, and picture our condition a century hence?

Through the kindness of Judge Bent's son, Captain Silas Bent, we are enabled to lay before our readers several letters and ancient documents which the judge left at his death, and which are interesting because of their antiquity, and because they refer to one who spent the most important part of his life in our midst.

His commission as judge of the Court of Common Pleas of Washington County, Ohio, issued by Governor Tiffin, in 1804:

"EDWARD TIFFIN, GOVERNOR, IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OHIO.

"*To all who shall see these presents, greeting:*

"Know ye, that we have assigned and constituted, and do by these presents constitute and appoint, Silas Bent, Jr., associate judge of the Court of Common Pleas for the county of Washington, in the place of Joseph Buell, resigned, agreeable to the laws, statutes, and ordinances in such case made and provided, with all the privileges, immunities, and emoluments to such office belonging, or in anywise appertaining, for and during the space of time for which the said Joseph Buell was appointed and commissioned, if he shall so long *behave well.*

"In witness whereof, the said Edward Tiffin, governor of the state of Ohio, hath caused the seal of the state to be hereunto affixed, at Chillicothe, the seventeenth day of February, in the year of our Lord one thousand eight hundred and four.

[*Seal.*] "EDWARD TIFFIN.

"By the Governor.

"WILLIAM CREIGHTON, JUNR.,
"*Secretary of State.*"

On the above is indorsed the oath of office, as follows:

"I, Silas Bent Junr., do solemnly swear that I will administer justice, without respect to persons, and do equal right *to the poor and to the rich*, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as associate judge of the county of Washington, according to the best of my abilities and understanding. So help me God.

"SILAS BENT JUNR.

"Sworn to, &c."

We have set out the above commission, not only to show the form adopted at that period, but to exhibit the peculiarity of the oath required of the official, that he should not only administer justice without respect to persons, but that he should make no distinction *between the rich and the poor.*

When he took possession, in 1806, of the surveyor-general's office at St. Louis, he found everything in a state of the utmost derangement, as will appear from the following letter addressed by him to the department at Washington:

"ST. LOUIS, *Sept. 22, 1806.*

"J. MAINFIELD
"Surveyor Genl

"SIR I arrived at this place on the 17th of this month, called on Mr. Soulard on the same day and demanded the records of survey, and all documents relative thereto for the territory. He informed me through an interpreter that none were in his possession — that he had delivered them over to the commissioners early the next morning (the 18th). I inquired for Judge Lucas at his house, as he was the only commissioner then in town, but could not see him. I left my name, and stated my office — in the afternoon I heard that the commissioners were sitting, and addressed to them a note formally announcing my arrival and the office I held, which I delivered to their clerk at the Board. They examined my credentials and returned them without observation. On the 19th I called on them again for the records &c. — they said they would make some order on that subject, and direct their clerk to deliver to me such of them as they could dispense with.

"I have called on the clerk regularly every day for such books records or papers as the Board of Commissioners had ordered delivered to me, but he has not been at leisure until this morning to attend to that business. He then delivered to me 10 books containing records or plats of survey principally in the French language — those which purported to have been kept under the Spanish government wore the appearance at first blush of accuracy except some confusion, and apparent alterations in the dates &c. — those kept since, though attempted to be in English, I can understand much less about — there are no field notes or documents of any kind accompanying them. The commissioners have in conversation informed me that they were about closing their business — that they believed some orders for surveying had been made by them, and that their clerk would inform me, but the clerk says there are no such orders entered by him. This affords but a dark prospect for my young family.

"SILAS BENT JR."

Judge Bent went to work, and with labor and perseverance brought order out of chaos; and when he left the office everything was in perfect condition.

In a letter addressed by him to the department, bearing date September 28, 1806, he thus alludes to the return of Lewis and Clark from their famous expedition to the mountains:

"Capt. Clark and Lewis arrived here on the 23d — have been to the Pacific Ocean, and have accomplished the object of their tour — all parties have joined here in expressing their high sense of the great merit of these gentlemen."

On June 14, 1807, Governor Frederick Bates issued the following commission to Judge Bent:

"By Frederick Bates, Secretary of the Territory of Louisiana and exercising the Government thereof.

"*To all to whom these presents shall come, greeting:*

"Know ye, that, reposing special trust and confidence in the integrity, abilities and diligence of Silas Bent Esquire, I do appoint him 1st Justice of the Court of Quarter Sessions, and first Justice of the Court of Common Pleas in and for the District of St. Louis, and do authorize and power him to execute and fulfill the duties of those offices according to law. To have and to hold the said offices with all the powers, privileges and emoluments to the same of right appertaining from and after the date hereof, until the Governor for the time being of this territory, shall be pleased to revoke and determine this commission.

"In testimony whereof I have hereunto affixed the territorial seal, and subscribed my name at St. Louis, the fourteenth day of June in the year of our Lord one thousand eight hundred and seven, and of the independence of the United States of America the thirty-first.

[*Seal.*] "F. Bates."

We found, also, among Judge Bent's papers his commission as auditor of public accounts for the district of St. Louis, bearing date November 26, 1808, in the following words:

"Merriweather Lewis, Governor and Commander-in-Chief of the Territory of Louisiana,

"*To all who shall see these presents, greeting:*

"Know ye, that, reposing special trust and confidence in the integrity, abilities and diligence of Silas Bent Esquire I do appoint him Auditor of Public Accounts for the District of St. Louis and empower him to discharge the duties of said office according to law. To have and to hold the said office with all the powers, privileges and emoluments to the same of right appertaining — during the pleasure of the Governor of the Territory for the time being.

"In testimony whereof I have caused the seal of the Territory to be hereunto affixed. Given under my hand at St. Louis the twenty-sixth day of November, in the year of our Lord one thousand eight hundred and eight, and of the independence of the United States, the thirty-third.

[*Seal.*] "Merriweather Lewis.

"By Frederick Bates,

"*Secretary of the Territory of Louisiana.*"

We also append letter of James Monroe to Judge Bent,

of February 27, 1813, informing him of his appointment as judge of the Missouri Territory:

"DEPARTMENT OF STATE,
"February 27, 1813.

"SIR:

"The President of the United States having, by and with the advice and consent of the Senate, appointed you a Judge of the Missouri Territory, I have the pleasure to enclose your commission for that office.

"With great respect,
"I have the honor to be, sir,
"Your ob. svt.,
"JAS. MONROE.

"Silas Bent, Esq."

In the Appendix will be found an amusing and characteristic letter of David Barton to Judge Bent, written just before Adams was elected President, in 1825, by the Federal House of Representatives.

CHARLES H. ALLEN.

One of the most remarkable and eccentric men connected with the early bar and judiciary of our state was Charles H. Allen, better known as "Horse" Allen.

He was born and educated in Kentucky, and came to Missouri in 1830, when quite a young man, and settled in Palmyra. Of his early life but very little is known, for in respect to it he was very reticent, and would permit no one to interrogate him in relation to his age. His educational advantages were certainly very limited, and he never improved himself much by study, for he had but little relish for books, and his knowledge of the law was very superficial.

He practiced in Kentucky several years before coming to Missouri, and there acquired the *sobriquet* of "Horse" Allen. As to how he obtained this title there are several versions, the most reasonable of which we give: He was a loud, blustering declaimer, and upon one occasion was employed in a case before a justice of the peace in Kentucky, and while addressing the jury an old man in the audience, intoxicated, cried out, "Go it, old horse." Allen immediately responded with the declaration, "Yes, I am a whole horse, and half alligator at that." From that day he was christened "Horse," and was universally so called till the day of his death.

He was a fine declaimer, and most excellent stump-speaker, and was selected by the people of Marion County to represent them in the State Legislature.

In 1835 he was appointed judge of the Benton Circuit, in south-western Missouri, but, disregarding the constitutional provision which required a circuit judge to reside within the limits of his circuit, he continued to live with his family in Palmyra. This brought upon him severe attacks from the press, but he was proof against newspaper criticism.

After Lilburn W. Boggs was installed into the office of governor, he promised Judge Allen to give him the Palmyra Circuit, one of the most important circuits in the state. The promise was no doubt made upon the representation that he would be acceptable to the bar and people of that circuit; but upon the assembling of the Legislature the governor found that the entire bar was opposed to him, and the people almost unanimously remonstrated against his appointment. The governor, therefore, was precluded from fulfilling his promise, but sent his name into the Senate for his old circuit, and he was immediately confirmed. The judge was in Jefferson City at the time, and, on learning the disposition that had been made of him, became furious; and, half intoxicated with liquor, repaired to the executive mansion, and, standing on the sidewalk, cursed the governor up and down, denouncing him in the strongest language he was capable of, until quite a crowd gathered round him, when he was arrested by the authorities for disturbing the public peace. As soon as the Senate became informed of his conduct they rescinded his nomination, and unanimously rejected him.

A few years afterwards he was again appointed to the Benton Circuit, and we met him for the first time in Waynesville, Pulaski County, about 1842, where he was holding a term of his court. He traveled on horseback from Palmyra to his circuit, at least 200 miles; and around the circuit, about 800 more. This he did three times a year, spending nearly his whole time in the saddle. He was, however, a strong, robust man, and capable of the greatest endurance. He always traveled with a holster of large pistols in front of his saddle, and a knife with a blade at least a foot long. But for his dress a stranger might have readily taken him for a cavalry officer.

He was a man of strong natural abilities, but his mind was wholly uncultivated; nevertheless he might have succeeded very well but for his oddities and eccentricities, which were constantly making him the butt of ridicule. In charging a grand jury he made a regular stump speech, and

became so violent in his declamation that it was dangerous to come within reach of him.

In those days it was common for people to settle their personal quarrels during court week. Three or four fights a day were not uncommon; a ring was formed, seconds chosen, and the combatants, stripped to the waist, would enter the ring, shake hands, and go at it. Judge Allen took great delight in these exhibitions, and would adjourn his court at any time to witness one. No Spaniard ever enjoyed a bull-fight more than he did these personal rencounters. Though by law a conservator of the peace, he deemed the peace better preserved by letting them fight it out.

In 1844 a portion of the Democratic party in the state became disaffected, and were known by the appellation of "Softs." They rebelled against the regular Democratic nomination, and ran an independent ticket, expecting the aid of the Whig party. Judge Allen, though he had been up to that time a consistent Democrat, announced himself as an independent candidate for governor. The Whig party declined to make any nominations, and threw their entire vote upon the independent ticket. The judge made a bold and vigorous canvass; and by a combination of circumstances came very near being elected — in fact, if the election had taken place a month in advance of the time appointed by law, his election would have been assured. He had agreed with Judge Edwards, the Democratic nominee, to open the canvass at Waynesville on a specified day. Both appeared on the day before, and Edwards was suddenly taken down with an attack of bilious fever, and had to be conveyed back to his residence in Cole County. This left the whole field to Allen, and his friends adroitly spread the report that Edwards was afraid to meet him. Allen's circuit was the strongest Democratic portion of the state, and this unfortunate occurrence had a most demoralizing effect upon the prospects of the Democratic cause. The first day of the Circuit Court at Steelsville, in Crawford County, was fixed upon as the time and place for the second meeting. Though a candidate for the Legislature from

Franklin County, we repaired to Steelsville, at the urgent solicitation of the leading Democrats of that section, to meet Judge Allen in debate; and the scene that there followed no language can faithfully portray. The court-room was crowded to suffocation, and the judge commenced his speech about eleven o'clock, or immediately after charging the grand jury — for Crawford County was in his circuit. He spoke about two hours, and at the conclusion a general call was made upon us to reply. It is proper here to state that before opening his court the judge approached us to ascertain if we intended to reply to him. On learning that such was our conclusion, he remonstrated against it, and stated that he did not think we ought to interfere in the fight. We replied that we felt no disposition to do him any harm, nor had we any personal feeling in the matter, but the welfare of the entire Democratic party was at stake, and if he succeeded it would throw the state ultimately in the hands of the Whigs. He replied that the Democrats had selected Judge Edwards as their standard-bearer, and it was his business to meet him, and not ours. We commenced speaking about one o'clock, the judge sitting near us on the bench. After speaking about an hour, we undertook to show that the "Softs" were coalescing with the Whigs, and the defeat of the Democratic party could only inure to the benefit of our old and common enemy; that if the independent movement was successful, the state would pass into the hands of the Whigs, who would then eschew both wings of the Democratic party. The judge saw that our line of argument was producing a decided effect upon the audience, and without any previous intimation to us, and in a most discourteous manner, cried out, "Sheriff, open court." At this unwarrantable interruption the crowd became greatly incensed, and adjourned to a wood-pile, where we finished our speech. Nothing could have tended more to unite the Democrats of Crawford County than Judge Allen's conduct on this occasion. That it did have that effect is evident from the large majority that Edwards received in that county. We did not see Allen again during the canvass,

but the second sober thought seized the minds of the Democrats, and the state was saved by about 5,000 majority.

Judge Allen died in Palmyra in 1862, leaving a wife and several children. It is said by those who knew him intimately that he had generous impulses, and was capable of strong attachments.

During the gubernatorial canvass Judge Allen made a speech at Bowling Green, Pike County, where lived a lawyer by the same name. He was introduced to the judge, and while shaking hands remarked, "They call you 'Horse' Allen; I reckon I must be the colt," and from that time he was dubbed "Colt" Allen, and never got rid of the name.

It not unfrequently happens that a very trifling incident attaches to a man a name which he is incapable of throwing off. In one of the north-eastern counties, Pike or Marion, there settled at an early period a young lawyer who was in the habit of practicing in justices' courts. On one occasion he was employed to defend a man in a civil suit in the county, in which the litigants were farmers, and walked ten miles to the place. The plaintiff had retained no attorney, not supposing that the defendant would have one, so he was forced to appear in his own behalf. The defendant's attorney, after the evidence closed, made a long speech, and quite an able one, for he was a good talker. After he closed, the plaintiff arose and said to the jury, "Gentlemen, the defendant has tried to cheat me out of this debt; he has tried to lie me out of this debt; he has tried to *swear* me out of this debt; and now he has brought this 'ere man here [pointing to the attorney, who was exceedingly hard featured] to *ugly* me out of it." The plaintiff got a verdict, and the attorney wore the *sobriquet* of "Old Ugly," in which he rejoiced, for he often told the joke on himself with much gusto.

PETER T. ABELL

Was for a number of years a practicing lawyer in Brunswick, Chariton County, Missouri, and was a partner of General B. F. Stringfellow, one of the most eminent lawyers of the state.

Mr. Abell encountered many difficulties through life, particularly his early life, which to one of less energy and will would have proved very disheartening. He was a native of Kentucky, and born in Beardstown, July 29, 1813, and while an infant became an orphan. He received the chief part of his education from Father Robert Abell, a Catholic priest, but while in college, at the early age of fourteen, he became afflicted with some affection of his eyes which compelled him to leave college, and for six years he suffered intensely, and finally lost the right eye. He was very ambitious to obtain a classical education, but for the reason just given was unable to do so.

In June, 1833, he came to Keytesville, Chariton County, Missouri, and engaged in merchandising with his cousin, G. W. Givens, but soon took a distaste for mercantile life, and commenced the study of the law. General Stringfellow was kind enough to give him the use of his law library, and he studied at home, and, with his habits of industry and fondness for reading, soon prepared himself for admission to the bar, and was licensed to practice. He attended the courts of Chariton, Carroll, Linn, Livingston, and one or two others.

In 1849 he and General Stringfellow formed a partnership at Brunswick, and practiced together, doing a large business, until in 1853, when Mr. Abell moved to Weston, in Platte County, where he remained about two years. Here his health began to give way, and under the advice of his physician he went to Kansas, and settled at Atchison. He soon

found that his failing health would not admit of a further prosecution of his profession, and he became president of the company that laid out the town of Atchison. His fine business habits and clear judgment greatly contributed to the advancement of the town, and he devoted his entire time and great energy to building up and promoting her railroad interests. In 1871 he was elected president of the Atchison & Nebraska Railroad, which position he occupied until his health forced him to abandon business altogether.

He died in Atchison, on January 16, 1874, in his sixty-first year.

Mr. Abell, notwithstanding the adverse circumstances which surrounded him, made himself an excellent lawyer; but his field was in his office, and not in the court-room. He was a safe and reliable counselor, but had but little ability as an advocate — in fact, he made no pretensions to oratory, though his speeches were characterized by a large amount of good sense, and a thorough knowledge of the law. His superior business habits made him a fit partner for a lawyer of General Stringfellow's brilliancy.

We have always heard Mr. Abell spoken of as a kind-hearted, generous man, liberal to the poor, and liberal and free in his charities generally. His habits were of the most exemplary kind, and his integrity beyond suspicion.

ROBERT A. EWING,

A lawyer of Cole County, Missouri, and father of H. Clay Ewing, late attorney-general of the state, was born in Robertson County, Tennessee, in March, 1792, and when but two years of age his father removed to Logan County, Kentucky, where Robert was raised. It does not appear that the subject of this sketch had any higher educational advantages than the common country schools of that day afforded. He studied law in the office of the Hon. John J. Crittenden, who became greatly distinguished as a lawyer and statesman.

Mr. Ewing was licensed in Kentucky, but he could not have practiced there long, for in 1819 he came to Missouri and settled in Jefferson City, where he continued to practice with success until 1837, when he purchased a farm on the Missouri River, about six miles below Jefferson City, and devoted the balance of his days to agricultural pursuits, for which he evinced a fondness at an early period of his life.

It was in 1837 or 1838 that we first met Mr. Ewing, in Jefferson City, and found him a most intelligent and agreeable gentleman.

Soon after coming to the state Mr. Ewing married Miss Jane Ramsay, a daughter of General Jonathan Ramsay, of Callaway County, Missouri, by whom he had a large family of children, with several of whom we became well acquainted. Mr. Ewing had not retired from the practice of his profession long before the people of Cole County elected him as one of the justices of their County Court, at a time when the county was greatly embarrassed in her financial condition. When we consider that Judge Ewing was a very decided Whig in his politics, and a majority of the people were Democratic, his election to so responsible a position, under the existing circumstances, was a compliment that any man might have been proud of.

Judge Ewing, with the assistance of his associate judges, succeeded in relieving the county of her pecuniary embarrassment, and then expressed a desire to retire from the bench; but the people had learned to appreciate his valuable services, and continued to reëlect him for many years —in fact, as long as he could be induced to serve them. Probably no county in the state was more strongly wedded to the Democratic policy than Cole; but every tax-payer felt an interest in the proper management of county affairs, and they were unwilling to dispense with the valuable services of Judge Ewing by reason of a difference in their political views. Moreover, he had become very popular, for he was exceedingly pleasant and affable in his address, and mingled freely with the people, whose confidence in his integrity was never diminished.

Judge Ewing made no effort at forensic display. His chief excellence consisted in his fine administrative powers and his excellent business capacity, which fitted him for almost any public position. He had no ambition for notoriety, but was rather disposed to lead a quiet and domestic life; hence, never became a candidate for office.

His admiration for Kentucky's great statesman, Mr. Clay, was unbounded, and he adhered to him long after his political sun had set.

In private life Judge Ewing was noted for his kindness and hospitality, and his death, in 1857, was universally regretted by all who knew him.

BRYAN MULLANPHY.

The history of the Missouri bar furnishes few names more familiar to the profession than that of Bryan Mullanphy, who was born in the city of Baltimore in 1809. His father, John Mullanphy, was a native of County Fermanagh, Ireland. His mother was Elizabeth Brown, of Youghal, County Waterford. They emigrated to America, landing in Philadelphia in 1794, where they remained a short time, and then removed to Baltimore.

In 1798 Mr. Mullanphy came West, and located in Frankfort, Kentucky, where he engaged in mercantile pursuits. He built there a large store-house, laid the first pavement in that town, and carried on a very successful business. At least once a year he traveled on horseback to Baltimore to purchase goods, and became one of the most extensive and enterprising merchants in the West.

In 1803 he built a schooner, and sent her, laden with produce, to the West Indies, under an experienced captain; but she was finally lost in a gale, and it was supposed that all on board perished.

In 1804 he again changed his residence, and settled in St. Louis, which at that time contained a population of about 1,200, mostly creole French, there being but two American families. It was during this year that George Tompkins, John Scott, Rufus Easton, Dr. William Carr Lane, and Edward Hempstead came to St. Louis. Mr. Mullanphy spoke the French language very fluently, and might readily have been taken for a Frenchman. His foresight and sagacity soon convinced him that St. Louis was destined to become a large commercial city, and he invested all his spare means in real estate, which laid the foundation of the largest private fortune that any one ever accumulated west of the Mississippi River. The property left by Mr. Mullanphy at his death,

with the improvements since made upon it, is at this time reasonably worth $20,000,000.

The facilities in St. Louis for educating his children were very limited, and he sent them to Baltimore, to which place he removed his family, not, however, intending to abandon his residence in St. Louis. His son, Bryan, received his primary education in private schools, but was eventually sent to Paris, in France, where he remained four years at the Jesuit College, in which he obtained a thorough knowledge of the French language. From there he was sent to Stonyhurst College, in England, in which institution he graduated with honor. At the age of eighteen he returned to the United States, and commenced the study of the law in St. Louis. It does not appear that he entered the law-office of any attorney, and the supposition is that he procured all the leading elementary works and studied them in his private room. Soon after reaching his majority he was licensed to practice. Being an only son out of eight children, he became the pride of the family, and his father indulged in the fond expectation that his son would become a very polished gentleman.

On his return from Europe, Bryan landed at New Orleans, and took passage on a steamer for St. Louis. On reaching a point about fifteen miles below the city, the boat was prevented from proceeding further by floating ice, and the passengers were forced to land and proceed to the city by any conveyance they could obtain. At that time we had no macadamized roads, and the mud was knee-deep from recent rains. Bryan hired a mule, and rode bare-back to the city, and when he reached the family residence he was covered with mud from head to foot, presenting a most deplorable sight. Upon the announcement of his arrival, his father came to the door to welcome him home, but instead of the polished and fine-appearing gentleman which his long-cherished hopes had led him to anticipate, he saw a man clothed in mud and mire, and, according to tradition, expressed his displeasure and disappointment. It is even said that this incident caused him to change his will unfavorably to his son.

Bryan had seven sisters, one of whom married General Harney, of the United States army. Another became the wife of Judge Boyce, of Louisiana — she being a widow at the time of this marriage. A third married Major Thomas Biddle, of the army. He was a brother of Nick Biddle, president of the old United States Bank, and also of Commodore Biddle, of the navy. He was killed in a duel with Spencer Pettis. Another sister married Charles Chambers, Esq., father of the present proprietor of the *St. Louis Daily Times*. The eldest, who was named Ellen, died in France, unmarried. The remaining sister became the wife of James Clemens, Jr., an influential merchant of St. Louis.

They all received from their father large estates, and as Bryan was an only brother, they admitted him to an equal share.

These ladies became noted for their liberal charities, indeed, benevolence and kindness to the poor — particularly the destitute orphan — have always been characteristics of the Mullanphy family. Mrs. Biddle established and endowed several institutions, among the most noted of which is the "Biddle Infant Asylum and Widows' Home," founded in 1853, and located on the corner of Tenth and O'Fallon Streets. The good that this noble institution has done, and is still doing, is incredible. Thousands of abandoned children have been received inside of its walls, cared and provided for — some but a few days old, some a month, and many between one and two years, abandoned by mothers who were either unable to maintain them or wished to conceal the disgrace of their birth. A writer in one of the St. Louis papers of 1867 thus alludes to the infantile department:

"It not unfrequently happens that a woman appears at the institution before the lady superior, holding a child in her arms, and states that the mother of the infant is dead. A glance at the child, and then at the woman, soon reveals the fact that the mother is *there*.

"The lady superior seeing this, without any hesitancy proceeds to take the child, remarking, 'You, then, madam, have no further claim upon the child.' The *mother* recoils, hesitates, and then begs, while giving the child away, that she may see it again, and be apprised of its condition from time to time."

Were it not foreign to the purpose of this work, we might refer to other charitable institutions which have had, and are still receiving, the fostering care of this family; but it is to be hoped that some one equal to the task will yet furnish the public a detailed account of them, and the great benefits they are conferring, for it would be an interesting chapter in the history of our great city.

It was stated that John Mullanphy realized a handsome fortune from the purchase and sale of the bales of cotton used by General Jackson in the defense of New Orleans. After the declaration of peace, cotton rose rapidly in value, and the foresight of Mr. Mullanphy enabled him to realize a rich reward from his investment.

Bryan Mullanphy entered upon the practice of the law under the most favorable auspices. With a thorough classical education and a good legal mind, aided by wealth and family influence, there was nothing to prevent success but ill-health or gross inattention to business, neither of which could be charged to him, for he was a man of excellent constitution and studious habits, and manifested a fondness for his profession. He not only practiced in all the courts of St. Louis, but also in the Circuit Courts of Franklin and St. Charles Counties, and occasionally attended the courts of Washington and Jefferson Counties.

We first became acquainted with him at the Franklin Court, in the spring or fall of 1837. He, Edward Bates, and Trusten Polk were attending that court, and were engaged in several important trials — one, in particular, we recollect from an amusing incident that occurred. He and Mr. Polk were engaged in the argument of a case before a jury, being on opposite sides. Mr. Mullanphy, being for the plaintiff, had the concluding argument. It was an exceedingly hot day, and the atmosphere of the court-room very oppressive. Mr. Polk asked permission of the court to take off his coat, which was, of course, granted. When Mr. Mullanphy rose to reply, he asked and obtained the same privilege, and in the act of removing his coat discovered that he had no shirt on but a thin gauze undershirt. He instantly remarked that

he believed he would not avail himself of the indulgence of the court, as he had left his shirt in his room at the hotel; and in the midst of a roar of laughter, which he seemed greatly to enjoy, began to rebutton his coat. At that time he was noted for his carelessness in dress, frequently appearing with a boot on one foot and an untied shoe on the other, and half the time without a vest.

A warm friendship then sprang up between Mr. Mullanphy and the author, which continued until the death of the former. Speaking of Mr. Mullanphy's carelessness in dress reminds us of a witty reply he once made to Mr. Polk, who was taking him to task for his slovenliness. "Why," said Polk, "I cannot get along with less than three clean shirts a week." "Nor could I," said Mr. Mullanphy, "if I was as dirty a fellow as you." It is proper here to remark that Mr. Polk was very neat in his person.

Though not an orator, Mr. Mullanphy was a fine logician, and a fluent, ardent, and impressive speaker, and seldom failed to rivet the attention of both court and jury. His mind was quick and active, and his thoughts flowed so rapidly, one upon the other, that at times it gave his utterance the semblance of hesitation. He had just enough of the Irish accent to give his voice a pleasant and agreeable sound, and, unlike many advocates, seldom indulged in repetition or useless verbiage. He was thoroughly grounded in the principles of the law, and quick to detect the weak points of his adversary's case. He wasted no time in the discussion of trivial matters. He believed in the legal maxim, "*De minimis non curat lex.*" He was as well versed in the civil as in the common law, which gave him a great advantage in his practice, and proved highly serviceable to him when on the bench. He was also a fine *belles-lettres* scholar, and his reading and learning were varied and extensive. It was impossible to converse with him on any subject which had not elicited more or less of his attention.

In 1840 he was elected to the bench of the St Louis Circuit Court, and discharged the arduous and responsible duties of that office with great ability and fidelity. Some of his

decisions were freely criticised by the press, but few were reversed in the appellate court.

Judge Mullanphy was a very eccentric man, and carried his eccentricities upon the bench. Upon one occasion, when engaged in the trial of a cause, word was brought to him that his mother was taken suddenly ill. He immediately announced that the *court's mother* was very sick, and directed the sheriff to adjourn the court until the next day.

At another time he was insulted upon the street by an attorney who took exception to his ruling, when he knocked the attorney down with his cane; and, strange to say, the grand jury indicted him for an assault with intent to kill. While on the bench the fact was whispered in his ear, when he proclaimed, in a loud voice, "The *court* is indicted; sheriff, adjourn court."

Many other amusing incidents are related of him while exercising the functions of a judge, but space will not permit us to give more than one. A case involving the title to a cow was tried in his court, and warmly contested. Each party proved that he raised the cow from a calf, but it appeared in evidence that the defendant was unusually kind to the animal, providing for her an abundance of food, and a comfortable shelter in the winter. The testimony was so evenly balanced that the judge took the case under advisement, and the next day gave the following opinion:

"I have carefully considered this case, and shall decide it upon the authority of the Bible. King Solomon was a good and wise man, and upon one occasion two women came before him claiming the same child. The king was unable to decide from the evidence, and called for a sword to cut the child in twain, so that each claimant could take half. One of the women threw herself in the way of the sword, and said, 'Oh, my lord, give her the living child, and in nowise slay it.' But the other said, 'Let it be neither mine nor thine, but divide it.' Then the king said, 'Give her the living child, and in nowise slay it: she *is* the mother thereof.'

"Now, in this case the testimony shows that the defendant has been kind to the cow, and provided liberally for her at all seasons of the year, and has manifested much feeling for the brute. This fact is entitled to much weight, and leaves me no alternative but to render judgment in his behalf."

Judge Mullanphy was very fond of the drama, and one

of its most liberal patrons. During one of the engagements of Jameison, the tragedian, he called upon him at the Planters' House, and invited him to take a ride. They proceeded ten or twelve miles below the city, when they stopped at a saloon for a glass of wine. While Jameison was perusing a magazine which he found on the table, Judge Mullanphy quietly and unnoticed got into his buggy and drove rapidly back to the city, leaving the actor to get back the best way in his power. It was near night, and Jameison was forced to hire a conveyance at an extravagant price, and when he reached the theater, half an hour behind his time, he found the manager attempting to apologize to the audience for his absence. No reason for this whim of the judge was given, nor was Jameison able to assign any motive for it; though it is more than probable that he had said something which displeased the judge.

In his intercourse with others he was sometimes abrupt, and not unfrequently appeared discourteous; yet under that rough exterior he carried a heart that overflowed with kindness and benevolence. The poor of St. Louis never had, and never will have, a better friend. His bounty knew no limit, and the recipients of his charity were innumerable; and though he has been in his grave twenty-seven years, not a day passes without a prayer to Heaven for his blessing, by some recipient of his bounty.

With a unanimity almost unparalleled he was called upon, in 1847, to fill the office of mayor of St. Louis; and during his administration the cholera prevailed as an epidemic throughout the country, and particularly was it fatal among emigrants seeking homes in the West, who were exposed to it by the privations and hardships of a long journey. The mayor made daily visits to their encampments, and provided for their necessities, furnishing them with wholesome food and medical attention, and leaving nothing undone to insure their health and comfort. In those daily visits he witnessed much suffering, and became impressed with the necessity of adopting some method to supply their wants in the future. It was a grand conception, particularly in one born

in affluence, and who knew nothing personally of the bitter pangs of poverty; and when we reflect that it has been executed, and is still being executed, by his individual bounty, we cannot be too lavish in awarding to his memory that reverence which it so richly deserves.

On one occasion, in 1849, the judge invited a friend to take a social glass with him, and they entered a saloon which he occasionally visited. While drinking to each other's health, the judge asked the proprietor for a piece of writing-paper, which he was unable to furnish; whereupon, seeing a book lying upon the counter, he tore out the fly-leaf, and upon it wrote his will, in the following words:

"I, Bryan Mullanphy, do make and declare the following to be my last will and testament: *One equal undivided third of all my property, real, personal, and mixed, I leave to the city of St. Louis, in the state of Missouri, in trust, to be and constitute a fund to furnish relief to all poor emigrants and travelers coming to St. Louis on their way,* bona fide, *to settle in the West.*

"I do appoint Felix Coste and Peter G. Camden executors of this my last will and testament, and of any other will or executory devise that I may leave. All and any such document will be found to be autograph, all in my own handwriting.

"In testimony whereof, witness my hand and seal.

[Signed,] "BRYAN MULLANPHY. [*Seal.*]"

Calling upon two of his acquaintances to witness it, he folded it up and placed it in the hands of a friend for safe-keeping, and after his death, in 1851, it was regularly probated.

An attempt was made by one of the interested parties to break the will upon several grounds, chiefly, however, the following:

1. That the city of St. Louis was not competent to take the trust attempted to be created by the will.

2. That the alleged will was void by reason of the uncertainty as to who were the beneficiaries.

After a long and protracted litigation the will was sustained. The reader is referred to a report of the case in the 29th Missouri Reports, page 543.

By the will the city of St. Louis received, in *trust*, prop-

erty then valued at $500,000. By an ordinance of the City Council a board was created to take charge of the property, and so invest it as to create an annual income; and this income is expended in carrying out the will and design of the donor.

Not a day passes in which some emigrant who has reached our city impoverished by sickness or otherwise is not sent forward rejoicing, through the bounty of this noble benefactor of mankind.

Judge Mullanphy, in his charities, was as eccentric as in everything else. Almost every morning he visited the old market-house, then on Main Street, between Market and Walnut. On one of these visits he noticed a woman trying to sell a cow. She had several children with her, and though they appeared clean, they carried with them the evidences of want and poverty. The judge quietly requested a policeman to ascertain who she was, and her condition, and report to him. He learned that she was a widow from the opposite side of the river, who had recently lost her husband, and that she was endeavoring to sell her only cow to provide winter clothing for eight children. The judge immediately approached her and asked the price of the cow. "Twenty dollars," she replied. "Ah, my good woman," said he, "your cow is not worth half the amount, and it is an imposition to charge such a price." He abused her roundly until she became greatly frightened, when he said to her: "My wife (he was never married) is on a visit to Europe, and before leaving home lost a favorite cow, which this greatly resembles, and I want to buy yours as a present for her on her return; but she will not be back before spring, and I have no place to keep her. Now, I will give you the $20 you ask, and $10 additional, if you will take her home and keep her until I call for her." The good woman received the $30, and, if still alive, is no doubt wondering why the judge has not called for his cow.

Upon another occasion he was riding in the lower part of the city, and, in passing a row of small one-story tenements belonging to him, noticed that one of them, which had been

for some time vacant, was occupied. He dismounted, and found in the premises a poor woman with six or seven small children, destitute of all the necessaries of life, and with no furniture but an old straw bed and a tea-pot and skillet. He wanted to know by what authority she had taken possession of his house. She replied that she had just lost her husband in Jefferson County, and, as winter was approaching, she concluded to come to St. Louis in hopes of getting something to do; that she had walked thirty miles, carrying her infant in her arms, and being without any means, and seeing the house vacant, she thought there could be no harm in occupying it for a few days. He told her that she had violated the law, and was liable at any moment to be arrested for it. She begged his pardon most piteously. Finally he told her she must pay rent. She replied that she was without a cent. "Well," said he, "I will tell you how you can pay the rent. I keep a clothing store, and will send you some coarse sewing to do; and, as I have had lately to take a little furniture for debt, and have no suitable place to keep it, I will send it here for you to take charge of; but you must keep it in use to prevent its injury; and I will send you some provisions, which you can also pay for in sewing." Thereupon the judge went to a tenant who dealt in ready-made clothing, and made an arrangement to send the woman plenty of sewing, with an understanding that she was to receive double pay for her work, one-half to be charged to him. He also sent her fuel, provisions, two beds with the necessary bedding, a small table and a few chairs, and some cooking utensils. His object was, not only to aid the woman, but to induce her to think that she was earning it by her labor.

These are mentioned to show his peculiar way of dispensing charity, and they furnish but two instances out of hundreds.

In 1840, while the author was living in the town of Union, Judge Mullanphy owned four lots fronting the public square, and while attending court at Union learned that some religious society contemplated erecting a church there, but were

waiting for means. As he was about to leave for St. Louis, he took us one side and remarked that if they wanted ground upon which to build, he would give them the four lots; and wished us to write to him in reference to it. He did this to avoid any public declaration of thanks.

It was in this quiet and unostentatious manner that he dispensed his bounty.

Judge Mullanphy had a good fund of dry humor, and relished a good joke as well as any one. Once, while on his way to Mobile, he fell in company with a young clergyman from New Orleans who was seeking an appointment as pastor to a congregation in Mobile, and was expected to preach there the following Sunday. Everything depended upon the impression he might make; and, feeling a want of confidence in his own ability, requested the judge to write a sermon for him, which the judge did, taking for his text the words: "And Balaam's ass spake." The discourse so pleased the congregation that the young clergyman was immediately installed as pastor.

Judge Mullanphy was a man of decided will and courage, as the following incident will show: While mayor of St. Louis the City Council passed an ordinance to open Broadway from Franklin Avenue north. To do so it was necessary to take down a few feet of a fence upon the property of one Jonas Moore, a large and stalwart butcher. When the city engineer and marshal attempted to remove the fence, Moore appeared with a shot-gun and threatened to shoot the first man who attempted to remove the fence. The officers reported the fact to the mayor, who, in their company and a carpenter in the employ of the city, immediately repaired to the place. Moore was on hand with his gun, and again warned them against interfering with his fence. The mayor directed the carpenter to measure off the number of feet necessary to be moved, and, with a saw in his hand, approached the fence, saying to the officer: "Mr. Marshal, if Mr. Moore shoots me, you know your duty," and commenced sawing away. Moore, seeing that the mayor was

determined to enforce the law, became ashamed of himself, and immediately retired inside of his premises.

Judge Mullanphy died in June, 1851, in St. Louis. The bar of St. Louis met at the court-house, and by resolution paid a handsome tribute to his memory. A fine portrait of him hangs in the City Hall of St. Louis.

ROBERT W. CRAWFORD.

About the year 1840 we met Mr. Crawford at Waynesville, in Pulaski County, attending the Circuit Court over which Judge Charles H. Allen, better known as "Horse" Allen, presided. Mr. Crawford was then residing at Mt. Vernon, in Lawrence County, but practiced law in most of the counties of south-west Missouri. We recollect him as a thin, spare-made man, but very tall — at least six feet and two or three inches. We found him a pleasant, companionable man, with a good fund of humor, and a favorite with the bar. We met him at several terms of that court, and although we never saw him engaged in any case calculated to display his ability as a lawyer, yet he had the reputation of being well read in his profession, and we learned afterwards that he always enjoyed a good practice. Phelps, Hendricks, Yancey, and Waddle were his compeers.

Mr. Crawford was born in Brooks County, Virginia, on March 3, 1812, and completed his education in the college at Cannonsburg, Pennsylvania, and read law under John Campbell, Esq., of Wellsburg, Virginia.

In the year 1837 he came West and settled at Springfield, Missouri, but in a short time removed to the neighborhood of Mt. Vernon, where he entered a tract of land, which he improved and made his residence until the breaking out of the war.

He died suddenly at Neosho, Newton County, October 19, 1873, while in attendance upon the Circuit Court of that county. He left a widow, four sons, and three daughters to mourn his loss. At the time of his death his residence was in Springfield, but his remains were interred on his old farm, in sight of Mt. Vernon.

Mr. Crawford was a kind-hearted and hospitable man, and always enjoyed the confidence and good-will of those who

knew him — particularly of his professional brethren, who came daily in contact with him.

He was elected to the Constitutional Convention of 1861, from the Eighteenth Senatorial District, having for his colleague A. S. Marbin, of Barry County. His sympathies were with the South, and he voted generally with the secessionists, but it does not appear that he took a prominent part in the proceedings. He certainly made no reputation.

HENDERSON YOUNG.

This learned judge, who resided in Lexington, Missouri, presided at one time over the Twelfth Judicial Circuit, but at the time of his death, and for several years prior thereto, was judge of the Sixth Judicial Circuit, embracing the counties of Lafayette, Saline, Pettis, Jackson, Cass, and Johnson.

He was a native of Hawkins County, Tennessee, and born in 1811. His father was one of the earliest settlers in that state, and for twenty-two years represented his county in the State Legislature. Upon his death in 1822 or 1823, when Henderson was but twelve years of age, his estate was found greatly embarrassed, and his widow and the younger members of the family were left in very reduced circumstances. This was a great disappointment to his son, who had expressed a strong desire to obtain a liberal education, with the view, which at that early period he had embraced, of making the law his profession. Notwithstanding these adverse circumstances, he continued his studies, and, by applying himself diligently to his books, was in time enabled to open a small school, which gave him the means to enter an academy; and thus by teaching one session and attending the academy another, alternating between the two, he was enabled to obtain a fair English education. While attending the district school he walked five or six miles, scarcely ever missing a day. Such perseverance, industry, and determination could not otherwise than meet their reward.

He entered upon the study of the law with Judge Samuel Powell, who was judge of the circuit in which he lived, and upon August 28, 1832, was admitted to the bar by Judges Powell and Scott. During his legal studies a very warm friendship sprang up between him and his preceptor, which lasted as long as both lived. It was fortunate for Mr. Young that he was privileged to study under one who was so able

to direct his course of reading, and who took so deep an interest in his success.

In 1833 Mr. Young came to Missouri, and settled in Lexington, then, as now, a flourishing town, and at once entered upon the practice of his profession, without means and without friends — a stranger in a strange land, and having nothing to rely upon but his own individual exertions. No one but he who has passed the ordeal can form any conception of the difficulties and privations that beset a young man thus starting out in life, particularly in the profession of the law. But the patient application, prompt attention to business, and pleasant and agreeable address of Mr. Young brought him, in time, many warm friends, who took a deep interest in his welfare, and greatly aided and encouraged him in his professional efforts; and feeling that his future was assured, he, on May 23, 1839, united in marriage with Miss Callaway, a daughter of Captain Thomas Callaway, a wealthy planter in Lafayette County.

In 1842 he was appointed circuit attorney for his circuit. In 1844 he was appointed by Governor Thomas Reynolds judge of the Twelfth Judicial Circuit, which necessitated a change of residence, and he immediately removed to Platte County. He continued to discharge the duties of judge of that circuit until 1848, when Governor Austin A. King appointed him judge of the Sixth Circuit. He then returned to Lexington. In the meantime the Legislature had made the judiciary elective, and in 1851 he was elected by the people to the same office for a period of six years, and before the expiration of his term, to wit, on July 23, 1854, died at his home in Lexington, aged forty-three.

The memory of Judge Young is greatly revered by all who knew him; for his amiable and affable disposition, his kind and benevolent heart, and his unswerving integrity, and his devotion to public duty made him many warm and attached friends. He was not long enough at the bar to obtain much distinction as a lawyer, but on the bench he gave evidence of his thorough knowledge of his profession, and became exceedingly popular as a jurist. He never manifested any feeling allied to prejudice or partiality, listened

attentively to argument of counsel, and evinced a readiness at all times to correct any error into which he had fallen. These qualities in a jurist always render him acceptable to the people and the bar.

Upon the announcement of Judge Young's death the bar of Lafayette County assembled at the court-house, and in suitable resolutions paid a fine tribute to his memory, and expressed their sense of the great loss sustained in his death. Colonel William T. Wood, an eminent lawyer of the Lafayette bar, was called to the chair; and we here give an extract from his remarks made on the occasion:

"We have met to mingle and express our grief for an event that has filled all hearts in our community with the profoundest sorrow. The sudden and unexpected announcement of the death of Henderson Young brought with it overwhelming grief, pervading the whole community.

"Henderson Young, a brother in our profession, our neighbor, our friend, and our judge, after a residence of more than twenty years amongst us, we this morning, in sadness and sorrow, must assist in consigning to the mansions of the dead, when the cold sod, covering his manly form and beloved countenance, will forever conceal them from our sight.

"We have known Judge Young well and intimately, at the bar and on the bench. At the bar he was an able and faithful lawyer — true to his client, true to his profession, and true to those high and noble principles which made him an ornament to the profession. On the bench, possessing an acute and discriminating mind, he was a learned, just, impartial, and incorruptible judge. Both at the bar and on the bench he displayed a high order of intellect, aided by habits of industry and great legal research. In his intercourse with the members of the profession he was endeared to them by his pure and noble sentiments, and by his kind and sociable qualities of heart. But we have known him not only as the lawyer and as the judge, and in professional intercourse, but in the social circle, in the seclusion of private life, at the domestic fireside, and as the Christian gentleman; and in all relations, on all occasions, under all circumstances, he was the same just, generous, kind-hearted, hospitable, high-minded man. I have known him from the time of his arrival in Missouri; I have known him in the family and social circles, in a most intimate personal intercourse; I have known him at the bar, on the bench, in another circuit and here. During all this time, in the true sense of the word, we were friends. A more true friend, a more devoted husband and father, a better citizen, a purer public officer, a more generous, noble-hearted man, never lived or died. The death of such a man is a public calamity."

The resolutions of the bar were spread upon the records of the several courts of Lafayette County. The judge left a widow and several children.

ROSWELL M. FIELD.

The state of Vermont has the honor of being the native state of this well-known and distinguished lawyer. He was born February 22, 1807, in Newfane, the shire-town of Windham County, a picturesque village of about 1,200 inhabitants, in the vicinity of the Green Mountains and the Connecticut River. His father, General Martin Field, was a native of Massachusetts, of English descent, and a graduate of Williams College, and in 1805 he received the honorary degree of Master of Arts from Dartmouth College, having entered upon the practice of the law in Newfane, in 1800. He was a successful lawyer, and filled many places of honor and trust in Vermont.

R. M. Field's mother was a lady of fine intellect, and a lineal descendant of that stern old Puritan, Captain Samuel Smith, who came from England to Boston in 1634, and shortly afterwards settled on the banks of the Connecticut River, in the vicinity of Hartford. Roswell, the subject of our sketch, received his preliminary education in a private school taught by Rev. Luke Whitcomb, of Townshend, Vermont, and at the early age of eleven years entered Middlebury College, and graduated in 1822. He then commenced the study of the law in the office of his kinsman, Hon. Daniel Kellogg, of Rockingham, Vermont, and was admitted to the bar in September, 1825, when but eighteen years of age. The fact that he commenced the practice in his native town three years in advance of his majority proves that he must have been a very precocious youth. He practiced in Windham County about fourteen years, and in 1835 and 1836 represented the county in the General Assembly of his state, and it is stated by a relative, who prepared a number of biographical sketches of the leading men of Windham, that while in the Legislature he wrote an able report in favor of abrogating the rule of the common law excluding atheists from testifying in courts of

justice. It is also stated upon the same authority that the special pleas which he drew and filed in the libel suit of Torrey *vs.* Field, reported in 10th Vermont Reports, were declared by Judge Story to be masterpieces of special pleading. He certainly had acquired considerable reputation as a lawyer before leaving Vermont, for, at the centennial celebration of Newfane, in 1874, the Hon. H. H. Wheeler, in responding to the toast "The judiciary of the state," referred to many of the able lawyers and judges of Vermont, and among them spoke of R. M. Field as "one of the brightest and ablest of the lawyers in the state and in the nation."

He was appointed postmaster of Newfane, May 1, 1826, and was state's attorney of his county from 1832 to 1835. Oscar L. Shafter, late associate judge of the Supreme Court of California, and who died in 1873, studied law with Mr. Field in Vermont. His removal to St. Louis in 1839 was induced, no doubt, by an event in his domestic life of a peculiar and romantic nature, which caused him for several years to lead a life of retirement and seclusion. This, doubtless, was the reason of his want of success for several years after removing to the West — indeed, we have heard him state on several occasions that during the first six years of his residence here his practice did not yield enough to pay his board bill, and he was forced to rely on remittances from his father.

Mr. Field was a ripe scholar, and could read the Latin, Greek, Spanish, French, and German languages with much ease, and spoke the latter with some fluency, having acquired its knowledge by boarding in a German family at St. Louis. In addition to being a good linguist, he was well versed in English literature, and had a fair knowledge of many of the sciences. These advantages, coupled with a good legal mind, could not otherwise than fit him for success in his profession.

The most important event in the life of Mr. Field occurred just prior to his coming West, and has reference to his marriage with Miss Mary Ann Phelps, of Windsor, Vermont. The circumstances attending the marriage were about these: She, when eighteen years of age, became engaged

to one Jeremiah Clark. In August, 1832, she made a visit to a Mrs. Bradley, at Brattleboro', Vermont, and during her visit became acquainted with Mr. Field, who knew of her engagement to Clark. She became highly pleased with Mr. Field, which necessarily weakened her affection for Clark, notwithstanding which she continued to write affectionate letters to him. Her mother had some intimation of what was going on at Brattleboro', and wrote to her daughter to return to Windsor. On October 14th, the night previous to her return, she had an interview with Mr. Field at the house of Mrs. Bradley, and they came to the conclusion to get married. The next day she started for home, Mr. Bradley and Mr. Field accompanying her, and when they reached the town of Putney the ceremony was performed. It seems that there was an understanding between them that she should continue on her journey home, and if, on reflection, she did not want to consummate the marriage, it should be considered null and void. On arriving home she failed to communicate to her family what had transpired, but on October 29th addressed a letter to Clark, who resided in Boston, to come immediately to Windsor, and on his arrival there she disclosed to him and her mother, brothers, and sisters her marriage with Field, and on the same day wrote to Mr. Field as follows:

"*To Mr. Roswell F.:*

"SIR: Moments of consideration and much reflection have at length caused me to see in its proper light the whole of my late visit to Brattleboro'. That I have been led by you and others to a course of conduct which my own reason, sense, and feelings entirely disapprove is now very clear to me. I therefore write this to say to you that I am not willing, on any account, to see you again; neither will I, by any course you can adopt, be prevailed upon to view the matter in a different light from what I now do. I leave you to the alternative of forever preventing the public avowal of a disgraceful transaction, of which you yourself said you were ashamed.

"MARY A. P."

On November 6th she addressed another letter to him, assuring him that her first letter contained her real sentiments, and on the 27th of the same month she married Mr. Clark.

A bill was then filed in the Chancery Court by Clark and his wife to declare the marriage with Field null and void, upon the ground that the contract was conditional, and not to be valid unless ratified by her, and that she had never ratified the same. Other reasons were assigned, but the case turned upon this point. It was contended on the part of Mr. Field that there could be no condition annexed to a ceremony of marriage. That it was a union of the parties, or nothing. The court held that the ceremony was not intended as a marriage *in præsenti*, to be followed by consummation and cohabitation thereafter without some future act or ceremony of marriage. This decision of the chancellor, upon an appeal to the Supreme Court, was affirmed.

This doctrine, that parties capable in law of contracting marriage can enter into a conditional contract, is so subversive of every principle of marital law that we are constrained to believe that the Supreme Court of Vermont was actuated more by a desire to save Mrs. Clark from the charge of being an adulteress than a wish to enforce the law upon that subject.

This incident in the life of Mr. Field had a marked effect upon his character, and almost made him a cynic. For years he withdrew from society, and scarcely ever mingled with the people. He ultimately married a Miss Frances Reed, of St. Louis, and after her death Mrs. Clark, whose husband had also died, visited St. Louis with the intention and desire of bringing about a reconciliation between herself and Mr. Field; but he declined an interview, and she returned to Vermont.

The reader will find a partial history of this case in the 13th Vermont Reports, page 460 and following.

In the view we take of this event in the life of Mr. Field, which is doubtless the true version of it, there is no ground upon which to censure him, notwithstanding he was advised of her engagement to Clark. Mr. Clark was a man of wealth, and Miss Phelps' family thought her marriage with him was most desirable, while her heart had been given to Mr. Field, who unquestionably loved her. If she returned to

Windsor without consummating her engagement with Field, the influence of her family would undoubtedly have induced her to marry Clark, and it would have been a marriage of interest and convenience, instead of affection. This theory of the case is supported by subsequent events, for otherwise she would not have visited St. Louis after the death of her husband and Mrs. Field, for the purpose of renewing her early pledge.

It may be said that this theory does not comport with the terms and character of her letter to Mr. Field, written after returning to Windsor; but we must bear in mind that she was a young and inexperienced girl, readily influenced by her family, and the letter itself bears the ear-marks of one far more skilled in matrimonial diplomacy than herself.

The fact that the parties were allied to many of the oldest and most influential families of Vermont and Massachusetts gave the case an unusual interest, and the press abounded in many criticisms upon the ruling of the Supreme Court. Many of the Field family belonged to the legal profession, and among them was an elder brother of R. M. Field, by the name of Charles K. Field, who was not only a fine lawyer, but a vigorous writer. We are unable to state whether he is still living.

The subject of our sketch was of tall, commanding figure, and dignified deportment. Among his personal friends he was very social and entertaining. His fondness for children was notable. He would often stop on the street to see the boys playing ball or marbles. He played on the violin and flute, and would often sit on the steps of his house, in the evening, and play on the violin to collect a lot of boys around him. The children in his neighborhood knew him well, and he would let them approach him on terms of the utmost familiarity. He was regarded generally as a very indolent man, but he indulged in as much physical exercise as most men. He was exceedingly fond of walking, and his long legs enabled him to get over a large space of ground in a short time. He visited the Law Library daily, and would walk up and down the room for hours, with his hands behind

him, and in each step would take in about four feet. When in his office or at his residence he spent three-fourths of his time in walking, and he could be recognized at the distance of several squares by his peculiar long stride.

As a real-estate lawyer Mr. Field had no superior at the St. Louis bar, and was generally retained in most of the important cases involving titles under Spanish grants. He brought the famous Dred Scott suit in the Circuit Court of the United States for the Eastern District of Missouri, which involved the question as to whether slaves were embraced under the word "citizens," in the Federal Constitution, and could claim the rights and privileges which that instrument provides for and secures to citizens of the United States. Mr. Field did not follow the case to Washington, but the argument made on the part of Dred Scott was no doubt prepared to some extent by him. Many of Mr. Field's briefs in important cases will be found in the Reports of the Supreme Court of Missouri. As a close, logical reasoner he was not excelled. He was not an orator, and made no effort at display in that field. His style was purely conversational. He seldom addressed a jury, and we are not aware that he ever delivered a public address; hence he has not left behind him any contemporaneous record of his speeches, and all we know of his legal arguments is what is contained in some of his printed briefs. Our acquaintance with him commenced in 1852, and we knew him well from that time till his death, which occurred in St. Louis about six or seven years ago. It was produced by a cancer in the stomach. He left two sons, now residing in St. Louis, one of whom is connected with one of our daily journals.

BENJAMIN M. LISLE.

Our acquaintance with the Jefferson City bar commenced in the winter of 1836–7, and among its members was Mr. Lisle, who was born in Green County, Kentucky, January 29, 1808. His educational advantages were not great, but he improved his mind by study and constant reading. He studied law in Kentucky, and obtained, in 1831, a license to practice there; but in the same year came to Missouri and engaged in mercantile pursuits, which, proving distasteful to him, he abandoned; then renewed his law studies, and commenced the practice in Jefferson City in 1833, where he remained till his death, which occurred February 18, 1845, near his thirty-seventh year.

On October 17, 1837, he was united in marriage to Miss Margaretta Jacoby, a lady of beauty and intelligence. To give the occasion as much dignity and solemnity as possible, the Hon. George Tompkins, judge of the Supreme Court, solemnized the rights, and the Hon. William B. Napton, present judge of the same court, acted as groomsman.

Mr. Lisle's life was too short to enable him to obtain distinction in his profession, but he ranked well at the bar, and his cheerful, happy disposition made him friends wherever he went, and secured him a good share of the practice. He was a fluent, persuasive speaker, and before a jury, quite effective.

We met him several times at Waynesville, attending the Pulaski court. Upon one of these occasions a large ball was had, attended by ladies from a half-dozen counties. A piece of ground was selected under the hill, and upon what is known as Roubodeaux Creek; the undergrowth was removed, and the ground made smooth by a heavy roller, and over it an arbor erected. It was understood that the entertainment would last several days, and on the day it opened, girls could

be seen coming in on every road, some barefooted, carrying their shoes in their hands. It was a gala day, and the "Ozark Range" sent forth its beauty to grace the occasion. No one enjoyed it more, or contributed more to the entertainment of others, than the subject of this sketch. He was the first on the ground, and the last to leave it. Among those who tripped it on the light fantastic toe, and led the fair ones through the mazes of the dance, were Governor John S. Phelps, Judge George W. Miller, Benjamin M. Lisle, Littleberry Hendricks, John S. Waddell, E. C. Horrill, General Livingston, L. Edwards, Peter Minor, and the author — to say nothing of "Old Horse" Allen, who sat near by on an old log, puffing away at an old cob-pipe, which sent up a column of smoke that would have done no discredit to a second-class pig-iron furnace. Who does not recollect the "Old Horse," the Ozark jurist who boasted that he could whip Governor Boggs and the Legislature thrown in, if they would give him a fair stand-up fight?

But this is no place to speak of the "Old Horse"— he deserves a chapter by himself, and he shall have it.

ROBERT WASH.

This gentleman, who became a judge of the Supreme Court of Missouri shortly after the organization of the state government, was a native of Virginia, and born in Louisa County, November 29, 1790. His parents were enabled to give him a better education than most young men of that day enjoyed, and sent him, when quite young, to William and Mary College, where he graduated in 1808, when only eighteen years of age. After pursuing a regular course of legal studies he was admitted to the bar, and at the close of the War of 1812 emigrated to the West, and opened a law-office in St. Louis.

During President Monroe's administration he served as United States district attorney for the district of St. Louis, and in that office acquired considerable reputation as a lawyer. He had some military experience before coming West, for during the War of 1812 he held the position of major on General Howard's staff, and was regarded and esteemed as a good officer.

After St. Louis became incorporated, Mr. Wash was elected a member of the City Council, and took an active part in inaugurating a system of improvements, having particular reference to the establishment of grades for the streets, and the laying down of suitable pavements and sidewalks. He also directed his attention to the improvement of the harbor and levee. He predicted, what afterwards came to pass, that, unless proper dikes were established, the channel of the river on the west side would become greatly obstructed by the formation of sand-bars. Other matters connected with the prosperity of the city received due consideration at his hands. Mr. Wash had an exalted opinion of the future of St. Louis, and invested his means in real

estate, which laid the foundation for an ample fortune, which he enjoyed through life.

He married twice, his first wife being a daughter of Major Christy, and the widow of Taylor Berry. By this wife he had one daughter, Frances, who became the wife of George W. Goode, Esq., then a member of the St. Louis bar. His second wife was Miss Eliza L. Taylor, daughter of Colonel N. P. Taylor, by whom he had several daughters and four sons. One of the daughters, Elizabeth C., married John Y. Page, Esq., and another, Mary Wynn, C. P. Ellerbe, Esq., both members of the St. Louis bar. His son Pendleton was killed in Virginia during the late war.

Judge Wash was not at the bar long enough to obtain much fame as a lawyer. We must, therefore, deal with him as a judge. His opinions, which will be found in volumes 1 to 5, inclusive, of the State Reports, show that his mind was regularly trained to the law. They abound in much good sense, and more or less legal research. Notwithstanding his classical education, they are entirely free from any attempt to display his learning. They are such as might be expected in a judge who was seeking to lay down the law of the case, instead of directing attention to polished diction. That he made an acceptable judge is generally admitted.

Judge Wash was, like most Virginians, exceedingly fond of the chase, and always kept a pack of hounds. The prairie adjoining St. Louis was at that day greatly infested with foxes. It is said that upon one occasion while he was on the bench, an attorney who understood the judge's proclivity for sports of the field whispered to him that they had started three at one time in the neighborhood of the judge's residence. He was immediately taken with severe *cramps* in the stomach, which rendered an adjournment of the court necessary. Within an hour he was in his saddle, following closely upon the heels of the hounds. These sudden attacks were of frequent occurrence, but the sound of the hounds ringing through the woods proved a most efficacious remedy. This love of the chase is peculiar to Virginians,

and they no doubt inherited it from their English ancestry, for as far back as history takes us the English people delighted in the sound of the horn and the music of the hounds. Sidney, an English writer of the sixteenth century, thus describes a stag hunt in his day:

"They came to the side of the wood, where the hounds were in couples, staying their coming, but with a whining accent craving liberty; many of them in colour and marks so resembling, that it shewed they were of one kind.

"The huntsmen handsomely attired in their green liveries, as though they were children of summer, with staves in their hands to beat the guiltless earth, when the hounds were at a fault; and with horns about their necks, to sound an alarm upon a silly fugative. The hounds were straight uncoupled, and ere long the stag thought it better to trust to the nimbleness of his feet than to the slender fortification of his lodging; but even his feet betrayed him; for, howsoever they went, they themselves uttered themselves to the scent of their enemies, who, one taking it of another, and sometimes believing the wind's advertisements, sometimes the view of — their faithful counsellors — the huntsmen, with open mouths, then denounced war, when the war was already begun. Their cry being composed of so well-sorted mouths that any man would perceive therein some kind of proportion, but the skilful woodmen did find a music. Their delight and variety of opinion drew the horsemen sundry ways, yet cheering their hounds with voice and horn, kept still as it were together. The Wood seemed to conspire with them against his own citizens, dispersing their noise through all his quarters, and even the nympth Echo left to bewail the loss of Narcissus, and became a hunter. But the stag was in the end so hotly persued, that, leaving his flight, he was driven to make courage of despair; and so turning his head, made the hounds, with change of speech, to testify that he was at a bay: as if from hot persuit of their enemy, they were suddenly come to a parley."

Judge Wash died in November, 1856, having just completed his sixty-sixth year. He resigned the office of judge of the Supreme Court in May, 1837. He was a good-hearted man, fond of society, and dispensed hospitality with a liberal hand.

In early life Judge Wash was a warm personal friend of Colonel Benton, and they corresponded for many years. Among the papers of the judge now in the possession of his widow is a letter from Colonel Benton, March 14, 1821, nearly sixty years ago, in which he announced his intended marriage. As everything coming from the distinguished Missourian has a public interest, we append the letter:

"LEXINGTON VIR.
"*March 14th, 1821.*

"MY DEAR SIR,

"I owe it to the interest you have taken in a great *affair* of mine to let you know the progress of it. I do this with pleasure and pride because what I have to say will be both agreeable for me to tell and for my friends to hear. It is no less than that, long before the drowsy and heedless postboy shall transport you this scrawl — that is to say, in six days from this 14th day of March, which will be Tuesday the 20th day of this same March (if there is any truth in the almanacs of the Ancient Dominion,) your friend *Benedict* will cease to belong to the order of bachelors! Time, which Time puts an end to everything, has even put an end to my endless courtship, and in the month of May I shall hope for the happiness of imparting a part of my happiness to all my friends in St. Louis, both male and female, by presenting to them *one* who is *everything* to me, and I hope will be *something* to them.

"In the meanwhile I make, constitute and appoint you, in conjunction with my well tried, much beloved and trusty friend, Jeremiah Cowan, Esq., to spread this joyful intelligence when and where it shall behove me to make it known.

"Thine,
"THOMAS H. BENTON."

The letter bears the following superscription:

"*Lexington Va. 14th, March.* *Free. Thomas H. Benton.*

"ROBERT WASH, ESQ.,
"*St. Louis,*
"*Missouri.*"

And has this indorsement:

"Rec'd April the 20th."

JOHN BENT.

This gentleman was a son of Judge Silas Bent, former judge of the United States District Court at St. Louis. John Bent was born in Virginia, May 31, 1803, and received his education at Cannonsburg College, Washington County, Pennsylvania. After being admitted to the bar in Missouri, about 1824 or 1825, Judge Carr appointed him clerk of the Circuit Court of Jefferson County, which made it necessary for him to reside in Herculaneum, then the county-seat of that county. Under the law as it then existed he became, also, *ex officio*, recorder of the county. After holding this office about a year he resigned and returned to St. Louis, when he received the appointment of justice of the peace, at that time an office of no little honor.

In 1828 he was elected by the people a representative in the State Legislature, and by his urbane manner and fine powers of declamation soon acquired influence as a representative. On his return from the Legislature he was appointed circuit attorney for the St. Louis Circuit, the duties of which office he discharged faithfully and ably from six to eight years.

Mr. Bent married Miss Olivia McClelland, of Boone County, Missouri, by whom he had two daughters and a son, the latter now a Baptist minister stationed in some part of Kentucky.

Mr. Bent died in Callaway County, Missouri, May 18, 1845, at the age of forty-two years. His death was occasioned by an injury received from the overturning of a coach in which he was traveling.

While engaged in the practice of his profession in St. Louis he was regarded as one of the most promising young lawyers in the state, and his friends anticipated for him a bright future. He had many elements of a successful law-

yer, but his genial and social habits interfered greatly with his studies, and he made but little improvement after passing his thirtieth year.

With the people of St. Louis and the adjacent counties he was very popular, and they never denied him any office he asked for. To this day he is often referred to as a whole-souled, generous gentleman, and a kind and obliging friend.

Mr. Bent was at times very happy at a retort. He was once summoned as a witness in the Jefferson Circuit Court, to testify as to an affray which he accidentally witnessed. On the day he was examined he had dined out with a few friends, and had partaken quite freely of the liquids provided for the occasion. When called upon to testify, he felt very drowsy, and a young attorney who undertook the cross-examination, without knowing Mr. Bent, interrogated him as follows:

"What is your name, witness?"

"My name is Bent."

"Your first name, if you please?"

"John Bent."

"You are drunk, are you not?"

"A little under the influence of wine. I will soon get over it, however; but you will never get over being a d—d fool."

The judge fined Mr. Bent $5 for using profane language in court; but the young attorney paid more dearly for his impertinence, for he never got over the name of "Bent's d—d fool." It stuck to him through life.

It is said that wine sharpens the wit of most men. It is certainly true that no subject affords so great a field for genuine wit as that of temperance. A few years ago an old lady, impelled by curiosity, visited the penitentiary at Jefferson City, and in going the rounds, attended by one of the guards, noticed each convict; but one, a fine-looking young man, attracted her particular attention. After eying him very closely through her glasses, she remarked to the guard, in the hearing of the convict, "I think ardent spirits must have had something to do with bringing this young man

here." "You are right, my good lady," said the convict, "for the judge and jury who tried me were all drunk."

Edwards alludes to a reply made by General Erastus Roote, who was lieutenant-governor of New York under Governor Yeates. On New Year's day he called (as was the universal custom at that time) upon the governor to pay his respects, and partook quite freely of some good old brandy which the governor had placed on the sideboard. The governor exclaimed, "Ah, General, that is your worst enemy." "Yes, Governor," replied the general, "but you know we are commanded to love our enemies."

Edwards gives us another upon Chancellor Kent. The chancellor was a very temperate man, and when a candidate for lieutenant-governor of New York some temperance people wrote to him for a declaration of his views on the use of ardent spirits. He wrote in reply, praising temperance, giving his own example in illustration of his estimate of its value, saying he had drank only one glass in five years, etc., but ended by saying that he must in truth declare that the principal reason why he had not drank another glass was that the one glass gave him the gout for a fortnight, and he intended not to deprive himself of the right of having the gout, or getting drunk, as often as he pleased.

RICHARD S. THOMAS.

Of the early life of this gentleman there is nothing known. He came to Upper Louisiana as early as 1815, and settled in the practice of the law in Cape Girardeau County. In 1817 or 1818 he was appointed circuit or district judge, and remained on the bench until 1824, when he was impeached and removed by the Legislature.

He was a large, portly man, with pompous and disagreeable manners, which made him exceedingly unpopular with the bar and the people; and in addition to this he was overbearing and tyrannical, and seemed to take particular pains to make himself obnoxious to suitors, witnesses, and all others who attended his court. It is said, however, that when in the company of those whom he fancied, he could make himself pleasant and affable. His unfortunate disposition was attributed by some to domestic difficulties, which to some extent was no doubt true.

After his removal from office he returned to the bar, but did not succeed in his practice, and soon became very intemperate.

On his way to one of the courts in his circuit he was thrown from his horse and killed.

L. HENDRICKS AND C. S. YANCEY.

It will be obvious to the reader why we make these gentlemen the subjects of a single sketch.

In 1833 two young men crossed the Missouri River at Boonville, and wended their way on foot to the extreme south-western part of the state. As they entered the village of Springfield, in Greene County, each with a small bundle of clothes suspended at the end of a stick which they carried over the shoulder, they presented a most forlorn appearance. Upon inquiring of the village landlord if there was an attorney in the place, they were informed that "no such animal had yet made its appearance in those diggins, and that the people had no use for laws or lawyers." This was very encouraging to Littleberry Hendricks and Charles S. Yancey, who were in search of a location to practice. They were strangers in a strange and benighted land, without means enough to buy a good dinner at a fashionable restaurant. Hendricks was very diminutive in stature, and in appearance exceedingly unprepossessing. Yancey was large, fine looking, with an open and pleasant countenance. Both had read Blackstone and Kent. Both had some knowledge of the statutes, and were as familiar with justices'-court practice as they were with the holes in their socks, or the patches on their butternut-colored breeches. It was very rare that a circuit court was held in that region, for all matters of difference were settled in justices' courts or by wager of battle. The domain belonged to Uncle Sam, and those who had squatted on his lands were "tenants by sufferance." The inhabitants had but little property, and if they could raise enough corn to make their bread and feed their cattle, and kill enough game to supply them with meat, they were content. The justice of the peace was not only a dispenser of the law, but a maker of the law; for by common consent he took jurisdic-

tion in all matters either in law or equity, and woe be to the man who had the audacity to question his authority. A plea to his jurisdiction subjected the bold attorney to fine and imprisonment for contempt.

Surely this did not offer much of a prospect to these young disciples of Blackstone, but nevertheless they determined to pitch their tent in the city of the Ozark Range. The only books to which they had access were the statutes and a dilapidated copy of Blackstone.

In 1840 we traveled over a large part of Missouri on horseback, and spent one or two days in Springfield, and there made the acquaintance of both of them, who were then enjoying a fair practice, and were rising rapidly in the profession. The Springfield Circuit took in at least one-third of all the country south of the Missouri River, and Mr. Yancey was appointed its judge, and Mr. Hendricks prosecuting attorney. Mr. Yancey held the office till his death, but at what time he died we are not advised; but he had not reached the meridian of life. He made a very excellent and popular judge, was fair and impartial in his decisions, and enjoyed the full confidence of the people. He was an open-hearted and generous man, and in his intercourse with others, social, pleasant, and attractive. He was a great favorite with the bar, and it was very rare indeed that he had occasion to fine an attorney for contempt of court.

Nothing tends so much to make the practice of the law agreeable as a reciprocal feeling of kindness and confidence between bench and bar, and the absence of it always leads to the obstruction of business and the delay of justice.

Judge Yancey's death was greatly lamented by the people of south-western Missouri, and no one felt the blow more than Mr. Hendricks, for they had commenced their professional lives together under the same adverse circumstances, had practiced in the same courts, and a warm affection had always existed between them.

Mr. Hendricks, however, was in every respect a different man. He had none of Judge Yancey's social qualities, but was reserved, distant, and not easily approached. He be-

came a good lawyer, and was very successful, for he prepared his cases with much care, and was seldom caught napping. He took in his range of practice almost the entire south-western part of the state, and towards the close of his life not unfrequently attended courts in three different circuits. He was not an interesting speaker, and seldom relied upon declamation as a means of success. His forte was in the examination of witnesses, in drafting instructions, and getting his case before the jury in the best light that the facts would admit of.

Mr. Hendricks was a decided Whig in his politics, which afforded him but little chance for political honors, for the state was Democratic, and his part of it overwhelmingly so.

When James Winston was put forward by the Whigs, in 1844, as their candidate for governor, Mr. Hendricks was placed on the ticket with him for lieutenant-governor. He was, also, on several occasions placed on their electoral ticket, and was regarded as the leading man of the party in the south-western part of the state. It has been stated that Mr. Hendricks at one period made Warsaw, Benton County, his home. It is certain that he attended the Benton court.

After Hamilton R. Gamble became provisional governor, he appointed Mr. Hendricks judge of the Fourteenth Judicial Circuit. He discharged the duties of the office with marked ability and great satisfaction. But the position in which he rendered the greatest service to his adopted state was as a member of the Constitutional Convention which was begun and held at Jefferson City on February 28, 1861, and subsequently at St. Louis.

We have already stated that this Convention was called in the interest of secession, and to force the state into the Southern Confederacy; but when the election for delegates took place, a patriotic sentiment had seized the public mind, and a large majority of the Convention were found on the side of the Union. Though born in a slave state, Judge Hendricks stood manfully by the government.

He died in Springfield on January 10, 1863, at the age of sixty-three. The Convention was then in session, and upon

hearing of his death adopted a series of resolutions, two of which we here give:

"*Resolved,* That in the death of Judge Hendricks this Convention has lost a valued and able member, whose intellect and unyielding devotion to the Constitution and laws of the country rendered him an able, efficient member of this body; that by his death the nation has lost a devoted patriot in this dark hour of her history, the society in which he moved an ornament, and his family an affectionate husband and father.

"*Resolved,* That in testimony of our appreciation of the deceased, and from due regard to his memory, this Convention will now adjourn until to-morrow morning at nine o'clock, and that the members wear the usual badge of mourning during the present session."

Judge Hendricks was born in Virginia, about the year 1800, and in early life was a mechanic — a brick-mason — and before settling in Springfield was for a short period a clerk in the office of Abiel Leonard, at Fayette, Howard County. He was a man of spotless integrity, and exceedingly liberal in his charities. He placed but little value upon money, and never sued a client for his fee. He took a bold stand in favor of temperance reformation, and both wrote and lectured upon the subject. He was a member of the old Washingtonian Society, and afterwards joined the Sons of Temperance and the Good Templars.

THE GORDONS.

These talented brothers spent almost their entire professional lives in Columbia, Boone County, Missouri. They were sons of David and Jane Boyle Gordon, and were born in old Millford, Madison County, Kentucky, the former in 1798 and the latter in 1810, making about twelve years difference in their ages. Their father was a native of North Carolina, but came to Kentucky at a very early time, and there married Jane Boyle, sister of Judge John Boyle, who for many years was chief justice of the Supreme Court of Kentucky. The mother of our distinguished jurist, Judge Wash Adams, of Boonville, was her sister, and Boyle County, Kentucky, was named after Judge Boyle. David Gordon was a resident of Madison County, Kentucky, about thirty-six years, and in the fall of 1826 moved with his family to a farm near Columbia, Boone County, Missouri, where he died in 1849. The education of the two brothers was extremely limited — indeed, it is said that James' entire schooling did not exceed eighteen months. John's was somewhat better, and when he became of age he opened a small school, and taught about eighteen months. He was in the habit of boasting that in this way he obtained his early education; but it is known that with the little money he acquired from teaching, and by the aid of Colonel William H. Carpenter, an eminent lawyer in Richmond, Kentucky, he was enabled to attend the university at Lexington about fifteen months. After leaving college he entered upon the study of the law with Colonel Carpenter, and was admitted to the bar of Kentucky in 1824. In the following year he married Miss Sophia Hawkins. She came from good Revolutionary stock. Her father, Nicholas Hawkins, a native of Virginia, served in the army under Washington, and was at the battle of Yorktown, and witnessed the surrender of

Cornwallis. He died in 1816. Mrs. Gordon is still living, at the venerable age of seventy-three.

In 1826 John B. came with his father to Missouri, and commenced the practice of the law in Columbia, in partnership with the late Governor Austin A. King. Leonard, Hayden, Wells, Clark, Jameison, Kirtley, Davis, Rollins, Adams, McBride, Todd, and perhaps others, were his contemporaries at the bar.

At that time the two great political parties were about equally divided in Boone, and the Whig party availed itself of Mr. Gordon's ability as a stump-speaker to further its cause. In August, 1838, he was their candidate for the Legislature, and was elected by a small majority. He served in the Legislature five successive terms, and greatly distinguished himself as an orator. It was, no doubt, through his exertions that Boone became the banner Whig county of the state. It was not, however, simply as an orator that he obtained reputation, for he soon enjoyed a large practice at the bar, and was regarded as one of the ablest and most successful lawyers in the state. His reputation was by no means confined to his own circuit, for he was often retained in cases pending in other circuits.

As an advocate he was almost invincible before a jury of central Missouri. He was not only fluent, logical, and impressive, but exceedingly popular with the people, and it was difficult to impanel a jury without containing one or more of his attached friends, who felt the strongest disinclination to find a verdict against him. Both brothers were men of great probity and unflinching integrity, which greatly added to their influence.

By act of the Legislature of 1838, the State University was to be located in one of five counties, and the one which would subscribe the largest amount of money for its endowment. Mr. Gordon took a deep interest in procuring its location in Columbia, and canvassed thoroughly the surrounding country, and with the aid of that accomplished lawyer, James S. Rollins, and a few others, obtained a subscription of $120,000 — an amount almost incredible when

we take into consideration the sparse population and limited resources of Boone at that time. It was located in Columbia, and has ever since been a source of great pride to the people of Missouri. We take pleasure in here stating that one of its present learned professors, Boyle Gordon, Esq., is a son of John B. Gordon.

In the spring of 1840 John B. made a visit to his old home in Kentucky, and, wishing to obtain some respite from the labors of the practice, and to recruit his health, remained there three years, devoting a portion of his time to the further study of the law. During this time several students availed themselves of his instruction; among whom was Samuel Miller, one of the present judges of the Supreme Court of the United States. He often said that young Miller was one of the clearest-headed students he ever examined. Mr. Gordon was always fond of instructing young students in the law. His brother James was one of his students, and also his nephew, General O. Guitor, who enjoys a high reputation as a lawyer.

In the fall of 1843 John B. returned from Kentucky, and took up his residence on a farm near Columbia. He only partially resumed the practice, preferring to spend his time in instructing his children, and other young men who read law under him. He resisted all attempts to bring him again into public life.

He died upon his farm, in February, 1853. He left four sons, the eldest of whom, Boyle Gordon, we have already mentioned as a professor in the University. He was appointed professor of law in 1872, and still holds that position. A second son also studied law, and gave promise of much brilliancy, but became deranged, and has been so ever since. The remaining sons are practicing lawyers in Boone County. He also left two daughters, both of whom married.

At one time, and while a member of the Legislature, John B. Gordon became somewhat intemperate, and as a rebuke to him his party refused to renominate him; but he ran as an independent candidate, and, notwithstanding the Whig party had from 1,000 to 1,500 majority, he was triumphantly

elected. He took his seat at the session in which Colonel Benton was reëlected to the United States Senate. When the election took place, and Mr. Gordon's name was called, he deliberately rose from his seat and cried out, "Old Tom Benton, by G—d!" His Whig friends were astounded, and when called upon for an explanation of his vote, he said "that he was elected by three classes of voters, and he aimed to represent each class." The first class embraced the intelligent and respectable Whigs, and to represent them he voted for all the leading Whig measures which came before the House. The next class were the saloon-keepers, and to represent them he voted against the prohibitory bills. In the third class were his good Democratic friends who had supported him, and without whose votes he could not have been elected, and to represent them he voted for "Old Tom."

In his lectures to law students he fixed upon a high standard of morality. He contended that every student should become well versed, as a part of his legal education, in moral science and mental philosophy — favorite themes with him at all times.

With but little education, James M. Gordon commenced the study of the law in the office of his brother, John, in 1833 or 1834, and the first book that his preceptor placed in his hands was "Paley's Moral Philosophy." This he literally devoured, and then took up Coke, Blackstone, and other standard authors. Having a fine constitution, he devoted nearly sixteen hours per day in close study. He read nothing but law, not even the newspapers of the day. He was licensed to practice in August, 1836. He had been previously elected judge of the County Court, and served in that capacity two years. He was elected to the office of circuit attorney, and prosecuted in his circuit for a term of twelve years, giving great satisfaction to the people — for he was a most vigorous prosecutor, and a terror to all evil-doers. He mastered the criminal law, and few criminals in his district escaped punishment. Having no literary taste, his reading was confined to the law, and in the law he became very profound.

In 1852 and 1860 he was elected to the lower house of the General Assembly, and in 1862, to the State Senate, the district embracing Boone and Callaway Counties. He retired from the practice of the law in 1865, and having amassed a competency, settled upon a farm, and devoted the remainder of his days to agriculture.

He died suddenly from heart disease, February 21, 1875. He was never married.

James M. Gordon was the legal preceptor of several of the ablest lawyers of Missouri; among them, Governor Charles H. Hardin, who studied with him two years, and who entertains the highest reverence for his memory. Charles H. Hughes, of Ray County, studied with his brother, John. Others whose names we cannot recall owe to the Gordons much of their professional success.

With popular and promiscuous assemblies few men exercised greater powers as a speaker than John B. Gordon. When it was known that he intended to address the people on political subjects, they went *en masse* to hear him, and his speech was received with one continuous applause.

In 1834 a distinguished lecturer on phrenology visited Columbia, and at the conclusion of one of his discourses proposed to establish the truth of his philosophy by a public examination of the heads of any of the audience who might step forward. John B. Gordon, at the urgent request of some friends, walked upon the platform, and the professor, upon placing his hand upon his head, turned to the audience and remarked, "This is an honest man; and I am willing to rest the truth of phrenology upon the statement." The house resounded with an approving plaudit. There is a bare possibility that the lecturer had seen Mr. Gordon before, but Mr. Gordon had no recollection of ever being in the presence of the lecturer until that night. This circumstance is significant, not only as evidence sustaining the truth of the science, but as evidence of the high appreciation of Mr. Gordon by the people of Columbia as an honest and upright man.

CHARLES FRENCH.

There are very few of the old citizens of central Missouri who have not a personal recollection of this lawyer, who practiced many years in Lafayette and the adjacent counties. Of his early life very little is known, for he seldom alluded to it; and, as he never married, there is no descendant or blood relation who can speak of his boyhood or early days.

It is known, however, that he was born in Dunstable, Hillsboro' County, New Hampshire, about the year 1797, and received a good English education, but never took a collegiate course. He must have studied law a part of the time in New Hampshire, for he came to Missouri before he attained his majority, and shortly afterwards obtained his license and located in old Franklin, where he practiced some time, and traveled the circuit with Todd, Leonard, Hayden, Ryland, and others.

In 1839 he left old Franklin and settled in Lexington, Lafayette County, where the most of his professional life was passed. He took, in his practice, all the counties of central Missouri, and attended very regularly the sessions of the Supreme Court. As a lawyer he was well read, and greatly excelled in special pleading, which afforded him many advantages.

Upon the introduction of the Code, simplifying the system of pleading, he became very indignant, and in and out of court showed the most profound contempt for it. In the attempt to modify the system and get rid of many of the subtleties of pleading, the Legislature went to the other extreme, and by one fell swoop abolished pleading altogether. It enacted (with very few exceptions) that the only plea that a defendant was required to file was a simple denial of the plaintiff's demand. It made no disclosure of his intended

defense, tendered no issue, and left the court and jury to grovel in the dark with respect to the matter they were to try. So absurd was its practical operation that the Legislature was forced to repeal it, and to substitute what is known as the New York Code, with such amendments and modifications as experience proved necessary.

Mr. French was in no sense an orator, though his style of speaking was lucid, strong, and argumentative, and before a court or jury at times very impressive. He was a man of fine personal appearance, at least six feet high, well proportioned, and would readily attract the notice of a stranger. In his manner he was distant and reserved, but by his acquaintances easily approached, and his attachment to his friends was warm and steadfast.

We are not aware that he ever held any public position, though Governor Boggs tendered him the judgeship of his circuit, which he declined. Towards the close of his life, and after spending many years in the South, he became despondent and melancholy, and at times imagined that there was a purpose on hand to assassinate him. This continued to prey upon his mind, and in a fit of mental derangement he cut his throat while visiting a friend in the vicinity of Lexington, and thus terminated his life. At the time of his death he must have been near sixty-five years of age.

WILLIS L. WILLIAMS,

One of the most eminent and popular members of the St. Louis bar, was born in Williamsboro', North Carolina, December 28, 1809. He was a graduate of Amherst College, and received a finished education. Soon after graduating he repaired to Washington City, and commenced the study of the law in the office of Joseph Bradley, a distinguished lawyer of that city. The chief object in going to Washington was to enable him to attend the debates in Congress—an advantage that few students are permitted to enjoy. He attended the sessions almost daily, and scarcely ever missed being present on any important debate. He kept a memorandum-book by him, and noted down the peculiarities of each speaker, which was of great aid to him in the study of elocution. He heard Webster, Clay, Calhoun, and Benton in some of their finest efforts, and his admiration of Webster and Clay was unbounded. While he could not hope to rival either, yet he made them his model. We have often heard him say that he would rather be a Clay or a Webster than to sit on the proudest throne of Europe. His admiration of these distinguished men no doubt determined his political *status*, for during life he was a steadfast and consistent Whig.

Mr. Williams first located in the practice in Paris, Tennessee, the abode of some of his relations, and in a short time received the appointment of prosecuting attorney for that circuit; but the location did not present such a field for an ambitious young lawyer as he desired, and in 1842 he removed to St. Louis, where he remained till his death. His genial habits and attractive manners soon brought him many warm friends, and he at once entered upon a successful professional career. The revising session of the Legislature of 1844–5 brought together at the state capital a body of men who have not since been excelled for

high professional attainments. Among them were Mr. Williams, Hamilton R. Gamble, DeWitt C. Ballou, Sinclair Kirtley, Charles J. Hughes, Benjamin F. Stringfellow, Richard F. Richmond, Bela M. Hughes, Gilchrist Porter, John D. Coalter, and many others of prominence. We had the honor of representing in part the county of Franklin, and there first met Mr. Williams, who soon became one of the acknowledged leaders of the House. His fine personal appearance, winning manners, and unrivalled conversational powers made him a favorite with the members, and it was no easy matter to defeat any bill of which he was the author and advocate. He took a deep interest in everything that pertained to woman's rights, and introduced several bills to protect their property from the creditors of the husband, some of which became laws, and are now on our statute-book. Whenever it was known that one of Mr. Williams' bills was to come up for consideration, the lobby became crowded with ladies, and he would lead off in one of those beautiful strains of eloquence for which he was renowned. The ladies would wave their handkerchiefs, and loudly cheer him. Sometimes they would assemble in the lobby in large numbers, and would petition him for a speech, when he would call up one of his bills to entertain them. With this lobby influence, and his personal popularity, he exercised a power in legislation which was never acquired by any other man before or since in this state. He was a very handsome man, dressed neatly and with much taste, and in conversation he was brilliant and entertaining. Upon the stage he would have made a star of the first magnitude. His fund of humor and anecdote was inexhaustible, and in whatever company he was thrown he was its life and spirit.

We recall one incident which, though trivial in itself, tends to show his resources for fun and amusement. During the session of the Legislature just referred to, mesmerism was at its height, and afforded much merriment at all parties and social gatherings. Upon one of these occasions we accompanied Mr. Williams, and found assembled about twenty ladies and half the number of gentlemen. Mr. Will-

iams for that evening was to be the master of ceremonies, and when the time arrived for the curtain to rise, he placed a chair in the center of the room, and invited any one who wished to be mesmerized to take the seat. Several accepted the invitation, and finally a very modest young lady, and as beautiful as she was modest, cried out, "You can't put me to sleep, Mr. Williams." "Let me try," said Williams; and with the grace of a Chesterfield he conducted the young lady to the chair, and after a few manipulations she began to draw a long breath, and soon her eyelids closed. "Now," said Mr. Williams, "I will satisfy the most skeptical in the room that mesmerism is a fixed fact, an established science, and as capable of demonstration as astronomy or any other admitted science. Now, you all know if this young lady was sensible of what was transpiring, she would not let me, a married man, kiss her; but now I will approach and salute her, and when she is aroused from her trance she will be totally unconscious of what has transpired;" and, suiting the action to the word, he approached the chair and gave the subject a smack upon the lips which might have been heard half a square. Not a muscle of her face moved, and to all appearances she was as inanimate as a piece of chiseled marble. Governor Gamble and the author were invited by Mr. Williams to partake of the feast, for it was a feast fit for the gods. How could we decline, for both of us were enlisted in the cause of science. In turn we repeated Mr. Williams' experiment, with a like result. Mr. Williams then took one more taste of the nectar, and by a reverse motion of his hand aroused the young lady from her quiet dream, and asked her if she knew what had transpired. *Of course* she did not. After leaving the house in company with Mr. Williams, the first thing he said was, "*Is not mesmerism a delicious humbug?*"

There was a charm about Mr. Williams that few men could resist. It proceeded from his pleasant manners, unsurpassed conversational powers, and his copious fund of humor and anecdote. He would relate anecdote after anecdote, and keep a company in a roar of laughter, while he himself

looked as grave as a judge passing sentence of death upon a prisoner. It was one of his greatest delights to make all who came in contact with him look upon the bright page of life. To drive dull care away was his forte and province.

Mr. Williams was very enthusiastic in everything he undertook. During the latter part of the session a religious revival took place in Jefferson City, embracing all denominations, and in which a very deep interest was felt. Mr. Williams attended all the meetings, frequently addressed the assembly, and was doubtless the cause of many conversions. No one doubted his sincerity, for he had not a deceitful hair in his head. He was naturally a religious man, though we are not informed as to whether he ever made any formal connection with the Church.

His heart overflowed with kindness to all mankind, and he cheerfully gave up his last dollar to the call of charity. There was nothing on earth that he would not do for a friend, if in his power. He gave far more cheerfully than he received. His practice was large, and brought him a good income; but he knew nothing of the value of money, and never could lay up anything for a rainy day. He looked at the bright side of everything, always seemed happy, and tried to make every one else happy.

As a lawyer he ranked high at the bar, and was generally retained in important land suits, for he had given that branch of the law his chief attention. As a speaker he possessed many of the qualities necessary to lead the passions of a jury. His diction was pure, his gesticulation easy and natural, his voice clear and well modulated, and at times he was impressive and eloquent.

In the case of Miss Fant *vs.* Dr. Wells, of Lincoln, a breach of promise case pending in the Warren Circuit Court, his address to the jury was regarded by the bar as a masterpiece of forensic display.

In society no man was so popular, and he was in constant demand at all public and private dinner-parties, for he excelled all others in entertaining a company. His responses to a toast were always happy and appropriate, and

not unfrequently very instructive. His constant attendance upon occasions of this kind no doubt brought on the disease which terminated his life.

He never sought office, but rather avoided it, and we are not aware of his holding any except those above mentioned, and the office of city counselor of St. Louis, which he held in 1856, though he was selected by President Fillmore as one of the annual committee to visit West Point.

He died in St. Louis quite suddenly, on March 29, 1857, in his forty-eighth year.

Two or three days before Mr. Williams' death he was engaged in the argument of a cause in the Supreme Court, apparently in his usual health, but suffering from a pain in his side, resulting from some disorganization of his liver, and it was only on the day of his death that serious apprehensions were entertained in regard to his condition. His death, therefore, fell upon the community with great surprise, and was a great shock to his friends.

It is usual on such occasions for the bar to assemble to pay a tribute of respect to the memory of the deceased, which often is an unfeeling and empty honor; but not so on the occasion of Mr. Williams' death. The court-room in which the meeting was held was densely crowded, and among the audience could be seen the faces of the oldest members of the profession. As one after the other rose to express their profound sorrow, and proclaim his many virtues, not a dry eye in the room could be seen. It was a most solemn occasion, and elicited tributes from Edward Bates, Charles D. Drake, John M. Krum, John D. Coalter, J. F. Darby, N. D. Strong, L. V. Bogy, Wilson Primm, A. J. P. Garesché, and others who had known him during his professional life and were in the habit of meeting him daily in the court-room. We give a few extracts to show the high estimate they placed on him.

Edward Bates, as chairman of a committee to draft resolutions expressive of the sense of the meeting, in making his report, said:

"With the single exception of one man at the St. Louis bar, I am now the oldest member of it. As was said by an able man, 'I stand in the midst of posterity.' I am surrounded by my juniors in age and in the profession. I have witnessed from time to time the passing away of a great number of our brethren, beginning with the very first who ever practiced common law in Upper Louisiana — Easton and others — many of whom have been lights of the profession, and excellent examples for those who followed; several of whom, at least, have not been surpassed by any of the profession west of the Mississippi. They are all gone. It seems to me as if I were walking among the gravestones of my former associates. * * * I have known Mr. Williams from the first month of his residence here; a man of warm impulses, of active heart; sometimes impulsive, but even then it occurred to me his fault leant to virtue's side. His success at the bar shows at least his qualification, and even when he gave offense, as we all sometimes do, the kindness of his heart won back the affections of him he may have offended. Mr. Williams belonged to a family remarkable for their success in life — many of them eminent in their old native state of North Carolina, some since in south Tennessee, and he was pursuing here a course that might have rendered illustrious his own name."

The Hon. Charles D. Drake, now presiding justice of the Court of Claims at Washington City, thus alluded to him:

"I think we do no more, Mr. Chairman, than simple justice to our deceased brother in the resolutions which have been presented. I think that he was in many respects a very remarkable man — certainly remarkable in the amiability of his disposition, in his uniform courtesy, in his genial courtesy, which made him an associate beloved by those with whom he was associated. He was, as a mere lawyer, much above mediocrity; and, sir, I feel, for one, that our bar cannot at any time lose such a man without sustaining a loss that is not easily repaired."

Colonel L. V. Bogy, late United States senator, followed with some very feeling remarks. We give a short extract:

"I knew Willis L. Williams when I was a practitioner; we were frequently associated together, and I can bear this testimony to him: a more upright, generous, more noble man I never met. That Mr. Williams was the creature of impulse we all know, but he had no mean impulses. He had no low and groveling, unworthy, ungenerous impulses; they were such as always have something redeeming about them. That he was a lawyer of more than ordinary abilities cannot be denied. He was a man of genius, and endowed with a fine intellect."

Other members of the bar addressed the meeting, and all spoke of him in terms of the highest praise. A committee

was appointed to present the resolutions of the meeting to the several courts of record, with a request that they be spread upon the records.

General J. D. Coalter was appointed for the United States Circuit Court, and, in presenting them to the court, said, among other things:

"His abilities gave him unusual success. Possessed of an acute mind and great powers of discrimination and research, his argument fell with weight upon the ears of judges learned in the law, while with jurors his copious flow of language, warm with his own ardent and generous feelings, found ready and favorable reception. Thus gifted, his success was far above ordinary. But not less than his abilities as a lawyer were his social qualities. His kindness of heart; his ready, cheerful, ofttimes brilliant, conversational powers; his ability to enter into and contribute largely to the enjoyment of the hour, endeared him greatly to his associates."

Albert Todd, who for a quarter of a century has been an eminent lawyer at the St. Louis bar, presented the resolutions to the Land Court, and we here give a few lines of his address:

"The decease of our brother is singularly affecting and impressive to us all. While he would compare well with our most experienced brethren in professional abilities, he excelled them all, in my humble estimation, in agreeable social qualities. His was a rare spirit for relieving the hard and dry work of professional labors with the enlivenment of a dry humor and cheerful jest. All of us were glad to quit any labor, however pressing, to enjoy the cheerful entertainment of his inexhaustible anecdote and pleasing reminiscences."

Judge Wilson Primm, who has very recently passed from our midst, tendered the resolutions to the Criminal Court, and paid a most beautiful tribute to the memory of the deceased. Said he:

"Willis L. Williams, a brilliant star in the profession to which we belong, an ornament to the society in which he moved, a kind father and fast friend, has been suddenly snatched away from our midst, even as the magnificent tree is uprooted and shattered by the sudden and unexpected storm. The memory of those departed, although ever mingled with sadness, still yet retains a shade of pleasure: sadness, because of the loss of those whom we have known and loved; and pleasure, because of the recollection of those traits of character which caused us to love and admire.

"Such are the feelings of the members of the St. Louis bar toward their deceased brother. They grieve that one of their number, in the prime of life, in

the onward way to distinction in his profession, should, by a decree of an inscrutable Providence, be wrested from their midst. But it is a pleasure to them when they remember that, in all his walk of life, his friends could proclaim him a lawyer in the amplest sense of the term, a gentleman, and a Christian. A long and intimate association as his room-mate taught me to appreciate his qualities of heart and mind, and now that he is cold in death, and cannot hear my words, I feel a joyful satisfaction in saying that in every relation of life he was a man."

At the time of Mr. Williams' death we were absent from St. Louis, and consequently prevented from mingling our voice with those who deeply and sincerely mourned his death.

"Death steals along with silent tread,
Found oftenest in what least we dread;
Frowns in the storm with angry brow,
But in the sunshine strikes the blow."

JOHN F. RYLAND.

Nothing connected with these memoirs has afforded us more gratification than the opportunity they furnish to place upon record even a meager sketch of one of God's noblemen, the late John F. Ryland, of Lexington, Missouri, whose whole life was spent in doing good to his fellow-man, whose mind was a store-house of varied learning, and whose bright judicial career has done so much to adorn the jurisprudence of our state.

We knew him long and well; saw him in all the relations of life; practiced before him when he graced the bench of the Supreme Court; and, when by the voice of the people we were elevated to the same position, had the pleasure of listening to many of his fine forensic efforts.

Judge Ryland bore the judicial robe with a dignity suited to the high and responsible position — neither strained nor assumed, but easy, natural, and commanding. He was born a gentleman, and to assume anything else was revolting to his nature. No sudden change in life, no sudden elevation to power, effected the slightest change in his habits or demeanor. The pleasant and affable manner in which he greeted every person who approached him made him a universal favorite with the people and the bar. Nothing could give him more pain than the thought of having said or done anything to wound the feelings of another.

John Ferguson Ryland was born in King and Queen County, Virginia, near the banks of the Rappahannock, on November 2, 1797, and was the oldest child of Joseph and Rosamiah Molly Ryland. When he was but twelve years of age his father moved to Richmond County, Kentucky, and shortly after died, leaving a widow and seven children. They lived on a small farm, the cultivation of which was their chief reliance for support.

John was fond of books, had read much, and took great delight in imparting to other boys the information he had thus acquired. When he was sent out to work with other hands, he would frequently get on a stump, with all hands around him, and relate the wonderful deeds of Julius Cæsar, Hannibal, and other famous warriors of antiquity.

His mother soon discovered that his knowledge of ancient history was of no particular advantage to the cultivation of the farm, so she determined to give him a good education, and sent him to Forest Hill Academy, in Marion County, Kentucky, then under the superintendence of Samuel Wilson, Esq., a fine scholar and linguist; and at this institution he acquired a thorough knowledge of Latin, and in fact became very well versed in the classics. Through life he could read Latin with as much fluency as his own language, and his knowledge of ancient history was wonderful.

To show his gratitude to his mother for affording him these advantages, he applied himself to the education of his younger brothers and sisters; and, to enable him to do so to advantage, opened a school, and at one time had as many as 120 scholars, among whom was that accomplished scholar and orator, Major James S. Rollins, of Columbia, Missouri. In after-life, when both became distinguished, the judge, in the presence of his pupil and several friends, remarked in a jocular way that the first letter the major learned was the letter I, and it would be the last he would forget.

Judge Ryland read law in Kentucky with Judge Hardin, and although he obtained a license to practice in that state, did not enter upon his profession until he came to Missouri, in 1819. He settled in old Franklin, Howard County, and traveled the circuit with Todd, Leonard, Gamble, *et al.*, and in our sketch of Peyton R. Hayden is mentioned as one of the chief conspirators in the plot to rob Judge David Todd of the affections of the buxom widow.

Judge Ryland soon obtained a lucrative practice, which continued until 1830, when he was appointed judge of the Sixth Judicial Circuit, a position he held for eighteen con-

secutive years, proving himself one of the ablest *nisi-prius* judges that ever graced the bench of Missouri. Upon his appointment he moved to Lexington, in Lafayette County, which continued to be his residence throughout life.

In 1848 he was appointed judge of the Supreme Court, which position he held till 1857, when he returned to the practice, which he continued until his death, on September 10, 1873. In 1866 he was induced to take a seat in the Legislature, but the incessant party wrangling and strife which usually prevails in a body of that kind proved very distasteful to him, and after serving one session he returned to Lexington, with a determination never again to engage in legislation.

Judge Ryland was excessively fond of the law, but his kind heart and pacific disposition often led him to discourage suits which in his opinion were calculated to engender strife and bad feeling among neighbors and in families.

We give one instance, which is only one in a hundred: A man belonging to an influential family called upon him to institute a suit against a brother for slander. The judge listened attentively to his complaint, and then told him to go home and fall on his knees three times a day for a week, and pray to God to forgive him for harboring so unkind a feeling for his brother; and if at the end of that time he was still determined to institute the suit, to return to him, and they would consult further about it. The man looked at him with amazement, and remarked, "That is strange counsel for a lawyer to give." "Yes" said the judge, "but it is the best I can now give you." Before the expiration of the week the man returned, and told the judge that he had concluded not to bring the suit.

He was often called upon to settle disputes among neighbors, and was often heard to say that he would rather give $100 out of his own pocket to avoid a suit between neighbors than to gain $500 by the prosecution of one.

Such was the confidence reposed in his high appreciation of what was just and fair between parties that, when any matter of difference was referred to him, all acquiesced in his

decision as the only fair and proper solution of the difficulty.

When the Rebellion broke out, he did not hesitate to side with the Union; but, anxious to adopt any plan that would arrest the threatened calamity, he advocated the "Crittenden Compromise." He regarded the war as a great national calamity, and could hardly speak of it without evincing a deep, heartfelt distress. It no doubt shortened his life by many years. In one of his law-books was found, after his death, in his own handwriting and signed by him, the following paper:

"War, always corrupting to republics; may our country from henceforth forever, with honor, escape its horrors — especially the horrors of civil war."

In politics the judge was a Democrat, but always manifested a proper respect for the opinions of others. We have on several occasions heard him say "that it was necessary, under our form of government, that there should be at least two great political parties — one to watch the other."

He was a member of the Old School Presbyterian Church, and died in the full faith of a glorious resurrection. He was an honored member of the Masonic fraternity, and filled the position of grand master of the Grand Lodge of Missouri for two years.

Judge Ryland was one of the finest historians of his day, and took great delight in rehearsing his early recollection of Kentucky and Missouri. In speaking of the rapid growth of St. Louis, he once remarked that while on a visit to the city, in 1825, he was riding out one afternoon on a fine horse, and halting on Third Street, not far from the location of the old City Hotel, an acquaintance accosted him, and said, "I will give you forty arpents of land (mentioning the tract) for your horse." Ryland, remembering his family far away up the Missouri River, and that his only means of reaching them was by the faithful animal thus coveted, replied, "I would not trade my horse for your whole town." The land offered is now in the heart of the city, and worth many millions of dollars.

Judge Ryland lived a good portion of his life upon a farm, but he could not be called a successful farmer, for, like Edward Bates, he often said that it took all that lawyer Ryland could make to support farmer Ryland. He was married twice; raised a large family of children, twelve of whom are still living. Three of his sons are practicing lawyers.

Judge Ryland was a man of a very high sense of honor, and of the most noble and generous impulses. He could not pass a beggar on the street without giving him something. His heart was always bleeding for the troubles and tribulations of others, and his innumerable charities, added to the expenses of a large family, kept him poor through life. The kindness of his heart extended even to animals, for he could scarcely ever be induced to sell a horse or cow for fear they might fall into the hands of some one who would not bestow upon them the kind treatment they were accustomed to.

It is no easy task to estimate the value of such a life as Judge Ryland's. Twenty-seven years on the bench, actively engaged in administering the law, without a murmur of complaint from any source, speaks louder in his praise than any language we can employ. His death created a profound sensation throughout the state, for no man was better known, and none more universally reverenced.

When we saw him last he had reached an age which few of us can hope to attain, yet his mind continued active and vigorous. The loss of such a man is a public calamity.

The first opinion delivered from the supreme bench by Judge Ryland was in case of Bryan *et al. vs.* Steamboat Pride of the West, reported in 12th Missouri Reports, page 371, in which it was held that, under the statutes of this state concerning boats and vessels, no lien attaches upon a boat for money borrowed by the master to pay the debts of the boat. The case, which was argued by Mr. Geyer for appellant, and Gamble and Bates for appellee, involved an important question, and drew from Judge Ryland quite an elaborate opinion.

The duty of writing the opinions of the court in criminal

cases, particularly when life was at stake, was generally imposed upon him, for the reason that he was an adept in criminal law, and had given that branch of the profession more time than his associate judges. His opinions, however, in capital cases are liable to much criticism by reason of their prolixity — an error to be attributed to his anxiety to justify himself in pronouncing the sentence of death.

Take, for example, the case of The State *vs.* Worrel, reported in 25th Missouri Reports, in which we prosecuted for the state, and obtained a conviction of murder in the first degree. Major Uriel Wright, who appeared for the defense, took an appeal to the Supreme Court, and relied for a reversal upon two supposed errors of the court below, one of which related to the qualification of a juror, and the other to the overruling of a motion for a continuance — neither having any relation to the merits of the case. Yet the judge embodied in his opinion all the evidence taken, consuming upwards of forty pages of the volume of the Reports. It is patent to any one who will read the decision that his object was to show the enormity of the offense committed, for it was one of the most aggravated cases of cold-blooded murder that the annals of crime furnish.

THE BARTONS.

These brothers obtained an enviable distinction at the St. Louis bar, even prior to our admission into the Union as a state. They were born in Green County, Tennessee, of poor but respectable parentage, and with very limited educational means. As neither of them ever married, they left no one to inherit their names or impart any information respecting the time of their birth, or to give any incidents of their boyhood. They came into our territory at an early period, and David, the senior of his brother, was an Indian ranger in the War of 1812. Joshua studied law in the office of Rufus Easton, but we are unable to give the time when either was admitted to the bar.

Colonel Easton predicted that David would make his mark in the field of oratory. This prediction was soon verified, for he became so noted as a forensic speaker that his party almost by acclamation elected him as the first senator from Missouri. He was then the most popular man in the state. Colonel Benton was elected as his colleague, but by a majority of only one vote. Prior to Mr. Barton's elevation to the Senate he was chosen a delegate to the State Convention called to frame a constitution preparatory to our admission as a state. The Convention met in 1820, and Mr. Barton was selected as the presiding officer.

His fame as a debater preceded him to Washington, and the first speech he made in the Senate attracted universal attention. It was during the delivery of this speech that he acquired the name of "Little Red." A man in the gallery, who was known as a sportsman and chicken-fighter, became so elated by his eloquence that he cried out at the top of his voice, "Go it, my little red!" From that day he was scarcely known among his friends by any other name, and through life he exhibited, himself, a partiality for it.

He was a small man, of low stature, with broad shoulders

and high forehead, and an intellectual cast of countenance. For a man of his defective education, he had a good command of language, but what gave him his chief reputation as an orator was his sarcasm, invective, and wit. When he chose to employ these against an adversary, he was terrific and overpowering. In logic and deep thought, and in general information, his colleague far excelled him, but was his inferior in imagery, pathos, and vehement declamation.

Joshua, though far less eloquent, was more profound in the law, and more of a logician. Mr. Bates frequently expressed the opinion that Joshua Barton had the best legal mind at the St. Louis bar, and he was not alone in that opinion.

David Barton served ten years in the Senate, and then became a candidate for the House of Representatives, and was defeated by Spencer Pettis. He was supported by the old Adams party, in consideration of the support he gave Mr. Adams in his contest for the presidency, against General Jackson, in the House of Representatives in 1825. Though elected to the Senate as a Democrat, he urged John Scott, who was the sole representative from Missouri, to cast the vote of the state for Mr. Adams. Colonel Benton strongly advocated the election of Jackson, and this brought about an estrangement between the two senators. A letter upon this subject, written by Mr. Barton shortly after the election, will be found in the Appendix. Neither Scott nor Barton were ever able to reinstate themselves in public favor, and both were forced to retire from public life. Mr. Barton, however, served in the State Senate for a short period, about 1834–5.

We have omitted to state that David Barton at one time was judge of the Circuit Court, but resigned in December, 1817. He never made much reputation as a jurist. During most of his public life he was very intemperate. He died near Boonville, in Cooper County, in September, 1837.

For a short time after the state government was formed, Joshua Barton was secretary of state, and resigned the office to accept the appointment of United States district attorney. On June 30, 1823, he was killed in a duel on Bloody Island, by Thomas C. Rector.

William Rector, brother of Thomas, was at the time sur-

veyor-general of Illinois, Missouri, and Arkansas, and while absent in Washington City, on official business, an anonymous communication appeared in the *Missouri Republican*, charging him with corruption in office. Thomas C. called on the editor for the name of the author, and was informed that it was Joshua Barton, and he promptly challenged him. They met late in the afternoon, and fought with pistols, at ten paces. Barton fell at the first fire, and immediately expired. He was shot through the heart.

Many anecdotes are told of David Barton, but a few must suffice. Upon one occasion he was arguing a question of law before the Supreme Court, when Judge Tompkins interposed with, "Stop, Mr. Barton. Do you call that law?" "*No*, may it please your honor," replied Mr. Barton, respectfully bowing, "*but I did not know but that the court would take it for law.*"

Mr. Barton esteemed men for their own, not their ancestral, merits. Once, at a public table in old Franklin, Judge ——, of Virginia, was fluently exhibiting his pride of ancestry as only a Virginian can, when Mr. Barton, who sat some distance off, turned to an acquaintance opposite, and, addressing him in a tone loud enough to be heard by all, said: "W., do you know my horse Pomp?" "Oh, yes," replied W. "Well, sir," continued Mr. Barton, imitating the judge's peculiar tone and manner, "he is the finest horse in the United States. I have tried him under the saddle, and I have tried him in the carriage; I have tried him in the plow, and I have tried him in the wagon; and in none of these places is he worth a d—n! But he is the finest horse in the United States. *It is in the blood, sir; it is all in the blood!*"

Mr. Barton was by no means tidy in dress, and when visiting among friends, carried with him no clothing — not even a change of shirt. On one occasion, in Boone County, a friend with whom he was stopping brought him a clean shirt, which he took into an adjoining room to put on. The garment had a cotton body and a linen bosom, and this struck Mr. Barton's sense of propriety. He at first hesitated

about putting it on at all, but then concluded to put it on *back in front.* Having effected the change, he came out adjusting the collar, and said, "*Look here, S., this shirt is a d—d fraud, and I don't mean to be a party to it!*"

Judge Barton, while on the bench, lived at old Franklin, and held one of his courts there. In the same place lived an old magistrate by the name of Cole, for whom Cole County was named. Esquire Cole was a great admirer of Judge Barton. Upon one occasion, while the judge was holding his court in an old log house, it was raining very hard and the roof leaked, and the rain came dripping down upon the judge. Esquire Cole saw it, and climbed up in the loft and attempted to turn the leak. In doing so a board dropped from his hand, and he commenced swearing. The judge directed the clerk to enter a fine of $1 against Esquire Cole for contempt of court in swearing in his presence. This offended the esquire very much, and a few days afterwards the judge was passing the house where the esquire was holding his court. Cole called him in, saying, "I want to tell you how I have decided a case, and I want your opinion upon it," stating the case. Judge Barton replied, "You are a d—d fool." "I fine you $5, Judge Barton, for swearing in my court," said Esquire Cole. The judge laughed, and acknowledged the hit, and their friendship was renewed.

JOSEPH B. WELLS,

Brother of Judge Carty Wells, was a native of Virginia, and born in Prince William County, September 10, 1806. In 1810 his father moved to Shelby County, Kentucky, where Joseph received a good English education. In the fall of 1827 the family removed to St. Charles County, Missouri; but in 1833 or 1834 Joseph went to Warren County, and entered as an assistant or deputy in the office of his brother, who was then clerk of the Circuit Court of that county, and, *ex officio*, clerk of the County Court. Upon the resignation of his brother, Joseph succeeded him in both offices. While with his brother he studied law, and after holding the office of clerk of the court for a short time, resigned, and entered upon the practice of the law in Warrenton, and continued to practice in that circuit until 1845 or 1846, when he removed to St. Louis, and became the law-partner of William M. Campbell; but, before leaving Warrenton, represented Warren County in the Legislature. Upon the death of Mr. Campbell, in 1849, Mr. Wells made a partnership with Judge Buckner, but his health began to fail, and he was advised by his physican to try a change of climate, and in 1851 he left St. Louis and went to San Francisco, California, and became the law-partner of J. B. Crockett, who is now, and has been for many years past, a judge of the Supreme Court of that state.

Upon the dissolution of the firm, Mr. Wells and Henry H. Haight, afterwards Governor of California, formed a partnership, and practiced together until the health of Mr. Wells became so feeble that he was forced to relinquish the practice altogether. He then commenced traveling; came to Missouri, and, while visiting his relatives in Troy, died on December 31, 1858, at the age of fifty-two.

We were well acquainted with Mr. Wells, and formed a

very favorable opinion of him as a lawyer. He was industrious, energetic, and persevering, and an ardent student. After his admission to the bar he applied himself more closely to his studies than before, and became a well-read lawyer. He was also quite successful, for he studied his cases thoroughly, and was scarcely ever forced into a trial unprepared. His clients reposed the utmost confidence in him, as they had good reason to do, for he was true and faithful to them. Mr. Wells was a vigorous, fluent, and earnest speaker, and presented the facts of his case to a jury in as forcible a light as they would admit of. As an advocate we thought him too excitable, but no interruption threw him off his guard, nor did the weakness of his case draw from him any appearance of a want of confidence in the result. He had many of the elements of a good lawyer, and if his physical ability had been equal to his mental, he would have made a fine reputation. As a member of the Legislature he rendered good service on several important committees, and when on the floor was listened to with interest; for, though a decided party man, he never indulged in the abuse of his opponents, nor did he make any factious opposition to measures of a local character.

Mr. Wells was a man of very feeble constitution, and through life was battling against pulmonary consumption, to which disease he finally succumbed. He never married.

JOHN W. NOELL.

Among the lawyers from south-east Missouri whom we often met in the Law Library of St. Louis, during the sessions of the Supreme Court, was General Noell, who practiced in Perry and in the adjoining counties, and whose residence was at Perryville. He came to St. Louis at each session of the Supreme Court, to prepare his briefs and argue his cases.

There is no place in St. Louis in which lawyers congregate in larger numbers than in the room occupied as a law library, for, although it is a private institution, and supported by a semi-annual tax imposed on its members, yet, by courtesy, attorneys from other parts of the state have the privilege of the books, and this brings them in contact with the local bar.

General Noell made good use of it, and hence, while in the city, we met him almost daily, and found him a genial and social gentleman.

He was born in Bedford County, Virginia, February 22, 1816, and received a very limited education, such only as he could obtain in the "old-field" schools of that state. At the age of seventeen he came with his father to south-east Missouri, and settled in Perry County. At that time it had not entered his head to study law, for, on approaching his majority, he married, and followed various pursuits, such as milling, store-keeping, etc., in all of which he failed; and at the age of twenty-five, through the urgent solicitations of his wife, whose good sense enabled her to see in him the elements of professional success, studied law. In the following year he was appointed clerk of the Perry County Circuit Court, which office he held until 1850, when he was elected to the State Senate. The proceedings of the Legislature of

that period show that he took an active part in the principal debates, and was placed on some of the most important committees. He served a full term of four years.

In 1858 he was elected to Congress from his district, and reëlected for two successive terms, and died, in Washington City, on March 14, 1863, before the expiration of his term.

In 1850 the Native American party obtained the ascendency in many parts of Missouri, but Mr. Noell opposed it with great vehemence, and addressed the people in most of the south-eastern counties; and the canvass he made on that occasion gave him an introduction to the people, and a good reputation as a stump-speaker, and it is not improbable that it paved his way to a seat in Congress.

General Noell made no particular reputation in Congress, but was a fair member, and very attentive to the interests of his constituents, which they fully appreciated by the cordial support they gave him.

When the Rebellion broke out he took a firm and decided stand for the Union, and supported all the measures of the Administration tending to preserve the unity of the states. Though a strong Democrat, he knew of no party obligation that required him to stand in hostility to Mr. Lincoln's Administration in its efforts to preserve the integrity of the country. He knew no parties but the Union and anti-Union, and, though he had always lived in a slave state, arrayed himself on the side of his government.

We heard him make several oral arguments in the Supreme Court, and upon each occasion was impressed with the clearness of his mind, and his thorough knowledge of his case. He had a clear, distinct enunciation, and, though never eloquent, was impressive and logical. He excelled chiefly as a criminal lawyer, and in that sphere was greatly aided by his knowledge of men; for he mingled freely with the people, and showed great shrewdness in impaneling a jury.

General Noell was full of human sympathy, exhibited a tender regard for the sufferings of his fellow-man, and kept

his purse open to the poor and indigent. It is not strange, therefore, that his popularity was so great with the masses. As a tribute to his memory, they selected his son to succeed him in Congress.

General Noell was a tall, spare-made man, plain in his dress, and unostentatious in his manners. A stranger could approach him with an assurance of a kind reception.

THOMAS E. NOELL,

Son of John W. Noell, and to whose seat in Congress he succeeded, was born in Perry County, Missouri, on April 3, 1839, and received a good English education at St. Mary's Seminary, an institution of learning in Perry County.

Intending to follow the profession of his father, he entered the latter's office as a student, and in due time was admitted to the bar, and settled in Dubuque, Iowa, expecting to make that his permanent home. He was induced to remove there by the urgent solicitation of some relations who resided in Dubuque, and thought it a more desirable location for an attorney than Perryville. But the rigorous climate of Iowa was illy adapted to his constitution, and before he had been there a year he was attacked with bronchitis, a disease prevalent in his family, and he was advised by his physician to seek a milder climate. He therefore returned to Missouri, formed a partnership with his father, and upon the latter's entering Congress took charge of almost the entire business of the firm. He applied himself closely to the practice until the outbreak of the Rebellion, when he enlisted in the state militia, and was appointed major of one of the regiments; but was shortly after commissioned as captain in the regular army, and joined the Nineteenth Indiana Infantry.

In 1863, after the death of his father, he returned to Missouri and discharged the duties of a mustering and disbursing officer, and continued to do so until 1864, when he was elected to Congress from the same district which his father had represented. In 1866 he was reëlected, but died before the expiration of his term — a strange coincidence, that one should succeed the other, and both die in their congressional harness. His death occurred at the Sisters' Hospital in St. Louis, on October 3, 1869, in the thirty-first year of his age. The death of Mr. Noell was one of those sad events that

often make us wonder, if not murmur, at the decrees of Providence.

Upon the death of his father he became the sole support of a doting mother, a fond sister, and three little brothers, and devoted his entire life to promote their welfare and happiness. His deep devotion and self-sacrificing disposition caused him to endure many privations that he might be able to administer to their wants and comfort. Why, then, should he be called away in the morning of life, and in the midst of his usefulness? God no doubt does what is best for us, but our weak and feeble intellect cannot always comprehend the wisdom of His decrees.

The personal characteristics of Mr. Noell were much like those of his father. He had the same kindness of heart and sympathetic feeling, and exhibited the same readiness to assist the poor and unprotected. He would rather give than receive, administer than be administered unto. He was a stranger to selfishness and deceit.

We never saw him at the bar, but those who practiced in the same circuit speak well of his legal abilities, and his faithfulness to his clients.

"Men appear upon, and disappear from, the stage of life, as wave meets wave and parts upon the troubled waters."

HAMILTON R. GAMBLE.

We now invite the attention of our readers to a brief sketch of the career of one of the most distinguished lawyers of the West, and who, in the opinion of many, stood at the head of the Missouri bar.

Hamilton Rowan Gamble, late provisional governor of the state, was born in Winchester County, Virginia, November 29, 1798, and was of Irish descent, his grandfather having emigrated from Ireland to Pennsylvania in 1753.

His education was chiefly obtained in Hampden Sidney College, Prince Edward County, Virginia, and we presume was liberal, and to some extent classical. He must have commenced the study of the law at a very early period, for he was admitted to the bar in three states before reaching his majority.

He first contemplated settling in Tennessee, and for several months had a law-office in that state, but soon determined to come further west, and in 1818 came to St. Louis; but, finding the prospect for a practice there not very favorable, he removed to old Franklin, in Howard County, which was then one of the most attractive points in the territory of Missouri. At that time Howard and St. Charles were the only organized counties north of the Missouri River, and each larger in territory than some of the New England states. Shortly after locating in Howard he was appointed prosecuting attorney. And when we reflect that the duties of his office required him to travel on horseback thousands of miles every year, without access to any law-books except such as he could carry in his saddle-bags, we may well estimate the amount of labor he must have performed, and the difficulties attached to his office.

It was while residing in old Franklin that he contracted dissipated habits, and his friends had good reason to appre-

hend that he had become a confirmed drunkard. A somewhat favorable change must have soon taken place, for in 1824 Governor Bates appointed him secretary of state, which rendered it necessary for him to remove to St. Charles, then the seat of government. The death of Governor Bates, soon after, induced Mr. Gamble to settle in St. Louis, which city became his future residence for life, and there, at a bar consisting of such men as Geyer, Bates, Benton, McGirk, Barton, Lawless, and others, he soon took the highest rank, and maintained it till his death.

In 1827 he married Miss Coalter, of South Carolina, one of several sisters, all of whom were united in marriage to men of distinction. There is a piece of romance connected with this marriage which does not seem to be well authenticated, and for which we do not pretend to vouch, but, as it received credence with a large number of the friends of all parties concerned, we give it for what it is worth; for, if true, it evinces on the part of Edward Bates a disinterested friendship which does the highest honor to his head and heart. It is said that Mr. Bates fell deeply in love with Miss Coalter, and offered her his hand, which she, with due consideration for his feelings, declined. Mr. Bates was a fine-looking man, and one of the most promising young lawyers at the bar, and considered an excellent match for any lady; and, being somewhat surprised at the refusal, pressed Miss Coalter for her reason. Her high appreciation of Mr. Bates led her to disclose to him in confidence the fact that Hamilton R. Gamble already had her heart, and that she only withheld from him her hand because of his dissipated habits. Mr. Bates, with a magnanimity that characterized him through life, immediately sought an interview with Mr. Gamble, and frankly told him what had passed between him and Miss Coalter, and insisted upon it that he should from that day make a solemn pledge never to taste another drop of ardent spirits; which pledge Gamble gave, and he was soon after united with Miss Coalter in marriage. Mr. Bates then addressed and married another sister, and Gamble and Bates became

partners in the practice of the law, and were bosom friends till separated by death. Both marriages resulted most happily, and Mr. Gamble became one of the most exemplary men in his habits that the bar could boast of.

Governor Gamble's success as a lawyer can hardly be said to have commenced until his return to St. Louis, but from that time until he retired from practice he was retained in almost every important suit pending in the St. Louis courts — followed them to the Supreme Court of the United States, argued them in person, and obtained a high reputation as a jurist. His mind was clear, logical, and thoroughly balanced, and when he closed his argument upon any legal proposition in which he took an interest there was little left to be said by those who followed him. As a mere jury lawyer he could not be said to be successful, for he made no pretensions to oratory, relying solely upon a clear, concise, and correct statement of facts, and the law as applicable to the facts. He was slow in his eunciation, and often hesitated in the use of language, but never failed to make himself thoroughly understood by both court and jury. As his practice was mostly confined to important land suits, he seldom had occasion to address a jury.

We never had the pleasure of hearing Governor Gamble make an argument in any important case, but our judgment of his standing as a lawyer is derived from the position that was universally assigned to him by his professional brethren, and from his printed briefs and arguments, and his opinions delivered while on the bench of the Supreme Court, embraced in volumes 15 to 20, inclusive, of the State Reports.

Probably no one knew him better, or was more thoroughly conversant with his professional ability, than the Hon. Thomas T. Gantt, one of the most eminent jurists of the Missouri bar. Mr. Gantt practiced with him many years at the same bar; and at a meeting of the St. Louis bar, called, immediately after the death of Governor Gamble, to take action in reference to the great loss sustained by the profession, Mr. Gantt thus alluded to him:

"As a lawyer he was well and deeply read. The clear, logical mind which nature gave him had been enriched and disciplined by close and various study. A singularly retentive memory enabled him to apply, with scarcely an effort, the stores of his vast learning. He had the faculty of discovering, almost at a glance, the strength and the weakness of every case which was laid before him. He never manifested any affection for the weak points of his own case, but he seldom failed to try every rivet and joint of the armor of his enemy in those parts where his admirable sagacity led him to suspect that it was vulnerable. It was not often that his attacks were directed against a point where the armor was of proof, and, if the part assailed were indeed penetrable, it was well-nigh impossible to baffle the skill and force of his assault. His presentment of the strength of his own cause was in all respects excellent. He did not fatigue the court or jury by trivial points, or a rambling discourse which left his hearers doubtful what his own notions of the merits of his case really were. He boldly and plainly staked his success on the strong points of his cause."

No one who knows Judge Gantt will charge him with uttering fulsome praise of any one, and the above extract from his speech will be accepted as a fair and true statement of Governor Gamble's professional characteristics.

The same view was taken by the Hon. John M. Krum and the Hon. Samuel T. Glover, both eminent lawyers of the bar, who addressed the same meeting.

Governor Gamble had no taste for poetry or light literature, or the arts of rhetoric, but in many of the sciences was very proficient, and delighted in close research and deep investigation.

In the winter of 1832–3 Judge Carr was called before the Legislature upon charges of impeachment, and Mr. Gamble and Henry S. Geyer appeared in his defense; and the argument of Mr. Gamble on that occasion attracted attention throughout the state, and received high encomiums from the press.

In 1846 he was induced to take a seat in the Legislature, and it was there that, as a representative from Franklin County, we first formed anything like an intimate acquaintance with him. It was the revising session, and the people of St. Louis called upon him with great unanimity to take a seat in that body, knowing that his services in the revision of the laws would be very valuable. No man in the Legisla-

ture was more universally esteemed, for, instead of being austere and reserved, he was on good terms with all, and had a good word to say to every one who approached him; and if anything came before the House which elicited merriment, he enjoyed it immeasurably.

Upon one occasion a bill was presented to reduce the salaries of the governor and judiciary. It provided that the salary of the governor should be $1,000; that of a supreme judge, $800; and a circuit judge, $600. It was a buncombe measure, and was supported by about twenty-five Democrats and the entire Whig vote, Governor Gamble not excepted, for he then affiliated with the old Whig party. To test the strength of the measure, we moved its indefinite postponement; but our motion failed by twenty votes, and it became evident that, unless we could beat our opponents in parliamentary tactics, the bill would pass. About this time a Democratic senator approached us with the *pleasant* intelligence that, unless we defeated the bill in the House, the Senate would not take the responsibility of opposing it. We managed, before a vote could be taken on its final passage, to procure an adjournment, and, as we passed out of the Capitol, overtook Mr. Gamble, and asked him how he could conscientiously vote to give a governor $1,000 and a supreme judge $800. "Why," said he (laughing till his sides shook), "there is not a judgeship in the state filled by a Whig, and if you Democrats want to reduce the pay of your own officers, how can you expect that we Whigs, who are stripped of all official patronage, shall oppose you?" And again he laughed heartily at our apparent distress.

That night, while lying in bed and ruminating over the probable passage of the bill, the thought occurred to us that we might probably defeat it by attaching to it the State University at Columbia, which was a favorite institution with the old counties, nearly all of which were represented by Whigs. At that time the president of the University was receiving $2,500, besides house-rent and servant-hire; and no professor received less than $1,200. We immediately rose from the bed, and prepared an amendment reducing the salary of

the president to $1,000, dispensing with all perquisites, and limiting the pay of all other officers to $600. Shortly after the House convened on the next day, the bill was called up, and we offered our amendment, which proved a perfect bomb-shell, for no Democrat who had been voting for the bill could consistently oppose the amendment. We never shall forget the distress it gave old Dr. Jewell, a Whig member from Boone, and a most excellent and worthy member. He rose and addressed the House, with his eyes overflowing with tears, and said "he had not supposed that there was a man on that floor who had any unkind feeling against so good an institution as the University;" and, evidently not understanding the object of the amendment, became so overpowered with emotion as scarcely to be able to give utterance to his thoughts—in fact, he wept with all the simplicity of a child. At the conclusion of his remarks we moved the indefinite postponement of the bill and amendment, and our motion prevailed by a large majority, thus getting rid of a most serious, and what might have been a damaging, piece of legislation. When we met Mr. Gamble again, he remarked, "Well, I did not think you were so much of a Yankee. Your amendment came very near putting an end to the existence of old Dr. Jewell, and it scattered our Whig friends in every direction."

During that winter mesmerism was in high vogue, and Mr. Gamble attended all the private meetings, and seemed to be highly amused at the exhibitions—not that he had any faith in it, but it afforded a pleasant way of passing his leisure hours.

In 1851 Mr. Gamble was called almost by acclamation to the bench of the Supreme Court, became presiding justice, which position he held for about four years, during which time he settled many doubtful questions, and delivered many opinions which were characterized by great learning, research, and legal acumen. The labors of the office became too onerous for him, and in 1855 he resigned.

Governor Gamble was too much devoted to his profession, and too fond of domestic life, to entertain any desire for

public position; and it was only when a strong appeal was made to his sense of duty that he accepted any office, and then only held it until he could frame a reasonable excuse for retiring.

But the great event of his life, and which will hand his name down to posterity as a public benefactor, was his administration as provisional governor of Missouri. Before the difficulties of the country assumed any magnitude, Governor Gamble spent most of his time in Pennsylvania, where he was educating his children; and while there the Legislature of the state, containing an overwhelming majority of secessionists, passed an act providing for the call of a State Convention, ostensibly to take into consideration the relations of the state towards the Federal government, but in reality to pass a secession ordinance, and drive Missouri into the Rebellion.

As the cloud of dissension, anarchy, and misrule began to spread over the state, he became alarmed for the fate of his beloved Missouri, hastened home, and on the day of his arrival in St. Louis found the streets full of armed men, and the Sub-Treasury closely guarded by a detail of government troops. On the face of every man he met was depicted anxiety and alarm. A meeting of the citizens was called for the next night, at the court-house, and Judge Gamble, by the most urgent appeals, attended and delivered a brief address, in which he proclaimed his devotion to the Union and his fealty to the government. From a newspaper report of his address we quote the following, as evidence of his strong attachment to the Federal Union. Said he:

"No questions of sufficient importance had ever come up to call him forth from the quiet life he had chosen; but at this fearful crisis of the country's history, when our dearest rights and liberties are endangered — when the blessed Union under which we have enjoyed so much, and prospered so greatly, is threatened — he could not remain silent. * * * Those who made our state their home came here because, as American citizens, they could enjoy those rights and immunities which other countries did not offer them. They came where they could be protected in all their rights; and thus it is that this great state has grown up and prospered. It is all in consequence of the Union. It is an instance of unexampled prosperity. And look at the

great confederacy of states. Did the sun ever shine on a happier or more prosperous nation than the United States six months ago? We were in entire harmony, and projecting great measures for improvement and internal progress. This great nation, with its various climates and soils, with its hills and vales, prairies and savannahs, is calculated to benefit every class of our people. Why, then, in the name of Heaven — in the name of everything that is sacred and holy — shall the Union be broken up? Why shall brother be arrayed against brother, and state against state? Why shall war rage? Why should we engage in conflict with those with whom we have lived as brothers for nearly a century? Why, like children, shall we break this Union to pieces and squander it? * * * There can be no Union without the Constitution, and those who would destroy the one must destroy the other. But there is no necessity for injuring either. If any man's rights have been violated, they can be redressed in the Union, and under the Constitution. The rights of no states have been violated so as to cause a dissolution of this confederacy. If the laws have not in all cases been executed, then it is the fault of those whose business it is to execute them. If any states should place obstructions in the way of the execution of the laws, then this evil should be redressed in the Union. It cannot be remedied out of the Union. What is there to justify the breaking up of this government, or the tearing down of the only fabric of constitutional liberty ever erected? What is to be gained? [A voice: 'Nothing.'] Nothing under heaven can be gained. Then, let us stand in the Union, and by it, under all circumstances. Let us stand where our fathers stood."

Thus spake Hamilton R. Gamble, as only a patriot could speak whose heart was overflowing with love and gratitude to his country.

It was by such appeals addressed to the intelligence and patriotism of the people that the Union party succeeded in obtaining a large majority in the Convention.

The Convention assembled at Jefferson City on February 28, 1861, but, after electing its officers and fully organizing, adjourned to meet again in St. Louis on March 4th.

On that day they reassembled at the Mercantile Library Hall in St. Louis, Sterling Price being president of the Convention. A committee on Federal Relations was organized, with Judge Gamble as chairman, and the Convention declared the adhesion of the state to the Union, and took all necessary steps to preserve peace and good order, and then adjourned to the third Monday in December, subject to be called together sooner by a committee appointed for that purpose, if any emergency required it.

The emergency did arise, for in the meantime the storm of

strife and misrule began to rage throughout the state, and the rebel Governor Jackson and Legislature had fled the capital and reorganized at Neosho, near the Arkansas line. By direction of the committee the Convention reassembled at Jefferson City on July 22d, and proceeded to organize a provisional government, first having deposed Governor Jackson and the state officers under him. Instinctively the eyes of all settled upon Judge Gamble for governor, and Willard P. Hall, one of the ablest and most distinguished men of the state, as lieutenant-governor. It is a singular coincidence that both were born in a slave state, and never lived permanently in any other.

It is not our purpose to give a history of Governor Gamble's administration. It is sufficient to say that, during the most terrible ordeal that ever a state passed through, he stood like a faithful pilot at the helm, and carried us safely over the quicksands and breakers that threatened the destruction of our noble ship of state.

The arduous duties of his office, added to the great mental anxiety necessarily endured, proved too much for his physical constitution, which had been greatly impaired by a railroad accident while on an official visit to Washington, and on January 31, 1864, he departed this life at his residence in St. Louis.

Governor Hall immediately assumed the duties of chief magistrate, and it is due to that distinguished citizen of north-western Missouri to say that he proved a most faithful and efficient executive, and much of the success of Governor Gamble's administration is due to his valuable aid and hearty coöperation.

Strangers visiting St. Louis will find in the hall of the Mercantile Library a full-length portrait of Governor Gamble, which is not only a perfect likeness, but an admirable painting.

Governor Gamble had no ambition for public life. He never trimmed his sails to catch the popular breeze. Yet it was gratifying to him to know that his course in life met the favor and approbation of his fellow-citizens.

Immediately after his death the bar of St. Louis assembled *en masse*, and paid every tribute of respect to his memory in their power. They attended his funeral in a body. Upon the day he was buried, business in St. Louis was entirely suspended, and most of the public buildings and stores were draped in mourning. A very able and impressive discourse was delivered in the Walnut Street Presbyterian Church by the Rev. Dr. Brooks, but not one-tenth of the people in attendance could obtain admittance. The funeral cortege was over a mile long, and a general feeling of sadness overspread the public mind. His remains were deposited in the beautiful cemetery of Bellefontaine, to the adornment of which he had largely contributed in life.

"There is no death; what seems so is transition:
This life of mortal breath
Is but a suburb of the life elysian,
Whose portal we call death."

JAMES R. LACKLAND.

It is not unfrequently the case that men who have obtained distinction in some particular vocation or calling are unjustly accredited with being self-made; but it could not be so said of James Ransom Lackland, whose whole life was one of toil and incessant labor, and who had not only to contend against the disadvantages of a very imperfect and limited education, but against a constitutional disease which threatened him through life, and to which he finally had to succumb.

His father was an active and successful farmer in St. Louis County, and brought up his sons to work on the farm, no doubt intending that they should follow his calling. It is certain that, until he began to approach manhood, James worked a good portion of his time on the farm, and thereby greatly assisted his father in supporting the family.

James R. Lackland was born on January 8, 1820, near Rockville, in Montgomery County, Maryland, and came with his parents to Missouri in 1828. His father purchased a farm in St. Ferdinand Township, St. Louis County, which continued to be the family homestead as long as he lived, and is still retained in the family. During the winter and a portion of the summer James went to a school in the neighborhood, and for a time was a pupil in Marion College, of which Dr. Ely was president. This enabled him to obtain an ordinary English education.

At this time he had not the most remote idea of embarking in the law, for after leaving home he became a clerk in a wholesale grocery house in St. Louis, and afterwards an assistant clerk on a western steamer. By mere chance he obtained employment in the office of General Ruland, who was clerk of the St. Louis Circuit Court. He wrote a fair, legible hand, and was chiefly employed in copying and making out transcripts for the Supreme Court. In this he displayed his

usual industry and activity, for it is said by lawyers then in practice that he was never seen idle for a moment. It was while in the clerk's office that he was persuaded to enter upon the study of the law. He went into the law-office of the Hon. Charles D. Drake, now presiding judge of the Court of Claims, at Washington City, and applied himself most diligently to his studies, and in 1846 was admitted to practice.

He commenced his professional life without fortune or influential friends, relying solely upon his own energy, indomitable will, and untiring perseverance; but these enabled him to surmount difficulties which beset him at every step, and which to many would have proved appalling. The first public position he held was that of circuit attorney, which required him to appear in behalf of the state in all criminal prosecutions. The office is one of not only great labor, but great responsibility, and frequently imposes upon the incumbent the necessity of coming in conflict with the brightest lights of the profession.

As a prosecutor he was bold, defiant, and successful; and at no period in the history of our local criminal jurisprudence were there so many convictions as during his occupancy of the office.

In the celebrated case of the Montesquiou brothers, French counts, who were indicted for murder, he prosecuted with a vigor and ability that surprised his friends and gave him at once a high rank at the bar.

Nathaniel Chiles was for many years first teller of the State Bank of Missouri, enjoying the entire confidence of the bank directors; was a class-leader in the Methodist Church, and stood well in the community as a man of enterprise and integrity. From time to time large sums of money were missed from the bank, and after the most laborious examination suspicion fell upon Chiles, and he was indicted for the embezzlement, and tried in the Criminal Court. It was almost impossible to induce the community to give credence to the charge, more particularly as the evidence against him was entirely circumstantial. The fact that he had access to

the vaults of the bank, and lived and entertained far beyond his salary, were about the only circumstances that were at first developed; and starting with these Mr. Lackland went to work, and in time presented such a strong combination of circumstances as to leave but little room for any doubt as to his guilt. But his church and friends — unwilling to believe that one who had been a minister of the gospel, and whose character had never before been subjected to any suspicion, would be guilty of so grave an offense — rallied to his support, and by the aid of the most eminent counsel and a divided public opinion, succeeded in producing an acquittal. But the marked ability displayed by Mr. Lackland gave him a wide-spread reputation. Chiles was, several years afterwards, convicted of a similar offense, and served out a term of years in our penitentiary.

Mr. Lackland never spoke from notes, and never prepared a speech in advance; hence none of his forensic efforts are preserved.

In 185– Mr. Lackland was elected judge of the Criminal Court, and there acquired an additional reputation as a jurist. He was afterwards called by the people to the bench of the Circuit Court, which office he held till 1859, when he resigned to again engage in active practice.

The case in which Judge Lackland acquired the greatest reputation was that of Effie Carstang *vs.* Henry L. Shaw, being a suit for alleged breach of marriage promise, which excited much interest throughout the country. Effie was originally from Brooklyn, New York, and, after living several years in the South, finally came with a widowed sister to St. Louis, rented a large dwelling, and sub-let the rooms to single gentlemen for sleeping apartments. Effie was the daughter of a clergyman, and a maiden of some pretensions to beauty, and withal of some experience in the world, having lived in New York, Charleston, Mobile, New Orleans, and divers other places too numerous to mention.

The defendant was a widower without children, far advanced in years, an old citizen of St. Louis, and a man of large wealth and enterprise. He was the owner of a magnifi-

cent tract of land, embracing 1,000 acres, adjoining the city, and estimated at $1,000,000. This he had converted into a fine park, beautifully embellished, and a large garden, containing the choicest shrubs and flowers, brought at an immense expense from all parts of the world, and placed in finely finished hot-houses. Connected with this was a botanical museum, with an immense botanical library, and containing the busts, in marble, of the most distinguished botanists of the world.

Such was Shaw's Garden, the most attractive spot in the West, and visited daily by hundreds from every part of the United States.

It is not strange, therefore, that Effie should be attracted to those beautiful grounds, nor is it strange that she should meet, while winding her way through the beds of roses and tulips, the enterprising proprietor. Nor would it have been strange if she had gently and blushingly hinted at the great happiness he would derive from permitting one of her sex to become a joint occupant of this earthly paradise. Be that as it may, he was afterwards seen to enter the Carstang mansion, and was profuse in his gifts of flowers, and lavish in his praises of the beautiful Effie. But all things must have an end, and so it was with this little harmless flirtation, and Mr. Shaw's visits became less in number. And the result was a suit for damages as the only panacea for blighted hopes and disappointed affection.

Uriel Wright and L. M. Shreve appeared for the plaintiff, and Edward Bates and John R. Shepley for the defense —all lawyers of high professional distinction.

Without a particle of evidence to establish the promise, beyond a few visits, the loan of a piano, the presentation of a few flowers, and the loose, contradictory statements of the widowed sister, the *wise and far-seeing jury* awarded her $100,000.

Had half the city been sunk by an earthquake, the people could not have been more astonished. From that day to this no man has been found who will admit that he was one of the jury; and the press of the city has been daily dis-

cussing the wisdom of our jury system. No more do we hear of the boasted right of trial by jury, or the blessing conferred upon mankind by the 29th chapter of King John's Great Charter.

As may well be supposed, the verdict was set aside and a new trial awarded. Mr. Lackland and Mr. Glover were then retained in the case by Mr. Shaw, and Mr. Lackland assumed the labor of preparing for another trial. He went to Brooklyn and the other places above mentioned, and took depositions in each, obtained a history of the fair lady, and on the next trial the jury gave a verdict for the defendant.

What a theme for contemplation! What a commentary upon our mode of trying issues of fact! One jury awards *one hundred thousand dollars* — another, *not a cent;* and upon evidence tending to the same point, though upon the last trial more decided and unequivocal.

In the preparation and trial of the case the defendant's counsel obtained the highest encomiums from the bar. It is a great loss to the profession that we omitted to preserve a full record of the case, and the arguments of counsel.

It cost Mr. Shaw about $20,000 to get rid of the work of a stupid jury, and what makes it exceedingly mortifying to a St. Louisian is that Mr. Shaw at the time had publicly announced his intention to donate most of his beautiful estate to St. Louis for public purposes, and has since so done.

Judge Lackland had none of the graces of oratory, but he possessed what was of far more importance — a strong, logical, and analytical mind, full of resources, and of remarkably quick perceptions. His knowledge of men was very great, and enabled him to reap a large advantage in impaneling a jury. Few men could excel him in the cross-examination of a witness. There was something in his manner that inspired a witness with fear, and caused him frequently to so qualify his testimony as to greatly impair its effect. If satisfied that the witness was telling the truth, and not exaggerating, he would put as few questions to him as possible, and dismiss him with a manner indicating that he did not regard the testimony as of much importance. He knew how

far to push a witness, and when to stop — a gift that is by no means common in the profession. He was not particular in the choice of language, and sometimes did violence to the king's English. He was too much in the habit of using slang phrases, and often employed words that would puzzle a Webster or a Worcester to give the derivation of. One in particular he frequently used. If a speech was pompous, or, as is sometimes called, spread-eagle, he would say it was *highfalutin.*

Judge Lackland was a man of the highest integrity, and abhorred trickery and deception above all things. When off the bench he never would permit an attorney or suitor to speak in his presence of the merits of a case pending in his court. By the outside world he was regarded as cold, austere, and unfeeling; but such was not the character he sustained among those who held social relations with him.

For many years before his death he was in very bad health, suffering daily from physical pain, compelled to go long distances from home for climatic change, and no doubt while in that condition often appeared abrupt, morose, and unsociable. But those who met him in the family circle, and to whom he expressed his thoughts freely, credit him with a large heart and sympathetic feeling. Our relations with him were not of that intimate kind which would enable us to form, in that respect, a reliable judgment.

His death occurred on October 9, 1875, and his remains repose in Bellefontaine Cemetery.

CHARLES B. LORD,

Who for many years was judge of the St. Louis Land Court, came to Missouri as early as 1843. He was born in Thomaston, state of Maine, on July 13, 1810, and received an academic education in Onondaga County, New York, to which place his parents had removed. When only nine years of age he was threatened with chastisement by the principal of the school, upon a charge that afterwards proved to be false, and, to avoid what he conceived to be an unjust punishment, ran away from the institution, a distance of twenty miles from home, in midwinter, sleeping one night under a hay-stack. This determination not to submit to injustice, evinced at so early a period, characterized his whole life. It does not appear that he ever entered any college, though he obtained a good English education, and became a fair Latin scholar.

He commenced his law studies in the office of his brother, the late Dr. John C. Lord, of Buffalo, who abandoned the legal for the clerical profession. His legal studies were completed with Truman Hastings, Esq., with whom he became associated in the practice. He was admitted to the bar in 1833 or 1834, and practiced in Buffalo until he came to St. Louis, in 1843. Here he formed a partnership with Myron Leslie, a lawyer of fine talents and decided genius. The firm did a large business, and continued till the death of Mr. Leslie, about five years, when Judge Lord became associated in the practice with Isaac H. Kiem, Esq.

In the meantime the Legislature created the St. Louis Land Court, with jurisdiction limited to suits pertaining to real estate, the object being to relieve the Circuit Court of the great pressure of business then on its docket. Edward Bates was appointed judge, who held the office until his

death, in 1869, when Judge Lord was appointed to succeed him.

As a lawyer Judge Lord was quite successful, for he was a fine special pleader, and prepared his cases with much care and deliberation. He made no attempt at oratory, and seldom indulged in a lengthy harangue. His main reliance was upon his knowledge of the law, and a careful preparation for trial.

We knew him chiefly as a judge, for we practiced before him during his entire judicial career. His thorough knowledge of the law pertaining to real estate, and his active, industrious habits, enabled him to render a very efficient and satisfactory discharge of the duties of his office, though he had some faults which affected his popularity with the bar. He was at times very petulant and irritable, and often indulged in language which was very offensive to those practicing in his court. Particularly was he so towards the younger members of the profession, for whom he had but little charity or kind feeling. He often chided them with ignorance of the law, and did so with a manner that was peculiarly offensive. It is true that the older members of the profession did not escape, but they could overlook it. We have frequently heard him tell young practitioners to go to their office and study the law before coming into his court to practice. The result was that young lawyers avoided his court rather than subject themselves to his exhibitions of temper. But, as a set-off to this, he was strictly honest and upright, and endeavored to mete out justice to parties litigant. Particularly was he careful of the rights of infants and married women, and would go any length to protect them from the avarice or misconduct of executors, administrators, guardians, etc. If an infant was not properly represented, he would appoint some discreet attorney to represent his or her interests, with an injunction to give due and proper consideration to the case. This quality in a judge is almost inestimable.

St. Louis had, for over a quarter of a century, a probate judge named Peter Ferguson, who abused, insulted, and vili-

fied every person who had business in his court. The lawyers were all thieves and plunderers; every executor was trying to cheat the estate; every guardian was endeavoring to swindle his ward; every witness swore falsely — in fact, no one came into his court without receiving a share of his honor's abuse. But no man ever sat on the probate bench who guarded the rights of infants, orphans, and married women more scrupulously than Peter Ferguson; and when Peter Ferguson came before the people for reëlection, no man could beat him.

We once witnessed a scene between him and the late Governor Trusten Polk, which was so characteristic of the judge we cannot avoid giving it. Governor Polk drew the will of the late George Collier, a very wealthy merchant, who left an estate of several millions, and a very long will, containing many trusts, powers, settlements, etc. It required an immense amount of labor, and much care and skill, to draw it. For this and other services rendered by the governor he presented a bill against the estate for $500, which gave rise to the following dialogue:

"H'm! What is this? H'm! Another lawyer's bill — trying to swindle the widows and orphans. Do you think I am agoing to allow such a bill as this?"

"If your honor please, I will prove by Mr. Glover, Mr. Shepley, Mr. Hill, and others that the bill is very reasonable."

"H'm! I suppose so — one lawyer helping another to swindle the poor widows and orphans. H'm! And you expect me to sit here and permit it? H'm! I shall do no such thing."

Here Messrs. Glover, Shepley, and Hill were sworn as witnesses, who testified that the services were reasonably worth the amount charged.

"H'm! Just what I expected; and when you want to swindle some estate, you will bring Mr. Polk here as a witness to help you do it! H'm! I suppose I must allow it; but don't you show your face here again until you can learn to be an honest man."

Exit Governor Polk, with his claim allowed for the full amount.

It is proper here to state that Judge Ferguson, who had reached his three-score and ten, was a good friend of Mr. Polk, and was satisfied at the commencement that the claim was just, and intended to allow it; but he could not let the opportunity pass without giving the lawyers a rap on the knuckles.

Judge Lord was very fond of fishing, and generally spent his summer vacations at Green Bay, and other points that were noted for such sports. He would discourse upon the art for hours at a time, but never could tolerate an opinion adverse to his own. He was convivial in his habits, fond of a good dinner, and loved to have his friends enjoy it with him; and on such occasions could make himself very entertaining.

He died in St. Louis, in November, 1868, in his fifty-ninth year.

BENJAMIN SHARP.

In 1848 we made a successful canvass of the Second Congressional District, having for our opponent the Hon. Gilchrist Porter, who from that day to this has been our warm and steadfast friend. An abler jurist and a more refined gentleman we seldom meet.

In filling an appointment at Danville, Montgomery County, we became acquainted with Benjamin Sharp, then clerk of the Circuit Court of that county, and a lawyer of acknowledged ability. The Whig party largely predominated in Montgomery County, and Mr. Sharp was its head and front. In an hour or two after reaching the hotel he called upon us, and during our stay in his town treated us with marked kindness and civility. Though differing politically, and at a time when party spirit was running very high, he took particular pains to introduce us to the leading men of both parties, for which we felt and expressed no little gratitude.

Mr. Sharp was a native of Jonesville, Virginia, and born April 10, 1820. He studied law with his father, who had a large practice in that state. He received a good academic education, and at one time contemplated entering the army, and for that purpose attended the military school at Lexington. We are unable to state how long he remained there, nor do we know what induced him to embark in the legal profession; but the probability is that he was influenced by the wishes of his father. In November, 1842, he married Miss Sarah E. Rebeck, of Lee County, Virginia, and two years from that time moved to Missouri and settled at Danville, and was shortly afterwards admitted to the bar.

For a considerable period of time he represented his district in the State Senate, and became an acknowledged leader of his party. He took an active part in the debates,

and, by the aid of a strong, practical intellect, exerted a large and salutary influence upon all questions of public policy. . Though a man of great force of character, and very decided convictions, he was tolerant of the opinions of others, and never assumed or arrogated to himself mental superiority. His influence proceeded more from his admitted ability than any attempt to secure popular favor.

During the war he took strong ground in favor of the Union, and, by his zealous advocacy of the war measures of Mr. Lincoln's Administration, provoked the hostility of the rebel element of his section of the state, which sought and accomplished his death. He was brutally murdered at Martinsburg, in July, 1861. He left a widow and four children, most of whom reside in Montgomery City.

We never saw Mr. Sharp at the bar, and are not sufficiently posted as to his legal attainments to enable us to describe them with that accuracy which is necessary in biographical literature; but the fact that he had a large practice, and was very successful, ought to leave no doubt of his professional skill.

He was a heavy, thick-set man, rather low in stature, with a broad and high forehead, and an intellectual cast of countenance.

WILLIAM C. CARR.

Judge William C. Carr was one of the earliest American residents of St. Louis. He came here in 1804, the same year that John Scott, Edward Hempstead, and Rufus Easton arrived in the territory. St. Louis had then a population but little exceeding 1,000, and the only American resident families were those of William Sullivan and Calvin Adams. St. Genevieve had the largest population of any town in the territory, and was thought to be the most desirable location for a lawyer. Its population is not much more now, while that of St. Louis is 500,000 and increasing at the rate of 20,000 per annum. St. Genevieve had greatly the advantage in wealth and society, and as both were located on the Father of Waters, and on the great highway to the gulf, there seemed to be but little reason for giving St. Louis the preference, more particularly as St. Genevieve was adjacent to a rich mining country.

William C. Carr was the son of Walter Carr, and born in Albemarle County, Virginia, April 15, 1783. Of his boyhood and early education but little is known. He received a good academic course; studied law in his native state; came to Missouri at the age of twenty-one; was admitted to the bar, and immediately entered upon the practice of his profession. He came to St. Louis directly from Louisville, and boasted that he was only twenty-five days on the route. Mr. Carr was married twice, the first time to Miss Ann Maria Elliott, of St. Genevieve, November 17, 1807, by whom he had three children, all of whom survived him. Sometime after the death of this wife, about December, 1829, he married Miss Dorcas Bent, of St. Louis, daughter of Judge Silas Bent, and sister of Captain Silas Bent, of the navy. By this wife he had six children, all of whom were living at his death. He died in St. Louis, March 31, 1851, in his sixty-

eighth year. His widow is still living, and though at an advanced age, is in good health and mental vigor.

He purchased a very handsome piece of ground just outside of the old city limits, in a beautiful grove, which he greatly embellished, and upon which he resided till his death. It was always known as "Carr Place," and was, until within twenty years past, a favorite place of resort for picnic and other parties.

About 1826 Mr. Carr was appointed judge of the St. Louis Circuit Court, which position he held until the latter part of 1833, when he resigned. He was a well-read lawyer, and must have stood high at the bar, for at that time the power of appointment was vested in the governor and the Senate, and was rarely exercised except upon the recommendation of the bar; and it is not likely that such men as Geyer, Bates, Gamble, Allen, Lawless, and Spalding would have sanctioned the appointment if he had been deficient in any of the qualities of a good jurist. Nevertheless, he had enemies who conspired to drive him from the bench, and succeeded in procuring articles of impeachment by the Legislature. He was charged with favoritism, partiality, prejudice, oppression, neglect of duty, and incapacity. The trial took place in the winter of 1832–3, and, after a tedious and protracted investigation, he was acquitted. He found his position on the bench very irksome, and, after holding it about a year longer, resigned.

Judge Carr's circuit embraced several counties besides St. Louis. It took in Gasconade County, which then extended as far west as the Osage River, and in a southerly and south-westerly direction nearly, if not quite, to the Arkansas line.

So large was the extent of country within the limits of this old county that it was called the "state of Gasconade." Dr. David Waldo, a noted citizen, and clerk of the courts, bore the title of "governor of the state of Gasconade." The chief part of the laboring population found employment in the numerous saw-mills on the Gasconade, Big Piney, and Little Piney Rivers. The country abounded in extensive pine

forests, and the lumber was rafted to St. Louis by way of the Gasconade and Missouri Rivers.

In 1838 we traversed the entire county on horseback, visited the different mills, and learned much of the character of the jolly raftsmen.

We also attended the Gasconade court, which was held at Mt. Sterling, the county-seat, situated on the Gasconade River, about twenty-five miles south of the Missouri. For a quarter of a century the only buildings it contained were a log court-house with one room, and a log store. For hotel accommodations the only reliance was upon Mrs. Perkins, a widow, known as Aunt Beckie, who had a fine farm a quarter of a mile distant, and about twenty slaves. This good lady, who was sometimes called the "queen of Gasconade," was very small in stature, but carried 400 pounds avoirdupois weight in flesh. Her house consisted of three rooms, and in these small apartments it was not uncommon, during court time, to bed from sixty to seventy persons. She lodged and fed the judge, attorneys, grand jury, parties litigant, and witnesses. Those who could not procure admittance slept upon the hay-stacks and in the barn, or under tents of rude construction. When the sound of the "cornucopia" was heard, the judge and lawyers took seats at the first table; then came the grand jury and others in attendance, until the inner man was amply supplied. Aunt Beckie's bill of fare consisted of coffee sweetened with molasses, biscuit made from coarse dark flour, and baked until as hard as billiard-balls; those whose teeth could not penetrate them were supplied with "corn-dodgers," baked in hot ashes. Among the meats were fried bacon and a superabundance of wild game, such as venison and turkey, and, at least once during court-week, "quail *without toast.*" Those who dine at the Lindell or Planters' House may smile at this repast, but to a man who had traveled on a rough-trotting horse forty-five miles in one day, without a mouthful to eat and with an appetite that would make an anaconda hide his head, it was a feast for the gods.

Among the lawyers who attended the court from St. Louis

were Hamilton R. Gamble, Edward Bates, Henry S. Geyer, and our worthy and venerable friend, John F. Darby, and Philip Cole and John S. Brickey, of the Potosi bar.

Mr. Darby has lately written a very interesting account of those primitive days, and has paid a worthy tribute to the memory of the good hostess, Aunt Beckie. He mentions one event worthy of repeating: A man was convicted before Judge Carr, at Mt. Sterling, for some light offense. The court imposed upon him a fine of $5, and two hours' imprisonment in the county jail; but, as there were no jails in those times, the sheriff, who had been lately installed in office, was at a loss to know how to execute the sentence. It is said that necessity is the mother of invention; it certainly proved so in this case, for the officer, seeing in the rear of the store-house an old crate in which crockery had been brought from St. Louis, placed it in front of the court-house and made the culprit get under it, and summoned a guard of four fat men to sit upon it; and in this way was the judgment of the court enforced. This novel method of imprisonment created among the by-standers much merriment. They walked around the cage, inquiring of the guard the nature of the animal confined; whether wild or tame; when and where he was caught; upon what he was fed; and divers other questions suggested by the occasion. As soon as the poor fellow was released he fled from the sight of his persecutors.

In those early times the greatest crime known to the *common law of the state of Gasconade* was horse-stealing. The most summary punishment immediately followed conviction. The culprit was stripped of his shirt, tied to a post, and was made to receive on his bare back a given number of blows — generally about forty — inflicted by the sheriff with a coarse lash or rawhide. It was a terrible punishment, and the stealer of horses dreaded it far more than the gallows.

SPENCER PETTIS.

Mr. Pettis was born in Virginia, had the advantages of a good education, came to Missouri about the time of the commencement of our state government, and entered upon the practice of the law in St. Louis. He was esteemed a man of fine legal attainments, and became very popular with the people. He espoused the Democratic cause, and was ardent and active in its support.

In July, 1826, he was appointed to the office of secretary of state, and in 1828 resigned, and was elected to Congress. In 1830 he was reëlected, beating David Barton, who for ten years represented Missouri in the United States Senate. On August 27, 1830, Mr. Pettis was killed by Major Thomas Biddle, in a duel on Bloody Island, opposite St. Louis.

Major Biddle was pay-master in the army, and a brother of Nick Biddle, president of the United States Bank, and of Commodore Biddle, of the navy. He married Ann, a daughter of John Mullanphy, Esq., and resided in St. Louis.

The difficulty grew out of the canvass of 1830. Mr. Pettis had issued an address to the people, in which he commented with much severity upon the course pursued by the bank, which Major Biddle construed as reflecting upon the personal integrity of his brother. The canvass itself was very exciting and bitter, and conducted with very little courtesy or decorum. On July 25th, just preceding the election, Major Biddle called at the City Hotel, where Mr. Pettis was boarding. It was early in the morning, before the boarders were up. He asked a servant to show him the room of Mr. Pettis. Upon entering it he found Mr. Pettis reclining upon a mattress spread upon the floor, with only a sheet around him. He was at the time in very feeble health. Major Biddle awoke him, and inflicted upon him a severe chastisement with

a cowhide. Mr. Pettis made all the resistance in his power, which, however, was ineffectual.

The friends of Mr. Pettis insisted upon his challenging Major Biddle at once, but he replied that he would not do so until after the election; for, if he was killed, it would leave the Democratic party without a candidate (the election being only ten days off), and secure the election of his opponent, Judge Barton.

Mr. Pettis was elected, and after the result was known, he sent the challenge. They met on Bloody Island on the evening of August 27, 1830. Major Biddle was near-sighted, and they fought with pistols at five paces. At the first fire both fell mortally wounded. Biddle was shot in the abdomen, and Pettis in the side, just below the chest. The fire was so simultaneous that the by-standers concluded that one of the pistols had failed to go off. Mr. Pettis died the next day (Saturday), and Major Biddle survived till Monday. Before leaving the field, and with a knowledge that both must die, they shook hands, and expressed much regret at the result.

Mr. Pettis never married, and Major Biddle left no children.

JOHN ANDERSON.

This gentleman died before we came to Missouri, and was one of the earliest lawyers at the Palmyra bar. He was a Kentuckian by birth, and received a good academic education. He emigrated to Missouri about 1830, and settled at Palmyra, and died about five years afterwards.

Though his professional career was short, he acquired considerable reputation as an orator, which soon brought him a good practice. He was well read in the law, having acquired his legal education in the Transylvania Law School, at Lexington. There are a few persons still living in north-east Missouri who recollect him as a man of fine personal appearance, with winning and agreeable manners. He was very successful as an advocate, and was generally employed in cases where the battle was to be fought before a jury. We have not learned that he ever held any official position.

It is to be regretted that so little is known of one who bid fair to obtain professional distinction.

JAMES B. GARDENHIRE.

There is no species of literature more neglected than biographical, and no people more amenable to the charge of such negligence than our own. The English and French people devote more attention to this branch of knowledge than probably any other, but even with them there is a culpable omission which admits of neither apology nor excuse. When we recall the names of the many heroes and patriotic statesmen who devoted their lives to the attainment of our independence, it is sad to reflect how few of them are known, even in history, to the present generation.

These reflections are induced by the fact that we have almost forgotten that there was such a man in Missouri as James B. Gardenhire; yet but few years have elapsed since the press was proclaiming his ability as a lawyer, and his patriotic efforts to advance the interests of his state. We met him the first time in Jefferson City, in the winter of 1846–7, and served with him in the Legislature then in session; became intimate friends, continued so until his death; and the more we knew of him the more highly did we appreciate his learning, integrity, and professional ability. He represented the county of Buchanan, and proved a most faithful servant of the people. It was the revising session, and as both of us were on the Judiciary Committee, we had ample opportunity to estimate his services. A more attentive, laborious, and useful member was not found in either house.

Of the boyhood and early education of General Gardenhire but little is known. He was born near Nashville, Tennessee, in 1821, and received his legal education and was admitted to the bar in that state. He came to Missouri in 1840 or 1841, and settled in Sparta, then the county-seat of Buchanan County, but afterwards moved to St. Joseph.

In September, 1851, he was appointed, by Governor King, attorney-general of the state, to fill a vacancy; and in August, 1852, was elected by the people to the same office for a term of four years.

General Gardenhire's ability as a lawyer was fully recognized by the Missouri bar. He had a clear, logical, comprehensive mind, and was gifted with more than ordinary power as an orator. His speeches in the Legislature, and many of his arguments in the Supreme Court, evince a high order of mental training.

Though born in a slave state, he became satisfied that slavery was a great drawback to the progress of Missouri; that it not only impeded immigration, but kept us from attaining the capital and labor necessary to develop our agricultural and mineral resources. Hence he favored the system of gradual emancipation, and upon the breaking out of the war advocated its immediate abolishment. At the state election in 184– a ticket was put in the field by the anti-slavery party, and General Gardenhire's name placed at the head of it as a candidate for governor. It is within our knowledge that he was opposed to making the fight upon the slavery question at that time, for he did not think that the public mind was prepared for it; and, as it would be generally conceded that there was no possibility of success, two-thirds of the anti-slavery men would give their vote to one or the other of the two great contending parties, and thus exhibit a weakness on the part of those opposed to slavery which did not exist, and the result would be detrimental to their future prospects. In this, however, he was overruled. But, not being willing to flinch from any duty assigned him, he undertook the race, and the result was that his ticket only received about 10,000 votes.

In 1861 he was appointed, by President Lincoln, solicitor of the Court of Claims, and moved with his family to Washington City. In 1862 his health became greatly impaired, and he resigned his office and returned to Missouri, where he shortly after died.

He was very diminutive in stature, and what made him

appear still more so was his habit of wearing a long frock-coat, reaching considerably below his knees, and cut in the style usually adopted by Methodist ministers. He was a devoted student through life, very temperate in his habits — even to abstemiousness — and a man of the most incorruptible integrity. He was as artless as a child, and esteemed every man as honest until the contrary was shown. This often made him the victim of designing men, and led him finally to the loss of his entire property by investing it in broken lands around Jefferson City, under the persuasion that Jefferson was destined to become a great inland city, second only in commercial and manufacturing importance to St. Louis. So infatuated was he in relation to it that he would not listen to any doubt which his friends expressed. He eventually became aware of his mistake, when it was too late to avoid the catastrophe. This no doubt had an injurious effect upon his mind, and probably contributed to his impaired health.

He left an interesting family, consisting of a wife and several children. His widow has since married General Simpson, adjutant-general on the staff of Governor Fletcher. One of his daughters married Major Reeves Leonard, son of Abiel Leonard, and she is now a widow.

As a politician General Gardenhire was firm, consistent, and reliable, and in the avowal of his opinions, open and decided. When it became necessary to assume any responsibility, he did so without inquiring into its probable effect upon his own welfare. This was well illustrated in his candidacy for the governorship on the slavery question, when he well knew that his views were in conflict with those of nine-tenths of the voters of the state. He was a bold and fearless champion of free trade and free labor. His great simplicity of character, unselfishness, and candor exempted him from the jealousy of his legal associates, and made him at once a favorite with them all.

The primary cause of his death is unknown to us.

ALFRED W. CARR.

This lawyer, who practiced in Troy, Lincoln County, Missouri, was a native of Kentucky, and born in Fayette County in 1804 or 1805. His preliminary education was obtained in the common schools, and in 1822 he entered Transylvania University, then under the presidency of Horace Holley, and graduated, among the first of his class, in July, 1824. After pursuing a regular course of legal studies, he came to Missouri in the summer of 1827, remaining awhile in St. Louis with his uncle, William C. Carr, who was then judge of the St. Louis Circuit Court.

In 1828 he located at Troy, Lincoln County, and there entered upon the practice of the law. In the fall of that year he returned to Fayette County, and there married the bride of his youth, Miss Elizabeth Graves, daughter of Major Ambrose Graves, a gallant soldier who fell at the battle of the River Raison, in the War of 1812. With his bride Mr. Carr returned to Troy, Missouri, and soon became actively engaged in the practice of his profession, and attended the courts of Lincoln, Pike, Ralls, St. Charles, and Montgomery. Hon. Beverly Tucker was then judge of the circuit. Contemporary with Mr. Carr were Ezra Hunt, Carty Wells, Charles S. Hempstead, John C. Naylor, and others whose names do not now occur to us. After a few years of successful practice, he was suddenly taken sick and died.

The death of one so young, and with such bright prospects before him, and so universally esteemed by the people of Lincoln and the adjoining counties, was a great shock to the public mind. Had Mr. Carr lived a few years longer, he undoubtedly would have occupied a high rank at the bar, for he had many elements of professional success. He had a fine address, a pleasant and affable demeanor, was popular with the people, and withal a fluent and impressive speaker.

Before a jury he was influential and forcible, and as a political debater, popular and effective.

Mr. Carr left a widow and several children. A few years after her husband's death, Mrs. Carr married Colonel A. B. Chambers, a lawyer in Pike County, who afterwards distinguished himself as editor and proprietor of the *Missouri Republican*. She again became a widow, and is now a resident of St. Louis, where she is universally esteemed and beloved. One of his sons married a daughter of Wayman Crow, Esq., one of the leading merchants of St. Louis.

FELIX HUNTON.

This gentleman was a lawyer residing in Warsaw, Benton County, Missouri, and for many years practiced in the Seventh Judicial Circuit, then composed of the counties of Benton, Pulaski, Polk, Greene, Barry, and Taney. Foster P. Wright was judge of the circuit, and the circuit took in almost the entire south-western part of the state.

Mr. Hunton was a brother of the Hon. Logan Hunton, of the St. Louis bar, a gentleman well known for his learning and professional ability. He was the second son of Thomas and Ann Hill Hunton, and was born in Albemarle County, Virginia, in the year 1808. The family emigrated to Kentucky in 1816, and the father died there a few years afterwards, leaving a widow and seven children.

Young Hunton was educated at the Stanford Academy, and at an early age showed a predilection for mercantile pursuits; became a merchant in Stanford, and extended his business to other points. A few years afterwards he married a Miss Taylor, who died within a year, and during his absence at one of his trading-posts. He took her death very hard, for he was a man of ardent and positive feelings and strong attachments. He never, in fact, recovered from the blow, and his friends advised him to give up his business in Kentucky and travel. He had a stock of goods in Tennessee and one in northern Mississippi, which, with some he had bought in Philadelphia, he sent to St. Louis, consigned to Tompkins, Blaine & Barret, commission merchants, and immediately afterwards their warehouse and its contents were destroyed by fire, including Mr. Hunton's goods, upon which he had no insurance. He then returned to Kentucky and commenced the study of the law, and on completing his studies, in 1839, entered upon the practice at Warsaw. He

had previously, however, in 1831, opened a mercantile house in Lexington, Missouri, which he soon abandoned.

His talents, industry, energy, and exemplary habits soon gave him a good practice, and he at once took a high rank in the profession. Among those who practiced at that time in the south-western circuit, residing at Warsaw, were C. P. Bullock, D. C. Ballou, Benjamin P. Major, George Dixon, Mark L. Means, and Thomas Ruffin. Phelps, Yancey, Waddle, and Hendricks, of Springfield, practiced in the same courts.

Mr. Hunton had no inclination for office, and never would permit his name to be used as a candidate; hence he filled no public position. He acquired a competency, and purchased a handsome farm in the vicinity of Warsaw, upon which he resided till his death in 1873.

He left no family, but a large circle of friends who greatly esteemed him for his high moral worth and strict integrity.

WILLIAM SCOTT.

It is exceedingly gratifying to us to be able to contribute something towards preserving the memory of one of the ablest and purest men that ever wore the judicial ermine in our state.

William Scott was born in Warrenton, Fauquier County, Virginia, June 7, 1804. He received a good English education at the Fauquier Academy, but never acquired a knowledge of the classics, nor did he ever become very proficient in English literature. It is said that Judge Swayne, of the United States Supreme Court, and Senator Foote, of Mississippi, were his classmates.

Judge Scott commenced the study of the law at the age of eighteen, with Inman Horner, an able lawyer of Warrenton, and was admitted to the bar on reaching his majority. He could not have practiced much, if any, in Virginia, for in the fall of 1826 he came to Missouri, and settled in old Franklin, Howard County. He was not very successful as a lawyer, though one of the best-read lawyers of his age. He seemed to be disqualified for the practice, by reason of his excitable temperament. The least thing would annoy and vex him, and he would at times become so irritated and confused as to be thrown completely off his guard, thereby opening the way to his opponent for an easy victory. By reason of this defect in his character as a lawyer, his friends, who had a high appreciation of his knowledge of the law, made a successful effort to place him on the bench, and he was appointed by the governor, about 1835, judge of the Ninth Judicial Circuit, embracing the counties of Franklin, Gasconade, Jefferson, Washington, Perry, and St. François, and he took up his residence on a small farm about four miles south of Union, the county-seat of Franklin County.

We there visited him in the winter of 1836–7, and a warm

friendship was created between us, which lasted till his death. This enables us to speak of his character and attainments from a personal knowledge.

In 1835 he married Elizabeth J. Dixon, of Cole County, an estimable lady, who bore him six children, and made him a most devoted wife.

As a *nisi-prius* judge he was very successful — so much so that he attracted the attention of many of the prominent lawyers in the state, who expressed a strong desire to see him on the bench of the Supreme Court, to which position he was appointed in August, 1841, and soon became presiding judge. Judge Scott became one of the most eminent and profound jurists that ever adorned the Western bench, and his opinions, contained in the Missouri Reports from 1838 to 1860, form no inconsiderable part of our judicial learning. After his appointment to the supreme bench he returned to Cole County, and spent the remainder of his life on a farm a few miles west of Jefferson City.

He died at his residence, May 18, 1862, in his fifty-eighth year.

Whilst nature had bestowed upon him a vigorous intellect, she withheld from him all the graces of person. He was very large, and must have weighed, when in health, at least 250 pounds, and was as awkward as large. His superabundance of flesh was a great burden to him, and it was with the utmost difficulty that he could walk any distance without getting out of breath. He had a swaggering walk, much like that of a sailor when he lands from a long and boisterous voyage.

The judge had a morbid fear of drowning, and while on the circuit bench had to ford, on horseback, several streams to reach his courts, there being no bridges and very few ferries at that period. We frequently accompanied him, and upon one occasion, during a very cold day in the winter, we had to ford the Meramec River. A rain the day before had swelled the stream, and, as he was unable to swim, he insisted upon our leading the way; and when we reached the opposite bank, he started in, dragging his feet through the

cold water all the way. We afterwards learned that this was an invariable custom with him, resulting from a fear of falling from his horse; and it annoyed him no little to find that those who accompanied him escaped a cold foot-bath.

Judge Scott had no force whatever as a speaker, and never attempted to address a promiscuous assembly, nor did he cultivate any of the arts of elocution. As a judge he was eminently just, and never would permit a wrong to be perpetrated if in his power to prevent it. He had a high appreciation of justice and fair dealing. We well recollect that, while holding a term of his court in Gasconade County, the sheriff was endeavoring to sell under execution a farm belonging to a man who was poor, and unable to satisfy the judgment against him. The highest bid he received was $20 for land well worth $500. The judge, on learning the facts, directed the sheriff to stop the sale, declaring, in a very emphatic way, "that as long as he sat on the bench, no man's home should be taken from him for so paltry a sum."

This is not unlike the course of Judge Grier, late of the United States Supreme Court, who, when holding a court in Pennsylvania, became greatly outraged at a verdict of a jury, and, as the clerk was about to enter it, said: "Mr. Clerk, that verdict is set aside by the court. It may as well be understood that in this state it takes thirteen men to steal a man's farm."

Judge Scott followed strictly the legal maxim, "*Boni judicis est ampliare jurisdictionem.*" It is not to be understood, however, that he would transcend the law to mete out justice, but where a statute could possibly admit of more than one construction, or where there was the least room for any doubt as to the law, he would accept that which in his judgment best tended to subserve the ends of justice.

Although in this state we have abolished in form some of the distinctions between law and equity, yet he never lost sight of the fact that he was still a chancellor, with the same power to enforce the principles of equity as formerly. This blending of law and equity has its advantages as well as disadvantages, and in the hands of a just judge, possessing a

fine sense of discrimination, may be wielded largely in the maintenance of right and justice.

Nothing so ruffled the judge's temper as an attempt to perpetrate a fraud; and when he had occasion to deliver an opinion in a case the least tainted in that respect, his denunciation was most scathing.

The former custom of the Supreme Court was to announce that on a certain day the court would deliver opinions, which always brought to the court-room a large number of attorneys. Each judge read the opinions written by him, and on one of these occasions, Judge Scott, while reading an opinion in a case in which a guardian had defrauded his ward, rose from his seat, and, in a most violent and excited manner, declared that the scoundrel richly deserved the halter.

By an act of the Constitutional Convention, in the early part of the Rebellion, the offices of the judiciary were declared vacant, and Judge Scott died shortly afterwards. We do not know that he was a disunionist, but he unquestionably sympathized with the Confederacy.

Judge Scott was a man of kind heart and generous impulses, and for strict, unswerving, unrelenting integrity he had no superior. He would have been regarded as an honest man even in the days of Sam Johnson, when but little charity was felt for the legal fraternity. Jeafferson says that Johnson was once passing a church in Surrey, and seeing some people weeping over a grave, asked one of the women why they wept. "Oh," said she, "we have lossed our precious lawyer, Justice Randall; he kept us all in peace, and always was so good as to keep us from going to law — the best man ever lived." "Well," said Johnson, "I will send you an epitaph to write upon his tomb;" which was:

> "God works wonders now and then —
> Here lies a lawyer an honest man."

Johnson was not alone in his estimate of lawyers, for when Peter the Great first visited London he expressed much surprise at seeing so many lawyers. "Why," said he, "I have

but two in my whole kingdom, and I shall hang one of them as soon as I get home."

Among the *attachés* of the court while Judge Scott was on the bench was Billy Hart, a fine-looking and intelligent mulatto, who as janitor served the court faithfully for a quarter of a century, and was a universal favorite with the bar. Billy was one of the finest of mimics, and could personate either of the judges in voice, language, and manner. Often, to amuse the attorneys, he would (before the arrival of the judges) take a seat upon the bench, and deliver an opinion in the name of any one called for. Billy was a man of infinite jest, and notwithstanding the judges knew that they were constantly the objects of his wit and satire, yet they were inseparable, for he was most attentive to their wants, and could bear with composure any amount of scolding. Billy had many trite sayings, one of which was that however united *his court* might be upon most questions, there was one upon which Judges Scott and Napton could never agree, and that was as to the temperature that should be observed in the court-room during the winter.

To appreciate Billy's story the reader must know that Judge Scott, as before stated, was a man weighing 250 pounds, while Judge Napton, who was very thin and spare, could not have exceeded 110. But we will let Billy tell his own story:

"Judge Napton," said he "generally entered the court-room first, with his overcoat buttoned to the throat, and would immediately mount me for not having a better fire. 'Good God! Billy,' he would say, 'do you think I am a Laplander, and can digest an iceberg? Fire up, Billy; fire up.'

"In a short time Judge Scott would make his appearance, and immediately open his vest, take off his cravat, and begin to puff and blow like a porpoise. 'Billy, what does this mean? Do you take me for a Hottentot? Open the stove-door, and throw up the window. For God's sake, man, don't roast us alive.'

"Judge Napton would shiver like an aspen-leaf, while the perspiration would flow in torrents from the face of Judge

Scott. From this conflict of opinion," said Billy, "there was no *appeal*, and my only escape was in the opening of the court. Sometimes the two judges would lock horns, and I would escape to the anteroom, under the pretense of cleaning up."

Billy was also janitor in the United States District Court, and frequently said that when Judge Wells entertained any doubt as to the law, *he always did him the honor to consult him.*"

Judge Napton is the only survivor of the court. Even Billy has been gathered to his fathers.

Judge Scott died comparatively young, but his life was one of great usefulness, and the people of Missouri will long remember him as one of their most faithful public servants.

"That life is long which answers life's great end."

Judge Scott had a good memory in regard to most matters, but was very deficient in respect to the names of persons, which was often the occasion of embarrassing mistakes. Chancellor Kent had the same infirmity, though to a much greater extent. The following admirable story is told upon him by Mr. Edwards, in his "Pleasantries."

Upon one occasion he was accosted in the street by a gentleman with whom he was well acquainted, but whose name had slipped his memory. "Good morning, Chancellor," said the gentleman. "H'm, ha!" said his honor, "I was wanting to see you to ask you to spell me your name. My wife and myself had quite a discussion last evening as to how it should be spelt." "How do *you* spell it, Chancellor?" inquired his acquaintance, in reply, perfectly understanding the object of the chancellor's question. His honor seemed posed, but rallied, however, and returned to the attack. "Mrs. Kent is a most obstinate woman, and always thinks herself right. She persists in spelling your name in her own way, which, I am sure, is not as you spell it." "How does she spell it?" inquired the other. The poor chancellor was at his wit's end, and was casting about for another question,

when the gentleman remarked, "Really, Chancellor, I should not think there could be much discussion as to the proper spelling of S-m-i-t-h, Smith." "Yes," exclaimed the chancellor, triumphantly, "Mrs. Kent always insists on spelling it S-m-y-t-h. A very obstinate woman is Mrs. Kent, and never will be convinced that she is in the wrong." The best of the joke was that the gentleman's name was Hamilton.

Judge Scott was the personification of truth, and he would sacrifice everything to maintain it. He could not even enjoy a good piece of wit, or a good joke or anecdote, if it was at the expense of truth. He esteemed it indispensable to any one who made the least pretensions to honesty; and when on the *nisi-prius* bench, would become restless and excited if he thought a witness was attempting to prevaricate. We speak advisedly when we say that a more honest or upright judge never sat on the Western bench. The judge had one weakness which was very noticeable. In writing his opinions he made frequent use of Latin quotations. Though not a classical scholar, he seemed to think that they gave the opinions a semblance of deep learning. To avoid any mistakes in his quotations, he always kept by him a book of legal maxims in Latin.

A. B. CHAMBERS.

This gentleman, who for eighteen years was editor and part proprietor of the *Missouri Republican*, a journal which for half a century has exerted an almost unlimited influence over the public mind of the West, was once a prominent lawyer in north-east Missouri, and bid fair to attain the highest distinction in his profession. Yet there are but few now living who recollect him as a mere lawyer.

Adam Black Chambers was born in Mercer, Mercer County, Pennsylvania, January 9, 1808, and received an academic education in that state. In 1830 he came to St. Louis, and after remaining there a few weeks removed to Bowling Green, in Pike County, where he completed his legal studies and was admitted to the bar. It was not long before he was appointed circuit attorney for the Pike Circuit, and in that capacity exhibited talents of a high order. The position itself was one of labor and responsibility, and no ordinary man could fill it, for he was neccessarily thrown in contact with some of the ablest men of the Missouri bar. The fact that Mr. Chambers discharged the duties of the office with signal ability is the best evidence of his legal attainments. He was a fluent and logical speaker, never indulging in flowery declamation, and his good practical common sense paved the way to professional success.

Mr. Chambers in early life manifested a fondness for politics, and the people of Pike County sent him to the Legislature, where he soon acquired reputation as a forensic debater. For a short time he published a weekly paper in Bowling Green. In July, 1837, he purchased an interest in the *Missouri Republican*, and at once became its editor and co-proprietor. The marked ability with which that paper was edited during Mr. Chambers' life is too well known to need any comments from us.

Under the editorial management of Mr. Hyde, and the proprietorship of the Messrs. Knapp, the paper still maintains its supremacy as a Western journal.

Mr. Chambers died in St. Louis, May 22, 1854, in the forty-seventh year of his age. He left a widow and three children — son and two daughters — and also two step-sons. His remains were placed in Bellefontaine Cemetery, a cemetery in which he had taken a deep interest, and to the adornment of which he had largely contributed.

His fine business qualifications were frequently called into requisition, and he became at different times connected with several important corporations, in some of which he acted as president. He was for some time president of the Pacific Insurance Company. This company, as well as the underwriters of St. Louis, called a meeting immediately after his death, and paid a handsome tribute to his memory.

Although he had never practiced in St. Louis, the bar of St. Louis were unwilling to let the occasion pass without some recognition of his early professional life, and hence they met at the court-house, and organized by calling the Hon. John F. Darby to the chair, and appointing as a committee on resolutions Hon. Samuel Treat, Hon. Albert Todd, Hon. John C. Richardson, R. S. Blannerhassett, Esq., and Henry S. Hart, Esq. These gentlemen reported a series of resolutions which were unanimously adopted. The following is one of them:

"*Resolved*, That the bar of St. Louis has received with deep concern the sad intelligence of the death of our respected and distinguished fellow-citizen, A. B. Chambers, Esq.

"Although not personally known to all of them as a practicing lawyer, they are well aware, through the reported decisions of the Supreme Court, and the fond recollections of his contemporaries in the profession, of his prominent position at the Missouri bar in former days. They have always taken pride in the fact that their fraternity has furnished to the editorial corps of Missouri and the West one of the most energetic, most successful, and most influential of its members. That, in leaving the more immediate duties of the profession in our courts, he bore with him into the responsible and more widely influential paths of journalism the fruits of his early experience and education in the laws of his country, and their influence upon the interests of individuals and communities."

Mr. Chambers was a man of large enterprise, and took a deep interest in everything that concerned the growth and prosperity of St. Louis. His pen was often employed in disclosing the advantages of the city of his adoption, as a commercial and manufacturing center, and he did as much as any other writer to direct immigration to the West. His confidence in the future of St. Louis led him to take a lead in all public enterprises looking to her advancement. It is not strange, therefore, that the City Council should take some action in reference to his death. They met in joint session, on May 26, 1854, and adopted a series of resolutions, two of which we here give:

"*Resolved by the Board of Aldermen, the Board of Delegates concurring:*

"1. That the loss by death of a distinguished man is at all times a calamity, but the loss of such a man, at such a time, and in the very meridian of his usefulness, is singularly unfortunate, irreparable in its nature, and the severest blow that our community could have received.

"2. That in the death of Colonel A. B. Chambers we feel that St. Louis has lost one of her most useful citizens; a man who shrank from no responsibility where the interests of the city were concerned, and to whom perhaps more than any other man she is indebted for the proud position she now occupies."

In a letter recently received from a distinguished judge in north-eastern Missouri, he mentions the fact that in 1835, while engaged in the study of the law, he was present at the opening of one of the courts over which Presley McBride presided. After the grand jury was impaneled, the judge requested Mr. Chambers, who was prosecuting attorney, to charge the jury, and, without any previous intimation that such a request would be made, Mr. Chambers arose and made a clear, lucid, and forcible charge, which elicited much praise from the members of the bar. The learned judge states that it is the only instance in his recollection, in a practice of forty years, in which a prosecuting attorney has charged the grand jury. We have no recollection of an instance of the kind, though it occurs to us that under certain circumstances it might be very proper and appropriate.

In 1840 we had a very exciting election in Missouri. A meeting of the candidates, for public discussion, took place at

Creve Cœur Lake, which came very near breaking up in a row. About the middle of July an article, over the signature of "Veritas," appeared in the *Missouri Democrat*, professing to give an account of the disturbance. To this, one Vespasian Ellis replied in the columns of the *Republican*, over his own name, denying the truth of the statement of "Veritas." In calling the attention of the readers to the letter of Mr. Ellis, Mr. Chambers, as editor of the *Republican*, in a short paragraph, charged Mr. Hudson with being the author of "Veritas," and trumpeting his own fame; and expressed a doubt as to his courage. Mr. Hudson immediately challenged him, and the challenge was promptly accepted. The parties met on Bloody Island, opposite St. Louis, on July 17th, and exchanged three shots with rifles, at forty paces, without injury to either. The seconds then interposed, and brought about an honorable and amicable settlement. A more extended account of this bloodless duel will be found in our sketch of Captain Thomas B. Hudson. Both parties displayed much coolness under fire.

WILLIAM G. MINOR,

A brother of General James L. Minor, was a practicing lawyer and prominent politician in Jefferson City. He was born in Fredericksburg, Virginia, on February 1, 1806, and graduated at the University of that state in 1824 or 1825. After his admission to the bar he commenced the practice in Gloucester, and remained there three years, when, through a family bereavement, the duty of settling up a large estate in his ancestral home of Braynefield, Caroline County, devolved upon him, and he was compelled to remove there. He practiced in Caroline and the adjacent counties until 1840, when he removed to Jefferson City, Missouri, where he practiced till his death, in February, 1851.

In Missouri he held the various offices of representative in the Legislature from Cole County, adjutant-general of the state, commissioner to survey our northern boundary-line, and secretary of the State Senate; and it was during the occupancy of the last office that he died, at the age of forty-five years.

We never saw General Minor engaged in the trial of a cause, but we have witnessed his zeal and ability in legislation. He was the most active man in our Legislature in procuring a modification of our Code of Practice, and was the author of the bill which introduced what was then called the "Wells Code." It put the ax to the root of all pleading. Such an innovation upon our long-established system of pleading could not otherwise than invoke a violent opposition from that portion of the Legislature who belonged to the legal profession. It was resisted at every point and every stage, and all parliamentary devices were resorted to for its defeat, but the persistent efforts of General Minor and a few others secured its passage. It made him popular with the friends of the measure throughout the state, but he lived to

see its impracticable working, and in time it was repealed by the introduction of the New York Code.

General Minor was a generous, good-hearted, affable gentleman, and had he lived to a later period would have made his mark in the political history of the state. He was easy in his manner, very accessible, and made friends among all classes of the community. He had a fine memory, and was well versed in the political history of his country; and on the hustings an effective talker. He was a man rather under the average height, and in his dress careless and slovenly. He would sit for hours on a pile of dirt, expounding to a few old farmers the Virginia Resolutions of '98. With an old slouch hat, a boot on one foot and an old untied brogan-shoe on the other, a stick in his hand to whittle and an old jackknife to whittle it with, and a few friends to listen to him, he was as happy as a lord. He looked at the bright side of everything, never anticipated evil, and was as well calculated to meet the trials, tribulations, and disappointments of this life as any one we ever met.

He left a widow and several interesting children. He was highly esteemed by all who knew him.

ABNER GREEN

Was a prominent lawyer at Hillsboro', Jefferson County, for thirty-two years, during most of which time we enjoyed the pleasure of his acquaintance. He was a brother of James S. Green, late United States senator, and though not as gifted a man as his brother, was nevertheless highly esteemed for his fine legal attainments, unflinching integrity, and great moral worth.

Mr. Green was born in Fauquier County, Virginia, on October 9, 1809, and his early life was spent on his father's farm in that state, performing such labor as is usual with the sons of farmers in moderate circumstances. His education was only such as could be obtained in that day in the common schools. At the age of eighteen he left home, determined to try his fortune in the far West. He sojourned several years in Kentucky, where he taught school, and became greatly attached to that state, for in after-life he frequently boasted of the happy days he spent there. From Kentucky he came to Missouri, and commenced the study of the law in the office of his brother, James S. Green, in the city of Palmyra; and, after two years of diligent application, obtained a license to practice, and located in Monticello, Lewis County. He remained there, however, but a short time, and then removed to Hillsboro', in Jefferson County, which became his residence until his death, which occurred on July 2, 1876, at the age of sixty-seven.

Mr. Green was a pleasant and logical speaker, but by no means eloquent. He sought rather to convince the understanding than to please the fancy. Like his brother, he was good at repartee, and not unfrequently turned an interruption to advantage. He was tall, upwards of six feet high; and once, while trying a cause in opposition to a lawyer who

was very low in stature, sharp words passed between them, when his adversary remarked "that it was useless to bandy words any further, for the public would *see* which was right." Mr. Green replied, in a very sarcastic tone, "Yes, when the public get done looking *up* to me, they can look *down* on you."

Upon another occasion he was engaged in an argument to the jury, when the opposing counsel had on a pair of new and heavy boots, which made a creaking noise and greatly disturbed him. Mr. Green turned to him, and said, "I wish you would *take off your boots*, or *take your boots off*, I don't care which."

The distinction between the two propositions is not so obvious as that related of the New York lawyer by Edwards, in his "Pleasantries," who, at the close of a very long argument on a motion, remarked "that he was apprehensive he had been *tediously clear*." The judge replied "that he did not know how that was, but he certainly had been *clearly tedious*."

Upon the death of Mr. Green, which was quite sudden, the bar of Jefferson County met at Hillsboro' to take action in reference to their departed brother, when Philip Pipkin, Esq., was called to the chair, and ex-Governor Thomas C. Fletcher appointed secretary. Judge L. F. Dinning and Governor Fletcher paid beautiful tributes to his memory, in short speeches, when the following resolutions were unanimously adopted:

"Whereas the place at this bar so long and so well filled by Abner Green, Esq., has been made vacant by the hand of death, therefore be it

"*Resolved* by the survivors of our late brother that we cherish with sincere respect the memory of the deceased, and desire to express our sorrow in parting from him for all time; that his long and distinguished standing at this bar had not only won him a position in the front rank of our profession, but had also won for him the confidence and esteem of his brethren in the profession, and both in his ability as a lawyer and his integrity as a man.

"*Resolved*, That the Supreme Court of Missouri, the Circuit Court of Jefferson County, the County and the Probate Courts of said county, be requested to dedicate a memorial page of the record of said court to the memory of our departed brother, and to enter thereon the following:

DEDICATED
TO THE MEMORY OF
ABNER GREEN, ESQUIRE,
Who was born in Fauquier County, Virginia,
On the 9th day of October, 1809,
Was an active member of the bar at Hillsboro', Missouri,
From 1844 to 1876,
And died on the 2d day of July, 1876.

This page of the record of this court is dedicated to his memory at the request of the members of the bar at Hillsboro', Jefferson County, Missouri, as a testimonial of their respect and esteem, and in honor of his memory, and is done also as a testimonial of the respect for his memory which is cherished by this court and all its officers."

Hon. John L. Thomas, who practiced at the same bar with Mr. Green many years, and who was his intimate friend, thus referred to him on presenting the resolutions to one of the courts.

"It was my fortune to be an intimate friend and associate of his from 1858 to the time of his death, though my acquaintance with him was formed as early as 1853. From 1858 to 1876 Mr. Green and I were brought face to face in many a business transaction and in many of the daily occurrences of life. I presume I have had more hand-to-hand forensic contests with him than any other member of the bar who practices in the courts of this county, and I believe I knew him well, and I desire to put on record what I know of him.

"Intellectually he was much above mediocrity. He was, in the true sense of the word, a self-made man, and the greater portion of his education was acquired by himself after he went into active business. James S. Green, his brother, acquired a national reputation, while the subject of this memorial was known to comparatively few; yet I unhesitatingly say to you and to the public that in brain power, mental vigor, a sound judgment, and a logical, analytical mind, Abner Green was the peer of his brother. He could have ascended to and occupied the same elevated niche in Fortune's temple that James S. Green did, had he only been possessed of the same ambition and love of politics. He never made politics a study, and all he knew of our political system was what he acquired from the reading of the newspapers, aided by his fine discriminating judgment. But upon all political questions his judgment was peculiarly reliable.

"As a lawyer Mr. Green met few equals. Here, again, as in his literary education, he had, unaided, acquired all the knowledge of the law he had through his own efforts. In every sense of the word he was a true lawyer. He was true to his country, true to himself, and true to his clients. One feature of his character, especially, shone out preëminent above the rest: he made his client's cause his own, and never was known to yield either a weak or strong point to his adversary; and if any advantage was ever gained over him, it was

wrested from him. He frequently, in the warmth of the battle, like most attorneys, would overstep the bounds of moderation; but after the contest was over, whether lost or won, Mr. Green was never in a single instance known to carry the least anger or ill-will engendered in the forum into the private walks of life, and never would he, out of court, refer to these disagreeable scenes in court, unless the subject was first broached to him. In his intercourse with his professional brethren he was courteous and affable, and his sociability was proverbial.

"As a faithful, law-abiding citizen he had no superior. Whether as a public officer or private citizen, he never was false to the public interests. In every position he occupied in society he did his duty faithfully and honestly. But, above all, it was in the home circle where Mr. Green's virtues shone the brightest and with constant luster. He lived and toiled and worked for his wife and children. His home was his kingdom, where he governed, not as a despot, but as a kind husband and most loving and indulgent father. But he has been called home. He has gone to that country whence no traveler returns; and society has lost a good citizen, the bar an honored member, his wife a kind and faithful husband, his children a loving and indulgent father, and all of us an honest man."

THOMAS W. FREEMAN.

This lawyer was well known to the people of south-western Missouri. He was born in Anderson County, Kentucky, in 1824, and received a common-school education. In 1843 he commenced the study of the law with G. W. Cavanah, of Lawrenceburg, Kentucky, and completed his studies in the office of Hon. John Draffin, of the same place, and was admitted to the Kentucky bar in 1847; practiced two years, and then went to California and practiced his profession in Marysville, where he obtained some reputation as a criminal lawyer.

In 1851 he left California, and came to Osceola, St. Clair County, Missouri, intending to make that his home; but soon after moved to Bolivar, in Polk County, where he prosecuted his profession with much diligence, and was elected to the office of circuit attorney, the duties of which he performed until the breaking-out of the war, in 1860. At the election in that year he was sent to the State Legislature, and also became a Breckinridge elector. Governor C. F. Jackson sent him on a private commission to Texas and Louisiana, and he was soon after selected as one of the representatives to the Confederate Congress. He was a strong disunionist, and served for some time in General Price's army.

He was a fine-looking man, nearly six feet high, with dark complexion, and portly and commanding in person. In point of ability he was above the average of attorneys, and as a prosecutor was efficient and successful. He could not be called an orator, yet he was a forcible and impressive speaker.

He held no public position long enough to secure much distinction, but he was gradually rising in public estimation, when his life was cut short by a malarial fever contracted in the South. He had reached St. Louis on his way home, and

died there, at the Southern Hotel, October 15, 1865, at the age of forty.

He was married in 1846 to a sister of Judge Draffin, of Boonville, who, with her three children, was present at his death, and received his dying blessing.

The Hon. Waldo P. Johnson thus speaks of him as a lawyer: "Mr. Freeman was very successful as a practitioner at the bar. He prepared his cases with great care, and during the trial he neglected nothing that might benefit his client, and rarely ever failed to get the advantage of every fact and circumstance favorable to his side of the case. He was very effective before a jury, making his points with clearness, and presenting his arguments with great force — when necessary, illustrating the same with amusing anecdotes, of which he possessed a great fund ready to draw upon when he desired to carry the minds of the jury away from the real issue, or bring into ridicule the opposing counsel or client. He was a social, genial gentleman; a man of strong convictions and decided opinions upon all subjects that came under his observation; a warm friend and open enemy. His position upon all questions of public interest was always well known to the community in which he lived."

MARK L. MEANS

Was a lawyer of some prominence in Warsaw, Benton County, Missouri, and died during the war, in 1863. Our information respecting his early life is very limited — in fact, we only know that he was born in Kentucky, about 1817, and at his death must have been nearly forty-six years of age. He received an ordinary English education. He came to Missouri about 1840, and soon manifested a fondness for politics; was an ardent Democrat, and often addressed the people from the rostrum.

In 1843 a vacancy occurred in the office of circuit attorney for the Benton Circuit, and Mr. Means was appointed to fill it. The office imposed on the incumbent much labor and responsibility, for the circuit not only embraced many counties and a large extent of territory, but the criminal docket was heavy in all the courts. He discharged the duties of the office very faithfully, and gave general satisfaction.

In 1857 he was appointed register of the United States Land Office, and held the position until the commencement of the war.

He took no active part in the war, but his sympathies were strongly enlisted in behalf of the South, which often led him to express his opinions freely and openly, thereby making enemies and subjecting himself to many annoyances. To avoid arrest he frequently left home and concealed himself, to the great injury of his health; and it was generally supposed that the exposure of his person on such occasions contributed greatly to his early death.

Mr. Means married before coming to Missouri, and left a widow and four or five children. He was a man of fine address, corpulent, and low in stature, and capable of much physical labor.

Mr. Means was not regarded as a thorough-read lawyer, yet

he met with more than ordinary success; for, like most Kentucky lawyers, he cultivated a taste for speaking, and at times was strong and impressive before a jury. He had a good knowledge of men, and knew what chord to touch when necessary to excite their sympathies. He often drew tears from the entire jury, and rarely failed to enlist them in his client's cause. He spent but little time in the argument of questions of law, but reserved his ammunition for the jury.

He was a popular man, and by his genial and pleasant manners made friends rapidly. He was generous and liberal to a fault, placing no value upon money except as a means to supply existing wants. He was an ardent politician, and wielded a vigorous pen. He wrote most of the editorials for the *South-west Democrat*, a leading Democratic journal published at Warsaw, and which at the commencement of the war had attained a large circulation.

THOMAS REYNOLDS.

Many of our readers will recollect the deep sensation produced upon the public mind by the announcement of the tragic death of this gentleman, who took his own life while governor of the state. He was not only one of the profoundest jurists of the West, but possessed a versatility of talent that would enable him to adorn any position to which he might be called.

Governor Reynolds was born March 12, 1796, in Bracken County, Kentucky. But very little is known respecting his early education, but it was, no doubt, as good as could be obtained in the schools where he resided. He certainly was not a classical scholar, though he had some knowledge of Latin. He was admitted to the bar in Kentucky, about the time he became of age, but in early life he removed to Illinois, where he filled the several offices of clerk of the House of Representatives, speaker of the House, attorney-general, and chief justice of the Supreme Court.

In 1829 he moved to Missouri, and located at Fayette, Howard County. He brought with him a high reputation as a jurist, and soon secured a good practice. It was not long before he was chosen to represent Howard County in the Legislature, and became speaker of the House. After leaving the Legislature he was appointed judge of the judicial circuit comprising the counties of Howard, Boone, Callaway, *et al.*

In 1840 the Democratic party met in convention at Jefferson City, to nominate a ticket for state officers, and Judge Reynolds was nominated for governor almost by acclamation.

It was at this time we made his acquaintance, and formed a very high estimate of him as not only a man of ability,

but of undoubted integrity and honesty of purpose. As a delegate in the Convention we gave him our support, and had occasion frequently afterwards to meet and transact business with him, as we were in the Legislature during most of the time he was governor. He was elected over J. B. Clark by a handsome majority.

No very important event transpired during his administration. He was the first governor who strongly urged the abolition of imprisonment for debt, and probably to him more than any other person are we indebted for this humane enactment.

Governor Reynolds had few superiors as a jurist, and hence it is that most of his life was spent on the bench. There was nothing superficial in his law learning. He drank from the lowest depths of the legal well, and there secured the gems which can be nowhere else found.

> "Errors, like straws, upon the surface flow;
> He who would search for pearls must dive below."

He studied the law as a science, and we have heard him say on several occasions that he had read Coke, Bacon, and Blackstone a dozen times. His mind was as clear as a bell, and his power of analysis very great. As a forensic speaker few excelled him, and in canvassing the state for governor but few were willing to encounter him.

At the time of his death his prospects for distinction were greater than those of any man in the state, for his genial habits, pleasant demeanor, and unquestioned integrity had made him exceedingly popular, and it was a mere question of time as to his elevation to the Federal Senate. He had a dread of being thought disloyal to his party, which often induced him to appoint men to office unfit for the position. A noted instance of this will be found in our memoir of James Evans.

Shortly after breakfast, on February 9, 1844, the report of a gun was heard from the executive mansion in Jefferson City, and some persons passing by at the time went into the

governor's office to ascertain the cause of it, and there found the governor weltering in his blood, with the top of his head blown entirely off, and of course dead. He had just before sent for a rifle, the muzzle of which he placed against his forehead, and by the aid of a strong twine tied to the trigger, with one end wrapped around his thumb, he discharged it. On the table near where he fell was found a letter addressed to his most intimate friend, Colonel William G. Minor, in the following words:

"In every situation in which I have been placed, I have labored to discharge my duty faithfully to the public; but this has not protected me for the last twelve months from the slanders and abuse of my enemies, which has rendered my life a burden to me. I pray God to forgive them, and teach them more charity. My will is in the hands of James L. Minor, Esq. Farewell.

"TH. REYNOLDS.

"*Col. W. G. Minor.*"

Here we might stop, and throw a mantle over this mysterious and tragic event, but truth and candor force us to state that many of Governor Reynolds' friends attributed the suicide to a very different cause from that designated in his letter to Colonel Minor. To be more explicit, they believed it grew out of his domestic troubles. It is certainly a very great draft upon our credulity to suppose that a man who had been a quarter of a century in public life, and who was an old and experienced politician, would take his own life because of the ill-natured squibs of the opposition press, which every public man has to encounter. No greater truism was ever uttered by man, than was uttered by Dean Swift when he said, "Censure is the tax a man pays for being eminent."

That he may have been more than ordinarily sensitive in this respect is not improbable, but the comments of the press respecting his administration were no more uncharitable than those which had been aimed at the governor who preceded him. He should have found some consolation in the words of Pope:

"The villain's censure is extorted praise."

If the letter to Colonel Minor was worded with the view of drawing the attention of the public from the true cause of the suicide, he had a motive which others can conjecture as well as ourselves. We express no opinion in relation to it.

MYRON LESLIE.

Vermont has the honor of being the native state of this gifted lawyer. He was born near Bennington, and received a very moderate education. He had little or no knowledge of the classics, and was far from being even a good English scholar; but nature bestowed upon him an intellect which more than made up for his deficiency in learning. He boasted that when a boy he ran a saw-mill in Vermont. It is certainly well authenticated that for some time he was engaged in rafting on the Susquehanna River. He studied law in Vermont, but with whom we are not advised.

In 1834 he left Vermont, to seek a location in the West. After wandering about several months he pitched his tent in Meredosia, Illinois, where he practiced his profession for a short time. He then located in Jacksonville, Illinois, and soon enjoyed a good practice, and acquired a fine reputation as an advocate.

In 1838 or 1839 he came to St. Louis, and entered upon the practice with F. W. Risque, Esq., and business began to flow upon him rapidly, for the public soon discovered that he was not only a sound lawyer, but one of the ablest forensic speakers at the bar. The firm, at the expiration of a year, or between one and two years, was dissolved by the change of residence of Mr. Risque to Washington City. Mr. Leslie then formed a partnership with R. M. Field, Esq., and the firm was regarded as one of the strongest at the St. Louis bar.

In 1842 or 1843 he was appointed circuit attorney for the St. Louis District, and the firm of Leslie & Field was dissolved. He held the office about two years, when he was elected to the State Senate for the term of four years.

In 1845 he was elected a delegate to the Constitutional Convention, he and Trusten Polk being the only Democrats elected; the other four were Native Americans.

He was for a short time bank attorney of the old State Bank, succeeding Judge James B. Bowlin.

While in the Senate he made several speeches which gave him a wide-spread reputation. It is more than probable that in early life he applied himself closely to his books, for his knowledge of the law could not otherwise have been acquired. His style of speaking was in many respects like that of Mr. Bates, but abounded more in wit, sarcasm, and irony. He was naturally indolent, and required the stimulant of strong opposition to arouse him; but when once thoroughly aroused, his mind flashed with dazzling brightness, and he carried everything before him. At other times he was slow and inert, and seemed incapable of high mental exertion, which, doubtless, was owing to a considerable extent to his intemperate habits; for truth compels us to state that during the latter part of his life the habit of strong drink, which is often the birth of a noble and generous disposition, seized him with an iron grasp, and finally brought him to his grave. He died in St. Louis, in March, 1854, leaving a wife and one or two children to mourn his fate.

Leslie is dead, but his genius lives in the memory of his associates, who never speak of him but with tears in their eyes, and hearts bowed down in grief.

Few lawyers excelled him in the cross-examination of a witness. He assumed an air of indifference, and without giving the witness any reason to suppose that he entertained a doubt respecting the truth of his statement, he was ingeniously weaving a net-work in which to entangle him.

One of his peculiarities was a disposition to contend with the court, which rendered him unpopular with the judges; for, while they admired his talents, they were in constant fear of being made the subject of his wit. Particularly was this the case when he was excited by drink.

It has often been remarked that liquor sometimes sharpens the wit. The following is an illustration of it, as given by Edwards: A lawyer, while intoxicated, rose to address a court in New York. The judge, discovering his condition, told him to sit down. "Mr. W., sit down; you are drunk." To

which remark W. slowly replied, "That's a fact; and it is the first correct decision your honor has made this term."

Jeafferson tells a good anecdote of Lord Fortescue and a counsel trying a case before him. His lordship was disfigured by a nose which was purple, and hideously misshapen by morbid growth. Having checked the counsel, who was slightly inebriated, with the needlessly harsh observation, "Brother, brother, you are handling the case in a very lame manner," the angry advocate gave vent to his annoyance by saying, with a perfect appearance of *sang-froid*, "Pardon me, my lord; have patience with me, and I will do my best to make the case as plain as — as — *the nose on your lordship's face.*"

Prentiss, when in his cups, uttered some of the finest pieces of witticism on record. See our life of John Bent, for an exhibition of wit while under examination as a witness in the Jefferson Circuit Court.

Like Erskine, Mr. Leslie had no patience with a client who was constantly interrupting him with suggestions in the course of a trial, and would often silence him with some happy retort. We have somewhere seen it stated that on one occasion, at the Irish bar, Erskine was defending a man charged with treason. His client became dissatisfied with the course he was pursuing, and handed him a slip of paper on which he had written, "I will be hanged if I don't attend to my own case." Erksine returned him the paper, with the following reply: "You will be hanged if you do."

CHRISTIAN KRIBBEN.

Few lawyers were better known in his day than this gentleman, for he not only practiced in all the courts of St. Louis, but was an active Democratic politician. He was a Prussian by birth, and born at Glenel, near Cologne, March 5, 1821. He was exceedingly precocious, and at the age of five years commenced the study of Latin with the village curate, and at the age of seven became a pupil in a private school at Cologne, where he remained seven years.

In 1835 his father left Germany and came to the United States, and settled upon a farm in St. Louis County, Missouri. Christian was apprenticed to a store-keeper in Manchester, about twenty miles west of St. Louis, but, wearying of this, he ran away from his employer and returned to his parents.

In 1838 the family removed to St. Charles, where Christian's father opened a grocery store, and the son was installed as clerk and chief salesman. At the age of seventeen he commenced the study of the law with Major Cunningham, Esq., of St. Charles, and in due time was admitted to the bar. For some reason he obtained but little business, and finally opened an office in St. Louis, where he soon acquired a good German practice. He was a very fluent and ingenious speaker, and spoke the English as well as the German. He became an ardent politician, and during every canvass was frequently called upon to address the people. We have on many occasions heard him make two speeches the same night, and to the same audience, one in English and the other in German.

When the Mexican War broke out he enlisted in the army under General Doniphan, and rose to the rank of colonel. While in Mexico he studied the Spanish language, and while quartered at Chihauhua edited a newspaper

printed half in English and half in Spanish. After the close of the war he visited Europe and remained there two years. He corresponded with the press in St. Louis, and his letters, giving an account of his travels and the state of affairs on the Continent, were highly interesting.

In 1854 he married Miss Delafield, of St. Louis, a daughter of John Delafield, Esq. In 1858 he was elected to the General Assembly of Missouri, and was chosen speaker of the House. During the administration of Governor Stewart he was appointed colonel of the militia. In 1864 he lost his wife, and the following year, on June 15th, he died, leaving two children, a son and a daughter, aged respectively seven and nine years.

Colonel Kribben was naturally a linguist, and was able to acquire a knowledge of almost any language with little labor. He was a man of strong native intellect, and when able to rivet his attention to the trial of a cause was very successful, but he was careless and indolent in his habits, and frequently neglected his business, to the serious injury of his clients. He was social and genial, fond of company, delighted in light literature, and had a particular aversion to the drudgery of the practice. As an evidence of his negligence and inattention to business, we give an instance which occurred once at the Gasconade court held at the town of Hermann. He had a case in which he was a party himself, and while sitting at the counsel-table in the court-room, he said to us, "If my case is called, say I am ready, and attend to it for me until I return;" saying which, he took his hat and walked out. The case was soon called, a jury impaneled, and half of the witnesses examined before his return. He had said nothing to us respecting the nature of his case, and seemed as indifferent about it as though he had nothing at stake.

If he made an appointment to meet you on business, he was more apt to forget than keep it.

He exercised a large influence with the German population.

JOHN R. CHENAULT.

We first met this gentleman at the session of the Missouri Legislature in 1844. He was a member of the lower House, and represented the county of Jasper. It was the commencement of his public life, and he was soon regarded as one of the leaders of the delegation from south-western Missouri. Modest and unassuming, with genial manners and gentlemanly deportment, he gradually won the confidence of the House, and was honored by being placed upon some of the most important committees. Without being at all brilliant, he was a forcible and fluent speaker, and all his speeches contained a vein of good sense which never failed to command the attention and respect of his hearers. The subject in which he manifested the most interest was the improvement of the Osage River, for that stream furnished the only outlet for the produce of southern Missouri, railroads being unknown in that day.

Judge Chenault was born near Bardstown, Kentucky, November 7, 1808. His grandparents were from Virginia, and his father, Stephen Chenault, studied law with Felix Grundy. He and Mr. Grundy married sisters. Judge Chenault's education was confined to the common schools of Kentucky, but he had the benefit of private instruction from his father, who was well versed in the classics. It was at his father's instance that he commenced the study of the law with Charles A. Wickliff, and finished in the office of Mr. Grundy.

About 1830 or 1831 he married Martha I. Staples, of Meade County, Kentucky. After his marriage he resided with his father about two years, then moved to Gallatin, Sumner County, Tennessee, and after a residence there of two years came to Missouri, and settled in Jasper County. He soon acquired a fair practice, and attended all the courts of his circuit.

During the administration of President Tyler he was appointed Indian agent, the duties of which he faithfully discharged.

He was afterwards appointed judge of the Thirteenth Judicial Circuit, composed of the counties of Dade, Lawrence, Jasper, Newton, Barry, Greene, Taney, Stone, and McDonald. It was an immense circuit, and embraced a territory more extensive than some of the New England States. Court and lawyers traveled on horseback, and carried their law library in their saddle-bags. Judge Chenault presided over this circuit many years, and made an honest, impartial, and upright judge.

In 1861 he was elected a delegate to the State Constitutional Convention, and represented in part the Seventeenth Senatorial District, composed of the counties of Jasper, Dade, and Cedar. He took very little part in the debates, but generally voted with the secessionists.

Before the final adjournment of the Convention, he moved to Dallas, in Texas, in hopes of improving his financial condition, for he had become much embarrassed, and had a large family wholly dependent upon him. The change of residence seemed to prosper him, for he soon obtained a fair practice; but his constitution began to give way under the labor, cares, and mental anxiety which he had to encounter, and on March 12, 1873, he left this world. A wife, three daughters, and three sons survived him.

ABIEL LEONARD.

This eminent lawyer and jurist, who for forty years led the bar of central Missouri, and became distinguished throughout the West for his profound knowledge of the law, came from good old Revolutionary stock. His grandfather, from whom he took his name, Rev. Abiel Leonard, was a graduate of Harvard, and at the commencement of the Revolution had charge of a church at Woodstock, Connecticut. Being anxious to enter the army as chaplain, and assist in securing the liberties of his country, he asked for leave of absence; but his congregation, who were greatly devoted to him, declined until solicited by General Washington and General Putnam in a joint letter. This interesting letter, which has never before been published, will be found in the Appendix.

Nathaniel Leonard, the father of Judge Leonard, was born in Woodstock, in 1768. He became a captain in the United States army, served in the War of 1812, and was commander of Fort Niagara at the time of its capture by the British, in 1813. The subject of our sketch was his second son, and was born at Windsor, Vermont, May 16, 1797. He was sent to Dartmouth College in 1813, when sixteen years of age, intending to prepare himself for the ministry. But he became satisfied that his mind was better adapted to the law, and abandoned his first intention. After remaining at Dartmouth about three years, his sight became greatly impaired by too close application to his books, and he was forced to abandon his studies, and retire to his father's farm to recruit his health.

In 1816 he commenced the study of the law in the office of Gould & Sill, prominent lawyers at Whiteboro', New York, and continued there until admitted to the bar, in 1818. He then determined to come West, and fixed upon Missouri

as his future home. In 1819, at the age of twenty-two, he came to St. Louis, descending the Ohio River in a skiff, from Pittsburg to its mouth. He remained in St. Louis but a few days, and then started on foot for Franklin, in Howard County, crossing the Missouri at St. Charles. Here he was forced to remain several weeks by an attack of fever, brought on, no doubt, by his long exposure on the Ohio River.

It was here that he first met Peyton R. Hayden, who afterwards became an eminent lawyer in Boonville, but then residing in old Franklin. They became intimate friends through life, and were pitted against each other at the bar for more than a third of a century. Mr. Hayden had been in the state but a few months, and was returning from St. Louis, where he had been to purchase a few books and obtain a law license. This meeting of these young lawyers, who afterwards became so eminent, is happily described by Mr. Hayden's son, E. R. Hayden, Esq., at present a prominent lawyer at Boonville. We prefer to give his own words:

"On my father's return home he remained overnight at St. Charles, and there, on the porch of the old log tavern, he first met and became acquainted with Abiel Leonard. I have often heard him refer to the incident. Leonard was sitting at one end of the porch, engaged, apparently, in reading a newspaper, while my father was at the other end, carrying on a slight flirtation with the pretty daughter of the tavern-keeper (he was always fond of the fair sex). He mentioned to her the object of his visit to St. Louis; that he had succeeded in procuring a license to practice law, and was ready and willing to share the honor with some pretty girl—for instance, herself. Leonard was listening, and when he heard my father mention the fact that he had a license to practice law, he immediately laid aside his paper, and, approaching, introduced himself, and stated that he was also a lawyer, and from New York, and was in search of a location, and was on his way to Franklin. Father described him as being quite small, very spare and thin in person, with a singularly green look, and absolutely homely. Location, prospects, etc., were discussed, and Leonard was furnished with a glowing description of the Boonslick country. Old Franklin then contained a population of 1,800, and prospectively was considered the best location in the territory for a lawyer. Leonard concluded to make the trial, and accordingly the next morning started on foot, with his worldly goods and chattels in a bundle tied to the end of a stick, and placed over his shoulder, while father was on horseback. Another person, also on horseback, and on his way to the same place, happened with them, and they offered to ride turn about with Leonard, but he declined; and being of light weight and a good walker, all reached Franklin about the same time."

Tradition gives another version of this trip to Franklin, which is not so well authenticated. It represents Hayden and Leonard traveling alone, and riding alternately Hayden's horse. They found some streams in one of the upper counties too full to ford, owing to recent rains, one of which they were in a dilemma to know how to cross. Hayden said he could not swim a lick, and he did not know whether his old horse could. Some few hundred yards from the bank, on the opposite side, they saw a cabin, and Leonard, being a good swimmer, proposed to swim over and procure assistance from the cabin. He stripped himself to his drawers, and, tying his clothes upon his back, started in. When he reached the middle of the stream, the strength of the current broke the string, and away went his clothes down the river. Here was a predicament that he had not anticipated. He approached within thirty or forty yards of the cabin and hallooed, concealed, however, in a thick hazel-bush. When the lady who responded to his call got within fifteen yards of him, he called to her not to come nearer, and informed her of his misfortune, and asked if she could not send him an old pair of pants and shirt of her husband's. She promised to do so, and sent a boy with them to him. Now, it must be known that this good lady's husband was a man of six feet two, and turned the scale at 250 pounds, while Mr. Leonard was only five feet four, and never weighed over 100. The good man, on returning home, brought Mr. Hayden over, and Hayden said that the appearance of Mr. Leonard in his new garb was enough to make a Methodist minister laugh at his deacon's funeral. Upon reaching the first country store, a more suitable outfit was obtained.

After being in Franklin about a week, a farmer called upon Mr. Hayden to retain him in a suit before a justice of the peace, growing out of a horse-trade. Hayden told him that he was already employed in behalf of the plaintiff, but advised him to call on Mr. Leonard. He did so, but soon returned to Hayden, and said, "Mr. Hayden, do you expect me to employ such a looking man as this young lawyer you have sent me to?" "Why," said Hayden, "he is a very good lawyer, and will do you full justice." He employed

him accordingly, but unfortunately Mr. Leonard lost his suit, and he became so sensitive in regard to it that Hayden took him to his own room and kept him there several days, apprehensive that he might do himself some violence.

Mr. Leonard never could divest himself of this feeling of disappointment at the loss of a suit, and acquired a not unusual habit of charging it to the stupidity of the judge. We have in our mind's eye a prominent lawyer at the St. Louis bar who invariably does the same.

It reminds us of a good story told by O'Neall, in his "Sketches of the Georgia Lawyers," upon a witty judge of that state. An attorney by the name of Nibbs practiced before him, and upon one occasion became much distressed at the loss of a suit. In speaking of it to the judge, upon the adjournment of the court, he remarked, "Oh, how can I go home and tell my client that I have lost his case!" The judge replied, "Nibbs, go home and tell your client you had a good case, but the judge was a d—d fool; that he did not understand your case, and therefore you lost it."

After Mr. Leonard reached Franklin his means became entirely exhausted, and he opened a school in the neighborhood, and taught six months, at the same time devoting all his leisure hours to reading some law-books which he had borrowed. He then located at Boonville, on the opposite side of the river, and remained there about two years, when he returned to Franklin. The old town was washed away by the strong current of the river, and he then removed to new Franklin. From incessant study his eyes began to fail him, and he rode on horseback to Kentucky to consult and advise with some occulists. They advised him to abstain from reading, as the only remedy they could suggest. This he was forced to do, and on returning home employed a young man to read to him. In time his eyes became stronger, and he continued his practice with great diligence, having to encounter some of the brightest lights of the profession, embracing such men as Hamilton R. Gamble, John F. Ryland, P. R. Hayden, Charles French, and others, all of whom became greatly distinguished as lawyers.

Gamble removed to St. Louis; French and Ryland, to Lexington; Leonard, to Fayette, the new county-seat of Howard; and Hayden, to Boonville.

From this time Mr. Leonard began to rise rapidly in the profession, until he became its head and front. Business flowed in upon him fast, and he soon had the pick of the best cases in Central Missouri, and in the Supreme Court he outranked all others.

In 1823 he was appointed state's attorney for his judicial district, to fill out the unexpired term of Mr. Gamble, who had resigned upon being appointed secretary of state; and as a very singular coincidence, forty years afterwards Mr. Leonard was appointed judge of the Supreme Court, to fill an unexpired term of the same distinguished gentleman.

He bought a beautiful tract of land adjoining Fayette, improved it handsomely, and made it his future home. He gave it the name of "Oakwood," and it is still the homestead of his family. He was always much attached to this place, and spent much of his time in roaming through its beautiful woods.

We are not aware that Mr. Leonard ever made a partnership in his practice, with the exception of one. He and General S. M. Bay practiced together in the Supreme Court for many years, and it continued until General Bay removed to St. Louis.

Before changing his residence from Franklin to Fayette, Mr. Leonard became involved in a personal difficulty with a Major Berry. It had its origin in the prejudice then existing against the Yankees, as they were termed in derision. As soon as an Eastern lawyer settled among them, some one was put forward to test his mettle; for it was generally supposed that his puritanical education, and the natural aversion of the Eastern people for dueling, would prevent him from resenting an injury in the mode which then prevailed in the South and West. We are not posted as to the particulars, but Berry, under some pretense, attacked Mr. Leonard with a whip or cowhide. Mr. Leonard made all the resistance in his power, but, being a very small man, and his antagonist a large, ath-

letic man, he was easily overpowered. The insult aroused the pluck of Leonard which had been transmitted to him by his ancestry, and without a moment's hesitation he sent Major Berry the following note:

"FRANKLIN, *June 26, 1824.*

"SIR: I demand a personal interview with you. My friend Mr. Boggs will make the necessary arrangements on my part.

"Yours, etc.,

"A. LEONARD.

"*Major Berry.*"

To which Major Berry replied as follows:

"FRANKLIN, MO., *June 28, 1824.*

"SIR: Your note of the 26th has been received. Without urging the objections which I might have to the note itself, or to the demand which it contains, I shall answer it, to redeem a promise which I made at Fayette (in passion) that I will give you the demanded interview. My business, which embraces many duties to others, will require my personal attention until after the first of September next, after which time any further delay will be asked from you only.

"To make any arrangements, Maj. A. L. Langham will attend on my part.

"Yours, etc.,

"TAYLOR BERRY."

Shortly before the meeting took place Mr. Leonard was arrested by direction of Judge Todd, and required to give bond in the sum of $5,000 to keep the peace. He said to the judge, "Name the amount of the bond; for I am determined to keep my appointment with Major Berry." Near the latter part of August the parties, with their seconds and surgeons, proceeded down the river, having previously entered into — through their seconds — the following stipulation to meet at some point near New Madrid, in the southern part of the state:

"We, Thomas J. Boggs and Angus L. Langham, appointed by Abiel Leonard and Taylor Berry to act in the capacity of their friends in a personal interview they are to have, and to agree upon the terms by which the said parties shall be governed in the combat, do agree, the said Thomas J. Boggs for and on behalf of Abiel Leonard, and the said Angus L. Langham for and on behalf of Taylor Berry, to the terms and regulations following, to wit: The place of meeting shall be at some point, either in Kentucky, Tennessee, or Arkansas, which shall be most convenient to the town of New Madrid — the

particular spot to be determined by the seconds, who, for that purpose, as well as for the making of any other necessary arrangement, shall meet in the town of New Madrid on the third day previous to the time specified in this instrument for the personal meeting of the parties, at ten o'clock, A. M. The time for the personal meeting of the parties is fixed on the first day of September next, at ten o'clock in the morning. The arms to be used by the parties shall be pistols, each party choosing his own, without any restriction as to the kind, except that rifle-pistols are prohibited. The distance shall be ten paces of three feet each. The position of the parties shall be side to side, so as to fire without wheeling. When the parties have taken their positions, the question 'Are you ready?' shall be asked, to which the answer shall be 'Yes.' If either party answer negatively, or in other terms, the question shall be repeated. When both parties answer 'Yes,' the word 'Fire' is to be given; upon which the parties shall fire within the time of counting eight, which shall be slowly and audibly done. As soon as the person counting finishes, he shall order 'Stop,' which shall be the word of cessation for that fire. The choice of positions shall be determined by lot, as well as the giving the word. The counting shall be done by the second who loses the word. If the pistol of either party shall snap or flash it shall be considered a fire. If a shade cannot be obtained, the parties shall stand on a line across the sun.

"A. L. LANGHAM,
"T. J. BOGGS.

"*Franklin, July 1, 1824.*

"The time for the meeting of the parties is changed to four o'clock, P. M. The dress an ordinary three-quartered coat.

"T. J. BOGGS,
"A. L. LANGHAM.

"*Point Pleasant, August, 31, 1824.*"

On their way to New Madrid, Mr. Leonard and his second stopped overnight at St. Louis, and while at the hotel some of the police, who had in some unknown way got wind of what was going on, went to the hotel to arrest Mr. Leonard, but were frustrated by the ingenuity of Mr. Boggs. As they entered the room they asked for Mr. Leonard, when Mr. Boggs rose and said, "That is my name." They at once arrested him, which gave Leonard the chance to escape. Finding that they had got the wrong man, they released Mr. Boggs, who proceeded on his way to New Madrid, and reached there in time for the meeting.

We conclude the narrative of this duel by stating that the parties met at the time and place appointed, and Major Berry fell at the first fire, mortally wounded, and soon after died.

In after-life Mr. Leonard never alluded to the duel in the

presence of his children, and only once or twice to his wife, and then only to say that he never regretted the course he pursued.

Under the Constitution and laws he was disfranchised and disbarred, but the people, who almost universally approved of his course, petitioned the Legislature for the removal of his disabilities, and at the next session he was restored to all his rights as a citizen.

In October, 1830, Judge Leonard married Jeannette, daughter of Colonel B. H. Reeves, of Kentucky, one of the ablest lawyers and finest orators of that state, and soon after removed to Fayette, which became his home through life. At the August election in 1834 he was induced to become a candidate for the Legislature, and was elected by a large majority. Our Constitution required a revision of the laws every ten years, and, as this was to be the revising session, it was desirable to send to the Legislature the best legal talent at our command. Mr. Leonard labored very hard to secure a revision that would be acceptable to the people, and it is universally conceded by the profession that the revision of 1834–5, has never been equalled by any since.

The bar of Missouri had long evinced a strong desire to see Mr. Leonard on the bench of our Supreme Court, and finally, when a vacancy occurred by the resignation of Governor Gamble, he was appointed to the place. The large amount of labor performed by him while on the bench made a deep inroad upon his physical constitution, and he was forced to resign.

As a jurist Judge Leonard never had a superior in our state, and his opinions from the bench will compare favorably with those of any other jurist now wearing the ermine. They will be found in volumes 20 to 25, inclusive, of our State Reports. They abound in great legal learning and research. We refer to one as a fair specimen of all.

The case of Whiteside *vs.* Cannon, reported in the 23d volume, page 457, is exhaustive of the subject he was treating. It presented several difficult questions growing out of the rights and liabilities of married women respecting their

separate estates. All the leading cases, both in England and this country, are referred to and commented upon. In fact, the subject was exhausted, and his conclusions are now regarded as the settled law of this state. The reader will notice that his style of composition is unclouded by fine or subtle distinctions. There is no attempt to evade, or not squarely meet, the questions presented, nor can his language be so tortured or construed as to admit of any possible doubt as to his meaning. He was very jealous of his diction, and would rewrite his opinions over and over before filing them with the clerk. This imposed upon him a large amount of unnecessary labor.

In this respect judges greatly differ. Judge Wagner rarely made any alteration in his first draft. Judge Napton never rewrites his opinions, but his manuscript abounds in numerous corrections and interlineations. The force of habit, facility of thought, and mental training undoubtedly have much to do with this.

Judge Leonard was not an orator. He had few of the graces of elocution. There was nothing remarkably pleasing in his gesture, and his voice was harsh and coarse. When he started off in an argument he would pitch his voice to a particular tone, and there keep it to the close. His great power as a lawyer was in his masterly logic. His mind was peculiarly and essentially logical, rejecting all merely plausible reasons as he would the false. Not only was he essentially logical, but truthful — and as exact in his moral as in his intellectual logic.

While listening to him you lost sight of the man and his imperfection as a mere orator, and your attention was rivited by the profoundness of his argument and the depth of his reasoning. He laid down his premises with great fairness, and gradually led the minds of his audience to the adoption of his conclusions.

In a recent letter from General Stringfellow, an able and accomplished lawyer at Atchison, and one of the brightest lights of the profession, who had long known Judge Leonard, he thus speaks of him:

"I had, especially in the Supreme Court, an opportunity to form an estimate of his ability as a lawyer. My estimate may have been influenced by my friendship, for I have known no one whose commanding intellect, profound learning, spotless integrity, unpretending generosities and kindness, unflinching courage, moral and physical — in a word, whose head and heart so entirely captivated me. He was of a class of lawyers almost extinct, such as can hardly be made in this age of books and decisions — since *cases*, rather than *principles*, have become the study of the lawyer. I never knew one who could give a better reason for his assertions than Judge Leonard. He was equally familiar with common law and chancery, with civil law and criminal. He was both advocate and counsel. While I have known others to excel him as orators, I have known none who could excel him in the argument of a law question, or in the discussion of the conclusions from facts submitted to a jury. As I once testified in court, in my opinion he was the ablest lawyer I have known."

Judge Leonard had no aspirations for office or political prominence, or anything that would interfere with his profession; yet he took a deep interest in everything that was going on in the political world. He was an unflinching Whig, and had he lived in the time of Hamilton and the elder Adams he would have been an uncompromising Federalist. His dislike for Democracy was equal to that of Chancellor Kent.

Edwards says that a lawyer once called upon the chancellor and found him reading the *New York Evening Post*, a rabid Democratic journal. "What, Chancellor; you, of all men, reading the *Evening Post!*" "Yes," said the chancellor; "and pray why should not I see what the devil is doing in the world, as well as other persons."

Judge Leonard had a great contempt for chronic office-seekers and self-constituted lovers of the dear people. Being always in a minority in his own state, he had the good sense to know that he could not succeed in public life. Moreover, the tie which bound him to his home at Fayette was too strong to permit him to be drawn into the vortex of political strife. Besides, we have often heard him say "that the life of a politician was the meanest and most servile that a man could lead; that he lost his self-respect and independence, and was liable at any moment to fall a victim to the whims and caprices of a vacillating public opinion."

Mr. Leonard was not alone in this view. Probably no

public man in this country was more successful in his political efforts than Martin Van Buren, for he filled every position within the gift of the people; yet before passing away he placed upon record his experience of the life of a public man.

Shortly after his death we were on a visit to the East, and spent several days in our native place, Hudson City, New York, which is only eight miles from Kinderhook, the lifetime residence of Mr. Van Buren. We had occasion to visit the office of the surrogate, he being an old law-partner of our father, and whom we had known in our boyhood. Speaking of Mr. Van Buren, he remarked that the autograph will of the late president was in his office, and he desired to show it to us, as it contained a very remarkable clause, indicating Mr. Van Buren's idea of the little satisfaction and happiness to be derived from even a successful public career. We once had a copy of it, but it has been mislaid. The opening part, as we recollect it, is as follows:

"I, Martin Van Buren, formerly governor of the state of New York; at a later period United States senator, vice president, minister to the Court of St. James, and president of the United States; *and lastly, and the happiest period of my life, a farmer in the town of Kinderhook,* do make and publish this my last will and testament."

What a commentary upon those who spend their lives seeking popular applause, and, when attained, find it is but a bubble, which soon vanishes and leaves them wondering why they ever craved it. Those who give up their lives to the acquisition of fame might be profited by the words of Dryden:

"When I consider life, 'tis all a cheat;
Yet, fooled with hope, men favor the deceit—
Trust on, and think to-morrow will repay.
To-morrow, falser than the former day,
Lies worse; and while it says we shall be blest
With some new joys, cuts off what we possest.
Strange cozenage; none would live past years again,
Yet all hope pleasure in what yet remain,
And from the dregs of life think to receive
What the first sprightly running could not give."

Judge Leonard was a devoted friend of the Union, and strongly opposed to the institution of slavery, though at one time he was himself a slaveholder. In his section of the state, servants could not readily be hired, and he purchased slaves from necessity. He had no charity for those who entered into the Rebellion. We once heard him remark "that the d—d rebels were fighting to destroy the government that their forefathers fought to obtain." He greatly regretted that his age and physical weakness would not permit him to enter the army, but he sent in his place a favorite, talented, and promising son, who while in the army contracted a disease peculiar to a southern climate, which resulted in his death.

Upon the subject of religion Judge Leonard had his own peculiar views, which he never obtruded on his friends. He attended the services of the Episcopal Church out of deference to the feelings of his family, yet he did not believe in the Bible as a revelation of the Divine will. He was, however, a firm believer in a supreme ruler of the universe, and in the immortality of the soul.

Tennyson said,

> "There lives more faith in honest doubt,
> Believe me, than in half the creeds."

Beyond this it is doubtful if his powerful and logical mind ever fathomed the divine mysteries of our existence. In his habits he was temperate, abstemious, and frugal; in his charities, liberal and free. He was essentially domestic — a kind and indulgent father, and a most affectionate and devoted husband.

He died March 28, 1863, in the sixty-sixth year of his age, surrounded by his family, and in the home he loved so well.

Our acquaintance with Judge Leonard commenced in 1840. In the presidential election between Clay and Polk he took a deep interest, being a great admirer of Mr. Clay. A few days after the election we met him at Jefferson City, and traveled on horseback with him to Columbia, in Boone

County. He gave us a pressing invitation to spend a few days with him at Fayette, and, as inducement, offered to remain over a day at Columbia. We accepted his invitation. That night we occupied the same room at the hotel. The returns of the election came in very slowly, but enough had been heard to show that the result would depend on Pennsylvania; and, as the vote was exceedingly close in that state, both parties were very apprehensive. We retired about ten o'clock, in advance of Mr. Leonard, who remained up in hopes of receiving further intelligence. About eleven o'clock a report came in to the effect that the old Key-stone had given Mr. Clay about 400 majority. There was great rejoicing among the Whigs, and the Glee Club (at the suggestion of Mr. Leonard, as we afterwards learned) assembled under our window, and entertained us with their songs, which, to a Democrat, was certainly a very poor entertainment. It was said that Mr. Leonard was so rejoiced that he made an attempt, though a very lame one, to join in the chorus. The next morning more authentic news was received, leaving but little doubt that the state had gone for Mr. Polk. In going into the breakfast-room we met Mr. Leonard coming out, looking gloomy and desponding. We accosted him with "Good morning, Mr. Leonard; cannot you favor us this morning with a glee song?" "To the devil," said he, "with your glee songs; the country has gone to h—l, and the sooner the people find it out the better."

Judge Leonard was a purely matter-of-fact man, and never could enjoy anything ludicrous or humorous. He could not even appreciate a good anecdote, and if made the subject of a piece of witticism always felt aggrieved. We have already alluded to his homely appearance. Besides being very diminutive in stature, he had large, coarse, ill-formed features, and it might be said of him, as was said of Rufus Choate — "his face was a compound of wrinkles, yellow jaundice, and jurisprudence." Contrary to the generality of mankind thus afflicted, he was very sensitive in regard to it. Upon one occasion John Miller, of Cooper County, a state senator, who had the *sobriquet* of "Old Ugly," from the fact of being one of

the homeliest men in the state, and who prided himself upon his notoriety in that respect, visited Fayette. He was an old friend of Mr. Leonard, and seeing him talking among a group of gentlemen near the court-house, approached and joined in the conversation. Turning suddenly upon Mr. Leonard, he remarked, "Leonard, I have a piece of property in my possession that belongs to you, though I have carried it several years, this being the first opportunity I have had to deliver it to its owner;" and, suiting the action to the word, drew from his pocket an old jackknife and tendered it to him. Instead of accepting the joke in the spirit in which it was offered, Mr. Leonard became highly incensed, and nothing but a rapid retreat upon the part of Miller prevented a collision.

During one of the sessions of the Supreme Court at Jefferson City, Mr. Leonard, Hon. Samuel T. Glover, and Carty Wells were there, attending upon the court. They put up at the Stone Hotel, immediately on the bank of the river, and after dinner were in the habit of taking a stroll together up and down the river. Upon one of these occasions, and while standing upon the bank, Judge Leonard became very eloquent in his description of the river. "Ah," said he, "it is the great Father of Waters. It takes its rise in the Rocky Mountains, and majestically winds its way to the gulf. When it enters the Mississippi it swallows up that stream, continuing on its way, and carrying upon its bosom the great commerce of the West. Noble stream! The greatest Roman of them all!" Here Judge Wells interrupted him, saying, "Leonard, you are right; if you will take out the sand-bars, and let in a little more water, it would make a mighty good stream for small craft." Mr. Leonard turned his big black eyes upon him with astonishment, and said to him, "You are a d—d fool," and, turning upon his heel, walked off most thoroughly disgusted. He never could tolerate Wells afterwards.

Judge Leonard's conception of the grandeur of the Missouri River was equal to that of Mr. Webster, who, on his

return from one of his visits to the West, was asked if he had seen the junction of the Missouri and the Mississippi. "No," replied the great statesman; "there is no junction. The Missouri seizes the Mississippi, and carries it captive to New Orleans."

THOMAS B. ENGLISH.

We became acquainted with the gentleman whose name is at the head of this article in the winter of 1846–7. We were then serving together in the Legislature, he representing the county of Cape Girardeau. He seemed to be a mild and amiable gentleman, of excellent habits, and free from those vices which are not uncommon in legislative bodies. We noticed that he mingled very little with the members, and seemed disposed to avoid a general acquaintance. As a speaker he was fluent and argumentative, making no effort to obtain reputation as an orator. He mingled freely in the debates, and always commanded the attention of the House, and, although unpopular by reason of his exclusiveness, was credited with more than ordinary intelligence. We served with him on several important committees, and found him hard-working and laborious. He exhibited much anxiety to obtain a seat in Congress, and when the bill for laying off the state into congressional districts came up, he evinced a great desire to procure such a district in his section of the state as would favor his political aspirations. He committed the error of supposing that he could better pave the way to success by obtaining the good-will of both political parties, and to accomplish this was found frequently voting with the Whigs. This led to a suspicion on the part of the Democrats as to his fealty to his own party, and doubtless weakened his chances for political promotion.

Mr. English was a native of Louisiana, and born at Harrisonburgh, July 15, 1811. He became an orphan at a very early age, and was brought up and educated by relatives, the chief of whom was an uncle by the name of Simeon English. When a small boy, in the year 1817, he came to Missouri with his uncle and other relatives, who settled in Cape Girardeau County. Thomas was placed as a clerk in the store

of Andrew Giboney, and after remaining there about two years entered St. Mary's College, in Perry County, where he received a classical education, and obtained a diploma as Master of Arts. To enable him to meet a liability incurred in his education, he remained in the college two years after graduating, teaching the Latin and Greek languages.

In 1834 he married, and, having fixed upon the law as his vocation, entered as a student the law-office of Colonel Ranney, an eminent lawyer at Jackson, and in due time was admitted to the bar, and commenced his practice at Jackson. He soon obtained a fair amount of business, which gradually increased under his studious habits and close application.

As is well known, Missouri was limited at that time, by her Constitution, to one bank and five branches. Chiefly by the efforts of Mr. English one of these branches was located at Jackson, and Mr. English became its cashier, and continued so for a period of twelve years. For several years he was receiver of the United States Land Office at Jackson, and in 1860 was returned to the State Senate. In 1864 he was elected judge of the Tenth Judicial Circuit, but was ousted from office in 1865 by the Drake Constitution.

He died on November 11, 1866, leaving a widow and four children, who still survive.

JOHN H. STONE.

We first met Judge Stone at a State Democratic Convention held at Jefferson City in the spring of 1840. He was a delegate from Callaway County, and had been at the bar but a short time. His fine, commanding appearance and dignified deportment made a favorable impression upon the Convention. Upon some question relating to the organization of the body he made a brief speech, which was well delivered and well received.

We did not meet him again until in 1843, when he was appointed, by Governor Reynolds, judge of the Ninth Judicial Circuit, composed of the counties of Franklin, Gasconade, Washington, Jefferson, St. François, and Perry. For several years we attended two or three of his courts, and had ample means of forming an estimate of his character and judicial attainments. Though popular with the people, he had been defeated the year before as a candidate for the Legislature.

Judge Stone was a native of Tennessee, but raised and educated near Georgetown, Kentucky, to which place his parents had removed. We are not aware that he was a graduate of any college, but his education was very liberal. He read the Latin language with great facility, and had some knowledge of Greek. His legal education was completed at the law school in Lexington. He came to Missouri in the winter of 1836–7, and located at Fulton, in Callaway County, where he practiced until elevated to the bench. He remained on the bench until some time in the early part of the war, when he fell a victim to the turbulent spirit which reigned throughout the state.

That Judge Stone sympathized with the Confederacy is unquestionably true, but that he ever committed any overt act against his government, or was guilty of any act of hostility, or even imprudence in conversation, is not true. He

looked upon the war as one of the greatest calamities that had ever befallen the human race. Naturally of a timid disposition, its evils became greatly magnified in his imagination. His mind was constantly dwelling upon it, until his reason became almost dethroned. To cap the climax, he was arrested upon the charge of disloyalty, and thrown into the Gratiot-Street Prison in St. Louis. The real motive for his arrest was to prevent him from holding his courts in one or two counties in which large amounts of property were advertised to be sold under execution. Threats of violence, if he attempted to hold court, reached his ears, and he became almost frantic.

Having occasion to visit the Gratiot Prison, we were greatly surprised at finding him there, and immediately tendered our services to procure his release. He had no desire to obtain his liberty, expressing the belief that he was safer there than he would be at large. We discovered a great change in his mind, and went at once to the office of the provost-marshal and obtained an order for his discharge. He went up among his old friends in Callaway, and finally settled with his family upon a small farm in the western part of St. Charles, or eastern part of Warren, County. We never saw him afterwards. The effect of the war, and the personal ill-treatment to which he was subjected, hurried him rapidly to his grave. He must have died shortly after the close of the war.

A more upright, honest, and conscientious man never lived. He was as unsuspecting and artless as a child, and readily fell into the snare of those who for selfish purposes contrived his overthrow. We never regarded Judge Stone as a profound jurist, but his deficiency in that respect was more than made up by his spotless integrity and true devotion to the duties of his office. While on the bench he resided most of his time at Potosi. He left a wife and several children.

FIDELIO C. SHARP,

Who was one of the most eminent lawyers at the Missouri bar, spent a part of his professional life in Lexington, Lafayette County, and the balance in the city of St. Louis. He was born in Hopkinsville, Christian County, Kentucky, on August 24, 1821, and died in St. Louis on November 28, 1875, at the age of fifty-four years.

His grandfather, Captain Thomas Sharp, of Virginia, was a gallant soldier of the Revolution, and after the recognition of our independence removed to Tennessee, and settled near where Nashville now stands. At that time the country was filled with hostile Indians, and the farmers had to cultivate the soil with gun in hand. While plowing in his field Captain Sharp was attacked by a Cherokee Indian, and very seriously wounded. He afterwards removed to Kentucky and located near Russellville, and died there at an advanced age, leaving a large family, including five sons, two of whom were physicians, and two eminent lawyers; and the fifth one, Absalom M. Sharp, the father of the subject of this sketch, was in early life a merchant, but finally became a farmer.

The family were noted throughout Kentucky for their intelligence, influence, and enterprise. Fidelio C. Sharp was only fourteen years of age at the time of his father's death, and the care and responsibility of maintaining and raising the family devolved upon him and his widowed mother, he being the oldest of the sons. This fact no doubt tended largely to the development of that energy and independence of character which distinguished him through life. Even at the early age of fourteen his education, under the instruction of one James D. Rumsey, a teacher of rare excellence and learning, was well advanced, and though interrupted for a time by the death of his father, and the necessity thereby imposed upon him of assisting his mother in the cultivation of

the farm, was resumed with additional energy under the same teacher, and with reference to his entering upon the study of the law; for in his earliest years he expressed a strong desire to make the law his profession. He commenced the study of the law in the office of Sharp & Stiles, at Hopkinsville, and was there admitted to the bar at the age of twenty-one.

He could not have practiced long in Kentucky before he determined to come to Missouri, for in 1843 he located in Lexington, Lafayette County, and made a partnership with John P. Campbell — the style of the firm being Sharp & Campbell. The partnership continued several years, and upon its dissolution Mr. Sharp formed a business connection with the Hon. William T. Wood, present judge of the Sixth Judicial Circuit, and subsequently with Hon. Samuel L. Sawyer, late judge of the Fourteenth Judicial Circuit. Their practice, which became very extensive, embraced the courts of Lafayette, Clay, Ray, Carroll, Saline, Johnson, Jackson, Bates, and Cass. Mr. Sharp's bright intellect, fine legal attainments, indomitable energy, and spotless integrity caused him to rise rapidly in his profession, and he soon took rank among the foremost lawyers of central Missouri.

In 1857 he removed to St. Louis, and became associated in the practice with Mr. Thomas, and upon the death of Mr. Thomas formed a partnership with the Hon. James O. Broadhead, under the name and style of Sharp & Broadhead. This firm, so noted throughout the West for great legal ability, did a larger business than any other firm in St. Louis, and were retained in almost every case of much magnitude. It was dissolved by the death of Mr. Sharp, which took place very suddenly at his residence on the corner of Chouteau and St. Ange Avenues. He died in the prime of manhood, and in the full tide of professional success.

Our acquaintance with Mr. Sharp commenced about the time of his removal to St. Louis, and from that period until his death we were thrown frequently together, and we learned to esteem him not only as a warm personal friend, but as a man of great legal ability, a high sense of honor, and most incorruptible integrity. We saw him in his office but a few

days before he was called upon to face the grim messenger of death, and his promise for a long and useful life was equal to that of any other lawyer of his age. We left a sick-bed to attend his funeral, and when we saw his inanimate body lying in its casket, we could not escape the reflection,

> "What shadows we are,
> What shadows we pursue."

The St. Louis bar held a meeting and adopted a series of resolutions expressive of the great loss they had sustained.

Mr. Sharp's death was greatly mourned by the profession, particularly by the younger members, for his kindness to them was proverbial. He was ever ready to aid them with his advice and counsel, and many of them ascribe much of their success to his assistance. He was very fortunate in his domestic relations. He married twice, his first wife being a daughter of Captain Henry Wallace, of Lexington. She died in 1860, and in 1864 he married Miss Maud, of St. Louis, who still survives him. Both were ladies of great worth, intelligence, and refinement.

Mr. Sharp was tall and spare made, with dark hair and eyes, and his features denoted unusual intelligence. In his manner he was free, easy, and polite, and in his dress very neat and tasteful; but there was an entire absence of studied dignity — nothing was feigned, and nothing assumed.

In his political tenets he was Democratic — ready at all times to aid the cause, and very efficient on the eve of an election in the organization of the party forces; but when called upon to become a candidate for Congress, and other positions of honor and high trust, he invariably refused. Time and again have we urged him to let his name be used for positions which almost any man would have been proud of, but he had but one reply to make: "I would not accept the best office within the gift of the people." His happiness was in his family and his profession, and nothing could entice him from either.

Mr. Sharp was often charged with avarice, but beyond a strong desire to place himself in independent circumstances,

and his family, in the event of his death, above want, we never saw any evidence of it. It is certainly true that many of his charities exhibited a strong compassion for the poor, and were never made public through his instrumentality. He was close and shrewd in a trade, and fond of making money, but there was nothing sordid or selfish in his composition. In his intercourse with his professional brethren he was candid and courteous. There was nothing so repugnant to his nature as professional trickery, or a want of professional courtesy. He looked upon the law as an honorable calling, and often regretted the demoralization brought upon it by legal quacks and men of low instincts. Long before the organization of the Bar Association he expressed a strong desire for the adoption of some measure that would tend to purify and elevate the standard of the profession.

Mr. Sharp was a man of a fine flow of spirits, enjoyed a hearty laugh, and though not much given to the telling of anecdotes, enjoyed them greatly when well told by others.

Colonel J. O. Broadhead, who was his partner for many years, thus speaks of him as a lawyer:

"I think I am not doing others injustice when I say that as a practitioner Mr. Sharp had no equal in the profession in this state; what I mean is, in the preparation and trial of a case before a *nisi-prius* court. In learning everything that was to be known touching the merits of the case on either side; in finding out and marshaling the testimony; in knowing beforehand all that each witness would swear to, as far as it was possible to be known; in learning beforehand the character of the witness, and what would be his bearing upon the witness-stand; in apprising him of the efforts that would be made to confuse and confute him by the other side, so that he might be prepared to stand the fire of a cross-examination; in preparing and arranging his papers; in anticipating the tactics of his adversary; in looking up authorities upon the different questions of law that would probably arise in the progress of the trial; in the general preparation of the case for trial, and the conduct of the trial, and the examination of witnesses, he was unequaled at the bar—always ready, always on the alert, earnest, vigilant, and making his client's case his own so completely as to command the unbounded confidence and devotion of every one whose cause he advocated. With such qualities he was necessarily eminently successful in his practice, and left a reputation behind him of which his friends may well be proud."

JAMES WINSTON.

This talented, popular, and eccentric lawyer was well known throughout central and western Missouri. We never saw him but once, and he then occupied a seat in the State Senate. He was a rough diamond; a natural orator — unadorned, unrefined, and unpolished. The gift of swaying the minds of men and leading them captive he inherited from his grandfather, the great Revolutionary orator, Patrick Henry, his mother being the youngest daughter of Henry. But he certainly did not inherit any of the graces of his person, for a more undignified, rough, and awkward man did not belong to the Missouri bar.

Mr. Winston was born in 1813 or 1814, but whether in Virginia or North Carolina is a matter of some doubt. Soon after marrying Miss Henry his father settled on Dan River, in North Carolina, and James was one of the youngest of twelve children. This would seem to indicate that he was born in Carolina, but it has been said that at his birth his mother was on a visit to Virginia. His elder brothers, Patrick and George, received a collegiate education, but James and his younger brothers, by reason of their father's limited means, had to put up with such instruction as they could obtain in the common schools. His deficient education was a drawback to him through life, though he endeavored to make up for it by close and continued application to books. He was a constant reader, and, having a most retentive memory, was enabled to accumulate a large amount of historical, biographical, scientific, and legal knowledge. It is stated by those who were intimately acquainted with him that his knowledge of ancient history was unsurpassed. Of mathematics he knew nothing, and was positively ignorant of the simplest rules in arithmetic. His orthography was

good, but his chirography and composition were very inferior. But he was chiefly distinguished for his brilliant conversational powers. When a subject was introduced that required the knowledge that comes from books and close and accurate reading, he appeared to great advantage, and in strange contrast with his clumsy and awkward demeanor.

Mr. Winston came to Missouri as early as 1834, and first settled at Boonville. He afterwards moved to Warsaw, in Benton County, and practiced in the south-western counties. While representing the Benton District in the Senate, to which he was elected in 1850, he acquired considerable reputation as a fluent and witty speaker, and became quite popular with the Whig party — so much so that in 1852 he was their nominee for governor. He ran against Sterling Price, the Democratic nominee. He was a noted walker, and when going around his circuit attending the courts, or canvassing the state for governor, he traveled on foot. He was very slovenly in his dress, and while at Boonville, on his way to St. Louis to fill an appointment, his Whig friends procured a new suit for him, which he was very loth to accept; for he said he could not feel comfortable in his new garb, and his old friends would not recognize him. He was very fond of hunting and fishing, and was a great eater and a great drinker.

Mr. Lay, in his history of Benton County, erroneously attributes to him the expression "that a turkey was an inconvenient bird — not enough for two, and too much for one." That noted saying originated with a distinguished Presbyterian clergyman in Albany, New York, by the name of Sprague, half a century ago. He was a noted gormandizer, and, when a young man, always paid double board.

That Mr. Winston was a voracious eater, and delighted in all the creature comforts, as he called them, was unquestionably true — in fact, he had but little ambition for anything else. He had a good practice at the bar, but felt a strange aversion to asking his client for his fee; consequently he scarcely ever had any money; and always labored under pecuniary embarrassment. A man of his habits and tastes

could not become a very profound lawyer; yet he stood well at the bar, and was regarded as a successful practitioner.

As a declaimer he was witty, sarcastic, and humorous. As a punster no one excelled him. This is an extremely rare gift, and while thousands attempt puns upon words, not one in a thousand is successful. Some of the English judges in Queen Elizabeth's time were noted for it. Jeafferson, in his book about English lawyers, gives several specimens. One relates to Hatton. In a land case tried before him, involving questions of location and boundary, one of the counsel, pointing to a map in his hand, remarked, with explanatory emphasis, "We lie on this side, my lord;" and the opposite counsel interposed, with equal vehemence, "We lie this side, my lord." The lord chancellor leaned backwards, and dryly observed, "If you lie on both sides, whom am I to believe?"

Baron Alderson, in reply to a juryman's confession that he was deaf in one ear, observed, "Then leave the box before the trial begins; for it is necessary that jurymen should *hear both sides.*"

Edwards tells a very good one on Judge James Kent, of New York, a son of the chancellor. He was a regular attendant upon the Episcopal Church, and in the pew fronting him was one of the vestrymen, by the name of Henry, who in his responses was very slow and deliberate, and his words came, echo-like, after others. Coming out of the church one day, Kent said to him, "Brother Henry, why is it you 'descend into hell' several minutes after the rest of the congregation?"

The following is attributed by Mr. Edwards to Charles O'Conor: "Where are you going?" said Mr. O'Conor, meeting Robert Dillon. "I am going to attend our brother's funeral; won't you go?" [O'Conor and the deceased had not been on good terms.] "Well," responded O'Conor, musingly, weighingly, "no, I think not; but then, again, perhaps I ought, for he certainly would have been delighted to attend my funeral."

Mr. Winston seemed to have no definite purpose in life,

except to be thought well of by his friends and in his profession. He practiced law from necessity; became a candidate for governor because his friends wished to use his name, and it is questionable if his defeat ever gave him a moment of pain. As long as he had plenty to eat and drink, and could indulge in his favorite amusements of fishing and hunting, he cared for nothing else.

He has been dead many years.

JOHN DELAFIELD.

No nation pays more attention to the education of the young men destined for the learned professions than the English, and it would be difficult to refer to any one that is more negligent in that respect than our own. It is very rare to find an English barrister who is not a classical scholar, and who has not pursued a regular course of legal study; while at least one-fourth of the attorneys of the United States are not only destitute of the rudiments of an English education, but have been admitted to the bar after a few months of superficial reading of Blackstone or Kent. Indeed, it is not uncommon in our own state to find ex-sheriffs and ex-clerks of counties applying for a license, with no other knowledge of the law but what they have picked up during their official service. It is for this reason that the profession, particularly in the West, occupies so inferior a position in public estimation. To what extent this may be remedied by legislation is a matter for the consideration of those who are called upon to enact our laws.

John Delafield was an Englishman, born of English parents, in London, October 21, 1812. When he was only ten years of age the family came to the United States, and settled in the city of New York. Intending to make a lawyer of his son, the father sent him to the best grammar-school in that city, and finally he was placed in Columbia College, where he graduated in 1830. During that year he was appointed librarian of the New York Historical Society. He then commenced the study of the law with Judge Arius Nye, of Marietta, Ohio, and, after applying himself diligently nearly three years, was admitted to the bar of that state, and soon after married Miss Edith Wallace, in Cincinnati. After a few years' practice in Ohio he changed his

residence to Memphis, Tennessee, and there acquired considerable reputation in his profession.

In 1849 he moved to St. Louis, and in 1852 we made his acquaintance. He was retained in a number of our important land suits, and was regarded as an acquisition to the profession. Unfortunately for Mr. Delafield's professional success, he turned his attention to literary pursuits, for which he had always manifested a decided inclination. He wrote for the press several essays on scientific subjects, which were very favorably received. One of his works, entitled "Antiquities of America," published in 1839, was largely circulated in England, and received the highest commendation from societies both in England and in this country. It procured for him from two colleges the degree of Doctor of Laws.

While on a visit to Europe, for his health, he died in Liverpool, in 1865, at the age of fifty-three. He left a wife and four children — three daughters and a son. The daughters all married, and the son is now a prominent business man in St. Louis.

WILLIAM MCCORD.

Notwithstanding the easy and social habits of Mr. McCord, there are but few persons outside of Morgan, and one or two counties adjacent thereto, who have any recollection of him, and no one is now living, beyond his own family, capable of defining his peculiarities. He was probably the earliest lawyer of Morgan County, though others, particularly from the Cole bar, practiced in the Morgan court before Mr. McCord's time.

He was of Scotch descent, but born, raised, and educated in Albemarle County, Virginia. He received a good English education, became an excellent mathematician, and acquired a fair knowledge of the Latin tongue.

About the time of his becoming of age, and his admission to the bar, he married Miss Sally M. Field, a daughter of a wealthy planter of Albemarle County. In 1825 Mr. McCord moved into Randolph County, and located at Beverly. We are unable to give the year of his birth, but it must have been about 1800, for he practiced a few years in Albemarle before going to Randolph. In 1831 he again changed his residence, and located at Huntsville, in Pocahontas County. It was during his residence at Huntsville that he obtained his largest practice. He attended the courts of several counties, including Greenbrier, Bath, and Monroe.

Having a large family, still increasing, he began to think seriously of coming to the far West, and in 1836 put his purpose into execution. He crossed the Mississippi at Cape Girardeau, Missouri, and there formed a mercantile partnership with two old Virginia friends, Hugh F. Young and Robert Steele. The business was conducted under the firm-name of McCord, Young & Co., but proved disastrous, and Mr. McCord again turned his attention to the practice of his

profession. In 1837 he moved to Versailles, in Morgan County, where he died in October, 1839. The change of residence to Versailles was probably induced by the fact that his father-in-law had in the meantime left Virginia, and settled in Cooper County, Missouri, about twelve miles southwest of Boonville.

Mr. McCord was credited with being a good lawyer, and having a good legal mind, but was lacking in that application and diligent study so essential to eminence in the profession. He was a generous, kind-hearted man, full of life and animation; was always happy himself, and endeavored to make every one else happy about him. He took life easy, looked at the bright side of everything, and belonged to that school of philosophy which teaches "that whatever is is right." He was a strong predestinarian, never permitted himself to brood over any misfortune or disappointment, and quietly submitted to what he called "inevitable destiny." He had a large fund of good humor, delighted in anecdote and social intercourse, and sought every occasion to mingle in the society of his friends. He took a lively interest in politics, was a great admirer of Webster and Clay, but never sought office for himself. His party being in the minority in Missouri, he saw no hope for political preferment. He was a poor financier, and never was free from pecuniary embarrassment. He had a high sense of honor, and despised hypocrisy and the semblance of untruth. We have spoken of his free and generous nature, which no doubt led him to contract intemperate habits. He left a wife and six children, but the only one surviving is James McCord, of the firm of Nave, McCord & Co., of St. Joseph.

JAMES W. MORROW.

We knew this gentleman many years, during which time he lived in Jefferson City, and was judge of the circuit composed of the counties of Cole, Cooper, Moniteau, Morgan, Miller, and, if we mistake not, Osage. He was born in Bath County, Kentucky, January 10, 1810; was the son of Robert Morrow, and his mother was a sister of Judge Robert Trimble, of Paris, Kentucky. The family was of Scotch descent, and came to Kentucky at an early period.

James was sent to Transylvania University, and graduated there at the age of about twenty. He then entered the office of his uncle, Judge Trimble, and with that able jurist completed his legal studies. In 1835 or 1836 he moved to Fayette, Missouri, and in 1839 married Miss Elizabeth Kyle, a daughter of David Kyle, a merchant in St. Louis.

Mr. Morrow was not at the bar long enough to obtain distinction in his profession, for he was soon appointed judge of the Cole Circuit, which position he must have held till his death. He made a good judge, and gave general satisfaction. He was a very prepossessing man in appearance, being not only strikingly handsome, but agreeable and gentlemanly in his demeanor.

He had a great passion for fishing, and, when not engaged with his courts, indulged in it very freely. It was a trite saying, in Jefferson City, "that when Judge Morrow couldn't catch fish in the Osage River, no one else need try." He would converse for hours upon the art and different methods of angling. He was also generous and liberal, and very courteous to attorneys in his court, particularly those just commencing the practice.

Judge Morrow died at Harrodsburg, Kentucky, August 16, 1858, in his forty-ninth year. His widow and two married daughters still survive him.

The judge had a rich fund of humor, delighted in anecdote, and the lawyers who practiced before him credit him with many exhibitions of genuine wit and repartee. He presided over his courts with great ease, and free from that austere and rigid demeanor that often characterizes our *nisi-prius* judges.

At the time of his death he was in the prime of life.

DAVID TODD.

Few of the early judges of Missouri were better known than David Todd, who for many years presided over the most important circuit in the state. He was the oldest son and child of General Levi Todd, who was of Irish descent. His mother was a Briggs, and niece of General Benjamin Logan. The grandfather of David Todd was a native of Pennsylvania, and among the earliest pioneers to Kentucky, and participated in most of the Indian fights. He was a lawyer by profession, and for many years clerk of the Circuit Court of Fayette County.

David Todd received a liberal education, was well versed in Greek and Latin, and had some knowledge of French and Spanish. He was educated at the Transylvania University, in Lexington, but whether or not he graduated we are unable to state. He pursued his legal studies in the office of Judge Bibb, of Lexington, one of the most distinguished jurists of the West, and was admitted to the bar of Kentucky in 1810. In 1812 he was elected captain of a military company in Lexington, and joined the army under General Harrison. He participated in the battle of the Thames, and other engagements, and earned the reputation of a brave and chivalrous officer.

At the close of the war the people of Fayette County selected him as their representative in the State Legislature, and reëlected him for several successive terms.

Soon after the admission of Missouri as a state he crossed the Mississippi and located in Franklin, Howard County, and was contemporary in the practice with Gamble, French, Ryland, Leonard, Hayden, and others. He did not practice long before he was appointed judge of the Howard Circuit, which extended from St. Charles to the western boundary of the state on the north side of the Missouri River, and embraced Cooper, Cole, and other counties on the south side.

He presided at the first court that was held in Cole County, on January 5, 1821. It was at the house of John English. Lawyers in attendance: Gamble, Hayden, Leonard, Tompkins, Carr, and Brickey. Gamble was circuit attorney.

In 1810 Judge Todd married Eliza Barr, daughter of a wealthy merchant of Lexington, Kentucky, by the name of Robert Barr. Of this marriage there were ten children, eight of whom, two sons and six daughters, survived him.

After a long and successful professional career, he died in 1859, in Columbia, Boone County, which had been his place of residence for nearly thirty years.

We never had the pleasure of meeting Judge Todd, but have always understood that he was a fine-looking man, about five feet ten inches in height, well built, and of a strong, robust constitution. He had a very intellectual countenance; his forehead was high and broad, his eyes black, and his hair black and curling. He was much admired by the ladies; for, in addition to his manly beauty, he had fine conversational powers and was graceful and easy in his manners.

The reader is referred to an amusing anecdote of him in reference to the "buxom widow," related in the sketch of Peyton R. Hayden.

His mind was a store-house of information, for he never forgot anything he read, whether in law, literature, or science. He was by no means a brilliant man, yet he possessed a vigorous, well-balanced mind, and had a very clear comprehension of the principles of the law. In his disposition he was social and cheerful, and at his home in Columbia dispensed the most liberal hospitality. He was, moreover, a man of kind heart and tender feelings, as the following incident related to us by his son well illustrates:

"One day," said his son, "I was traveling in Texas, and stopped for dinner at a large farm-house. As I dismounted, a venerable-looking gentleman came out to receive me. We soon fell into conversation, during which I casually mentioned my name, when with some emotion he remarked that the best friend he ever had was of the same name — 'Todd — Judge David Todd.' I told him that that was the name of my father. He seemed greatly excited — got up, and shook me

cordially by the hand, and remarked that he was tried before my father for murder, and was indebted to him for his life. He then proceeded to relate the circumstances, as follows: He said that some forty years before he was residing in Missouri; that he attended a public gathering of the people in his neighborhood; that he was challenged by several young men to wrestle, and on every occasion was successful; that a general row took place, resulting in a murderous attack upon him; that in repelling the assault he struck one of them with a club, producing his death; that he was arrested, and indicted upon the charge of murder, and tried before my father; that the trial produced intense excitement, his friends and enemies being present in full force. After the jury rendered a verdict of acquittal the court adjourned. All was tumult and excitement. In the midst of it the sheriff tapped him on the shoulder, and whispered to him to slip away quietly from the crowd, and go to the judge's room in the hotel, as the judge wanted to see him immediately. He obeyed the summons, and found the judge in his room. That the judge told him he had sent for him to let him know that his life was in imminent danger, that a plot was on hand to kill him, and that daylight must not find him in the county. He told the judge that he had a horse, but very little money, and was poorly prepared to start on a long journey. Said he, 'Your father took out his pocket-book, and handed me all the money in it. He also gave me a paper upon which was marked the route to Louisiana, and a letter of introduction to his (the judge's) brother, in the parish of St. Landry.' Said he, 'I left that night, followed your father's instructions, and have never been in Missouri since.' Here the old man's utterance failed, and, still holding me with a firm grasp, he wept like a child."

Many other instances of Judge Todd's benevolence are related by the old inhabitants of central Missouri, but this must suffice.

He was an impartial, upright, and conscientious judge. At the time of his death he had reached his seventy-third year. One of his sons is a prominent lawyer in Bastrop, Louisiana.

SAM CARUTHERS.

Were we to give the full scriptural name of this gentleman, his friends would scarcely recognize him, for he was known by no other Christian name than "Sam." He was a native Missourian, born in Madison County, October 13, 1820, and educated at the Cumberland University, Lebanon, Tennessee. He was the oldest son of David Looney Caruthers, a farmer of more than ordinary intelligence, who brought his sons up to work on his farm until it became necessary to send them away to be educated. Sam, at an early period, expressed a desire to follow the profession of the law, and he commenced its study in Tennessee with his uncle, Robert L. Caruthers, who had some connection with the above-mentioned university. As soon as he completed his studies he was admitted to the bar, and commenced the practice in his native county of Madison.

In 1849 he married Miss Sophronia Smith, of Greenville, Wayne County, by whom he had two children, a son and daughter, the former following the profession of his father, and now practicing in the city of New Orleans.

We remember Sam Caruthers as a whole-souled, genial, and companionable man, who made friends wherever he went. There was nothing in him sordid or selfish, and he was ever ready to lend a helping hand to all who applied to him. Had he devoted himself to his profession he would undoubtedly have made a successful lawyer; but his fondness for public life led him into a different channel. He soon embarked in politics, and in 1853 was elected to Congress from the South-eastern District, which he continued to represent till 1849.

He died at Cape Girardeau, July 20, 1860, in his fortieth year.

Mr. Caruthers obtained reputation in and out of Congress as a speaker, and upon the stump had but few superiors.

He had a fine voice, was ready and fluent, told a good anecdote, and at times was very ingenious in the application of them — often to the great discomfiture of his opponent. The lower part of his district is a low, swampy country, and the people there gave him the *sobriquet* of the "Swamp Fox," which name followed him to Washington.

One cause of his popularity was his fine memory with respect to names of persons. He seldom forgot a name, and if he met a person years after an introduction, would generally call his name. To a public man, and particularly a politician, this rare gift is invaluable.

FRANCIS P. BLAIR, JR.

The Blair family are of Scotch descent. Frank's paternal grandfather, James Blair, was a lawyer in Virginia, and early moved into Kentucky, and became attorney-general of that state. He was a man of considerable ability. Frank was born in or near Lexington, Kentucky, February 19, 1821, and when about ten years of age removed with his parents to Washington City. His father, Francis P. Blair, Sr., who recently died at a very advanced age, was one of the strongest political writers in the country. During the early part of President Jackson's administration some able articles from his pen appeared in one of the Lexington papers, and attracted the attention of General Jackson, who invited him to take charge of his administration organ at Washington City. It was there that the author, who was then twelve years of age, made the acquaintance of Frank, who was about ten. They were school-mates in a select school kept by a gentleman by the name of Smith, an accomplished scholar and a graduate of Yale. He afterwards became an eminent lawyer at Louisville. Among his pupils were Frank and James Blair, Martin and Smith Van Buren, sons of President Van Buren, General Mansfield Lovell, who during the late war commanded the Confederate forces at New Orleans, James Colegate, Nat Coursine, and John Barclay, author of a late work on parliamentary law. Mr. Smith was a strict disciplinarian, and often said Frank gave him more trouble than all the other scholars combined; not that he was deficient in his studies, but he was prone to mischief, and often disposed to *forget* the rules of the school. Frank, as we always called him, was a great favorite with the boys, and excelled nearly all in athletic exercises. He stood well in his class, and yet out of school was rarely seen with a book in his hands. He learned rapidly and with ease, which enabled him to

spend much of his time in outdoor sports. He had a nickname for every boy, and his facility for making it *stick* never deserted him in after-life. Who does not recollect "Old Sawbones," the name he gave to that able and eccentric surgeon, Dr. Joseph McDowell, the Native-American orator? After leaving Smith's school we returned to New York, and Frank entered Princeton College, where he completed his education. He commenced his legal studies with Lewis Marshall, and finished at the Transylvania Law School, and was admitted to the bar in his native town of Lexington.

He made no effort to practice in Kentucky, but soon after his admission removed to St. Louis, and entered into partnership with his brother, the Hon. Montgomery Blair. General Blair always manifested a strong proclivity for the army, and upon the breaking-out of the Mexican War, being then on a visit to New Mexico for his health, volunteered as a private. He was a soldier in war, and a citizen in peace — alternating as he saw an opportunity to serve his country. His legislative career commenced in the General Assembly of Missouri, where he served several terms as a representative from St. Louis County, and was not only the accredited leader of his party in that body, but gave strong indications of future distinction as a statesman. He was a member of the House of Representatives at Washington, in the Thirty-fifth and Thirty-seventh Congress, and was recognized as one of the ablest men of that body.

The most eventful period of his life, however, was at the commencement of, and immediately preceding, the civil war. Though born and reared in a slave state, he became at an early period a Freesoiler, and supported Mr. Van Buren, when he ran for the presidency upon the Freesoil ticket. His views on that subject did not proceed from prejudice against the institution of slavery, but from a firm conviction that in Missouri, particularly, it was a stumbling-block to immigration, state progress, and public improvement. He saw in his adopted state all the elements of a great commonwealth, with her resources undeveloped for want of capital

and labor, and boldly proclaimed that neither could ever obtain until slavery was blotted out of her fundamental law.

Immediately preceding the civil war an encampment, under the sanction of law, was formed near the western limits of St. Louis, known as Camp Jackson, and under the pretense of military discipline. General Frost, formerly of the army, was in command. General Blair, with that prophetic vision for which he became so noted, saw at a glance that the object of the encampment was to obtain a force in the vicinity of St. Louis sufficient to capture the United States Arsenal, in the lower part of the city, and which was well known to contain a large amount of arms and munitions of war.

General Nathaniel Lyon had been placed in command of the Arsenal, and he and General Blair concurred in the opinion that, unless Camp Jackson was speedily captured, Missouri would be hurled into the Rebellion. In fact, they had evidence to satisfy them that a day had been agreed upon for the attack upon the Arsenal, and but little time was afforded for a defense.

We met General Blair on Fourth Street about eleven o'clock, A. M., and he had then telegraphed the War Department for permission to raise two regiments; received an affirmative answer about two o'clock, P. M., and that night, at Washington Hall, on Second Street, the First Regiment, composed chiefly of Germans, was organized. Most of the officers had seen service in Europe, and were well qualified to organize and drill. We remained at the hall all night, for it was expected that the attack would be made in the early part of the next day; but to the astonishment of the secessionists they found that the government was prepared to resist them, and the time for the attack was necessarily delayed. In the course of a few days, through the efficiency of General Blair, other regiments were raised and mustered into service.

General Blair was tendered the appointment of brigadier-general, but declined it in behalf of Captain Lyon, whom he thought better qualified for it.

The capture of Camp Jackson, which the author witnessed, with its arms and supplies, a portion of which had just been received from the government arsenal in Louisiana, on May 10, 1861, has passed into history, and without doubt it prevented Missouri from participating in the Rebellion.

To Frank Blair, then, more than any other man dead or alive, are we indebted for the noble stand taken by Missouri in behalf of the Federal Union. It should be stated here that President Lincoln, who knew Mr. Blair very well, reposed in him the utmost confidence, and deferred to his opinions in everything pertaining to the state.

Without pretending to have had a knowledge of the secret measures adopted to counteract the efforts of the secessionists to place Missouri in the attitude of hostility to the government, it is an act of justice to here state that the president and secretary of war at Washington were in daily communication, not only with Blair and Lyon, but with such men as Glover, Broadhead, Brown, O. D. Filley, Giles F. Filley, R. J. Howard, Bart. Able, Henry Berenstine, and others, to whom we are this day indebted for the proud position which Missouri will occupy in the future history of the great Rebellion.

The burning of the Osage Bridge, the flight of Governor Jackson and the Missouri Legislature, are too well known to require recapitulation here.

General Blair left his seat in Congress with a commission as major-general, and joined the army of Sherman in its advance upon Vicksburg. It is well known that he led one of the most vigorous assaults upon the city, and received for his skill and gallantry a high compliment from General Grant. General Blair had command of the Second Division of Sherman's corps, and took a very active part in the siege of Vicksburg, and ultimately followed Sherman in his march to the sea.

Upon the restoration of peace he resumed his seat in Congress, and acted with the Democratic party; and in 1868 was nominated for vice-president on the ticket headed by Horatio Seymour, of New York.

In 1871 General Blair was again elected to the State Legislature, but was soon after elected to the United States Senate, to supply the vacancy created by the resignation of Hon. Charles D. Drake, and took an active part in all the discussions of that body.

He would undoubtedly have ranked high as a lawyer if he had devoted himself to his profession, for he had a brilliant mind, was an analytical thinker, and, although not an orator in the general acceptation of the term, was a fine extemporaneous speaker, and always able to captivate the crowd. His manner was very impressive, and by way of illustration we give an instance which occurred at Allenton, in St. Louis County, during a very exciting canvass.

The general, in his speech, was predicting a certain event, and a gentleman in the audience, who did not affiliate with the general, interrupted him by saying, "We shall see." The general instantly replied, "Yes, we *shall* see; we *shall* see," emphasizing the word "shall." There was nothing in the word that entitled it to any particular significance, but the manner in which he uttered and emphasized it gave it a force and power that brought a loud applause from the audience.

We never knew a man less amenable to the charge of fear than General Blair. We have seen him tried under circumstances well calculated to unnerve the stoutest heart. Upon one occasion, when it was almost death for a public man to avow himself as opposed to the institution of slavery, he made an appointment to address the people of Iron County at Ironton, and it was proclaimed in advance that if he attempted it he would be mobbed. At his request we accompanied him, and on reaching Ironton learned that an armed crowd had assembled in the court-house to resist him. When he rose to address the meeting, the few friends he had there became greatly alarmed for his safety; but their fears were soon dissipated when they saw how calm and collected he was, and heard him boldly declare that any man who came to the meeting armed, with the intention to use violence against him, was too great a coward to attempt it.

He spoke nearly two hours without any interruption, and on leaving the stand received the congratulations of many who differed with him upon the slavery question.

Upon another occasion, during an exciting election in St. Louis, when almost the entire Irish population were much enraged against him, he requested us to accompany him to the Biddle-Market polls; and as we approached the polls our buggy was completely surrounded by men maddened with liquor, who threatened his life. Several policemen requested us to take him away, as his life was in danger, for a dozen pistols had been drawn, and some pointed directly at him. But he refused to stir a step, and openly proclaimed them a d—d set of cowards. But the police forced us away, and Mr. Blair left as composed as though he had been attending a love-feast.

He delivered addresses against slavery in almost every part of the state, and, with the exception of a few rotten eggs that were hurled upon him at night, he never met with any positive resistance.

This apparent recklessness some would regard as a military disqualification, but we have been frequently told by officers who served in his corps that he never went into battle without ample preparation, and consulted freely with his subordinate officers before taking any important step. He was brave, but not impetuous.

Though he never enjoyed the advantages of a military education, there were few better soldiers in the army. Both Grant and Sherman had an exalted opinion of his military services, and upon several occasions alluded in the most complimentary terms to his military genius. Sherman thus spoke of him:

"I always had a most exalted regard for Frank Blair. I always regarded him as one of the truest patriots, most honest and honorable of men, and one of the most courageous soldiers this country ever produced. I never lost sight of the services he rendered the country in the outbreak of the war; and I fully concede, and always have conceded, that to his boldness, promptitude, and firmness, more than to anything else, the country is indebted for the preservation of St. Louis as a strategic point, and for the salvation of Missouri from secession. He was a noble, generous, honest, brave, frank, sincere, and unselfish man."

General Blair was born a politician, and in him were combined more of the elements of political success than any public man we ever met, not even excepting Stephen A. Douglas. His knowledge of men was very great, and his retentive memory enabled him to recollcet the names of persons with whom he had but a slight acquaintance. Nothing is more gratifying to our pride than to be thus recognized. It was a faculty that Mr. Van Buren enjoyed above all other public men of his day. It is said that if he met a person in Washington to whom he had been introduced years before, he could readily call his name. This was one of the secrets of his personal popularity.

Though General Blair was an ardent and very decided party man, he had no personal enemies among his opponents. Often have we seen him on the day of an exciting election walking arm in arm with one whom he had probably the night before delivered a vindictive speech against. The cordial and free manner with which he greeted all men closed their hearts against anything like rancor or ill-will.

Another peculiarity of him was that he would accept a defeat as an inevitable necessity, and only seemed to regret it because of its effect upon his political friends. He adopted the motto of Mr. Clay: "*Pick the flint, and try it again.*"

General Blair was a whole-souled, generous man, without a selfish hair in his head, and kept himself poor in his efforts to aid and assist his friends. No better evidence of his spotless integrity can be found than in the fact that although he had it in his power to amass wealth, he died without a cent; in that respect imitating Colonel Benton, who always contended that no public man could become rich in office without a stain upon his integrity.

General Blair was not a man who could strike an enemy after he was down; nor did he ever entertain a feeling of resentment against those whom he had met in battle. Immediately after the war he took strong ground in favor of restoring the South to all the privileges they enjoyed before the Rebellion, and was opposed to sending carpet-baggers among them, or imposing upon them any arbitrary restric-

tions. He believed that the only way to restore harmony and good feeling was to extend to them the hand of fellowship, and persuade them that their interest was in the Union, and not out of it. In other words, he was for burying the hatchet, and forgetting the past.

That they fully appreciated his kind feeling for them is evident from the following resolution adopted at a meeting of ex-Confederates in St. Louis, shortly after his death:

"*Resolved*, That we, the ex-Confederates here assembled, do as deeply mourn his loss, and as heartily acknowledge his high character and great abilities, as can those who never differed from him in the past great struggle. As soldiers who fought against the cause he espoused, we honor and respect the fidelity, high courage, and energy he brought to his aid; as citizens of Missouri, we recognize the signal service done his state as one of her senators in the National Council; as Americans, we are proud of his manhood; and as men, we deplore the loss from among us of one in whom was embodied so much of honor, generosity, and gentleness. And we remember with gratitude that, so soon as the late civil strife was ended, he was among the first to prove the honesty of his course by welcoming us back as citizens of the Union he had fought to maintain; and that he never thereafter ceased to battle for the restoration and maintenance of our rights under the Constitution."

He died in St. Louis, on July 11, 1875, in his fifty-fifth year, and his body was placed in Bellefontaine Cemetery.

He married, in 1847, Miss Appoline Alexander, of Woodford County, Kentucky, who, with eight children — five sons and three daughters — survives him.

On the day of his funeral the city of St. Louis was clothed in the emblems of mourning, and it was evident to a stranger on the streets that a great man had fallen. The bar, and divers societies, by suitable resolutions expressed their sense of the loss sustained in his death. The flags of fifty vessels in the harbor were trailing at half-mast, and every possible demonstration was made indicative of the public grief.

WILLIAM H. RUSSELL.

One of the most remarkable men of early times was the person whose name is at the head of this memoir, and who spent most of his professional life in Fulton, Callaway County, Missouri. His entire life was one of excitement, daring, and adventure, and in the hands of a ready, imaginative writer would furnish ample material for a good-sized volume of romance.

We made his acquaintance in Jefferson City, in 1842, but saw little of him afterwards, as he frequently changed his residence, and was constantly starting out upon some bold adventure.

He was born in Fayette County, Kentucky, April 21, 1805, and was educated at the Transylvania University of that state, passing with credit through both the academic and law departments. Shortly after obtaining a license to practice, he was elected to represent Nicholson County in the lower branch of the Kentucky Legislature. About this time an incident occurred which caused a warm personal friendship to spring up between him and Kentucky's great statesman, Henry Clay — a friendship of the most devoted kind, which continued up to the time of Mr. Clay's death. Mr. Clay was for the first time a candidate for the United States Senate, and after a very heated contest was elected by one vote, and that vote was given by Mr. Russell, the youngest member of the body. Mr. Clay's gratitude to him was unbounded, and manifested itself in personal attentions; and whatever may be said of Mr. Clay in other respects, he never deserted a friend, or failed to admit his obligations to those who stood by him in his political struggles. As may be supposed, they corresponded through life, and had Mr. Clay reached the presidency, Mr. Russell would have been the recipient of his highest favor. Mr. Russell would never

permit Mr. Clay's name to be mentioned in his presence in terms of reproach without taking up his cause and making it a personal matter, for his admiration of the great Kentuckian amounted almost to idolatry.

In 1834 Colonel Russell removed to Missouri and settled in Fulton, where he opened a law-office and entered upon the practice, soon obtaining a prominent position at the bar.

He was a man of fine conversational powers; free, easy, and prepossessing in his address; and as a speaker, graceful, fluent, and persuasive — in fact, he carried his point before a jury more by his adroit persuasiveness than the force of reasoning. He had a good knowledge of men, and well knew that logic was not always the best weapon to use before a jury, and hence he so shaped his address as he thought would best accomplish his aim.

Law as a science was not altogether suited to his tastes, for he was too restless and impatient to devote much time to the investigation of abstruse and intricate legal problems. He was fond of the excitement of a jury trial, and if associated with other counsel, would leave them to settle before the court the questions of law.

He had a great fondness for political controversy, and, although his party was always in the minority, never failed to enlist in any canvass, and spend his time and money freely in behalf of his political friends. He was an excellent stump-speaker, and when Mr. Clay was a candidate for the presidency, in 1844, canvassed nearly the whole of northern Missouri in his behalf.

In 1838 Mr. Russell was elected from Callaway County to the popular branch of our State Legislature, and by reason of his ability, and knowledge of parliamentary law obtained in the Kentucky Legislature, soon became a recognized leader of his party. He took an active part in the debates, and by his popular manners secured the good-will of the opposition members.

Colonel Russell obtained his military title through services rendered in the Florida War. He was captain of a company in Colonel Gentry's regiment, raised in Callaway and the

adjoining counties, and in the battle of Ochechobe proved himself a brave and gallant soldier. It is well known that his regiment was placed in advance, and met the first shock of the battle with great loss of life. The people of our state thought that General Taylor, in his report of the engagement, did not do justice to our gallant boys, and made it the subject of legislative action.

An incident connected with that battle was related to us by one of the officers of the regiment. While they were recruiting at Fulton, a large, tall, rawboned fellow of the age of about twenty-two, who had been kicked and cuffed about the town by all the boys, and whose exhibitions of cowardice had attracted much attention, asked permission of Gentry to join his regiment, stating that he was treated so badly in Fulton that he wished to leave the town. The colonel told him that he had no use for such a cowardly fellow; but he begged so hard that the colonel, out of pure compassion, promised to take him as a teamster. Just before the commencement of the battle he asked permission to go into the fight; and towards the close of the battle was seen, up to his waist in water (the ground being a deep swamp), fighting like a hero, with seven dead Indians around him, all of whom he had killed in a hand-to-hand fight. We leave the reader to determine what mysterious power could have so suddenly transformed the coward into the hero.

In 1840 Colonel Russell was a member of the Whig National Convention that nominated General Harrison for the presidency, and in the same year was appointed one of the visitors to the Military Academy at West Point. Under General Harrison's administration he was appointed marshal of Missouri, and discharged the duties of the office faithfully and efficiently; but, for some reason unknown to us, resigned a short time before the expiration of his term.

We have alluded to Colonel Russell's restless spirit of adventure. It caused him, in 1846, to lead a party of emigrants across the plains to the territory of California, which was then an unexplored wilderness. It was the second expedition to the Pacific slope, Frémont's having preceded it.

To have been made a leader of such an expedition at that day, after the sufferings and privations of the Frémont party, was no slight compliment. Governor Boggs and family were with him, and also the noted Donner family, every member of which perished from starvation and cold in the fastnesses of the Sierra Nevada Mountains. But the intrepid spirit of Russell brought the greater part of the company safely through. The bodies of the Donner family were found near a small lake, which has since borne the family name, and upon the shore of which we stood, in 1873, and with a sad heart recalled the sufferings of that noble band of pioneers. The lake is not far from that part of the mountain summit which is now crossed by rail.

Upon the organization of the provisional government of California, Colonel Russell was made secretary of state, and continued in that position as long as General Frémont was at the head of the territorial government. Upon retiring from the office of secretary of state he was made collector of the port at Monterey, which office he held for some time, and then returned to the practice of his profession.

He had left his family in Missouri, and in 1852 returned to them and took up his residence at Independence, Jackson County, where he remained two years, and then removed to Kansas, and was there during the turbulent times that preceded her admission into the Union. Though a pro-slavery man, he refused to identify himself with that element known as the "Border Ruffians," nor would he give any aid or comfort to the Abolitionists headed by Lane. He took conservative ground, and in that respect followed the footsteps of his illustrious friend, Mr. Clay. He advocated the supremacy of law and order, and held that the Constitution was broad enough to heal all existing grievances; and that it was the duty of the patriot in such a crisis to stand by his government, and endeavor to avert the storm that threatened the entire country. His whole course was marked by the highest patriotism, and a full sense of his obligations to a government which he characterized as the best on earth. While in Kansas he became a candidate for Congress on the

Native-American, or Know-Nothing, ticket, but was defeated. The excitement in the state was too intense to admit of the success of any intermediate party.

Shortly after the breaking-out of the Rebellion he left Kansas for Washington City, and Mr. Lincoln, who was his old acquaintance and friend in Kentucky, appointed him, in 1862, consul to Trinidad, Cuba, which position he held till the close of the war. He then returned to Washington City, and practiced law there up to the time of his death, which took place in December, 1872, when in the sixty-seventh year of his age.

Colonel Russell was as brave as a lion, and, when not aroused, as mild and as easily led as a child. He was also a man of generous impulses, charitable to a fault, indulgent to his friends, and for their sake would part with the last dollar he had. His heart was too large and broad, and his disposition too forgiving, to harbor a feeling of resentment or revenge; hence he had but few enemies. He left a large family of children, and gave each of them a good education, the advantages of which he fully appreciated. His remains repose in the cemetery at Georgetown, District of Columbia.

ROBERT G. SMART

Was born in Montgomery County, Kentucky, in 1819, and came with his father to Missouri in 1828. Young Smart received only a common-school education, though he became a good English scholar. Before his majority he entered the law-office of Hon. John Jameison, in Fulton, and in due time was admitted to the practice, and soon after settled in Independence, Jackson County, where he remained in the practice of his profession until his tragic death, which occurred in 1862.

Mr. Smart was a fair lawyer, devoted to the interests of his clients, and generally successful — because he studied his cases thoroughly, and was never caught unprepared. He was honest and upright, and the utmost confidence was reposed in his integrity; and his legal opinions were highly valued by his legal brethren.

In 1842 he was elected by the people of Jackson County to represent them in the State Legislature. In 1843 he received from the hands of Governor Reynolds the appointment of circuit attorney for his circuit, to serve out an unexpired term, and in 1844 was elected by the people to the same office. In 1859 he was elected judge of the Circuit Court for the then Sixth Circuit, but, failing to take the oath of fealty, was deprived of his office.

The year before his death, home guards were organized throughout the state, and, never having been under military subordination, committed many acts of unnecessary violence. That Judge Smart sympathized with the South, and in fact was a secessionist, was undoubtedly true; but that he ever committed an overt act of treason against the government was always denied by his friends. Born in a slave state, and never having lived in any but a slave state, it is not strange that his feelings were enlisted in behalf of the Confederacy.

But the home guards undertook to arrest him at his residence. Believing that they would take his life, he made an effort to escape by crossing a small field, and, as he was getting over the fence, was shot down. It was a cruel and cold-blooded murder. We were among the strongest advocates of the Union, but never sanctioned the many dastardly acts that were committed in its name. But the state was under martial law, and scenes of blood and violence were of daily occurrence.

That he may have been imprudent in the expression of his opinions is not improbable, but that furnished no justification for the dastardly deed.

He left a widow and several children.

TRUSTEN POLK.

This gentleman, who filled the highest offices within the gift of the people of Missouri, was born in Delaware in 1811, and in 1831 graduated at Yale College, an institution which has sent out more able men and statesmen than any other college in the country. It cannot be said of Yale as Dean Swift said of a certain university in his own country. Upon being asked if it was a very learned place, he replied it was, and gave as a reason, "that most persons took some learning there, and but few brought any away."

Our first acquaintance with Governor Polk dates as far back as the fall of 1836, and we knew him intimately from that time until his death.

His father, who was a highly respectable farmer, married a Miss Causey, an excellent lady, who brought up her son in the belief that virtue and rectitude were the only paths that led to happiness in this world.

Mr. Polk studied law at the law school connected with Yale, but had previously read one year in the office of James Rogers, who at that time was attorney-general of Delaware. In 1835 he came West, and located, in the practice of his profession, in St. Louis, and by his exemplary habits and close attention to business soon acquired a fair practice. When not in court he was always to be found in his office, having no inclination to indulge in frivolous amusements.

We never regarded Governor Polk as a brilliant man, but, though less profound than Gamble, Geyer, Leonard, Field, and a few others who could be named, he was nevertheless a sound lawyer and successful practitioner. He matured early, reaching the zenith of his professional power when at thirty or thirty-five years of age. He certainly improved but little after that, and in our judgment Mr. Polk at fifty-five was not equal to Mr. Polk at thirty-five.

His forte as a speaker was in close, logical reasoning, never attempting a display at mere declamation or elocution. Though possessed of little fancy and less imagination, he had what was of far more value — good practical common sense, which served him well in all the relations of life. Among other elements of success, he had a happy faculty of analyzing the facts of a case, and so applying them as to maintain any theory which he might advance.

As a jury lawyer he was strong and forcible; for, in addition to the qualities already mentioned, he had a manner which denoted the utmost candor and sincerity, and always carried with him into the jury-box a well-deserved reputation for integrity and honesty of purpose.

One peculiarity of Mr. Polk was that he never indulged in the personal abuse of witnesses; in fact, we are unable to recall a single instance in which he ever charged a witness with false swearing. If satisfied that the witness was not adhering to the truth, he would simply say *he was mistaken*, and generally forced the jury to the same conclusion.

The habit of charging witnesses with the commission of perjury is too common in our profession, and no discreet lawyer will tread upon such dangerous ground unless he knows his man; for it often reacts upon counsel, to the great injury of his client, by exciting the sympathy of the jury in behalf of the person so accused.

We have spoken of Mr. Polk as a man of great candor and sincerity, and no one who well knew him will withhold from him these attributes. But upon one occasion he resorted to a little subterfuge and artifice to extricate himself from an unexpected dilemma, which was of so ludicrous a character that we must give it to the reader. If we mistake not, it occurred in the old St. Louis Court of Common Pleas.

In running the eye over a docket of hundreds of cases it is not uncommon to overlook one, and this was the case with Mr. Polk in the instance referred to. Sitting one day in the court-room, a case in which he was retained on the part of the defense was, most unexpectedly to him, called for trial.

He was, of course, taken by surprise, and wholly unprepared for trial. The plaintiff's counsel announced himself ready, and was urgent for a trial. After taxing his ingenuity to the utmost extent to procure a little delay, and as the court was in the act of calling a jury, a brother-chip of Mr. Polk, whispering in his ear, informed him of the death of a young lawyer (whom we will here call John Smith), which occurred that morning. Now, it must be understood that neither Mr. Polk nor the court had ever heard of this John Smith, nor was he known to half a dozen of the disciples of Blackstone, for he had been here but a few months. Nevertheless, it had been from time immemorial, was then, and now is, the custom of the profession, upon the death of a member, to hold a bar-meeting to adopt resolutions commendatory of the deceased. This timely information suggested a lucky thought to Mr. Polk, who immediately rose, and, with a countenance as grave as a tomsbtone, announced to the court the sudden demise of a worthy and promising member of the profession, the aforesaid John Smith, and as it was probable that the usual bar-meeting would be held that afternoon, he hoped, out of respect to the memory of the deceased, and to enable the lawyers to attend the meeting, the court would adjourn for the day. The judge, anxious to relieve Mr. Polk from the consequences of his neglect, if it could be done upon any reasonable ground, replied, in a tone as grave and serious as that assumed by the learned counsel, "The court receives the announcement of the death of the lamented John Smith with profound sorrow, and out of respect to his memory, and *to enable Brother Polk* and others to attend the anticipated bar-meeting, will adjourn until ten o'clock to-morrow morning." Mr. Polk hastened to the clerk's office, took out his subpœnas, placed them in the hands of the sheriff to be served, and at the opening of the court the next morning was on hand with his witnesses, ready for trial.

Governor Polk was a good friend to the junior members of the bar, who often applied to him for legal advice and

assistance, and upon no occasion did he refuse it. If associated with one upon the trial of a cause, and it became necessary to take a nonsuit by reason of any error of his associate in drawing the pleadings, or otherwise, he would assume the responsibility, and thus avoid any exposure of his friend in open court. When opposed in the trial of a cause by a young and inexperienced lawyer, he would never take an undue advantage of him; but, on the contrary, would aid and encourage him so far as he could do so consistently with his duty to his client. These qualities, so rare among the older members of the profession, made him many warm friends, who in after-life largely contributed to his political success.

The first office held by Mr. Polk was city counselor of St. Louis, in 1843. In 1856 he was elected governor of the state, over Colonel Benton. After a brief period he resigned the office, to take his seat in the United States Senate, to which he had been previously elected by the Legislature. His administration as governor was too short to enable us to form an opinion of his executive ability, but he displayed one quality most worthy and commendable: he never permitted his personal feelings to interfere with a faithful discharge of public duty.

A remarkable instance of this occurred at the commencement of his administration. One of the convicts in the penitentiary was a man who had been convicted of forgery, but had once held a high position in public estimation. He had held several positions of trust, and he and the governor had been class-leaders in the same church and at the same time. In fact, they had been warm personal friends, and had rendered mutual assistance to each other. It was generally taken for granted that one of the earliest acts of the governor's administration would be to pardon his old friend. But in this public opinion was mistaken; for the governor positively refused to interfere with the execution of the law, and the prisoner served out his full time. That his sympathy was strongly enlisted in behalf of the convict was well

known, but that adhesion to duty which never deserted him through life made him firm and unyielding.

Mr Polk made a useful senator, and was very attentive to the interests of his constituents, but fell short of the expectations of his friends. It is well known that he was expelled from the Senate at the beginning of the war, for disloyalty. His participation in the Rebellion was the great error of his life; but that it resulted from a conscientious conviction of duty is very evident, for by it he had nothing to gain and all to lose. It necessarily involved the loss of his seat in the Senate, the destruction of his professional business and interests at home, and a partial separation from his family, to say nothing of the probable confiscation of valuable property he held in St. Louis. As he had no taste for, or experience in, military life, he had little to hope for in his adhesion to the Southern Confederacy. In 1864 he was taken prisoner, and confined on Johnson's Island.

Governor Polk died in St. Louis, in 1876, at the age of sixty-five, surrounded by his family and many warm friends.

In 1837 he married Miss Elizabeth Skinner, of St. Louis, who, with several children — one the wife of William F. Causey, Esq., of the St. Louis bar — survives him.

Among the incidents and anecdotes of his life is the following: During the first or second year of his practice he was one day engaged in a trial in the St. Louis Circuit Court. A farmer from St. Charles, who had been summoned as a witness in some other cause, was sitting by, who, noticing Mr. Polk's manner of conducting the case, became very much interested in his speech to the jury, and a few months afterwards employed him to defend a cause that had been brought against him in St. Charles. The plaintiff was represented by two or three old lawyers; and at the commencement of the trial a friend of the defendant, feeling some solicitude in the matter, said to him: "Are you not afraid that these old lawyers will overpower your young attorney?" "No," was the reply; "he is more than a match for them all." And so it proved, for Mr. Polk, feeling the

responsibility resting upon him, exerted himself to the utmost, and obtained a victory; for which he was congratulated even by the opposing counsel.

Governor Polk was a man of the highest sense of honor, and observed the strictest courtesy in his intercourse with his professional brethren. He is greatly missed at the bar.

DAVID E. PERRYMAN

Was for many years a practicing lawyer in Washington County, Missouri. Of his early life but little is known, further than that he was born in East Tennessee, and received but a very limited education, though it is said he taught a country school in Tennessee several years.

About the year 1832 he removed to Missouri, and settled on a small farm near Potosi; was elected one of the judges of the County Court of Washington County, and this, no doubt, suggested to him the idea of turning his attention to the law. It does not appear that he ever pursued a regular course of legal study, but probably read as many of the elementary works as fell in his way. He commenced the practice in 1840. About this time he began to take an active part in politics; was a strong Whig, and great admirer of Henry Clay. It was either in 1840 or 1844 that he was placed on the Whig ticket as a candidate for elector, and canvassed a portion of south-east Missouri.

In 1846 he was elected to the Legislature, and served two terms. It was as a legislator that he obtained whatever reputation he possessed; for as a lawyer he was little known, and never obtained much practice outside of his own county.

He was a man of good, hard common-sense, and in the Legislature took a part in every important discussion. He seldom occupied more than ten or fifteen minutes in a speech, and had the happy faculty of knowing precisely at what time to stop. He had a great fund of dry humor; told an anecdote with good effect, and made it a point to give utterance in every speech to some witticism, which set the house in a good humor. By this means he always secured the attention of the members, who expected some-

thing to amuse them, and were never disappointed. In telling an anecdote he never committed the folly of laughing himself — in fact, you could not discover on his face the slightest approach to a smile.

Mr. Perryman died near Potosi, in 1873, upwards of sixty years of age.

JOHN V. TURNER,

Of Glasgow, Howard County, was born in Carroll County, Kentucky, on December 16, 1816. His early education was confined to the common schools of that day, but as he approached manhood he entered Hanover College, Indiana, where he made considerable progress in his studies, but did not remain long enough to graduate. He, however, continued his studies, and by diligence and close application became a good classical scholar.

He pursued the study of the law several years in Kentucky, and in 1842 came to Missouri and settled in Boonville, Cooper County. While practicing law there he frequently wrote for the *Boonsville Observer*, a sheet that acquired considerable celebrity through its terse and vigorous editorials, most of which were from Mr. Turner's pen, and he soon became the recognized editor. As the Democratic party was in the ascendant, the paper received little or no patronage from the state government, and had to rely chiefly upon the local advertising; but the ability with which it was edited gave it a large circulation, and Mr. Turner's reputation as a writer became well established. Many of his articles were republished in the leading Whig paper in St. Louis. Mr. Turner was a very decided Whig, and, like all Kentuckians who belonged to that party, was a great admirer of Mr. Clay, and supported him for the presidency with much zeal.

Wishing, however, to retire from the editorial chair, and apply himself more closely to his profession, he removed to Keytesville, in Chariton County, where he practiced with fair success many years; but in 1858 again changed his residence and permanently located in Glasgow, Howard County, where he remained till his death, which occurred on July 10, 1874, when in his fifty-eighth year. As a lawyer Mr. Turner was

better known to his professional associates than to the community at large, for his extreme modesty and retiring disposition unfitted him for public display, and in respect to political preferment kept him in the background; but those who knew him well placed a high estimate upon his legal attainments, and eagerly sought his opinions and advice. For office he never manifested any inclination, and refused, time and again, to permit his name to go before the public. The only public position which he ever filled was that of treasurer of his county, and in that case the office sought him, and he proved most worthy of the trust. It must not be supposed that his retirement proceeded from a want of interest in the public welfare, for he was a zealous advocate of internal improvements by both state and Federal governments, and never failed to lend his aid to all projects tending to promote the public good. From what has been said of Mr. Turner it might be inferred that he was wanting in social qualities; but such was not the fact, for he had considerable humor, and upon all festive occasions added greatly to the zest and life of the company. He was, moreover, a man of generous impulses and warm attachments. His taste for general literature and scientific research better fitted him for the head of some institution of learning, and had his life taken that direction he must have attained no little celebrity. Mr. Turner had a fine poetical taste, which often led him to hold converse with the muses. At his death many specimens were found that had not been in print, and we give a short one which will furnish the reader with some idea of his poetical genius:

THE DOMESTIC HEARTH.

I envy not the king his throne,
The rich their wealth or state;
Nor loudest trump that e'er has blown
The honors of the great.
I ask not that my name should e'er
Be heralded o'er earth,
But may it be remembered here,
Around this peaceful hearth.

Around this peaceful hearth when all
These present scenes are fled,
And I have run my little span
And sleep among the dead.
Then, as the twilight hours come on,
And round this hearth you meet,
I'd fain believe some treasured one
Will here my name repeat.

Will here my name repeat as some
Sweet memory shall recur —
Sweet memories that on this dear home
A charm shall then confer.
I'd leave some dear memorial here
That ne'er shall be forgot;
I'd claim a tear from hearts sincere
That death e'en changes not.

That death e'en changes not, although
These earthly ties be riven,
To be renewed in happier climes,
And last fore'er in Heaven.
Whate'er the wavering world may say —
Whether applaud or blame —
O, may I ever here, at least,
Have an untarnished name!

THE WORLD AT THE GRAVE.

Onward ever time is stealing,
Tho' with soft and silent tread,
Bearing all upon its bosom,
To the bourne of doubt and dread:
Doubt and dread to sons of folly,
Doomed to darkness and despair —
To the weary, wayworn pilgrim,
Respite from a world of care.

Life is ebbing, ebbing, ebbing!
Soon this beating pulse will cease;
Soon this head that's long been aching
Will be in the grave at peace!
Soon the dream of life be over,
All its cherished visions fled —
Then how earth may frown or flatter,
Ne'er I'll reck among the dead!

Yet, to those I leave behind me
  Would I leave a spotless name;
An example I'd bequeath them
  Such as none could justly blame.
Now how vain is all earth proffers!
  Naught are all its joys to me;
Riches, honors — O, how futile,
  As I near the narrow sea!

Sordid gold, I little craved it;
  Honors scarce did hope to gain;
And to yield all claim upon them
  Gives me not a moment's pain.
Notes of fame, if e'er they charmed me,
  Now have power to charm no more,
As I hear their latest murmur
  Die along the dismal shore!

Now, if earth were all my promise,
  Dark and drear would be my doom —
Every gleam of hope extinguished,
  Round me'd gather endless gloom!
But a ray of light celestial
  Breaks across the silent sea!
May its cheering presence guide me
  Safely, Father, o'er to Thee!

CHARLES C. WHITTELSEY

Was a well-known lawyer at the St. Louis bar, having practiced there about thirty-five years. We became acquainted with him as early as 1851, and knew him well from that time till his death. He was born in Middletown, Connecticut, on February 5, 1819, and his aged mother, a most estimable lady, still lives there to mourn the loss of an affectionate and devoted son. He was descended from a long line of clerical ancestors, his father's family being descendants of the Edwards family, and he on the maternal side was a descendant of the Rev. John Cotton, the first minister of Boston. They were of Revolutionary fame.

His father was a lawyer of eminence in Connecticut. It is not strange, therefore, that Mr. Whittelsey should have been marked out for one of the learned professions. After going through the ordinary course of common-school education, he entered, in 1834, Yale College, and in 1838 graduated high up in his class. The death of his father occurred shortly afterwards, and Charles, being unwilling to be dependent upon his mother, taught school for nearly a year, having to walk, in going to and returning from school, three miles each way, morning and evening. He then entered the office of Jonathan Barnes, an able jurist in Middletown, and applied himself very closely to the study of the law. Mr. Barnes made his students draw all kinds of legal instruments, so as to familiarize them with forms, which proved very serviceable to Mr. Whittelsey, who, in after-life, became the author of a Form Book, which we shall have occasion to refer to. In the winter of 1840–1 Mr. Whittelsey came to Missouri, and settled in St. Louis, where he remained through life. He soon worked his way, by hard labor and diligence, to a very honorable position in the profession, and was always esteemed a sound, well-read, and reliable lawyer. His Form

Book, to which we have alluded, was published by him in 1857, and proved a most valuable aid to judges of probate, judges of the County Court, clerks of courts, sheriffs, constables, justices of the peace, administrators, etc., for it contained all the forms of proceedings adapted to those offices; and particularly was it valuable to administrators, for it enabled them to prepare their annual and final settlements without the aid and expense of a lawyer. It also furnished forms for all kinds of conveyances and acknowledgments. To the merchant and citizen it gave a form for drawing wills, bonds, promissory notes, bills of exchange, articles of agreement, articles of copartnership, etc.

As the forms applied chiefly to our local statutes, the sale of the book was confined mostly to our state, but here it circulated largely, and found its way into every private law library and clerk's office. It was adapted chiefly to the Revised Statutes of 1856.

In 1870 he published a work on General Practice, which had a large circulation, and proved valuable to the profession. It was designed chiefly to aid young practitioners, and commenced with a very able chapter in reference to the jurisdiction of courts of record in civil cases, and proceeded to give the forms of different kinds of process, and the duties of courts and their officers, following the general order of our Code of Practice. In other words, it is a book of trials and their incidents, and is a work of great value, which required the most herculean labor to compile. He was also reporter of the decisions of our Supreme Court, from 1860 to 1867, and reported the cases embraced in volumes 31 to 41 inclusive. He exhibited great ability as a reporter, and it was very rare that he made a mistake in his head-notes.

In his practice he paid special attention to insurance and commercial cases, and became very efficient in those branches of the law. We never saw him in a criminal case, and it is questionable if he ever engaged in one of any importance.

He was in no sense a brilliant lawyer, for he had none of the elements of oratory. His enunciation was too rapid

and indistinct, and at times it was almost impossible to understand him unless you were within a few feet of him. We are not aware that he ever filled any public position except as above stated, though he was an ardent politician, fond of attending political meetings, and very frequently addressed the people. He was an excellent political organizer, and would perform any amount of labor and drudgery when called upon by his political friends. He was a close student, fond of research, and, in investigating a legal problem, never stopped until he had touched the bottom of his subject. These qualities gave him success in his profession. Mr. Whittelsey had a high sense of honor — was scrupulously honest, and had a sovereign contempt for a professional trickster. He was, moreover, a man of fine social qualities — fond of public entertainments, theatrical and musical exhibitions, and the hours which he could spare from his professional duties were spent in that way.

He left a widow and seven or eight children.

CHARLES JONES.

For a period of nearly forty years Charles Jones and the author were intimate friends, and their relations were pleasant and social. He never would declare to any one, not even to his own family, his age, but since his death we have learned that he was born in Somerset County, Maryland, on January 27, 1814. He was the second son of Charles and Elizabeth Jones, and his father was a respectable farmer in comfortable circumstances. He brought his sons up to labor and industrious habits. Charles received his primary instruction in the common district schools of his native county, but completed his education at the Washington Institution, which at that time was under the management of Dr. Laird, a Presbyterian minister.

At the age of eighteen he commenced reading law in the office of William H. Handy, Esq., and finished his legal course with William H. Collins, a prominent lawyer of Baltimore, and was there admitted to the bar. It does not appear that he practiced much, if any, in Maryland, for in 1837 he came to Missouri and went to Palmyra, in Marion County, intending to locate there; but not being pleased with the place, started on foot for Union, the county-seat of Franklin County, where we had located a few months before. As we sat on the steps of the hotel one day, he walked into town, inquired for us, and introduced himself as a young lawyer seeking a place in which to commence the practice. He had evidently seen but little of the world, and had a wild, staring look, as though he apprehended some great misfortune or calamity. We encouraged him to remain with us, and tendered him any assistance we could give. He concluded to pitch his tent with us, and three or four days afterwards both of us were retained in a case before a justice of the peace, on opposite sides. While the trial was progress-

ing, the boys were disposed to make themselves merry over a pair of boots that Mr. Jones had on. In those days boots were made with narrow or sharp-pointed toes, and in his long walk from Palmyra the toes of his boots had turned up in the shape of a sleigh-runner, while the heel had nearly reached the hollow of the foot. After the trial, several persons approached us and suggested the propriety of our advising the new attorney to throw aside his sleigh-runners, as there was but little probability of snow for several months to come. The next day, in the kindness of our heart, and with the most benevolent intention, we advised a change, and suggested, in a way least calculated to wound his feelings, that if he was short in his finances we would gladly divide with him our cash on hand, amounting to about $40. He thanked us, and said he was not in want of any. At that time our worldly possessions, all told, consisted of a horse, saddle, bridle, a few books, and the cash aforesaid, while he had in a belt around his waist, as we afterwards learned, from $2,000 to $3,000. We succeeded, however, with some difficulty, in persuading him to buy a new pair; but he always said it was the dearest pair he ever had, for they not only wore out in less than a month, but the merchant from whom he bought them made him pay for them twice, he having failed to take a receipt on the first payment.

From that time Mr. Jones and the author became good friends; and it is a pleasant reflection that, though pitted against each other in almost every important case at the Franklin bar for many years, an unkind word never passed between us. He did not remain long at the county-seat, but purchased a farm three miles distant, upon which he lived until his removal to St. Louis.

One of the marked features of his character, which adhered to him through life, was secretiveness. For years after he settled at Union no one knew his politics, and every effort to get an avowal from him proved abortive. He expressed much admiration for Mr. Webster, but not beyond what any one might entertain for a man of such transcendent ability. He never attended any of the political

meetings, and evaded every inquiry touching his political tenets. Finally, however, he became a candidate for the State Senate, and for the first time announced himself a Democrat. He was elected, and remained in the Senate several years, and proved very serviceable to his constituents, for he was active, diligent, and faithful. He was far above an average member — in fact, he was a strong debater, and made himself very useful on several important committees. The disposition to conceal his opinions on many questions accompanied him to the Senate Chamber, and it was a common inquiry among the members, "How will Charley Jones vote?" He also displayed the same trait in his practice at the bar. He would conceal his intentions when concealment could be of no possible avail to him, and he never would let it be known whether he was ready for trial until forced to show his hand. After his witnesses were subpœned, he would procure the subpœnas from the sheriff and carry them in his hat, to keep the opposing counsel from learning their names. Upon leaving home he would often tell his friends that he was going to a particular place, and then, without any conceivable motive, go in the opposite direction. To conceal from his best friends, and all the world beside, his designs and intentions, was a passion, the indulgence of which seemed to be particularly gratifying to him. This trait in his character greatly impaired his influence, not only with the public at large, but as an advocate before a court and jury. As a lawyer he was successful, for he made the cause of his client his own — prepared himself thoroughly, and left nothing undone to insure success. With each of his client's witnesses he would consult privately — learn in advance what they would testify to, and not trust to the representations of his client. He was rapid, fluent, and vehement, as a speaker, but greatly wanting in method and the power of concentration. He would, in his argument, seize a strong point in the case, and, as if apprehensive that it might be overlooked, repeat it over and over again, until he not only impaired its force, but frequently exhausted the patience of the jury.

Mr. Jones started out in life with the determination to make a fortune, and bent all his energy in that direction. The love of money became his ruling passion, and absorbed his thoughts by day and night. In a trade he knew no man, friend or foe. He would seek the advantage with his brother as soon as the veriest stranger in the land. He was careful, cautious, and saving, and never indulged in extravagance of any kind. This enabled him to accumulate a large fortune, for at his death he left an estate valued at over a quarter of a million of dollars. He was excessively fond of good horses; always kept plenty of them, and was an excellent judge of them. He lived comfortably, and in his home was one of the most hospitable of men. He delighted to have his friends call upon him, and entertained them with much cordiality. His mind was not free from doubt upon the subject of religion, but he subscribed to the doctrine of Christianity, and was a firm believer in predestination, upon which subject he would converse as long as he could get any person to listen to him.

He had a strange and unaccountable fear of death, which, however, during his long and protracted illness, gradually subsided. This fear of death is not uncommon even with men of strong intellects and religious feelings. The celebrated Dr. Sam Johnson admitted that it haunted him through life, yet he was a very pure and religious man. Mr. Jones was ill a year, during the last three months of which he was confined to his bed. We visited him almost daily, and if absent two or three days, he complained of our want of attention. For several months before his death he became satisfied that his end was near, and prepared his worldly affairs for the event. Although he owned ten or twelve fine residences in St. Louis, he bought a large, commodious dwelling in the most fashionable part of the city, had it furnished handsomely, and moved into it a month before his death. He informed us that it was for his widow.

Mr. Jones' physicians entertained great doubts as to the nature of his disease, but a *post-mortem* examination, made in our presence, revealed a cancer in his stomach. He had

long entertained a suspicion that such might be the case. He retained full possession of his mental powers to the moment of his death. Two days before he breathed his last he called us to his bedside, and requested us to indict a letter to his attorney in Franklin County, who was defending a land suit which was pending against him. We wrote, at his dictation, four pages of foolscap, and his mind was never clearer than at that time. He died in July, 1876.

Mr. Jones married Miss Yoste, of St. Louis County, a lady of fine appearance and many accomplishments, who survives him. He also left four interesting children. He was a kind husband and father, and found in his domestic relations the chief source of his happiness.

There was one feature in Mr. Jones' character which merits the highest commendation. Notwithstanding his love of money, and his insatiable desire to accumulate, he was the kindest man to his slaves we ever met. At the commencement of the Rebellion he had about sixty, most of them very valuable. He was fully convinced that the war would necessarily liberate them, and, though he had frequent opportunities, never would sell one, not even those who were disobedient to him. Some time before Mr. Lincoln's proclamation we remarked, in a jocular way, that he had better put some in his pocket. His reply was that he would rather lose every slave he owned than to sell one. We saw him once buying a woman and seven children at a high price, rather than see them fall into the hands of a Southern trader. He worked most of his slaves on different farms in Franklin County, but it was very rare that he worked one over five or six hours in the day, and in sickness he took the greatest care of them. He never could deny them any favor they asked. He certainly never derived any profit from his slaves, for their labor merely fed and clothed them. After they became free under the proclamation, most of them remained with him, and those who did not continued to partake of his bounty. After his removal to the city of St. Louis he gave directions to his family physician, in Franklin County, to attend to his old slaves in sickness, and to send

all bills to him. We have a personal knowledge of his paying many bills of that kind. The loss of sixty slaves at one fell swoop did not affect him as much as was anticipated. It presents an anomaly in his character which admits of no reasonable solution.

In the civil war, Mr. Jones sympathized with the South, but he was not a disunionist. We have often heard him say that secession furnished no remedy for the wrongs committed against the South. He believed that the floor of Congress was the only available battle-ground.

Mr. Jones had but few attached friends, for it was not in his nature to place unlimited confidence in any one. We probably secured as much of his good-will as any one outside of his immediate family, and yet he was as cautious and reserved in disclosing to us the secrets of his heart as though we were a mere casual acquaintance. His conversation was no index to what was transpiring in his mind; for, like Talleyrand, he believed that the true use of speech was not so much to express one's wants and thoughts as to conceal them. He seemed to regard wealth as the chief passport to power and happiness, but lived to realize the truth of what the poet hath said:

> "The boast of heraldry, the pomp of power,
> And all that beauty, all that wealth e'er gave,
> Await alike the inevitable hour —
> The paths of glory lead but to the grave."

Mr. Jones was at times subject to great mental depression, but generally possessed a fine flow of spirits, and though without any faculty for telling anecdotes, greatly enjoyed them when told by others. Upon one occasion we traveled together on horseback to attend the Pulaski Circuit Court, and, being overtaken late in the day by a snow-storm, were forced to put up for the night at a widow's, who kept a small inn for the entertainment of man and beast. We were strangers to the widow, never having had occasion to patronize her before. Mr. Jones wore a broad-brimmed hat, and a frock-coat cut after the style usually worn by Methodist clergymen. She

became immediately impressed with the opinion that he was a Methodist circuit-rider, and took the first occasion to inquire of us his name, and the name of the circuit he traveled. When we told her that he was traveling on the Pulaski Circuit, all doubt as to his vocation, if she had entertained any before, was evidently removed, for in less than ten minutes we heard the "squall" of a dying chicken, and congratulated each other upon the prospect of an early and good repast after a long day's ride. And we were not disappointed; for, besides the young, fat, and tender chicken, our considerate landlady had provided us with waffles, light biscuit, and a pitcher of fresh milk, to all of which we did ample justice, for we had not eaten anything since five o'clock that morning.

After the table was cleared away the widow brought out a family bible and prayer-book, and requested Brother Jones to engage in prayer, which he declined upon the score of great fatigue from his long ride. After a good breakfast the next morning, our horses were brought out, and Mr. Jones asked the widow for the amount of his bill, and received for reply, "*Nothing;* I never make a charge against ministers." We then approached her, and asked for the amount of our bill, and she answered, "*One dollar,*" which we promptly paid. Now comes the cream of the joke. The uniform price at that time, at all way-side inns, was *fifty cents.* It was evident, therefore, that the widow, who had an eye to self, had determined that we should foot the bill for both, or, in other words, to make out of us the loss occasioned by her Christian benevolence. When we had proceeded a few hundred yards from the house, Mr. Jones burst out in a laugh that might have been heard half a mile. "Well," said he, "you paid dearly for your trick upon me." We insisted that upon every principle of equity and fair dealing he should refund to us the half-dollar, and we continued to present the bill to him for a quarter of a century, until, in fact, the interest upon the amount, compounded, reached a fabulous sum. He enjoyed the incident through life—told it upon all occasions, and each time with additional zest and merriment. Often when we found him in

a despondent mood, particularly during the last year of his life, we could restore him to cheerfulness, and elicit from him a hearty laugh, by demanding the payment of our bill.

Among the acquaintances of Mr. Jones much curiosity has been felt respecting his religious views. He often expressed to us his belief in the leading tenets of the Christian religion. He had implicit faith in the efficacy of prayer, and often told us that when suffering from mental despondency he communed freely with his God. During his last hours he frequently called upon his wife to pray for him. He was much opposed to sectarianism, and though a Protestant, never objected to have his children educated in Catholic schools. His wife, a very intellectual lady, was a Catholic, and he left to her the duty of providing for the education of their children. Knowing that it would be gratifying to his family, he received, just before his death, the rites of the Catholic Church.

He left four children — two girls and two boys.

BENJAMIN F. HICKMAN.

This gentleman, with whom we became early acquainted, and whom we regarded as one of our best friends, was for many years clerk of the United States Circuit and District Courts for the Eastern District of Missouri. He was born in Frankfort, Kentucky, March 8, 1810, and educated in a select school taught in Frankfort by Charles and Kene O'Harris, noted in that day for their skill in preparing pupils for a collegiate course. When young Hickman reached the age of twenty he became a deputy in the office of Francis P. Blair, clerk of the court at Frankfort, who afterwards became a distinguished political writer, and editor of General Jackson's administration organ, at Washington. In due time he commenced the study of the law in the office of Lewis Saunders, and after being admitted to the bar, in 1831 or 1832, commenced the practice of his profession in Lawrenceburg, Anderson County, and practiced there several years, during which time he was twice elected to represent that county in the Kentucky Legislature.

His first wife was a Miss Cunningham, who shortly after her marriage was killed in attempting to jump from a buggy drawn by a horse that was running away. Mr. Hickman was very severely injured, and narrowly escaped death. It threw him into a melancholy condition of mind, which for some time greatly alarmed his friends.

In 1832 he volunteered in the Black Hawk War, and became an aid to Governor Reynolds, of Illinois. In 1841 Mr. Hickman moved to St. Louis, and there entered upon the practice of the law, and at the end of two years located in Jefferson City, where he not only practiced law, but became editor of a political paper called *The Metropolitan.* In 1848 Judge Robert W. Wells appointed him clerk of the United States Court, when he moved to St. Louis, and

was appointed, by Judge Samuel Treat, clerk of the District Court, and he continued clerk of both courts until his death, on February 6, 1871, making his age, at the time of his death, within a month of sixty-one years.

Mr. Hickman was not at the Missouri bar long enough to attain much distinction in his profession, but he became one of the most efficient clerks that ever served in a Federal court, and so faithful was he in the discharge of his duties that he secured, and retained to his death, the good-will and approbation of the entire bar of the state. Judges and lawyers all deferred to his opinion and judgment in all matters pertaining to his office. No one could be more familiar with its duties, and no one was ever more faithful in the discharge of them. Every practitioner in the Federal courts well knows the difficulties and vexations that a clerk has to encounter; yet Colonel Hickman always appeared pleasant and affable, and towards the bar and suitors was ever courteous and obliging. Nature made him a gentleman, and in his house he was most hospitable and entertaining. He was a man of kind heart and generous impulses, and he took the greatest delight in entertaining his friends, and dispensing the hospitality of his home. It was not that generosity which expects its reward, but was heartfelt and disinterested. Many an evening have we spent in his family circle, and no one could leave it without feeling that he had been princely entertained.

Colonel Hickman was very popular, and his death created a profound sensation throughout St. Louis and the state. A bar-meeting was held in the United States court-room, to pay a tribute of respect to his memory, which was very largely attended, and appropriate resolutions adopted, and a general feeling of sorrow and regret pervaded the minds of all. Shortly afterwards the Hon. J. D. S. Dryden presented the resolutions to the United States Court, with a request that they be spread upon the records of the court; and, in granting the request, Judge Samuel Treat paid a glowing tribute to the deceased, from which we extract the following:

"His generous and public-spirited nature diverted him for a time, to a large extent, from mere professional and private pursuits, into active participation in the engrossing public questions of the day — involving, necessarily, an extended acquaintance with the prominent men on whom the solution of those questions depended, and a reliable familiarity with the principles involved. Eminently sociable and generous, his personal influence and popularity were consequently great, and his aid and advice were therefore sought in most of the then popular movements of the time. Then, as throughout his life, he manifested the most earnest devotion to all the requirements of personal or public friendships, and without sacrifice of principle, and regardless of selfish considerations, was prompt to do for others what kindness or justice seemed to require. His dominant characteristics were fidelity, energy, business capacity, and generosity. He was sternly true to the nobler and more generous impulses of our nature; resting with sincere confidence in his friendly relations with others, and instant in repelling any intimations tending to shake or lessen his confidence. Such a life necessarily created strong attachments, which nothing but overwhelming convictions, based on clear proofs, were apt to sunder. Charitable to a fault, open-handed, sympathetic, and unselfish, he assisted others, and gave freely, when a more scrutinizing disposition might have hesitated or withheld the solicited favor. In all such cases he discriminated in favor of the supposed needs of others, and against himself. These large-hearted and liberal traits of character pervaded his whole life; but by no means unaccompanied with more heroic elements. He was as bold to dare, when occasion required, as he was generous to give or forgive."

Colonel Hickman married twice, his second wife being Miss Moore of Kentucky, a lady of intelligence and refinement, by whom he had three children — two sons and a daughter — all of whom survive him.

JOEL F. ASPER.

Mr. Asper was a practicing lawyer in Livingston County, Missouri. He was born in Adams County, Pennsylvania, in 1822, and removed with his parents into Ohio when very young. Of his early education we have no reliable information, but he was admitted to the bar in Ohio, in 1844, and after practicing there for some time came to Missouri, and settled in Chillicothe, on the line of the Hannibal & St. Joseph Railroad. His practice was not very extensive, and he devoted part of his time to editing a local paper. He was also for a short period prosecuting attorney for his county. On the breaking-out of the war he took a very decided stand in favor of the Union; raised and organized a military company, became its captain, was mustered into the volunteer service, and in one of two engagements in which he participated was severely wounded. Upon leaving the army he returned to Chillicothe, and resumed the practice of the law. He never acquired much distinction in the law, but obtained considerable prominence as a politician, and in 1868 was elected to the Forty-first Congress. He served but one term — too short a period to become noted as a public man.

He died in October, 1872, at the age of fifty. He was represented as a man of social and agreeable manners, with considerable vivacity, and was a fluent and ready speaker.

JAMES H. BIRCH.

The recent death of this old and experienced lawyer and politician, announced by the press throughout the state, admonishes us of the rapidity with which the early lights of the profession are passing away.

Judge Birch was born in Montgomery County, Virginia, on March 27, 1804, and was, therefore, at his death, which occurred in March, 1878, at his residence in Clinton County, seventy-four years of age.

His father was a clergyman, and moved into Kentucky, and there died when his son was about seventeen years of age. The education of James was obtained in the common schools, and soon after the death of his father he commenced the study of medicine, to which, however, he took a dislike, and soon abandoned it and entered upon the study of the law in the office of the Hon. John Trimble, then one of the judges of the Supreme Court of Kentucky. He must have been admitted to the bar as soon as he became of age.

In 1825 he married a daughter of Daniel Halstead, of Lexington, and in the latter part of the following year removed to St. Louis, and was employed in the editorial department of the *St. Louis Enquirer*, a Democratic paper published under the auspices of Colonel Benton. In July, 1827, he moved to Fayette, Howard County, and established the *Western Monitor*, a weekly journal, said to be at that time the most western paper published in the United States. It was Democratic in its policy, and very warmly supported General Jackson for the presidency.

The first public office held by Mr. Birch was that of clerk of the lower house of the General Assembly, in 1828–9. At the next session he was made secretary of the Senate, and at this time took a very active part in politics, often addressing the people from the rostrum.

As soon as eligible, the people of the senatorial district composed of Howard and Randolph Counties elected him to the State Senate. Although one of the youngest members of the body, he was made chairman of the joint committee appointed to revise the laws — a very responsible and laborious position. Before the expiration of his term he resigned, to enable him to devote more time to his professional business and the publication of his paper. In 1843 President Tyler appointed him register of the Land Office at Plattsburg, a new office then lately established. In 1849 he was appointed judge of the Supreme Court of the state, and held the position until the election of 1852, when he declined to become a candidate. His opinions as rendered from the bench will be found in volumes 12 to 15, inclusive, of the Missouri Reports.

Judge Birch was out of his element on the bench. His mind was of that sort which required the stimulus of excitement to develop his resources, and had he succeeded in obtaining a seat in Congress, and retained it a sufficient time, he would doubtless have made his mark, and, in all probability, secured a national reputation, which others of far less ability have done.

After leaving the bench he was again appointed and reappointed register of the Land Office, the duties of which were very onerous, for at that time the immigration to the Platte country was very large, and necessarily created an unusual demand for public lands.

Judge Birch always manifested a strong desire to obtain a seat in Congress, was several times a candidate, but, by a combination of unfavorable circumstances, suffered defeat.

He was a strong advocate for internal improvements, espoused with much ardor the building of a railroad to the Pacific, addressed the people of the northern counties to induce them to subscribe liberally to the construction of the Hannibal & St. Joseph road, and in all matters of public enterprise was ardent and enthusiastic.

In 1861 he was elected to the Constitutional Convention, and became one of the most active members of that body.

He espoused the cause of the Union, but his conservative policy did not please the extremists of either party. Some of his speeches delivered during the sessions of the Convention were highly spoken of as forensic efforts. He was very tall and commanding — considerably over six feet — and had an easy and flowing delivery, a clear and distinct enunciation. We heard him on several occasions when the Convention was holding its sessions in the hall of the Mercantile Library at St. Louis, then the largest room in the state, and though not well adapted to the sound of the human voice, yet every word uttered by Judge Birch could be distinctly heard in the remotest part of the room.

To enable the reader to form some idea of Judge Birch's ready command of language and his facility of expression, we give an extract from one of his speeches delivered soon after the assembling of the Convention:

"It is brought forward as the crowning element wherewith to dispirit us that the Northern people have at last elected a sectional candidate upon a sectional platform, and that we have no reason to hope that they will change their verdict.

"I scarcely know how to address myself to a proposition of that kind, and will hence simply present such counteracting *facts* as may present themselves to my mind, and will leave the Convention, when they retire, to reflect upon what I have thus desultorily thrown together, and put the disjointed fragments into the proper connections of a speech.

"My purpose will be to array the authority of the *men* of the North against the *politicians* of the South — it being the *people* of that section whom it will be our duty to address in the name and by the authority of the people of our own section. To the alleged declaration of Mr. Sumner, therefore, whose authority has been invoked by the despondent and treacherous amongst us, that the Crittenden propositions were an insult to Massachusetts — to this insolent and summary disposition of the propositions of the senior senator, whom it is the intention of our resolve to honor — it is deemed sufficient to reply that, whilst the *senator* from Boston was thus speaking for the edification of disunionists, North and South, the *people* of Boston, 14,000 out of 18,000, were signing and transmitting a memorial to Congress, wrapped in the American flag, praying the fraternal adjustment of all our complications upon the basis of the Crittenden propositions. I speak in presence of our returned congressmen, who honor us with their presence to-day, and they will correct me if I have fallen into any error in the statement I have thus repeated.

"If it be true, then, that even in fanatical *Boston* — the home of *Sumner* — three-fourths of the people are opposed to the extreme opinions and *purposes* of

Sumner, when brought practically in contact with the great purpose of preserving the Union upon the basis suggested by the senator from Kentucky, how *dare* we draw the inference that the Northern people are determined to hold us to their Northern platform, Union or no Union? I therefore appeal from Sumner to Sumner's constituents — from the men who disgrace the Senate carpet to the men who honor the furrow and the work-shops; and, taking hopes accordingly, I proclaim myself 'a Union man,' because I have an abiding confidence that such adjustments of the past, and such guaranties for the future, as will enable us to plow and to sleep as securely and enjoyingly as our brethren of the North do, will be accorded to us under the forms of the Constitution and the sanction of the laws. * * *

"It is upon that reliance, I repeat, that I am 'a Union man,' and that, although Southern — 'to the manor born and to the manor bred' — a native of Virginia, educated into manhood in Kentucky, and having worn out that manhood in Missouri, neither my education nor my observation has been such as to cause me to abandon my reliance upon the ultimate justice of any portion of my countrymen, North or South."

LUKE E. LAWLESS.

Of this able and erratic lawyer and jurist we have sought information from every source most likely to furnish it, and yet we are forced to confess that our material for a history of his life is very meager and unsatisfactory. We met him a few times while he was on the bench of the St. Louis Circuit Court, but our acquaintance was only such as would ordinarily arise from a casual introduction. While he was well known throughout the state as a very prominent member of the St. Louis bar, few indeed were on terms of intimacy with him, for he was very reserved in his intercourse with others, and never mixed with the people, and but little with even those who belonged to his own profession.

He was born in Dublin, Ireland, in 1781, and graduated with honor at the Dublin University; took an active part in the Revolution of 1798, and, by reason of his hostility and aversion to the English government, volunteered in the army of Napoleon, and served with him throughout the Peninsular War, reaching the rank of colonel. It is well known that the emperor obtained most of his marshals and officers from the ranks of his army, and selected them by reason of their gallantry and courage displayed upon the field of battle — hence the fact that Colonel Lawless, though a foreigner, held so high a rank in the French army is the best evidence of his skill and bravery as a soldier. Upon the return of Napoleon from Elba, Colonel Lawless delivered the congratulatory address of his regiment. In several battles he was severely wounded, the marks of which accompanied him to his grave.

Upon the close of the war he settled in France; married a French lady, and practiced law there for about fifteen years; became engaged in a duel and was wounded in the leg, and always afterwards walked lame.

About 1824 he immigrated to the United States and took up his residence in St. Louis, where he practiced law, except during the interval he was on the bench, until his death, in 1846, at the age of sixty-five. He left no children to inherit his name. His widow died afterwards in Carondelet.

In 1837 or 1838, upon the resignation of Judge William C. Carr, he was appointed judge of the St. Louis Circuit Court, and held the position three years, when he returned to the bar.

Judge Lawless was about five feet ten in height, slender in form, with large and prominent features. He had a military bearing, and was very dignified in his manners.

He was an accomplished scholar and fine linguist — spoke the French, German, and Spanish languages with great fluency, and throughout life was a close, diligent student. He was thoroughly read in the profession, and had mastered both the civil and common law. He was an adept in logic, and few excelled him in the argument of an abstruse legal problem. His power of judicial analysis was remarkable.

At the bar he ranked with such men as Geyer, Gamble, Bates, Darby, and Spalding. Like Bates, Primm, and John Scott, he always carried with him into the court-room a large green bag, in imitation of the Irish and English barristers. He was not an orator, but a pungent and impressive speaker, never indulging in boisterous or vehement declamation. Irony, sarcasm, and wit were his weapons, and he used them with an unsparing hand. He was at times very good at repartee. Upon one occasion he was arguing a question of law in the United States Court, before Judge Catron, and quoted a decision of the Supreme Court of Missouri, when Judge Catron interrupted him by saying:

"I presume, Colonel Lawless, you are aware that the Supreme Court of Missouri has been reversed by the Supreme Court of the United States." "Yes," said Lawless, "I am aware of that, and if there was any tribunal that had the power, *they would reverse the Supreme Court of the United States.*"

The happy retort brought a smile upon the face of Judge Catron.

The most important event in Judge Lawless' professional life is connected with the impeachment before the United States Senate of James A. Peck, a Federal judge in Missouri.

In April, 1826, there appeared in the *Missouri Advocate and St. Louis Enquirer* a communication over the signature of "A Citizen," a criticism upon a decision of Judge Peck relating to certain Missouri land titles. The criticism was couched in respectful language, but Judge Peck, thinking it was calculated to bring the decisions of the court into disrepute, caused a rule to be served upon the proprietor of the paper to show cause why an attachment should not issue against him for contempt of court, etc. The proprietor, in his answer, denied that the statement was false or indecorous, or that he had any intention of bringing odium upon the court, and concluded by giving the name of Colonel Lawless as the author.

An order was then made on Lawless to show cause, etc. He replied, denying the jurisdiction of the court, as an appeal had been taken in the case in which the decision had been rendered. He also alleged that the object of the publication was to counteract the effect that the decision of the court was calculated to produce on the value of the unconfirmed Spanish and French land titles. The rule was made absolute, and the court sentenced Colonel Lawless to twenty-four hours' imprisonment, and suspended him from the practice for eighteen months.

Colonel Lawless sent a memorial to the House of Representatives at Washington, and articles of impeachment were preferred against Judge Peck, charging him with usurpation of power, tyranny, and oppression. The trial took place before the United States Senate, and was the most celebrated trial of the kind ever had before that body. The most eminent lawyers in the country appeared in the case, and, after the close of the evidence, over a week was occupied in the

summing-up of the evidence, and discussing the powers of a court in inflicting punishment for a supposed contempt. All the law that was ever promulgated upon that subject, both in England and in this country, was collated by Judge Lawless, and by him furnished the managers. Nearly all the pleadings upon the part of the government were drawn by him, and he displayed a most masterly knowledge of the law of the case.

The accused was acquitted by a very close vote, some of the most eminent lawyers in the Senate voting for conviction. More of the particulars of the trial will be found in our memoir of Judge Peck.

One of the peculiarities of Judge Lawless was absent-mindedness. In going home from court he would frequently walk several squares beyond his house, and not discover his mistake until he met some acquaintance who would inquire where he was going. In shopping with Madam Lawless, if his attention was drawn to anything of interest passing on the street, he would sometimes walk off and forget where he had left her. Not unfrequently he would leave home without a hat, and not be sensible of it until some one reminded him of it. When invited out to dinner he seldom could recollect the hour, and often appeared either too early or too late.

His fondness for potatoes was proverbial. If he put up at a hotel and found no potatoes on the table, he would give the landlord a good round cursing. He had them on his own table three times a day, and was often heard to say that a table without them was no fit place for a gentleman to cross his legs under.

He had a fine fund of humor — was fond of a good anecdote, and enjoyed a joke upon himself as well as upon others. There was one, however, that he did not particularly relish. While Dr. Robert Simpson was sheriff of the county, Colonel Lawless remarked in court that the sheriff had used no exertion to subpœna his witnesses in a case. The sheriff took offense at this, and after the adjournment of the court attacked Lawless, when the latter, who was

much larger and stouter than the little officer, knocked him down and gave him a severe whipping. While pommeling the doctor, Judge Carr came out and took Lawless off of him, and commanded the peace. At the opening of the court in the afternoon, the little, witty sheriff, with blackened eyes, and bleeding profusely, rose and apologized to the court for his conduct, saying he was only *chastising the big Irishman for his impudence in court.*

By reference to our sketch of Colonel Benton it will be seen that Judge Lawless acted as Benton's second in the unfortunate duel between him and Charles Lucas.

Since writing the above we have been furnished with a copy of *The Nation*, a paper published in Dublin, Ireland. It bears date November 7, 1846, and contains a notice of the death of Colonel Lawless. It furnishes the best history of the professional and military life of this distinguished man that we have seen, and hence we give the extract *verbatim:*

"We have this day to record the death of the Hon. Luke Edward Lawless, late judge of the Circuit Court of Missouri, in the United States. The deceased was the second son of the late Philip Lawless, of Warren Mount, in the county of Dublin, and grandson of the late John Lawless, of Shankill Castle, in the same county, Esq. He was born in 1781, and at an early age entered the British navy, in which service he continued until after the peace of Amiens, serving successively with Captain Beauman, Captain Downmar, and Sir Sidney Smith. On his return to Dublin, in 1802, he at once commenced to keep his terms for the purpose of going to the bar; to which profession he was accordingly called in Michaelmas term, 1805. Here he was quickly distinguished, and was already commencing a career equally honorable and lucrative, when his mind, like that of many another man at the same period, became filled with disgust at the unmerited humility of the position beyond which he and his fellow-Roman Catholics were, by the restriction laws then in force, forbidden to aspire, and with the belief that the obstacles presented by those laws to the rise of a Roman Catholic at the bar in Ireland to the higher stations in the profession were, and would continue to be, insuperable. Actuated by those feelings, but contrary to the wish of his friends, he, in 1810, left his native country, and passing over to France was easily induced to enter the French service, under the immediate command of his paternal uncle, General William Lawless. In this, as in his former profession, he soon became distinguished; and having for some time acted in the capacity of military secretary (for which position an almost universal knowledge of modern languages sufficiently qualified him) to the Duc de Feltre, he was finally promoted to the rank of colonel. On the return of Napoleon from Elba, Luke Lawless composed

and read the address of congratulation from his regiment to the emperor. The final defeat of Napoleon, in 1815, compelled him once more to seek a new field for his exertions; and the love of republican institutions, at that time shared in by many of his countrymen, induced him to select the United States of America as his future home. He here adopted his former profession of a lawyer, and his talents and extensive learning quickly acquired for him a distinguished reputation. After some years of most successful practice he was raised to the bench, and devoted to the service of the country of his adoption an ability and zeal which the bigoted principles of the existing laws prevented, in his case as in many others, from being available on behalf of his native land. Having for many years discharged the duties of his high office with credit to himself and the country of his birth, and satisfaction to that whose government thought him worthy of employment in their service, the honorable and learned gentleman departed this life on the 12th of September last, at St. Louis, in the state of Missouri. The bar of St. Louis have, in an unusual manner, as appears by a report of their proceedings on the 14th of September, which we subjoin, testified their admiration and respect for him as a judge, and their cordial affection for him as a brother barrister:

"'At a meeting of the St. Louis bar, held at the court-house, on the 14th of September, Nathaniel Holmes, Esq., called the meeting to order; and, on his motion, Judge Mullanphy was called to the chair.

"'On the motion of Thomas T. Gantt, Esq., Alexander Hamilton was appointed secretary.

"'On taking the chair, Judge Mullanphy stated the object of the meeting to be to pay honorable respect to the memory of the Hon. Luke E. Lawless, one of the oldest and most eminent of the profession; giving a historical detail of some of the prominent events of his life, and paying a high compliment to his talents, learning, and professional ability.

"'Louis V. Bogy, Esq., moved that a committee of five be appointed to prepare resolutions expressive of the sentiments of the meeting; which prevailing, the chair appointed on said committee the following gentlemen, viz., Louis V. Bogy, Edward Bates, Alexander Hamilton, Thomas T. Gantt, and William M. Campbell, who retired; and having returned, Mr. Hamilton presented and read the following preamble and resolutions, which were unanimously adopted:

"'Whereas it has pleased Almighty God, in the mysterious dispensation of His providence, to remove from our midst our late brother and friend, the Hon. Luke Edward Lawless; and whereas some tribute of respect to the memory of the deceased is justly due from surviving members of the profession; therefore

"'*Resolved*, That the members of the bar of the city are most seriously impressed with the solemn and afflictive dispensation by which one of the oldest and most distinguished of our number has been so suddenly taken from us. Whether we regard the deceased in the capacity of the able and experienced advocate, or in the more exalted character of the enlightened, upright, and fearless judge, his memory claims our admiration and respect. His tastes and attainments in literature rivaled his professional merits. Gifted in intellect, of the highest culture, steady in his attachments, of kindly disposition, and with

an instinctive relish for all that was elegant and refined, he was happily adapted to teach and delight, in that polished society of which he was the chief ornament. Born of a parentage respectable in every walk of life, and one of a family distinguished for their ardent attachment and services to the cause of republican freedom, from his earliest manhood he exhibited, with the most hearty devotion of his energies, a patriotism the most comprehensive and uncompromising. His accomplished mind, observant of all the events, characters, and opinions of the day, both in this country and in Europe, was peculiarly qualified to counsel and instruct on those and kindred topics. Whilst, therefore, we fully appreciate the loss both we and the community have sustained in his death, to us the solace remains, on looking back on his closed career, that his name takes its indefeasible rank amongst the brightest and most gifted of the profession.

"'*Resolved*, That in further testimony of our respect for the memory of the deceased, we will wear the usual badge of mourning for the space of thirty days.

"'*Resolved*, That Messrs. Bates and Leslie be appointed to move the honorable the Circuit Court, the Court of Common Pleas, and the Criminal Court of this county, the Supreme Court of the state, and the Circuit Court of the United States for this district, that the proceedings of this meeting be entered on their minutes.

"'*Resolved*, That the secretary of this meeting be charged with the duty of conveying to the widow of the deceased a copy of these resolutions, accompanied by the expression of our sincere condolence in her distressing bereavement.

"'On the motion of Charles C. Whittelsey, Esq., it was

"'*Resolved*, That the proceedings of this meeting be published in all the public papers of this city.

"'BRYAN MULLANPHY, *Chairman*.

"'A. HAMILTON, *Secretary*.'" *

Colonel Lawless would sometimes indulge in strokes of the keenest wit and in the wisest sayings. We recall one or two instances. When asked what he thought was the origin of democracy, he quickly answered, "The principles of democracy originated with the Star of Bethlehem."

Being questioned as to his deportment on a certain occasion when there was an adverse ruling of the court under

* At the commencement of our late civil war *The Nation* said, in substance: "Why, here is a strange spectacle presented to the civilized world by our brethren on the other side of the Atlantic, who are divided in opinion as to the scope and meaning of their national charter, the people both North and South following the teachings of their fathers; and yet they propose to solve the question by cutting each others' throats."

circumstances calculated to disturb a more gentle disposition, he remarked, "When your head is under an ass' heels there is but one thing to be done—that is, to lie perfectly still."

Returning in high spirits from a visit to Niagara, and interrogated as to his impressions, he playfully remarked, "I could not help thinking on my way home that in the next world every American would be asked whether he had ever seen the great cataract, and if he said no, a speedy sentence would await him — 'Go down to purgatory.'"

PETER B. McCORD.

In 1848 we made a successful canvass for Congress in the then Second District of Missouri. While filling an appointment to address the people of Osage County, at Linn, we met the above-named gentleman, who was a resident lawyer at that place, and he impressed us favorably as a modest, unassuming, agreeable gentleman. A better acquaintance not only confirmed our impression of him, but we soon learned that he was a lawyer who had studied his profession well. Mr. McCord was born at Harrisburg, Pennsylvania, January 8, 1818, received a liberal education, and pursued his legal studies in the office of Ovid F. Johnson, of Philadelphia. In 1839 he was admitted to the bar, and during the same year married Miss Mary Josephine Rhey, of Ebensburg, Pennsylvania. After practicing in Pennsylvania about five years, he moved, in the spring of 1844, to Missouri, and first settled in Callaway County, but during the following year made a permanent location at Linn, in Osage County. There were but two resident lawyers at the place, but the bar of Jefferson City generally attended the Osage court, for Osage was in the Cole Circuit, and the attorney-general of the state was, *ex officio*, prosecuting attorney. There was nothing to prevent Mr. McCord from occupying an exalted position at the bar but his extreme diffidence and modesty, a quality rather rare in the profession, yet very commendable if not carried to excess. In Mr. McCord's case it engendered a want of confidence in himself, which destroyed his efficiency as a court lawyer and advocate. He never would take upon himself the management of a case of any importance, and invariably called in assistant counsel. This natural diffidence kept him out of public life, and made him decline the appeals of his friends who frequently urged him to become a candidate for the Legislature. In 1874, however, his friends,

persuaded of his knowledge of the law, succeeded in getting his name before the people as a candidate for judge of the Ninth Judicial Circuit, and he was elected by a handsome majority, but before the time arrived for commencing the spring term of his courts he died at Linn. This occurred January 2, 1875. He left a wife and one son — the latter is at this time clerk of the Circuit Court of Osage County.

Mr. McCord was a man of fine impulses, generous disposition, unimpeachable character, and very sensitive and conscientious.

In 1864 United States Senator Ramsey, of Iowa, who was his classmate, offered to procure for him the appointment of United States District Judge, which he declined, assigning as a reason that, being a Democrat, he could not consistently with his sense of propriety accept an appointment from a Republican administration.

N. B. HOLDEN.

Of the parentage and place of nativity of Mr. Holden we have no information whatever, though we have a vague impression that he was a Tennesseean. We served with him in the Missouri Legislature in 1846. He had but little education or refinement, and was very unprepossessing in appearance.

He must have commenced the practice in Missouri as early as 1840. He never acquired much reputation as a lawyer, though he was industrious and energetic. If we mistake not, he was at one time land agent or local attorney for the Pacific Railroad Company, and afterwards receiver of public money at Warsaw. As a speaker he was not wanting in fluency or sprightliness, but in his gesticulations he was awkward and ungainly. His head was constantly in motion, as though on a pivot, and he threw it about in every conceivable attitude. He had not been in the Legislature more than ten days before he became unpopular by incessant speaking, and interfering with the local bills of members. He had the vanity to suppose that the House could not vote intelligently upon any question without first hearing his views. He prided himself upon his unterrified Democracy, and incurred the ill-will of the opposition members by his denunciations of their party. This is an error that young members of legislative bodies too frequently commit, and it invariably ends in making them odious.

Mr. Holden was regarded as a man of integrity, and sustained a good moral character. He has been dead several years.

RICHARD F. RICHMOND.

This popular and eloquent lawyer was a native of Kentucky — born in Franklin County about the year 1810. His father, who was of English and French descent, was from Massachusetts, raised a mechanic, and carried on, at Chelsea, a large business as manufacturer of hemp and ship-cordage. His mother was from North Carolina, and of Scotch descent. Richard followed the occupation of his father, and at the age of eighteen obtained the credit of being the best rope-maker in Kentucky, except his father. He was one of eleven children, being the second child, and boasted that he was one of four brothers, who lived to reach maturity, who measured together twenty-five feet in height, he being six feet and two inches.

At an early age he displayed a great fondness for reading, and all manly sports, such as hunting, fishing, riding, running, and jumping, and few boys excelled him in either. Discovering in their son many promising traits of character, his parents sent him to the best schools in the neighborhood, where he improved rapidly in his studies, and stood at the head of most of his classes. During most of the summer he continued to work at his trade, and took much pride in it. He also took lessons in Latin and French under the tuition of a gentleman by the name of O'Hara, and a clergyman by the name of Fall. At this time he determined to study law, and became a student in the office of Judge James S. Higgin, at Frankfort. He was then about twenty-one years of age. After studying with Judge Higgin two years, he entered the Transylvania Law School, at Lexington, remained there two years, and graduated in March, 1832. He then commenced the practice at Frankfort in partnership with his old instructor, Judge Higgin, and, upon the death of the latter, became associated with

Benjamin F. Hickman, Esq., well known throughout Missouri as clerk of the United States Supreme Circuit and District Courts.

We should have stated that Colonel Richmond, when a young man, manifested some partiality for a military life, joined a volunteer company in Kentucky, was made its captain, and afterwards was promoted to the office of colonel of the regiment. In this way he acquired his military title, for he was always known, both in Kentucky and Missouri, as Colonel Dick Richmond.

While in Kentucky he espoused the cause of the Democratic party, became quite active as a politician, and contributed many articles for the Democratic press. In 1835 or 1836 he went to Mississippi in company with George B. Crittenden, son of the late Hon. John J. Crittenden. They formed a partnership, and opened an office in Vicksburg; but a general crash in all kinds of business took place, and Colonel Richmond returned to Frankfort and renewed his practice there, and soon obtained a good business. Shortly after his return to Frankfort he was nominated by the Democratic party for the Legislature, in opposition to the Whig nominee, Hon. Charles S. Morehead, who afterwards represented his district in Congress and became governor of the state.

Both Richmond and Morehead being men of fine talents, and eloquent speakers, they met on the stump, and a most able and exciting canvass followed. The Whigs had a majority in the county, and Mr. Morehead was elected by a small majority.

Colonel Richmond married Mrs. Edmonia Barton, widow of John Barton, of Lexington, and daughter of Wood Hawkins, of Frankfort. She was a lady of rare beauty and accomplishments. In 1841 Colonel Richmond moved to Hannibal, Missouri, where in the year following he lost his wife. After her death he seemed to lose all interest in his profession, and made no effort to procure business; in fact, what he did attend to was almost forced upon him.

In 1844 we met him in the Legislature, he representing

Marion County. We soon became well acquainted, for at the commencement of the session we met daily in private consultation on the then pending senatorial election. It was well known that some of the leaders of the Democratic party, who had become disaffected towards Colonel Benton, had formed a secret plan to defeat his election; but, unfortunately for their purpose, there were two senators to elect, one for the vacancy occasioned by the death of Dr. Linn, and the other for a full term. General David R. Atchison had been appointed by the governor in Dr. Linn's place, and was a candidate for the unexpired term, and Colonel Benton's friends were urging him for the long term. Although we never had any reason to suppose that General Atchison was in anywise known to the conspiracy to defeat Colonel Benton, yet it was well understood that the most active of the opponents of Benton were the most devoted friends of Atchison. We speak advisedly when we say that the friends of Colonel Benton entertained no unkind feeling towards General Atchison, and were not disposed to make any opposition to his election, for he had made a good senator, and his two years' service had given general satisfaction; but the Benton men in the Legislature, who, if not able to elect their favorite, could certainly dictate his successor, were determined that if the friends of Atchison defeated Benton, the former should fall with him. The Whig members had no other interest in the election than to throw their vote where it would be most likely to create division in the Democratic ranks. Caucus after caucus was held, and Colonel Richmond and the author, who were very active in the support of Benton, were in almost hourly consultation, which necessarily brought us in close intimacy at the opening of the session. Without going into detail, it is sufficient to remark that the opposing wings of the party came to an agreement to support both gentlemen, and the next night a general caucus was held in the Senate Chamber, and a resolution to support both was unanimously adopted. It was on this occasion that we first heard Colonel Richmond in debate, and his speech in behalf

of Colonel Benton was one of the most eloquent efforts that ever fell from the lips of man.

From that time he rose rapidly in public estimation, and was regarded as one of the most promising men of the state. At the close of the session he returned to Hannibal, and resumed the practice of his profession. He died many years ago.

Of his family we have no knowledge, except one son, who died from consumption while studying law in the office of Lackland, Martin & Lackland, in St. Louis. We are under the impression he left no other children. His brother Joel is still engaged in the practice of the law at Hannibal.

Colonel Richmond was very tall and thin, and his figure not much unlike Mr. Clay's. His voice was clear, distinct, and musical, and his gesticulation impressive and natural. He could raise or lower his voice at will, and, when excited, would sometimes raise it from a low to a high pitch so suddenly as to produce a thrill in his audience. He was, in fact, a natural-born orator, and if his habits through life had been studious, and free from dissipation, he must have attained a high position as a statesman. But, unfortunately, like most men of genius and free social intercourse, he contracted a habit which greatly impaired his usefulness and success in life, and brought him to an untimely grave. As a wit and humorist, Colonel Richmond had few equals.

At one time he became so intemperate as to cause much anxiety among his friends, who, by a united and persistent effort, succeeded in inducing him to sign the pledge and join a temperance society. A man of his eloquence could not be otherwise than a great acquisition to the cause, hence at every meeting he was called upon for a speech. For some time he managed to escape upon various pretexts, but at last they pressed him so hard that he was forced to respond. Among the many pernicious effects of hard drinking, he referred to one which had often struck him very forcibly, and that was its tendency to shorten human life. Said he, "I knew a man in Kentucky by the name of Jacob Jones,

who commenced drinking at the age of twenty, and was a hard drinker through life, and died at the age of *ninety-seven.* Now," said he, "my friends, who can say that, if Jacob had lived a sober, temperate life, he might not have attained a *good old age.*"

This was as well calculated to disturb the usual theory upon the subject of temperance as the anecdote told by Mr. Edwards upon Judge Cady, of New York, who was trying a case in one of the northern circuits.

A witness by the name of Wood was examined, and at the close of his testimony the judge expressed a desire to ask him a few questions.

"Certainly," said Wood.

"How old are you, Mr. Wood?"

"I am seventy-six years of age."

"May I ask you what have been your habits through life?"

"My habits have been very regular. I have been very temperate. I don't think I could tell the different kinds of liquor by their taste, for I never drank intoxicating liquors. I have been in the habit of retiring early at night, and rising by daylight in the morning."

The judge, who was noted for his temperance views, took occasion to deliver a short lecture to those in attendance, on the blessings arising from habits of industry, method, and especially of temperance.

"You see this man," observed his honor, "at quite an advanced age, in possession of all his faculties, in good health, and you have heard the clear and intelligent manner in which he has given his testimony. Permit me to recommend him as an example which it might be well for many to follow."

The next witness was also a Mr. Wood, brother of the model temperance man, and who also gave his testimony in a clear and intelligent manner. At its close Judge Cady also said to him:

"If you have no objection, Mr. Wood, I would like to ask you a few questions similar to those I put to your brother."

"Certainly."

"How old are you, Mr. Wood?"

"I am seventy-eight years of age; two years older than my brother."

"What have been your habits through life?"

"Well, judge, I can't say, as my brother has, that I have been regular in my habits, or temperate. To tell you the truth, judge, I have hardly seen a sober day, or been to bed sober, since I was a boy. I have been a hard drinker all through life." [A loud laugh from the bar, at the judge's expense.]

"Well," exclaimed the judge, impatiently, "I don't see as it makes any difference with this *Wood*, whether it is wet or dry!"

Another anecdote of Colonel Richmond will illustrate his fondness for good humor. On his way to one of the courts in his circuit he fell in company with General J. and the late Judge Carty Wells, the former having but a slight acquaintance with the colonel, and knowing but little of his peculiarities. About a mile ahead of the party there was by the road-side a fine spring of water, at which the colonel had often stopped to refresh himself. He and the general belonged to different parties, and a warm political discussion arose between them, and, as they were near the spring, a very suitable place to get rid of the cobwebs in one's throat, the colonel pretended to be highly offended at a remark of the general's, and proposed that they should then and there settle it *vi et armis*. The general was a brave and magnanimous man, and denied any intention of wounding the colonel's feelings, and made the proper *amende*, which, however, did not satisfy the colonel; whereupon the general said, "If nothing else but a fight will satisfy you, sir, we will dismount and settle it at once." Both hitched their horses to a tree, took off their coats, and approached each other in a belligerent attitude, when the colonel remarked, "Stop a moment," and, going to his saddle-bags, took out a quart flask filled with genuine old bourbon, and, presenting it to the general, said, "*Sir, you shall have the first fire.*"

Judge Ezra Hunt, of the Pike Circuit, was in the habit of

drawing very fine distinctions respecting the meaning of words, and while Colonel Richmond was engaged in the argument before him of a proposition involving the construction of a statute, the judge remarked that no two words imported precisely the same thing; whereupon the colonel asked him what was the difference between *rooster* and *chicken-cock*. The judge smilingly suggested that, if counsel would reduce his question to writing, he would take it *under advisement.*

We could give other instances of Colonel Richmond's wit and humor, but these must suffice. He was not only fond of a good anecdote, but had a happy faculty of telling them. It has often occurred to us that the good humor which is generally found among members of the legal profession furnishes one reason for their tendency to long life. Chief Justice Story said that every man ought to have an hour's laugh per day, as it materially assisted digestion. He, however, took to himself more than that allowance, and never entered a social circle without telling a good joke, or perpetrating a witticism. He often told the following anecdote upon Jonathan Mason, a distinguished advocate of New England:

In the trial of Leveritt, in Connecticut, a Methodist preacher, charged with the murder of a young girl, which lasted for many days, and excited a profound interest in the United States, the evidence was entirely circumstantial, and there was great difference of opinion regarding his guilt. A brother preacher stepped up to the desk of Mason, just before the opening of the court, and said, "Mr. Mason, I had a vision last night, in which the angel Gabriel appeared and told me Brother Leveritt was not guilty." Mason said, "Have him subpœnaed immediately." The table was in a roar when Story told this anecdote.

The Irish and Scotch bars were famous in this respect. The witticisms of Curran alone would fill a good-sized volume.

BENJAMIN B. DAYTON.

This gentleman was but little known outside of the bar, for he was very retired in his habits, and devoted his whole time to his profession. He was born in the western part of New York about 1817, was a graduate of Union College, studied law with Addison Gardner, Esq., a lawyer of considerable eminence, and about 1838 moved to St. Louis, and commenced the practice of the law in partnership with Fedinand W. Risk. Afterwards he entered into partnership with Henry S. Geyer, which continued until the latter was elected to the United States Senate. About 1843 or 1844 Mr. Dayton married Miss Mary Jennings, of Philadelphia. No children were born of the marriage, and at his death, which was occasioned by the Gasconade Bridge disaster, in November, 1855, his widow returned to Philadelphia; whether she still survives we are unable to state. Mr. Dayton was tall, spare made, and had dark hair and complexion, with very uniform features. His countenance was grave, and indicated much thought and close study. He was regarded by the profession generally as a well-read and thorough lawyer. We heard him on several occasions address the court in the argument of legal questions. His mind was altogether logical, and his delivery graceful and easy. The firm of Geyer & Dayton did a very large business, and were retained in most of the important land suits. Mr. Dayton's close attention to business greatly impaired his health, which at all times was very delicate, and it is not probable that he would have lived long, even if he had been spared the tragic death which so suddenly terminated his life.

He never held, or aspired to, any public position, his only ambition being to rank high as a lawyer. He was a man of

most exemplary habits, and for many years was vestryman in the Episcopal Church. He exhibited much interest in the growth and advancement of St. Louis, and contributed freely to all objects of charity and benevolence. He left a good estate, but no children to enjoy it.

PHILIP L. EDWARDS.

In 1842 the Democracy of Franklin County, and no inconsiderable portion of the Whig party, conceived the strange idea that we might be of some service to the county in the General Assembly of the state, and without any solicitation on our part elected us to a seat in that body. It was certainly a high compliment to a young and inexperienced attorney, and though not concurring in the wisdom of their choice, we felt no disposition to make a *factious resistance.*

Among those who then for the first time took their seats in a deliberative body was the gentleman whose name is above. He represented the county of Ray. We made his acquaintance during the first week of the session, and found him a modest, retiring, and unassuming gentleman, with dignified manners, and a countenance indicating a high order of intellect. He was tall and spare made, and seemed to be laboring under much physical disability. Upon the first question which came before the House, and which gave rise to debate, he made a brief speech of fifteen or twenty minutes, which attracted much attention, not only from his apparent knowledge of his subject, but from his fine oratorical display. Upon several other occasions during the session he addressed the House, and obtained the reputation of being one of the finest declaimers in either house of the General Assembly. He spoke with great fluency, and his clear and distinct enunciation made him readily heard from all parts of the hall. We never saw Mr. Edwards after the close of that session, but understood that he became a prominent and successful lawyer in the North Grand River country.

If we mistake not, he was a native of Missouri and his father was a farmer. He received a good English education, and was admitted to the bar in the spring of 1839, and

commenced the practice in Richmond, Ray County. Contemporary with him was that distinguished jurist, Hon. George W. Dunn, who now presides over a judicial circuit. Ray County has always had a strong bar, and embraced such men as Austin A. King, George W. Dunn, Ephraim B. Ewing, and others whose names do not now occur to us. To succeed among men of such acknowledged ability was an evidence of high professional skill.

Mr. Edwards married a daughter of Dr. Thomas Allen, of Ray County, and sister of Mrs. Judge E. B. Ewing. In 1852 his health became so feeble as to render a change of climate necessary, and he removed with his family to California, where he devoted himself to his profession and took rank among the first lawyers of that state. He died in California about 1873.

JAMES B. BOWLIN.

Among the most noted public men in Missouri at the time we came West was James Butler Bowlin, a native of Virginia, and born near Fredericksburg, on January 16, 1804. His father was also a native of Virginia, but his mother was born in England, and came to the United States with her parents when she was a child. They lived and died in Alexandria. After the marriage of the child to Mr. Bowlin, the latter took up his residence in Rockingham County, where James B. Bowlin spent most of his boyhood.

Judge Bowlin received an ordinary English education, and before reaching his majority took charge of a country school in the neighborhood of Harrisonburg. In August, 1825, he removed to Lewisburg, Greenbrier County, where he entered upon the study of the law with a Mr. Wethered, and on December 17, 1826, was licensed to practice.

In the fall of 1828 he was elected a member of the State Internal Improvement Convention, from Greenbrier County, having commenced the practice of the law in Lewisburg. At this Convention, which met at Charlottsville, he became acquainted with many of the most prominent men of Virginia, including Madison, Monroe, and Marshall, and here, no doubt, was inspired with an ambition to become a public man, for the next year he became a candidate for the Legislature, and, although receiving an honorable vote, was defeated. In 1833 he again became a candidate, and was, no doubt, fairly elected, though the vote was exceedingly close; but the returning board, consisting of three magistrates, being politically opposed to him, awarded the certificate of election to his opponent, which so discouraged him that he determined to take up his abode in the far West, and in October of the same year came to St. Louis and opened a law-office, where he had to compete with such

men as Geyer, Bates, Gamble, Spalding, Lawless, Darby, and Allen, men who had already acquired distinction in the profession. Although a stranger, and without means, he made friends rapidly, and soon entered upon a fair practice, but, like most young men of that day, soon embarked in politics, and established a paper called the *Farmers and Mechanics' Advocate*, which became the foundation of a permanent Democratic journal, and afterwards assumed the name of the *Missouri Argus*. While editing this paper he was elected chief clerk of the House of Representatives. After the adjournment of the Legislature he entered upon his practice with renewed zeal, but in 1836 became a candidate for the Legislature, and was the only one elected on his ticket, though there were five other candidates running with him. In 1837 he was appointed district attorney for St. Louis, but the duties of the office so much interfered with his general practice that he resigned it, and was soon after appointed attorney for the State Bank. In 1838 he again became a candidate for the State Legislature, and his entire ticket was defeated.

The accumulation of business in the courts of St. Louis rendered it necessary to organize a separate tribunal for the transaction of criminal business, and Mr. Bowlin was elected its judge by the joint vote of the two houses of the General Assembly, which office he filled for about six years. In 1842 he was elected to Congress from the St. Louis District, and reëlected for three additional successive terms, in the last of which we became his colleague. In 1854 President Polk appointed him minister resident to New Granada, and in 1858 he received from Mr. Buchanan the appointment of commissioner to Paraguay.

Thus it will be seen that Judge Bowlin filled all the public positions, and enjoyed all the public honors, that any reasonable ambition could aspire to.

Much of Judge Bowlin's success in life must be attributed to his fortunate marriage with Miss Colburn, a lady of fine personal appearance, most attractive manners, and of the highest order of intellect. In the zenith of the judge's

prosperity his house was a favorite resort of the prominent men of the state when they visited the city, and often have we called in to pass a pleasant hour when it seemed as if she was holding a levee. She still lives to mourn his loss. The judge died in St. Louis, July 19, 1874.

Probably the most important part of Judge Bowlin's professional career was when he presided as judge of the Criminal Court. The city was almost given up to mob-law and violence, and murder, robbery, and arson reigned supreme. At this time, also, the trials of Darnes for the killing of Davis, and Walker for the killing of Farr, came before him, and as the prisoners, as well as the deceased, came from the highest walks of life, the greatest excitement prevailed, and the court-house was daily crowded with the friends of each, well armed and ready for a conflict. It was a trying time for Judge Bowlin, and required great coolness, nerve, and determination; but he was equal to the occasion, and passed the ordeal with great credit, and with an increased reputation as a jurist.

Judge Bowlin was a man of untiring energy, and, had he confined himself to his profession, would have ranked with the ablest lawyers of the West; but his taste and ambition led him into political life, and the law was too jealous a mistress to permit him to divide his attentions between the two. He was a large, athletic man, capable of great endurance and any amount of mental labor, and when he undertook anything, was very apt to succeed, particularly if energy and tenacity could lead to success. As before stated, he made friends rapidly, and always held them, for he was kind-hearted, benevolent, and trusting, and, though an ardent and active politician, never intentionally wounded the feelings of any one. In Congress he was very popular, which enabled him to render valuable service to his state and constituents, and, like General Blair, he could carry almost any measure which did not involve a sacrifice of principle or party. In his intercourse with the people he was social, genial, and pleasant, and always able, when running for office, to secure more than the legitimate strength of his party.

Judge Bowlin was not an orator, and never attempted any display in that field, yet was a fluent and impressive speaker, and on the stump a dangerous man to encounter, as he was thoroughly posted in political history, and was always well armed with facts and figures.

Judge Bowlin's diplomatic career in South America was attended with much benefit to his government, particularly in the advancement of our commercial relations. As an evidence of the high estimation in which he was held by the ruling power there, we mention the fact that the president of Paraguay tendered him, as a present, a beautiful snuff-box studded with valuable diamonds, estimated to be worth about $4,000, which the judge had to decline, as our ministers and agents abroad are not permitted to receive gifts from foreign powers; but the donor was determined that he should have it, and sent it to Washington to be presented after the expiration of his official service. It is now held by his widow as a family relic, and is placed in the Safe-Depository of St. Louis for safe-keeping.

Judge Bowlin had but one child, a daughter, who married General Jenkins of the Confederate army. They resided in Western Virginia, and during the war the judge spent most of his time there. He never returned to the profession after he came from South America.

We have in several instances alluded to the custom of holding bar-meetings upon the death of a member. These are often cold, formal, and unfeeling. But not so in the case of Judge Bowlin, for though he had been declining in health for several years, and his dissolution had been anticipated, yet his death brought together an unusually large number of the bar, embracing all the old members who had practiced with him, and many of the junior members who had made his acquaintance late in life. Hon. L. V Bogy, late United States senator for Missouri, presided over the meeting, and delivered a beautiful tribute to his memory. He was followed by Governor Trusten Polk, Hon. John F. Darby, Hon. Sherard Clemens, and others, who spoke in the highest terms

of the ability and virtues of their deceased brother. Among the resolutions adopted at the meeting were the following:

"*Resolved*, That, in the death of Judge James B. Bowlin, St. Louis has lost one of her best citizens, and Missouri one of her ablest and most faithful public servants; a man whose life illuminated and illustrated the pages of our history during more than the third of a century, and whose acts, whether as public officer or private citizen, were intimately associated with our past progress and prosperity; a man of clear and discriminating mind, noble aspirations, and indomitable energy, who, whether in the public councils of the state or nation, or as a minister to foreign powers, reflected equal honor upon himself and his country; one who was self-taught, self-made, self-reliant, yet unselfish and public-spirited in his whole course; in short, a man who conquered success in life and won an honorable place in history by his distinguished power of thought and action, and tireless persistence in the labors of his life.

"*Resolved*, That while the city and state mourn the loss of an able, honest, and faithful public servant, society loses one of its most worthy and distinguished members, his immediate associates an ever-honored and warmly-cherished friend, and his relatives the one most beloved and revered of all their number.

"*Resolved*, That while we tender to the family of the deceased our warm sympathies and sincere condolence, we bid them to rejoice with us in the record of a long and honorable career that gives promise of a better life beyond."

We attended the funeral of the deceased, in company with a large body of his friends, and witnessed the impressive services conducted by the Rev. Dr. Berkley, rector of St. Peter's Episcopal Church. The remains were followed by a very long funeral *cortege* to Bellefontaine Cemetery.

TIMOTHY DAVIS.

It is very questionable if there is a person now living who has any recollection of this gentleman. He came to Jackson, in Cape Girardeau County, Missouri, in 1818, and opened a law-office at that place. He came from Canada, or the northern part of New York, and was well read in his profession. The late Greer W. Davis studied law with him one year. He only remained about eighteen months in Jackson, when he moved to St. Genevieve, where he accumulated some property and then moved into Iowa. He was sent to Congress from that state, but whether one or two terms we are unable to state. He was a man of fine natural ability, but awkward and unprepossessing in his manners. It was said that he argued a question of law with considerable force, but he remained too short a time in Missouri to obtain much reputation in his profession. He speculated considerably in real estate, and turned his attention to other modes of making money besides the law, which was not uncommon with the early territorial lawyers. His character for probity was good.

JOHN D. COALTER.

Few men at the St. Louis or St. Charles bar were more universally esteemed than General Coalter, who obtained his military title by services rendered in the state militia. He was a brother of Mrs. Hamilton R. Gamble and Mrs. Edward Bates, and was born in South Carolina in 1818, and when a small boy came with his parents to Missouri. The family settled in St. Charles County, and John was sent to the South Carolina College, where he obtained his education. He then returned to St. Louis and entered upon the study of the law, and in due time was admitted to the bar. He commenced the practice in St. Charles, and became one of the most successful lawyers at that bar. He frequently represented St. Charles County in the General Assembly, and it was said that he could go to the Legislature whenever he desired, no matter which party was in the ascendant. We knew him well from 1840 till his death, which took place in St. Louis in 1864. While all who knew him will admit that he was a sound, well-read, and reliable lawyer, yet those who knew him best will appreciate the difficulty of assigning him his true position at the bar, for it was his misfortune, if such it can be called, to be a man of ample estate, and hence not driven to professional labor by the ordinary necessities of life. Nor was he stimulated by a desire to obtain distinction or reputation, consequently he rather avoided than sought practice. He only went into the courts when urged by his friends, or when called upon by some old client who would not dispense with his services.

He eschewed office and had very little respect for chronic office-seekers, and never accepted any public position which he could consistently decline. After the election of Mr. Lincoln he was appointed a delegate from Missouri to the Convention held at Washington City to devise ways and

means to avoid the threatened danger to the country. He discharged his duty like a true patriot, and, returning home, issued an address to the people giving an account of his stewardship, and warning his countrymen against any violation of law, or hostility to the government. The State Constitutional Convention was then in session, and by a resolution requested him to address them, which he complied with. We give an extract from this address, to show the difficulties under which he labored, and the candor with which he expressed his views:

"GENTLEMEN OF THE CONVENTION: My colleague has very properly stated to you that he felt how important was the occasion which had called us together in Washington. We felt the condition of the country was such that peace was needed, in order to bring about any good and valuable results. We were met there by distinguished gentlemen from every part of the Union — twenty-one states in all — and we found one great difficulty in the beginning, and that was that gentlemen from the North-west had come to the Convention thinking themselves pledged to a particular platform, and in other ways. They thought they had gained a great victory, and they must reap the fruits of it. That seemed the prevailing sentiment. They said, 'We are well satisfied to have peace, yet it must be peace on our own terms; and although we are willing, yet we tell you at the same time that we abhor your institutions.' Well, gentlemen, when any of us could get the floor, we defended our institutions with what ability was at our command.

"We told them, 'This is a prejudice on your part. Your hostility to slavery has prejudiced you, and the sooner you get rid of that prejudice the better.' We asked them, moreover, the pregnant question, 'If you abhor our institutions, how long a step will it be before you abhor *us?* If you abhor slavery, how long before you abhor *slaveholders?*' This we represented to them was the very point which had aroused the Southern mind. It was the idea that they were hostile to us in feeling, and this hostility could not be reconciled, but would show itself again and again, and produce perpetual dissensions. * * *

"We said, 'Do not let us, in view of this object, quarrel about little things; do not let us disagree on minor points; do not cavil with us upon the ninth part of the breadth of a hair — but show us at once by your actions that you do recognize the rights of the South. The people of the South, of which Missouri is a part, want to understand whether they can live in peace with you or not. If there is any settled hostility on the part of the North against the South, then we are two people inevitably; and God forbid we should be two people. We desire union; we desire this Union shall subsist; but we want to understand that you are not hostile to us, and, therefore, we ask you to come forward in the spirit of liberality — of magnanimity, if you choose (because you are the victorious party) — and grant what is liberal, and grant it freely and frankly.'"

General Coalter then proceeded, in a clear and forcible manner, to point out the difficulties attending their efforts to bring about a happy understanding between the two sections of the country.

Had General Coalter devoted himself to the law, he would undoubtedly have attained considerable renown, for he had a well-trained mind, and managed his cases with much skill and adroitness. We had ample evidence of this, for we were associated with him in the prosecution of Worrill, who was tried and executed in Franklin County for the murder of Gordon. It was one of the most remarkable criminal cases ever tried in the West. Worrill was the only son and child of Dr. Worrill, of Dover, Delaware, and his mother was a sister of Major Ringgold, who fell at Corpus Christi in the early part of the Mexican War.

He was a sergeant in the army, stationed at Fort Leavenworth, and became a deserter. On his way to St. Louis, by the Boonslick Road, riding horseback, he fell in, at Danville, Montgomery County, with Gordon, an engineer of the North Missouri Railroad, on his way to St. Louis. Though strangers to each other, they traveled together, and remained overnight at a small tavern in Warren County.

Worrill learned that Gordon had been up the line of the road, and supposed he had money with him, collected from some of the counties through which the road was being constructed, and determined to get possession of it by murdering him. Gordon was also an only child — a very strange coincidence.

When they left the tavern the next morning it was snowing, and had been snowing during most of the night and day before. After proceeding half a mile they came to a hazel thicket, half a mile wide, and Gordon never came out of it alive. He had parted at Danville with the president and one of the engineers of the road, who proceeded to Jefferson City, and on returning to St. Louis, a week afterwards, were surprised to find that Gordon had not returned, and, becoming alarmed, sent several persons up the road to ascertain what had become of him.

They traced him from Danville to the inn above mentioned, and learned that Worrill was seen to emerge from the hazel thicket, riding a horse and leading another, which satisfied them that Gordon was murdered in some part of the thicket. Several days were spent in the search for his body, and as they had begun to despair of finding it, one of them noticed a small fice dog scratching in the snow, about the center of the road, and, going to the place, found blood, which they traced to a small ravine about fifteen feet from the road, where they found his body covered with brush and snow, and a hole through his head, as if made by a large pistol-ball, and his pockets turned inside out.

Worrill had been seen to pass through St. Charles, leading a horse corresponding to that of Gordon's. He went to St. Louis, remained there three days, attending the theater each night, and then traveled horseback to Vincennes, Indiana.

A published description of the deserter from Leavenworth corresponded with the man seen leading Gordon's horse through St. Charles, and Chief of Police Cozens started for Vincennes in pursuit of him, and there learned that Worrill had traded Gordon's horse to the proprietor of a hotel, as well as other articles of Gordon's.

From this point all trace of the murderer was lost for several days, but Mr. Cozens again got on the track of him, traced him to Baltimore, and from thence to Dover, in Delaware, where his father resided. Cozens saw him during the day, at the hotel, but was afraid then to arrest him, as he had many friends who would undoubtedly have rescued him. It was, therefore, determined to take him at night in his bed at the hotel where he was stopping, place him on a hand-car and take him to Smyrna, a distance of twelve miles, and there await the train for the West. Having made all necessary arrangements, Cozens entered his room at two o'clock in the morning, approached his bed, gagged him so he could not sound an alarm, and took him to the hand-car, which was in waiting, and started westward. On a chair near his bed the saddle-bags of Gordon were found, and in his

pocket Gordon's watch They boarded the train at Smyrna, and Cozens with his prisoner were rapidly going West before Worrill was missed at the hotel.

These few facts — and they constitute but a few — are only mentioned to give the reader some idea of the case.

A change of venue was taken to Franklin County. Major Uriel Wright appeared for the prisoner, and placed his defense upon two grounds:

1. That the evidence, which was only circumstantial, did not show, to the exclusion of every other hypothesis, that the prisoner committed the deed.

2. That if he did commit the homicide it was while laboring under insanity.

To sustain the latter, depositions had been taken in Leavenworth, Delaware, Kentucky, and other places.

We were two weeks trying him, and Major Wright made one of the greatest efforts of his life to save him; but he was convicted, and executed in an open field in presence of 10,000 people, his parents standing at the foot of the gallows as he swung off. Taking everything into consideration, it was one of the most interesting and tragical cases in the annals of crime, and created an exciting interest throughout the state. Although the final argument to the jury in behalf of the state was committed to us, yet it is due to General Coalter to state that the credit of the conviction was due to him, for he prepared the case, collected the testimony, and conducted the examination of the witnesses with the most consummate skill. It was the only case in which we ever saw General Coalter engaged, but in that he displayed the highest order of legal ability.

General Coalter made no pretensions to oratory, yet was a forcible, clear, and lucid speaker, and impressed a jury most favorably. It is stated by those who practiced with him at the St. Charles bar that he prepared his cases with much care, though he tried them in that free and off-hand manner which did not indicate his previous labor. In social life he was one of the kindest and most agreeable men we ever knew. It is questionable whether he ever had an

enemy, while his friends could be numbered by the thousand.

General Coalter had a fund of good humor, which often excited considerable mirth. He and Dr. M., a most worthy citizen of St. Charles County, were once opposing candidates for the Legislature, and canvassed the county together in a very friendly way, but at the close of the canvass the doctor got a little cross, and spoke harshly and unkindly of his opponent. But the general, in reply, remarked "that the doctor was not half as big a rascal as the people supposed he was." This complimentary defense of the doctor created a great laugh, in which the doctor participated as much as any of them, and the two rode home together the best of friends.

This reminds us of the defense interposed in behalf of a witness who was terribly slashed by one of the counsel in a case. Said the interceder, " Come, come, you have always been too hard on that man. He is by no means so bad a fellow as you would make him out. I do verily believe that in the whole course of his life that man never told a lie — *out of the witness-box.*"

General Coalter died in St. Louis, in October, 1864, leaving a widow, but no children.

BEVERLY ALLEN.

The Old Dominion has been very prolific of statesmen and lawyers, and has sent no small number to the Western States. Among the latter was Beverly Allen, the compeer of Geyer, Gamble, Bates, Darby, and Spalding. He was born in Richmond in 1800, and, after receiving his preliminary education in the common schools of his native county, entered Princeton College and there graduated with honor. Immediately afterwards he commenced the study of the law in the office of that distinguished jurist Judge Upshur.

That he availed himself of so good an opportunity to obtain a knowledge of the profession upon which he had set his heart is evidenced by the fact that, when he came to St. Louis in 1827, he brought with him, from Judge Upshur and others, the highest testimonials of faithfulness and ability. Before coming to St. Louis he went to St. Genevieve and concluded to locate there — in fact, became the law-partner of John Scott, then a lawyer of very high repute; but he soon became satisfied that St. Louis promised a better field for the practice, and accordingly changed his residence. At one time he became the law-partner of the late Governor Gamble, but we are not aware of his forming any other partnership. Mr. Allen held, under appointment of President Adams, the office of United States district attorney, but, when General Jackson became president, was removed because he was not politically in accord with the Administration, for no charge was made against him, and could not be, as he proved an able and faithful officer. Mr. Allen also filled the positions of city attorney, member of the City Council, and for a period represented the city and county of St. Louis in the State Legislature. In all these positions he was faithful, diligent, and influential, and enjoyed the unlimited confidence of the people of his adopted city. Mr. Allen never would permit any other calling or vocation

to draw him from the active pursuit of his profession, though in 1838 he accepted from the Whig party a nomination for Congress, and canvassed the state in opposition to Albert G. Harrison, the Democratic nominee. Missouri had not then adopted the district system, and Mr. Allen was forced to address the people in all parts of the state. He received the full vote of his party, but the Democratic majority in the state was too large to overcome. It was on this occasion that we first saw Mr. Allen, and heard him speak. He seemed to have none of the gifts of oratory, but spoke with great ease and fluency, and by his candid and earnest manner, and entire freedom from vituperation or abuse, commanded the close attention of his audience, a large majority of whom were in sentiment opposed to him.

In 1844, by too close attention to business, Mr. Allen's health began to fail, and he left home to procure rest and the benefit of a change of air and scenery; spent some time at the Virginia Springs and other places of resort; but as soon as he returned to his professional labors he again began to decline, and was advised by his physicians to try a sea voyage, and accordingly, in the spring of 1845, sailed for Europe, and spent some time on the Continent. But it brought no favorable change to his health, and he concluded to return and die among his friends; but on reaching the city of New York was unable to proceed further, and died there on September 12, 1845, in the forty-fifth year of his age.

Mr. Allen left a large and interesting family. His widow, the daughter of Judge Pope, of Kaskaskia, an accomplished and benevolent lady, survives him, and still makes St. Louis her home.

We never saw Mr. Allen at the bar, but the Hon. Thomas T. Gantt, late judge of our Court of Appeals, who knew him well, thus speaks of his legal attainments:

"My first acquaintance with Mr. Allen was formed in 1839, when I came to St. Louis, a young man, to make that city my future home. Mr. Allen was at that time one of the leading lawyers of the city. Mr. Geyer, Mr. Gamble, Mr. Spalding, and Mr. Darby were with him in the enjoyment of the principal

part of the heavy business then transacted by our courts. There were other and younger men rapidly rising in the profession, and there were some others who had measurably withdrawn from the practice—such as Messrs. Magenis and Lawless, the last of whom was then on the bench of the Circuit Court, while the former, though nominally the United States attorney for Missouri, had for some time declined new engagements.

"Of the five leaders of the bar Mr. Allen was clearly one, and in attention to business and skill in its dispatch he had no superior. He was well acquainted with our system of land titles, and one of the ablest productions that can be credited to any of the bar of St. Louis was the report made in the name of Surveyor-General Milburn, in vindication of the title of Carondelet to common south of the River Des Peres, when an attempt was made by the War Department to appropriate to the United States the Jefferson-Barracks tract. In order to obtain this tract, which contained 1,700 acres, it was thought necessary to defeat the title of Carondelet to her common south of the river. In 1826 certain of the villagers of Carondelet had given an informal consent to the occupation of this tract by the United States troops. The town of Carondelet sought to reclaim this land in 1838, and thereupon the United States, through the War Department, sought to show that this tract was public land, and to defeat the confirmation of it to Carondelet as common by the act of 1812, and its survey by the United States surveyor-general in 1817 and 1834. It was conduct which, if practiced by an individual, would have been likely to be termed flagitious as well as puerile. Being attempted by the government, it led to an unsettling of the title of Carondelet for more than twenty years. In the year 1839 the commissioner of the General Land Office, at the suggestion of the secretary of war, called on William Milburn, then surveyor-general for Missouri and Illinois, for a report on the subject of the title of Carondelet to common south of the River Des Peres.

"Mr. Allen was the legal adviser of a number of proprietors of land in the threatened tract, and he was consulted by Mr. Milburn as to the report he should make. He prepared a report composed of both documentary evidence and a legal argument upon it. It was apparently long, but not more so than the case demanded. It occupies forty-eight pages of the record of the case of Carondelet *vs.* United States, lately pending in the Court of Claims. For mastery of the subject, and for anticipation of the true solution of all the perplexing legal questions it involved, it is worthy of the highest admiration, but to dwell upon its features in detail would be uninteresting to all but lawyers, and unnecessary for them.

"In demeanor Mr. Allen was grave, dignified, and gentleman-like. He was courteous to all, but especially so to the younger members of the bar. He was marked in the kindness with which he received those who came here from abroad, and who were making their first professional efforts at a bar of which he was an acknowledged leader. His house was open to all who desired admission to its hospitality, and there yet remain some who remember it as the first of the homes of the older members of the profession to which they were made welcome on their arrival in this city.

"In the conduct of causes in court Mr. Allen was always equal to the occa-

sion, but was not ambitious of display. He was distinguished for the accuracy and completeness of his preparation for trial, and it is believed that he seldom had occasion to complain of a surprise or to move to set aside a default. The readiness with which he met the objections of his opponent led to the belief that he had foreseen and provided for it before it was made in court. This, of course, might result from the resources of the accomplished jurist, although the particular objection had not been anticipated; but the quiet thoroughness with which such objections were usually met induced the younger members of the bar, at least, to think that there was nothing unforeseen in the point made by his adversary; that it had been both anticipated and prepared for before the trial began.

"His style of speaking was logical, forcible, and clear. It was eminently a forensic style. His aim was to convince rather than to excite or dazzle, and no one was listened to more attentively, whether he addressed a court or a jury. He passed away while his reputation was increasing, and at a period of life when few lawyers have reached the highest honors of their profession; but his place in the front rank was assured, and his worthy rivalry of Geyer, Gamble, and Spalding acknowledged, when he was summoned by the Angel of Death from the field of further distinction. He left behind him an unsullied reputation as a man, and as a lawyer he was one of those of whom the bar of St. Louis will always be proud."

PRINCE L. HUDGENS.

We had a slight acquaintance with this lawyer, who practiced his profession for about twenty years in Andrew County. He was a strange compound of inconsistencies. Without having devoted six months of his life to the reading of the law, he was a successful practitioner. With scarcely any education, and no knowledge of elocution, he was a strong and vigorous debater. Even as a theologian he often pitted himself against the most learned men of the Church. He certainly obtained no knowledge from books, for he scarcely ever read any. It has often been said of a prominent American military officer that he was a general who had never been in battle, a statesman who had never made a speech, and a capitalist who never had a cent of his own in his life. Mr. Hudgens, however, was no theorist—he was practical in everything; and the only solution to his strange career is that he was endowed with strong natural sense, and by close observation and experience was enabled to store his mind with that information which it is generally supposed books alone can furnish.

Mr. Hudgens was born in Kentucky in 1811. His father was a Virginian, and early in life immigrated to Kentucky. In 1832 the subject of our sketch removed to Johnston County, Missouri, and located in a small settlement called Black Water, and, being without means and scarcely any education, supported himself by common labor. Having secured the good-will of a country merchant, he became a clerk in his store. In 1835 he married, and changed his residence to the town of Camden, in Ray County, and in 1838 removed to Andrew County and took out a preëmption right upon a tract of land, upon which Savannah, the county-seat, was afterwards located. About this time the Platte pur-

chase was brought within the state, and Congress passed a liberal preëmption law. Mr. Hudgens turned his attention to procuring preëmptions and making entries in the Land Office for others, which was not only a source of remuneration to him, but suggested the idea of turning his attention to the law. He procured a copy of Blackstone and Kent's Commentaries, and, after reading a little, commenced practicing in the County Court and Justices' Courts, and in 1845 was admitted to the bar by Judge David R. Atchison, who afterwards became United States senator.

Mr. Hudgens opened an office in Savannah, and in time acquired an extensive practice, not only in Andrew but the adjacent counties, and was able to compete with any of the lawyers of his circuit. His good common sense taught him what the law ought to be, and, assuming that that was the law, he boldly proclaimed it, and generally was right. After practicing a few years, he turned his attention to theology, joined the Campbellite Church, and it was said he would practice law during the day and preach at night. As a theologian he had no charity for other denominations, and in his sermons would consign them all to h—l and perdition without the benefit of clergy. He was a sentimentalist and revivalist, and his combativeness was so strong that he never would agree with any one upon any proposition. Religious disputation was a mania with him, and no matter what proposition was advanced, he would take the opposite side in order to provoke discussion.

For several years he was a member of our State Legislature, and participated in all the debates. In 1861 he was elected to the Convention called to take into consideration the relations of the state to the Federal government, and in the various sessions of that body took a very active part in the discussions. He was a violent secessionist, and after the first session of the Convention was arrested by the military for disloyalty, thrown into prison in St. Louis, and kept there until the fall of Lexington, when he was exchanged. During the war he removed to St. Louis and opened a law-office, with the

intention of returning to the profession; but his long confinement in prison had greatly impaired his health, and he returned to Savannah, where he died, in 1872, at the age of sixty-one. His career furnishes a striking illustration of what can be accomplished by energy, will, and perseverance, in the absence of education or early mental training.

WILSON PRIMM.

The subject of this sketch, who for many years was judge of the St. Louis Criminal Court, was born in the city of St. Louis in 1810, and on the maternal side was of French descent. His father was a Virginian. His education was obtained partly in such schools as St. Louis at that time afforded, but chiefly at Bardstown College, in Kentucky.

At an early age he exhibited mental powers and a fondness for reading far above boys of his age. He became a good French and Spanish scholar, and made some progress in the German language, and upon the trial of Judge Peck before the United States Senate upon articles of impeachment, was called upon to translate many of the old French and Spanish archives.

At the age of nineteen he commenced the study of the law with the Hon. Edward Bates — who always felt proud of his *protégé* — and, when he attained his majority, was admitted to the bar, and immediately commenced the practice in St. Louis, which continued to be his home through life. He was soon afterwards appointed a justice of the peace, the duties of which office he faithfully discharged for many years. At a later period he formed a partnership with Charles D. Drake, present chief justice of the Court of Claims at Washington City. The firm did a large business for that time, for St. Louis was yet a comparatively small place, and litigation in the courts had not assumed much magnitude. Subsequently George R. Taylor, Esq., one of our most enterprising citizens, took the place of Judge Drake, and, upon his retiring, a partnership was formed between Mr. Primm and C. C. Whittelsey, Esq.

In 1834 Mr. Primm became a member of the Board of Aldermen of St. Louis, and remained a member of that body through several administrations, and for several years

was its presiding officer. It was during this service that he displayed so much zeal in promoting the interest of his native city; particularly did he labor to improve the harbor, for it was greatly in danger of being seriously injured by a change in the channel of the river, which threatened the formation of a sand-bar in front of the levee. In several speeches and able reports he directed the attention of the citizens to the subject, and finally succeeded in establishing a system of dikes and other improvements which saved the harbor from total destruction. It may not be out of place to mention here, as a matter of history, that General Robert E. Lee, who so distinguished himself in the Confederate War, was one of the civil engineers employed in the harbor improvement, and came here at the solicitation of the Hon. John F. Darby, then mayor of the city.

The common-school system, which was then in its infancy, also attracted his attention, and he became one of its most ardent friends and advocates, and continued so through life. He was in the habit of attending the public examinations and addressing the children, and one of the happiest efforts in that direction we ever listened to was made by him in the presence of about 600 pupils. St. Louis has reason to boast of her public schools, for in no other city in the Union has the system reached a greater perfection. Endowed with an ample fund, and in the hands of a Board of Directors taken from our best citizens, and under the superintendence of a man of great learning, William T. Harris, Esq., they have superseded all other schools, and furnish the only reliable means of education to both rich and poor. No city in the world is more blessed in that respect than St. Louis.

In 1834 Mr. Primm was elected to the General Assembly, to fill a vacancy created by the resignation of Benjamin O'Fallon, Esq., and was reëlected for several terms. He was an Old-Line Whig, and at that time his party was in the ascendant in St. Louis. He became quite prominent as a debater, and his popular and genial manners gave him a large influence with the opposition members, and enabled

him to procure the passage of many measures beneficial to his constituents. In social life and in convivial entertainments he was the life of the company, for he was endowed with fine conversational powers, was full of anecdote, good at repartee, and as a vocalist and violinist had very few equals. His rendition of the "Star-Spangled Banner" and "Old Rosin the Beau" was a treat to any one who had any music in his soul.

A refined taste for music is not often found in the profession, though Sir Thomas More and Lord Bacon, two of the most illustrious men who ever held the great seal of England, were fine musicians, and Lord Jeffreys, the judicial tyrant, was a good vocalist. But it must be admitted that, as a general thing, music has found but few devotees at the bar. The order of mind that seems particularly adapted to it is not favorable to the acquisition of legal knowledge.

About 1862 Mr. Primm was elected judge of the St. Louis Criminal Court, and remained on the bench about thirteen years. He made a most excellent judge, for his vigorous intellect and retentive memory enabled him to master our criminal code; and he administered the law with firmness tempered with mercy. After Judge Primm left the bench he returned to the practice, but his health began to fail rapidly, and he was finally compelled to relinquish it altogether.

He died on January 17, 1878, at the mature age of sixty-eight.

His rare accomplishments and fine social qualities made him a favorite in society, and it was rare indeed that he failed to receive an invitation to public dinners and social gatherings, and, being fond of high living, no doubt on such occasions often indulged his appetite to excess, and but for this might have reached a very venerable age, for he belonged to a very long-lived family, his mother, a most estimable lady, having lately died at the age of eighty-six.

Judge Primm was one of the finest speakers at the bar; had a fine command of language, an easy, flowing delivery, and at times became impassioned and eloquent. He pos-

sessed a very vivid recollection of all historical events connected with the growth and advancement of the city, and his reminiscences of the early inhabitants, as detailed in the lecture-room, were very entertaining and instructive. Judge Primm leaned strongly in favor of precedent and old-established customs, and at one time while on the bench wore for a short period a black-silk gown, in imitation of the English judges — a custom that still prevails in the Supreme Court of the United States, and probably in a few of the courts in New England. It was supposed to add to the dignity and solemnity of the proceedings of the courts, and in England the judges wore, in addition, a black cap, and often, when passing sentence of death upon a prisoner, the cap was drawn partially over the eyes, to conceal the judge's emotion. The custom, also, of wearing powdered wigs prevailed during many reigns. Jeafferson tells us that as late as Queen Anne's reign, which witnessed the introduction of three-cornered hats, a lord keeper wore in court his natural hair instead of a wig, until he received the sovereign's order to adopt the venerable disguise of a full-bottomed wig. A few of the judges rebelled against the custom, and it is related by the above author that Lord Hardwicke, after the close of his long period of official service, appeared at court in a plain suit of black velvet, with a bag and sword. The king professed not to know his old friend and servant, when a lord who stood near his majesty's person whispered to him, "That is your chancellor, Lord Hardwicke." "How long has your lordship been in town?" said the king. The peer's surprise and chagrin were great until the monarch, having received further instruction from the courtly prompter at his elbow, frankly apologized in bad English and with noisy laughter. The same author informs us that even counsel at one time were required by the rules of the court to wear powdered wigs, and when Lord Campbell argued the great Privilege Case he obtained permission to appear without a wig; but this concession to a counsel — who on that occasion spoke for sixteen hours — was accompanied with an intimation that "it was not to be drawn into precedent."

A few days after the death of Judge Primm a meeting of the members of the St. Louis bar was held in one of the court-rooms, and a series of resolutions, expressive of the loss sustained in his death, adopted. Hon. George R. Taylor presided, and Hon. Alexander Hamilton, an ex-judge of the St. Louis Circuit Court, was one of the Committee on Resolutions. Probably no man at the bar had a more correct appreciation of Judge Primm's merits as a citizen and a lawyer than Judge Hamilton, for they were not only intimate friends, but Primm had long practiced in Hamilton's court. The following letter, addressed to Mr. Taylor a week after Judge Primm's death, furnishes a beautiful tribute to the memory of the dead jurist:

"ST. LOUIS, *January 23, 1878.*

"*Hon. George R. Taylor,*

"DEAR SIR: As you are aware, I was one of the Committee on Resolutions appointed at the recent meeting of the bar of St. Louis called to notice the death of the Honorable Wilson Primm.

"Those resolutions fully express my individual sentiments, and as a faithful and pleasing portraiture of our deceased friend in the several characters of lawyer, citizen, and judge, met with my unqualified approval. You ask for any personal reminiscences which may occur to me. I am not sure that I could add anything of value or interest to what is contained in those resolutions.

"Permit me to say that I cannot but think that all who knew Wilson Primm in his best estate will admit that his talents and learning rendered him an ornament to the bar.

"With a fine mind, enriched by culture and strengthened by careful training, he was not only eloquent at times, but was always a ready and skillful debater. None knew better the true use and power of language, or how to match the expression to the thought. It was this peculiarity, added to soundness of judgment, aptness and beauty of illustration, and a voice of rare sweetness and variety of intonation, that made him so successful before the jury. But besides his many and brilliant professional traits, there were his social charms, his delightful courtesy, and his winning address, that at once inspired admiration and sympathy. Those who were among his intimates can readily accept the tradition received from Henry S. Geyer, who used to take pleasure in narrating how young Primm, who was a witness on the trial of Judge Peck, attracted universal attention by his natural grace and charm of manner, and how he electrified the gay circles of Washington City by his wit and accomplishments. His æsthetic taste and genius manifested themselves in various ways. With the cultivated taste of an artist he had an eye for the productions of the pencil, and excelled in music and in song. While joining those, therefore, who mourn the removal of

our honored friend, I would affectionately and reverently, with my own hand, lay this imperfect tribute on his grave, resting in the assurance that he has passed from the sorrows and troubles of this world into the perpetual felicity and joy of the better life.

"Very truly your friend and servant,

"A. HAMILTON."

Judge Primm was at times very happy at repartee. He and his old legal preceptor, Edward Bates, were once engaged in a case upon opposite sides, and while Mr. Primm was maintaining before the court a certain proposition of law, Mr. Bates interrupted him with the remark, "You never learned such law from me, sir." Mr. Primm promptly replied, "No, sir — because you never knew it." Mr. Bates afterwards complimented him for his wit.

Judge Primm was often witty, and his wit was of that kind which never gave offense, for it was playful, and never transcended the bounds of propriety and decorum.

The Hon. Gilchrist Porter, a distinguished judge of northeastern Missouri, in a recent letter giving his recollections of some of the lawyers at an early time, as far back as 1836, alludes to a speech which Mr. Primm made in a libel suit in the St. Charles court. He says: "Wilson Primm, then in his prime, made one of the most eloquent speeches I had then or have since listened to. I have heard many speeches, in both Federal and state courts, but this speech attracted my attention particularly, and I distinctly remember some of his lofty and well-sustained figures of fancy, his bold figures of speech, and flowing diction, accompanied by graceful and forcible gestures, setting off his eloquence to the best advantage, and stamping him as a most gifted young orator. Mr. Bates followed Mr. Primm in a masterly speech, and, casting his eye upon him, said, 'I am proud of that boy,' alluding to Mr. Primm's having been one of his students."

THOMAS C. BURCH.

Mr. Burch came to Missouri from Tennessee when a child, with his father, who settled in Howard County. He had no particular educational advantages, and at the age of about twenty commenced the study of the law with Judge Robert W. Wells, of Jefferson City. The Hon. George W. Miller, present judge of the Cole Circuit, was a student of Judge Wells at the same time, and speaks highly of Mr. Burch's legal attainments.

He completed his studies in 1831, and during that year obtained a license to practice, and located in Richmond, Ray County.

He was regarded as a promising young lawyer, and soon acquired a reasonable share of the practice. He is represented as being affable and pleasant in his manners, and a close and diligent student.

At the session of the Legislature in 1838–9 the Eleventh Judicial Circuit was created, and Mr. Burch became its judge. He held but two terms of his court when, at Keytesville, in Chariton County, where he was holding court, he had to meet that fell destroyer that respects neither age nor condition. The death of one so young and promising, and at a period in life when he had a right to hope for success and distinction, cast a deep gloom over the entire community.

Judge Burch was a man of kind and tender heart, and, though accustomed to listen often to the details of crime and violations of law, greatly deprecated the contentions and strife which too frequently occur even in well-regulated society.

The following was related to us by a prominent member of the bar who witnessed the occurrence: In holding one of his courts he was called upon to try a case instituted by a poor woman to recover from a neighbor a calf which both

claimed. It was at the close of the term, and he was hastening to get ready to start for the next court. In looking over the paper he discovered that the case involved nothing, and was likely to consume several days; so he turned to the plaintiff's counsel and reproved him for instituting so frivolous a suit. The counsel remarked that it was not the value of the calf for which he was contending, but that he was battling for the *eternal principles of justice.*

"Well," said the judge, addressing the defendant's counsel, "what are you fighting for?"

"For the same that my learned brother is professing to seek — *the ever-living and eternal principles of right.*"

"Mr. Clerk," said the judge, "how many witnesses have been subpœned in this case?"

"Forty, your honor."

"Do you want your fees in the case?"

"No, sir; I will relinquish them if it will tend to settle the case."

"Mr. Sheriff, have you any claim for your services?"

"No, sir; like the clerk, I will abandon my fees if the case stops here."

Coming down from the bench and approaching the plaintiff, the judge said, "Madam, how much do you want for your calf?"

"It is worth four dollars," replied the widow.

The judge thereupon took from his pocket $4, and, handing the money to the widow, said, "Mr. Clerk, strike this case from the docket."

Judge Burch was a man of more than ordinary ability, and gave promise of much future usefulness.

We are not advised as to the cause of his death, nor do we know whether he left a family.

JACOB SMITH.

We have no recollection of ever meeting with this gentleman. He was a prominent lawyer, residing in Linneus, Linn County. He was born on March 3, 1816, in Adair County, Kentucky. His parents were originally from Virginia, and had been in Kentucky but a short time when their son Jacob was born. He received a good English education, but never had an opportunity of studying the languages. As he approached manhood he taught school, and devoted his leisure hours to the study of the law. He was admitted to the bar in Kentucky in 1844, and after practicing two years in his native state removed to Missouri and located in the county of Linn, where he resided up to the time of his death.

In 1851 the people of Linn elected him to the State Legislature, and he was soon recognized in that body as a man of decided ability. He took an active part in the debates, and though a decided Whig in his political tenets, was moderate and conservative in his views, and enjoyed the confidence of the opposition members. In 1853 he was made judge of the Probate Court of his county, and held the office four years. Though born in a slave state, he took a firm stand against secession, and, upon the breaking-out of the war, united with Colonel Jacob Tindall in recruiting and organizing the Twenty-third Infantry of Missouri Volunteers, and became a lieutenant-colonel in the regiment and proved himself a gallant soldier. Judge Smith was also elected to the Convention called to take into consideration the relations of the state to the Federal government. His colleagues were Colonel A. M. Woolfork, of Livingston County, and William Jackson, of Putnam. He pursued in the Convention a very conservative course; counseled moderation, and contended that whatever cause of complaint

the South had, her remedy was in the Union, and not out of it. Had the leading men of the South adopted his policy, the country would have been spared one of the most calamitous and unnatural wars that ever engaged mankind.

In December, 1861, he was appointed, by Governor Gamble, judge of the Eleventh Judicial Circuit, and he faithfully discharged the duties of that responsible position until 1864. On January 9, 1865, a mob seized and took possession of the town of Linneus, and while in the act of robbing the treasury Judge Smith interposed his authority as a conservator of the peace, and, in attempting to quell the violence of the mob, received a gunshot wound, from the effects of which he died the following day. He thus fell in the full tide of professional success, and while endeavoring to put down violence and misrule.

Judge Smith was of strong muscular frame, near six feet high, with dark hair and eyes, and an animated expression of countenance. By those who enjoyed his personal acquaintance he was represented as very social in his habits, strongly attached to his friends, and a generous and noble-hearted man. As a judge he was firm, decided, and impartial; as a lawyer he stood high at the bar, always commanded a fair practice, and enjoyed more than an average professional success.

He made no pretensions to finished elocution, yet was a forcible, clear-headed, and logical speaker, relying more upon his analyzation of the facts of a case than any attempt at showy declamation.

"Death borders upon our birth,
And our cradle stands in the grave."

WILLIAM H. DAVIS.

That portion of Missouri known as the North Grand River Country possessed at an early day many lawyers of ability, among whom was William Harrison Davis, of Keytesville, Chariton County.

Mr. Davis was born in Nelson County, Kentucky, on November 29, 1811, and came with his parents to Missouri Territory in 1820, and settled in Chariton County, which then had a very sparse population; but the country was in a rapid state of improvement, and presented many inducements to the immigrant. Like all countries just opening to settlement, it contained but very limited means to educate the young. Now and then some enterprising Yankee would stop and teach school for one or two terms, and then push on to parts unknown. Frequently they would be without a teacher for six months at a time. It was this system of itinerant teaching that young Davis had to rely upon to obtain the rudiments of an English education; but he improved it better than the average run of boys, for, though addicted to frolic and mischief, he was studious, and fond of his books, and always stood well in his class.

There is a story of his boyhood that is worth relating: There were two rival schools in the neighborhood, and young Davis went to the one that was taught by the Rev. Ebenezer Rogers, who was raised among the Quakers and had imbibed their antipathy to war and bloodshed. On several occasions he had cautioned his pupils to avoid all contentions and disputes with the boys of the other school; but young Davis was a Kentuckian, delighted in the manly art, and could not see the necessity for his teacher's admonition, so he occasionally measured his strength with the champions of the rival institution. On one occasion the fact reached

the ears of the Rev. Ebenezer, who never spared the rod when advised of any violation of his rules. As young Davis came into the school-room, with a face not much improved by the rencounter, the teacher, with a raised ferule and angry countenance, demanded to know if he had been in a fight, and receiving an affirmative answer, was about to chastise the offender, when William said, looking at him squarely in the eye, "I met one of their big boys, sir, and he said you was a tory and an ass, and I couldn't stand that; so I gave him a good thrashing." In a moment the ferule was quietly laid upon the table, and William pleasantly directed to take his seat. Such quickness of perception and consummate strategy are very rare in a boy of that age.

When but sixteen, young Davis entered as an apprentice in a printing-office at Fayette, Howard County, and soon learned the trade. In the fall of 1833 he and a man by the name of Kelly established a paper in Liberty, Clay County, called *The Enquirer*, and at the end of the year he sold his interest to his partner and commenced the study of the law in the office of General John Wilson, at Fayette, with whom he remained about two years, when he was licensed to practice by the Supreme Court of the state, and located at Keytesville, where he resided till his death, which took place on June 21, 1845, at the early age of thirty-three.

Mr. Davis belonged to the old Whig school of politics, and though he often indulged in political discourses, never became a candidate for any office. The state was Democratic, and no one of his faith could hope for political distinction; hence he applied himself very diligently to his profession, never relinquishing his studious habits, and soon took high rank at the bar — no empty compliment when he had to contend with such men as Leonard, Clark, Wilson, Adams, and Joe Davis, all of whom attended the Chariton Court and the courts of the adjacent counties.

Mr. Davis was a vigorous, earnest, and logical speaker, and at times quite eloquent. As a jury lawyer, in particular, he had but few equals, for he rarely made a mistake in his

estimate of men. He seemed to divine the peculiarities of each juror, and shaped his argument accordingly.

At the time of his death he was rising very rapidly, and had life been spared to him, must have attained a very enviable position in the profession.

"The world's a bubble, and the life of man less than a span."

HENRY M. VORIES.

This able jurist and lawyer was a great favorite with the bar of Missouri. We first met him at St. Joseph in 1862, while holding a term of the Supreme Court there. He and Governor Willard P. Hall were the acknowledged leaders of the St. Joseph bar, and were retained in almost every case of much magnitude. He was engaged before us in the argument of several cases, and it required no effort to discover that he was a lawyer of fine erudition. He had a pleasant and easy delivery, and his mind was essentially logical.

When we come to understand the difficulties he encountered in early life, his professional success seems almost miraculous.

He was born in Henry County, Kentucky, in 1810, and was of German descent. His father was a respectable farmer, with a fair education and in easy circumstances, and brought his sons up to labor on the farm, never intending them for any of the learned professions.

Henry was a wild boy, fond of play and frolic, and if any mischief was perpetrated in the neighborhood he was sure to have a hand in it, and was ever ready to assume his share of the responsibility. There was nothing vicious or ill-natured about him; on the contrary, he was a boy of good heart and generous disposition, and a great favorite with the old as well as the young; but he looked upon life as something to be enjoyed, and could not resist the temptation to embark in every undertaking that promised a little merriment. He remained with his father till he was seventeen, and although his education extended no farther than reading and writing, he determined to start out in the world and become the architect of his own fortune. He purchased a stallion and took him to Danville, Indiana, where he exhibited him on all public occasions, occasionally working on the neighboring

farms and doing such jobs as fell in his way. He made acquaintances rapidly, and took well with the people. He was a "hail-fellow well met" with all, and could drink as much whisky as any of them. About this time the Black Hawk War broke out, and he volunteered as a private and served during the war. However patriotic he may have become, it is not probable that his morals underwent any decided improvement while in the army.

At the close of the war he returned to Danville and commenced merchandising on a small scale. He must have married about this time, but he soon lost his wife, who left him with one child. She died quite suddenly. He continued his mercantile business and made some money, and when about thirty years of age embarked in an extensive pork speculation, which proved disastrous. He spent a year in closing up his business, and found that he was in debt to the amount of $10,000, and had no assets whatever. His creditors offered to compromise with him on very liberal terms, but he expressed a determination to pay every dollar of his indebtedness, with interest, and in a few years did so. This act of his life denoted the highest integrity, and he was ever afterwards regarded as of great probity of character.

It seems strange that he should at this time have entertained the idea of studying law, for, as before stated, he had no education, and had never read a book through in his life. He applied to an attorney in Danville for permission to read in his office, which was readily granted, and here, at the age of thirty-one, he commenced his legal studies. He had not read many months before he commenced attending the courts of justices of the peace, was employed in a few cases, and in time became quite a good justice-of-the-peace lawyer.

This was his only reliance for a support, yet he had the courage to marry again, and took for his wife a Miss Kake, who proved to be a very estimable lady.

After studying two years, Mr. Vories was admitted to the bar of Indiana, but it is not probable that he practiced there in the courts of record, for in 1844 he started with his family for Buchanan County, Missouri, and on reaching Plattsburg,

in Clinton County, he and most of his family were taken sick, and he was without a dollar to buy medicine or bread. Under these circumstances most men would have despaired, but he expressed a confidence that all would turn out right, and endeavored to inspire his suffering family with cheerfulness. By good fortune he fell in with James H. Birch, Esq., who was connected with the Land Office at Plattsburg, and who afterwards became a judge of our Supreme Court. Making known his condition to Mr. Birch, that gentleman kindly supplied him with means to procure provisions for his family. It is gratifying to know that these gentlemen, both of whom afterwards filled the highest judicial position in the state, became warm and devoted friends, and continued so through life.

As soon as able to travel, Mr. Vories started for Sparta, which was then the county-seat of Buchanan, and there he located in the practice of the law.

He often said that at this time he was so poor that he was forced to sell his only ax to buy bread for his family. But his cheerful disposition, pleasant demeanor, and affable manners soon attracted attention, and he was invited by William B. Almond, Esq., to a partnership. This ended his days of poverty and want, for from that time fortune smiled upon him, and Henry M. Vories became one of the most popular and successful lawyers in north-western Missouri. It is said that the ways of Providence are past finding out, but surely the life of Henry M. Vories ought to give encouragement to hundreds who are struggling for professional success under circumstances far less adverse. Upon the removal of the county-seat from Sparta to St. Joseph, Mr. Vories took up his residence in the latter place, bought a small farm in the suburbs of the city, and lived there till his death, with the exception of about three years he spent in California.

In 1856 he was nominated by the Democratic party for Congress, when a nomination was equivalent to an election. It is said that he accepted the nomination with great reluctance, and although his election was placed beyond any doubt, he changed his mind and declined.

In 1856 he moved to San José, in California, and practiced there until 1859, when he returned to Missouri and resumed the practice at St. Joseph. While in California he practiced in partnership with Lawrence Archer, Esq.

In November, 1872, Mr. Vories was elected judge of the Supreme Court, and was on the bench at the time of his death.

We are not aware of his holding any other office, though we have an impression that he was a delegate to the Constitutional Convention of 1845.

He took great delight in horticulture, and raised upon his place some of the choicest varieties of the grape. He was kind enough to take us through his vineyard and orchard, which gave evidence of the highest culture.

We have said that Judge Vories' mind was essentially logical. His published opinions as contained in our State Reports leave no doubt as to this. He made no pretensions to oratory, and his style was purely conversational, yet few men were more capable of holding the attention of a court or jury.

When addressing a jury he would place himself in close proximity to them, and, if the case was of much magnitude, would single out each juror by name and address himself particularly to that one, as though relying upon his individual intelligence for a proper solution of the case. This rare faculty, when properly executed, yields a powerful influence. It is said that Madam de Staël, the French authoress, and leader of Parisian court society during the consulship of the first Napoleon, had it in a remarkable degree. She would converse with a dozen gentlemen at the same time, and inspire each with the belief that he was the chief object of her thoughts.

Another element of Judge Vories' success is found in the fact that he made himself one of the people — in fact, he was one of them — and it was impossible to draw a line of distinction between Judge Vories the lawyer and Judge Vories the citizen. The people took a pride in claiming him as their own, and, as such, exulted in his success.

The last time we saw him was while holding a term of his court in St. Louis. He had become so infirm from rheumatism, and other causes, that it was with the utmost difficulty that he walked from the court-house to his hotel. He died at home, October 29, 1876.

He left a widow and several children.

URIEL WRIGHT.

Among the gifted men of the Missouri bar who dazzled the public mind with their genius and eloquence, none ranked higher than the subject of this sketch, the Prentiss of Missouri. A part of his professional life was spent in Marion County, and most of the remainder in the city of St. Louis, which became the scene of his greatest professional triumph.

It is too soon, by at least a generation, to sketch the life of one whose want of moral stamina turned the public eye from his genius and oratorical superiority. Human jealousy and a want of charity for our imperfections will not permit us to appreciate a man's worth or intellect until his faults pass out of memory, and his genius can be viewed disconnected from his errors and frailties.

It took England a century after the death of Shakespeare to find out what a genius had lived in her midst, and a century hence his fame as a dramatic writer and delineator of human character will far exceed its present estimate. America is just beginning to find out that she had a poet in the person of Edgar A. Poe, and it will take another generation before "The Raven" takes its deserved place among the finest ebullitions of poetic genius. If a member of the Virginia House of Burgesses, who sat by Patrick Henry and heard his powerful anathemas against British oppression, should rise from his grave, he would not recognize the Patrick Henry of to-day. Though he did more than any living man to kindle the fires of the Revolution, yet it required the descriptive genius of a Wirt to force upon the American people a realization of the great power of the Virginia orator.

These reflections not only apply (though in a less degree) to Major Wright, but to all public men who achieve distinction in any particular vocation.

Major Wright was born at Madison Court-House, Vir-

ginia, in 1805, and on the maternal side descended from the Johnsons and Barbours, old Virginia families, and noted for their talents and patriotism. Young Wright at a very early period exhibited a mental power far above his years, and attracted the particular notice of Governor Barbour, who obtained for him a commission as cadet at West Point. The education he received there proved highly advantageous to him in after-life, but in obedience to the wish of his father, expressed on his death-bed, he left the institution before graduating, and entered upon the study of the law with Judge Philip P. Barbour, of Orange County, and graduated in Judge Tucker's law school at Winchester. He was then admitted to the bar, and practiced in his native county about five years. In the meantime he married, and in 1833 removed to Missouri and settled in Palmyra, Marion County, and practiced in most of the courts in north-east Missouri. The Marion bar is, and always has been, a strong bar; but Major Wright's social habits and fine qualities as a speaker soon gave him a good practice. About this time land speculations ran very high, and every man who had a quarter-section on the Mississippi, or any other river, laid out a town, expecting that in a few years a large city would spring up and his town lots sell at marvelous prices. Major Wright fell an early victim to the fever, and, with others, invested all his means in Marion City, a city only seen on paper, and which at the first high flood took its departure for a more southern clime. This unfortunate investment induced him to remove to St. Louis, where he passed the most active part of his life. Before, however, coming to St. Louis he served one term in the State Legislature as a representative from Marion. This was the winter of 1836–7. During that session we were in Jefferson City, and heard him on several occasions address the House, and became impressed with his great power as a debater.

We knew him from that time until he left Missouri. The session was not half over before he ranked as one of the finest declaimers in the body — in fact, he had no equal, unless it was General Doniphan, a representative from Clay

County. But they never came in conflict, for they belonged to the same political organization, and were in accord upon all questions giving rise to debate.

Major Wright came to St. Louis with a high reputation as an orator and criminal advocate, and stepped at once into a profitable criminal practice. There was scarcely a case of homicide, or any other important criminal prosecution, in which his services were not employed, and his success far exceeded that of any other criminal lawyer. We saw him in the case of The State *vs.* Chiles, upon a charge of embezzlement; The State *vs.* Worrill, an indictment for murder, in which we appeared in behalf of the state, an interesting account of which is given in our sketch of General John D. Coalter; The State *vs.* O'Bennis; The State *vs.* Jackson, for the murder of Laidlaw; The State *vs.* Lopez, for embezzlement; and Carstang *vs.* Shaw, referred to in the memoir of James R. Lackland.

In all of these he proved himself entitled to a place in the front rank of the profession, and, as an advocate, the superior of any man at the Missouri bar. It is a great misfortune that no report of these cases, and the speeches of counsel, have been preserved — an omission that admits of no excuse or apology. Many hardened criminals, who richly deserved the halter, have escaped through the powerful jury-appeals of Major Wright.

He had a fine knowledge of men, and, when engaged in cases of any magnitude, scrutinized with great care and deliberation every juror summoned in a case. In cases involving life he made it a point to learn the character, habits, and peculiarities of every juror on the panel, and selected them with reference to the line of defense he expected to set up; and in this he rarely made a mistake. If he designed to operate upon their sympathies, he chose men of weak intellects and kind hearts, and who might be supposed to be averse to capital punishment. If, on the contrary, his purpose was to maintain that a homicide was excusable or justifiable, he would select men of high tem

per, excitable nature, and who are ever ready to resent an injury or insult, real or imaginary. If his client was a man of low repute, and without friends, he endeavored to obtain a jury of the same kidney; but if he had character, position, or wealth, he aimed to get jurors of high standing and influence in the community. In a word, he tried to select a jury with reference to his defense, and the probability of their being influenced by his powers of oratory. When the jury was finally impaneled, he regarded his labor as half finished. When he had no plausible ground of defense, he would endeavor to get before the jury the declarations of the prisoner, under the pretense that the prosecution had opened the door for their admissibility, and, to lay such a foundation, would very adroitly attempt to lead the state into a course of examination likely to effect such a result.

A most remarkable instance of this occurred in the case of The State *vs.* Jackson, for the murder of Laidlaw. At the Varieties Theater in St. Louis there was a beautiful and talented young actress by the name of S——. She had been a ballet-dancer, but, evincing much talent for tragedy, finally made a successful *début* on the stage. She was tall, graceful, queen-like, and exceedingly attractive in both person and manners. As the story goes, she was living in intimate relations with a merchant of standing and means, but became enamored with Laidlaw, who was a scenic painter at the same theater, and a very promising young artist. The attachment was mutual, and an engagement of marriage followed. The merchant, on learning it, determined to get him out of the way, and hired Jackson, who was a man of low instincts, daring and reckless, to do the work. Jackson tried all means to provoke a quarrel with Laidlaw, but the easy, good disposition of the latter proved an obstacle. He then went to a livery-stable, hired a buggy, and invited Laidlaw to take a ride with him to the Abbey, a favorite place of resort three miles from the city, and there they spent two or three hours in playing cards and pitching quoits. They then left the Abbey, near night, and went out on a road called King's Highway, and that was

the last seen of Laidlaw alive. His body was found early the next morning in the road, with a pistol-ball through his head, and Jackson, who had returned the buggy to the livery-stable, was arrested for the murder. Upon his trial the evidence was clear and conclusive against him, but Major Wright contended that, inasmuch as the state introduced some declarations of the prisoner against him, he had a right upon cross-examination to introduce all the statements of the accused made to the witness on the same day, maintaining that though it occurred at different places, and at different times, yet it was a part and parcel of the same conversation. The point made by Major Wright was sustained by the court, and the declaration of Jackson that he killed him in self-defense went to the jury. There was not a particle of evidence to corroborate it, but the jury, being composed of very weak men, were completely carried away by the ingenuity and eloquence of Major Wright, and one of the coldest-blooded murders ever perpetrated in or around St. Louis went unpunished.

By one of the most powerful forensic efforts we ever heard he succeeded in obtaining from another stupid jury a verdict of $100,000 in a breach-of-promise case, in behalf of a woman who, to say the least, was proved to be of doubtful virtue, against one of the oldest, wealthiest, and most esteemed citizens of St. Louis (see our memoir of James R. Lackland). It is true, the verdict was set aside, and at the next trial, before an intelligent jury, the verdict was for the defendant; but the result of the first trial showed the great power of Mr. Wright as an advocate. The short space necessarily allowed to these memoirs will not admit of a reference to other cases in which he greatly distinguished himself as a criminal lawyer.

It was supposed by many that, inasmuch as his business was mostly confined to the Criminal Court, he was incapable of mastering the intricacies of the law arising in civil cases. No greater mistake was ever committed, for though the labor of legal research was irksome to him, yet we have seen him in several civil actions display very great

legal ability. We once heard him argue a case in the Supreme Court of the state, in which the main question was whether a corporation could commit a libel. The question was one that had not been adjudicated, at least in this state, and the argument of Major Wright, which was very able and excited a deep interest, drew from Judge Scott the highest encomiums.

The style of Major Wright's oratory was *sui generis*. He copied from no one and imitated no one; his gesticulation was free, easy, and graceful, and his words flowed from his lips like a gentle, placid stream without a ripple. His voice was clear and musical, and he could modulate it at his will; his enunciation was distinct, and never harsh or boisterous; his invective sharp, scathing, and witty, but never gross or abrupt. He quoted freely from the classics, and often called to his aid his fine poetical genius. He was extremely fond of light literature, and read everything under that head that fell in his way.

We regret exceedingly our inability to furnish any specimens of his poetic composition. He published a few of his poems, and, among others, one—"Pericles and Aspasia"—appeared in the *Knickerbocker*, a magazine that never published anything but of the first class. Accompanying the publication was a notice from the editor, stating "that the bard of the West was heard and appreciated on the banks of the Hudson."

Major Wright sent a printed copy of his speech in the Chiles case to Prentiss, of Mississippi, and the letter of Mr. Prentiss, acknowledging its receipt, was addressed to Major Wright as "The Orator of the Mississippi Valley"—no mean compliment, coming from a man who was himself regarded as the finest orator of his day.

We have been permitted to peruse a letter, of very recent date, from a distinguished man of Virginia, who was a classmate of Major Wright—Robert B. Bolling, Esq.—who mentions the fact that Henry A. Wise, the Right Rev. Bishop Atkinson, Charles J. Faulkner, R. W. Conrad, and others who became very eminent, were also his classmates, and that

no one in the class gave promise of greater distinction than Major Wright. It is to be regretted that there is no record of any of Major Wright's great speeches.

As Edward Everett truly remarked, "There is no species of intellectual labor of the highest order which perishes for want of a contemporary record to the same extent as that which is daily exerted in the courts of law."

One of the greatest defects in Major Wright's character was a liability to be carried away by every new dogma or theory that came along, no matter how untenable. He early became an advocate of spiritualism — read everything that was written on the subject, attended all the private and public exhibitions, and for a long period of time became so thoroughly engrossed in it that he would scarcely speak of anything else.

Whether he ever became a convert to mesmerism we are not advised, but his mind leaned towards every new-fangled doctrine that was strange and startling. We have heard him advocate in the strongest terms the doctrine of *irresistible impulse*.

In the Worrill case he boldly contended before the jury that if the prisoner killed Gordon he was driven to it by a sudden impulse which he was unable to control, and, therefore, not criminally responsible. By way of illustration he told the jury that on one occasion he rose from his bed at midnight and went to the room where his son was sleeping, with the full determination of taking his life, but found the door locked, which prevented him from executing his purpose. He gave other illustrations of it no less remarkable.

While we regard him as one of the brightest intellects of his time, truth compels us to allude to some of his peculiarities which are difficult of explanation. They refer chiefly to his want of stability and moral power. We have heard him in the court-room deliver a philippic against gambling which brought tears from every eye, and yet, in a few hours afterwards, saw him at a card-table, indulging in a game of draw poker. We have heard him speak to a jury of the horrors of intemperance and its terrible effects upon the youth of the

country, and on the same evening seen him playing billiards, and sipping from a glass of brandy. He was not by any means an intemperate man, and only visited such places as were frequented by gentlemen, but his indulgence in all kinds of amusements and games prevented him from occupying that high moral position which in all large communities is essential to professional success.

In 1861 he expressed himself very warmly in favor of the Union, which induced the anti-secession party to place him on their ticket as a candidate for the Convention called to take into consideration the relations of the state to the Federal government. He was elected — receiving a larger vote than any of his colleagues — took his seat, and delivered several patriotic addresses in behalf of maintaining the laws and the government. At the second session of the same Convention he proclaimed himself a secessionist, and made a secession speech in front of the Planters' House, and from that time became thoroughly identified with the Rebellion. He joined General Sterling Price, and was placed on his staff, and after the evacuation of Corinth by Beauregard, entered upon the staff of General Van Dorn, with the rank of major, and served with him until ill health forced him to retire from the army. He then resumed the practice of the law at Winchester, Virginia, where he remained till his death, which occurred on February 18, 1869, after a painful illness of three months. His remains repose in the beautiful valley of the Shenandoah.

Major Wright was fond of political discussion, and often addressed the people on the eve of an important election, but never evinced any particular inclination for office or position. He was a member of the Harrisburg Convention which nominated General Taylor for the presidency, and on returning home made a fine canvass in his behalf.

Few men possessed more varied knowledge and information than Major Wright, and he was as familiar with the poets and dramatic writers as he was with the horn-books of his profession. He could quote Shakespeare and other leading poets by the hour, and there is scarcely a science to

which he had not given some attention. To sum it all up, he was one of the most gifted men we ever saw.

Oratory is a gift from the Almighty. It never has been, and never can be, acquired. We may improve and adorn it by study, application, and practice, but the foundation must be laid by One who rules the universe and shapes our destiny. There is nothing mechanical in it. We may study language, gesture, voice, motion, attitude, and call to our aid all that education and learning and persistent practice can furnish; yet if the great gift is not born in us, any attempt at its exhibition will prove abortive. It is a rare gift, and the few that possess it have no power to impart it in any degree to others, nor are they aware of its possession until some great occasion calls it out. For the benefit of the law-student or the young practitioner who may be in search of professional honors, we here give an extract from the pen of Stephen F. Miller, in the appendix to his work on the "Bench and Bar of Georgia." He was himself a fine elocutionist, and his suggestions, if strictly followed, may greatly aid the efforts of the young practitioner in acquiring an easy and impressive style of speaking. Says Mr. Miller:

"A false idea of eloquence too commonly prevails. Scholars by profession are too apt to consider flowery sentences and musical periods as the very art itself, beyond which there is no improvement. These qualities indeed captivate the taste, but do not constitute eloquence in its purity and force. First of all, there must be a purpose in the mind of the speaker, besides showing off his pictures of fancy or the beauties of rhetoric. Is a conclusion to be established? Let the facts which lead to it be given with simplicity. The less drapery in the narrative, the more distinct the subject-matter. Nature is the best guide. Men are accustomed to follow the order of things in making up their judgment. The speaker should begin in a modest, subdued style, with his voice rarely pitched above the conversational tone. This will give ease and confidence — two very essential cords to bind an audience in silent attention. * * * Here lies the secret of eloquence — self-possession in the orator, and a definite object in view, earnestly pursued. It is an error to suppose that the treasures of the mind must be poured forth in a constant stream of rich language, or that the ideas of the speaker must be adorned with poetic softness of expression, verging on the wild melody of Ossian. This strain can be indulged only as an exercise to work the fancy into a proper mold for the combination of truth and feeling, with no effort at scholarship other than an easy style. Whenever

it is perceived that the speaker is on stilts to show himself, he loses the sympathy of his audience. It is, therefore, important to cultivate an artless yet graceful diction, with learning and taste so gently blended that minds of severe cast may be satisfied, while those of a different structure or of less refinement may consider the feast as prepared especially for them. Much will depend on the occasion, and the judgment of the speaker. No rules can be laid down applicable to all situations. The best general hint is conveyed in a brief sentence: Good sense, strong impressions, and a deliberate manner. To shine in debate, however desired by all, is the privilege of only a few. * * * The heart is the reservoir of all that is truly good and persuasive. Smooth sentences and formal illustrations, aiming only to impress others with the refinement of the speaker, can never excite the feelings. A sense of pleasure may be experienced; but the utmost that can be claimed for such artistic skill is a mastery of language under the control of classic taste — a qualification often possessed by men who never felt or observed enough of life to know the springs of human action, or with what force to touch the heart to awake its deepest responses.

"All nature is suggestive of eloquence; and he who trusts to his books alone, and to his own solitary speculations, for the power of moving men, will find himself grievously deluded."

The decline of eloquence, more particularly in our large commercial cities, is noticeable to all practitioners, and results, no doubt, from the fact that the profession find it more remunerative to devote their time to commercial law, the law of insurance, proceedings in bankruptcy, patent-right cases, and other branches that present no field for oratorical display.

We will conclude this narrative with an extract from some remarks of Judge M. R. Cullen, on presenting to the St. Louis Circuit Court the resolutions adopted at a meeting of the St. Louis bar shortly after the death of Major Wright. Judge Cullen knew Major Wright long and intimately, and being himself a good elocutionist, his opinion of Major Wright's powers in that department will be generally accepted as correct. Said the judge:

"No lawyer excelled him in the practical management of a case. His success in civil cases was great, but as a criminal lawyer and advocate unraveling to a jury the intricate action of the human heart he stood among us unrivaled. Before a public audience, also, discussing the political questions of the day, his eloquence was superbly in the ascendant, and the conservatism of his

thought, brilliancy of language, and appropriateness of illustration won the hearts and judgments of his hearers. As a colloquist he was admitted to be, by those who knew him, almost the superior of any public man of his period. He had that same combination of talent, wit, mirth, humor, and solidity which made his colloquial powers as controlling and winning as his forensic efforts. He did not force himself by pedantry on the listener, or monopolize the conversation by long and studied elocutionary matter, but elicited the opinions of others, and could be even eloquent in his silence."

DEWITT C. BALLOU,

A leading lawyer for many years at Warsaw, Benton County, was a native of the state of New York, and born, as near as we can ascertain, about the year 1814. He received an academic education, became a good English scholar, and was tolerably well versed in the classics. The common-school system in that day was very imperfect, but in almost every town and village of New York there was an incorporated academy in which were taught not only the higher branches of mathematics, but also Latin and not unfrequently Greek, so that a diligent student might readily acquire as good an education as can now be obtained in many of our second-class colleges.

After Mr. Ballou completed his law studies he went to Michigan, with the intention of pursuing his profession in that state; but could not have remained there long, for in 1837 we find him a citizen of Benton County, Missouri, only two years after the organization of the county, and in 1838 he was one of a commission appointed to proceed to Springfield and take out in the Land Office there a preëmption right on a quarter-section of land which had been selected for a county-seat under the name of Warsaw. Mr. Ballou was one of the first trustees of the town, and immediately took up his residence there. In 1839 he was appointed county surveyor, which office he held about one year. The population of Warsaw increased very slowly, for in 1844 it had only reached 516. In 1839–40 Mr. Ballou held the office of justice of the peace, which at that time required a man of great nerve and mature judgment, for it was during what was called the "*Slicker War*," and so intense was the excitement in Benton and the adjacent counties that the governor was forced to call out the state militia to preserve the public peace. A man by the name of Hiram K. Turk and four sons settled, in

1839, near Warsaw, and a personal difficulty occurred between them and a family by the name of Jones, resulting in the death of one or two. The people began to take sides with one or the other, and finally a general outbreak took place, in which many were killed, resulting in a general reign of terror and violence beyond the power of the law to subdue. Mr. Ballou exerted his authority to the utmost, and showed great presence of mind and nerve, and was finally placed in command of a military force which alone proved effectual in the restoration of law and order.

In 1842 we met Mr. Ballou in the General Assembly of the state, he representing Benton County and we the county of Franklin. In 1844 both of us were reëlected, and we had the pleasure of nominating him for speaker *pro tem.*, the duties of which he discharged very satisfactorily to the House. Mr. Ballou was reëlected in 1848 and in 1860, and was a member at the time that the Legislature, in 1861, fled from the Capitol, in apprehension of being arrested by General Lyon, who but shortly before had captured Camp Jackson. It always seemed strange to us that Mr. Ballou should have allied himself with the Rebellion, for by birth and education he was a Northern man, and could have had no particular predilection for slavery; but he must have been greatly influenced by the fact that a large majority of the Legislature were secessionists, and as the county of Benton received its population chiefly from Kentucky and Tennessee, the probability is that secession was the prevailing sentiment in the county.

In 1854 a vacancy occurred in the judgeship of his circuit, by the resignation of Hon. Waldo P. Johnson, and Mr. Ballou was elected to fill it. At the expiration of the term he was reëlected, and after serving one year of the last term resigned and resumed his practice. He was four years upon the bench.

During the war Judge Ballou took up his residence in Sedalia, not feeling that his family were safe in Warsaw. He died in Sedalia in the fall of 1864, and at the time must have reached his fiftieth year.

Judge Ballou was a man of vigorous intellect, and of undoubted legal attainments. He stood high at the Southwestern bar, and always enjoyed an excellent practice. He had none of the gifts of oratory, and never attempted anything beyond a logical statement of the facts of the case and the law as applicable to them. He had a good command of language, but was often prosy and tedious. He had a strong and clear voice, without the power of modulating it, and when he rose to address a jury, or promiscuous assembly, he raised it to a high pitch, and there it remained till the close. He was aware of this defect, but could never remedy it.

While in the Legislature he became greatly absorbed in the subject of the improvement of the Osage River, a stream that flowed through his county, and which during a portion of the year was navigable for steamers of light tonnage. The state at that time was very averse to embarking in any system of internal improvements, and Mr. Ballou met with serious opposition in all his efforts in that direction.

We never saw him on the bench, but lawyers who practiced before him speak well of his judicial career. Judge Ballou was a man of excellent habits, and always sustained the character of an upright and exemplary citizen. He raised a family, but how many children survive him we are unable to state.

THOMAS S. RICHARDSON,

Who was a judge of the Fourth Judicial Circuit, composed of the counties of Lewis, Scotland, Clark, Knox, Adair, and Schuyler, was born in Frankfort, Kentucky, on or about October 5, 1819. His father, James A. Richardson, was a farmer, and moved to Missouri when Thomas was about ten years of age, and settled on a farm near Monticello, in Lewis County. Thomas assisted his father in cultivating the farm, and at the same time went to a country school, where he obtained the rudiments of an English education, and, when old enough to commence the study of the law, entered the law-office of Reese & Green, at Monticello. The firm consisted of Addison Reese, who afterwards became judge of that circuit, and James S. Green, late United States senator. Young Richardson applied himself very closely to his studies for about eighteen months, and was then admitted to the practice, at the age of twenty-one, by Judge McBride. He shortly afterwards married Miss Minerva Asbury, and located in Scotland County, and when Memphis became the county-seat, moved to that place, where he resided until his death.

In 1848 he was chosen to represent his county in the lower house of the General Assembly—served two years, and was then elected to the State Senate, and served the full term of four years. He made an excellent representative, and took an active and prominent part in the proceedings. He was a very decided Democrat, but not a violent politician, and enjoyed the confidence and good-will of his fellow-members. Neither at the bar nor in the Legislature did he make any pretensions as an elocutionist. He spoke fluently and with ease, and always commanded the attention of his hearers.

About 1859 he was elected judge of his circuit, and remained on the bench till the sad event which terminated

his life in 1861. He made a good judge — was fair and impartial in his decisions, and endeavored to dispense the law without fear, favor, or affection. He had not been on the bench long enough to establish a high reputation as a jurist, but long enough to show that he was a man of the highest integrity and great honesty of purpose.

In November, 1861, he fell a victim to the spirit of discord and anarchy which at that time spread uncontrolled over the state. He sympathized strongly with the South, but took no part in the Rebellion beyond a free expression of his opinions; but that was enough to make enemies among those who were enthusiastic in behalf of the Union, and, like all men of positive character, he had strong enemies as well as strong friends.

One of his personal friends, Colonel David Moore, had organized a Union regiment in that part of the state, which was stationed at one time at Canton, but was ordered to Memphis, the county-seat of Scotland County, where, as before stated, Judge Richardson resided. Colonel Moore had learned that threats had been made against Judge Richardson, and, as the judge was his friend and a brother Mason, he was anxious to protect him from any violence. For that purpose he detailed some ten or fifteen men to proceed to Memphis in advance of the regiment, and to take the judge and a few others into custody, with instructions to defend them from any attack that might be made upon them. The arrest was made with a full knowledge, on the part of the judge, of the purpose. They were conveyed to a room on the second floor of the court-house. It being a cold and disagreeable day, and no fire in the room, some one proposed that they should go below into the clerk's office, where there was a good fire, and they did so. It was shortly after dark, and the office becoming unpleasantly warm, the judge raised the window a few inches to let the air in, when he received a musket-ball through his head, just above the eyes, killing him instantly. When Colonel Moore heard of it he became very indignant, and pronounced it a cold-blooded murder. He went in person to the judge's residence,

and imparted to his wife the sad intelligence. He also dispatched General Halleck, who was stationed at St. Louis, and the general sent up two detectives to ferret out the assassin. Colonel Moore found a buckskin glove outside, and immediately under the window, which he took charge of, and upon the arrival of the detectives handed it to them, and this furnished a clue to the murderer. He paraded the regiment before the detectives, and one of them recognized the mate to the glove upon the hand of a soldier. He was immediately arrested and sent to the Palmyra Jail for trial, but some few weeks afterwards broke jail and escaped, and has never since been heard of. It was a tragic death, and the assassin richly deserved the halter.

Judge Richardson must have reached his fortieth year.

CHARLES C. MAURO.

Mr. Mauro was a prominent member of the St. Louis bar, and filled several positions of trust and honor. He was of German descent, his father and mother having been born in Stuttgart. They came to the United States when quite young, and settled in Washington City, where Charles was born in 1827.

The author has a very vivid recollection of his father, Philip Mauro, who was an auctioneer in the city of Washington, and carried on an extensive business on Pennsylvania Avenue. Though but ten years of age, we frequently visited his auction-rooms to listen to his sallies of wit and humor. He was a man of great jest, and never failed to amuse and entertain his patrons, particularly the urchins, as we were called. He was very fond of children, and we congregated in his rooms in large numbers, and when he got off anything that pleased us we cheered him most vociferously. He was a skillful auctioneer, and it was a trite saying that Phil Mauro could convert anything into money, from an old horse-shoe to a blind mule. His wife's brother, whose name was Ott, was a man of considerable enterprise, and a mechanical genius, and it is said that he started, at Philadelphia, the first mint in the United States.

Charles C. Mauro was the youngest of nine children, and came with his father to St. Louis when quite young, and received his education at Kemper College, in St. Louis County, an institution of learning under the control of the Episcopal Church, where he graduated about 1847. He then commenced the study of the law in the office of Todd & Krum, and was admitted to the bar in 1850. Mr. Mauro was married twice — first to Charlotte Davis, of Washington City, whose father was connected with the banking-house of Lewis, Johnson & Co. She died in 1865, leaving four chil-

dren, and in 1868 he was married to Julia Randolph, of St. Louis, by whom he had one child.

Mr. Mauro was appointed city attorney of St. Louis in 1852, and afterwards elected circuit attorney, and in 1861 received from the Hon. Daniel G. Taylor, then mayor of the city, the appointment of city counselor, an office we held three years immediately preceding him. President Johnson appointed him United States district attorney for the Eastern District of Missouri, but the nomination was rejected by the Senate — not because of any objection that existed against Mr. Mauro, who was a consistent Democrat, but because of the hostility of the Senate to the president. It will be recollected that the Senate rejected nearly all of the president's appointments, in order to make him as odious as possible to the people.

Upon the breaking-out of the war Mr. Mauro sympathized with the South, and, though he committed no overt act against the government, was generally regarded as a strong disunionist, and became obnoxious to the friends of the Union, and upon one occasion was attacked near his residence by a body of Germans, but was not seriously injured. He died very suddenly, from apoplexy, in 1865, and was buried at Bellefontaine.

We formed the acquaintance of Mr. Mauro as early as 1852, and knew him well from that time until his death, though we did not often come in conflict at the bar, for most of his practice was in the Criminal Court, while ours was confined to the civil courts. He formed several partnerships during his professional career; at one time was a partner of the Hon. William C. Jones, present judge of the Criminal Court, at another he was associated with the Hon. William T. Wood, present judge of the Sixth Judicial Circuit, and at still another period with Henry Laughlin, Esq. He was a prominent member of the society of Odd-Fellows, and became past grand master of the state. He also belonged to a military company called the "St. Louis Grays," and was with that company at the noted Gasconade Bridge disaster, though he escaped without a serious injury.

As a lawyer Mr. Mauro was far above the average of attorneys. It could not be said of him, as we are too often forced to say of others, that he skimmed along the surface, picking up a little law here and a little there, for he was well-read and thoroughly grounded in the principles of his profession. Without being eloquent, he was a bold, lucid, and impressive speaker. As a prosecutor his success was very great, which was alone evidence of his ability, for it brought him in conflict with such men as Wright, Johnson, Shreve, Cline, and others, all of whom became distinguished as criminal lawyers. Few men at the bar displayed so much skill and power in the cross-examination of a witness as Mr. Mauro. If satisfied that the witness was perjuring himself, he was almost certain to break him down by the rapidity and ingenuity of his questions. He was a bold and fearless prosecutor, and offenders against the law stood greatly in awe of him.

Upon his death the St. Louis bar paid the usual tribute to his memory. His remains repose in the beautiful cemetery known as Bellefontaine.

BENJAMIN P. MAJOR.

We made the acquaintance of Mr. Major at Warren, in Benton County, in 1842, where he was located as a practicing lawyer. We met him once afterwards in Jefferson City, and transacted some professional business with him.

He was born in Franklin County, Kentucky, on March 10, 1809, and received a very ordinary education. As a boy he showed a strong aversion to books, and a positive dislike to the discipline and confinement of the school-room, and spent more than half of his time in hunting, fishing, and other amusements. When he reached his eighteenth year he refused to attend school any longer, and his father apprenticed him to a carpenter, with whom he learned the trade. After the expiration of his apprenticeship, he married and settled on a small farm, working at his trade in the winter. After attaining his twenty-first year he began to feel the want of an education, and, by studying at night, endeavored to make up, to some extent, for the time he had lost and misspent.

In the spring of 1835 he removed to Missouri and settled at Monticello, Lewis County, where he followed his trade until 1837, when he was compelled to abandon it by reason of ill health. His physician advised him to engage in some other pursuit, and he immediately entered upon the study of the law, and, in the fall of 1839, entered the Transylvania Law School, where he graduated in 1840. He then returned to Missouri, was admitted to the bar, and, in 1841, commenced the practice in Warsaw, where he remained till his death. Few men, under such adverse circumstances, would have embarked in a profession in which so few, even with the advantages of a thorough education and the best mental training, have been able to succeed. His strong natural ability, added

to his genial habits, soon made him friends and secured for him a fair practice.

In 1842 Mr. Major was elected to the State Senate from the district composed of the counties of Benton, Pettis, etc.

In 1844, while still a senator, he became engaged in a personal controversy with Elijah Cherry, who had been a judge of the Benton County Court, growing out of a political contest. They encountered each other on one of the principal streets of Warsaw, on March 14th, and Mr. Major was killed. At the time of his death he had nearly reached his thirty-fifth year. He left a widow and four or five children.

He was cut down in the morning of life, and just as he was beginning to reap the reward of perseverance and unremit ting toil. He was truly a self-made man, with no other capital to stand upon than good, hard common sense, with an indomitable will and untiring energy. He allied himself to the Democratic party, and in the State Senate occupied a commanding position; for he was a ready and earnest debater, and popular with his brother members, and enjoyed the full confidence of his party. Mr. Major was not a profound lawyer, but as an advocate had no superior at the Benton bar. This enabled him to command a good practice, for, as a general thing, in the early settlement of a country a lawyer's capacity is measured by his ability as a public speaker.

JAMES S. GREEN.

Among the able men of Missouri who figured at a late date, and belonged to a late generation, no one enjoyed a higher reputation for ability than the subject of this sketch, who, prior to the late war, was a United States senator.

He was born in Virginia in 1817, and came to Missouri in 1837 or 1838, with no other educational advantages than he was able to derive from the common-field schools of the Old Dominion. After coming to Missouri he worked on a farm in Lewis County, performing such labor as is common with farming hands. By devoting his leisure hours to reading he improved his imperfect education, and, turning his attention to the study of the law, in due time was admitted to the bar and commenced the practice in Lewis County. He formed a partnership with Addison Reese, Esq., an able lawyer, who became judge of the Lewis Judicial Circuit. It proved a strong firm and did a large business. They practiced in the courts of Lewis, Clark, Scotland, Marion, and Ralls. Mr. Green soon proved himself able to cope with the best lawyers of that section, which was no little praise when we reflect that among them were such men as Glover, Broadhead, Dryden, Porter, Anderson, Richmond, Lipsicomb, and others.

We first met Mr. Green at Jefferson City, during the session of the General Assembly of 1844–5. He was then quite a young man, and was appointed to one of the principal clerkships, whether of the House or Senate we are not now able to state. He had, however, been previously elected to the Convention of 1845, called to revise the Constitution. It was in this body that he first exhibited that talent for forensic debate which in after-life so distinguished him. He grappled with the ablest members of the Convention, and at once took rank among the foremost. His knowledge of constitutional law left no doubt of his thor-

ough mental training. He was an ardent supporter of the state-rights doctrine, and opposed to the exercise of any power not expressed or so clearly implied as to leave no room for construction; in other words, he was a strict-constructionist and an uncompromising Democrat, and had he adhered to the doctrines of Jefferson, and not permitted himself to be led astray by the sophistry of the Calhoun school, he might have attained the highest eminence that any laudable ambition could aspire to. He entirely mistook the sentiment of the people of his own state, and made himself antagonistic to their interests.

In 1846 Mr. Green was elected to Congress, and served two consecutive terms, during the last of which he was our colleague, which enables us to bear testimony to the high reputation he there acquired. It is not often that the Federal House of Representatives furnishes an occasion or opportunity for the exhibition of talent. In so large a body, with so many restrictions upon debate, it is only about once or twice in a session that the privilege of the floor, during an important debate, is awarded to any member, and if a young member succeeds in obtaining it once he is esteemed fortunate. Mr. Green, however, made several speeches, which attracted the attention of the country and received the favorable notice of the press.

In 1852 President Polk appointed him *chargé d'affaires*, and subsequently minister resident, at Bogota, New Granada; but the position was too monotonous for him, and led him too far from the active field of politics, and he soon returned to Missouri.

In 1856 he was reëlected to Congress, but before its meeting he was chosen by the Legislature United States senator, which trust he continued to hold until 1861, when he was expelled for disloyalty. This terminated his public life.

Mr. Green's career in the Senate was brilliant. It gave him ample means to display his great ability in debate. In almost every important contest he participated, and held his own with such men as Douglas, Clayton, Chase, Seward, and statesmen of that class, and he at once acquired a national reputation. We have never assigned to Mr. Green that

position as an orator which his intimate friends claimed for him, but he undoubtedly stood head and shoulders above the average statesman. He had few of the graces of oratory such as were possessed by Mr. Clay, Mr. Berrien, Mr. Everett, Mr. Prentiss, Mr. Bates, Mr. Wright, and others we could mention. At times his gesticulation was stiff and unnatural, and not unfrequently he indulged in a self-complacent laugh, indicating a consciousness of victory, which always deteriorates from the effectiveness of a speaker. That he was a close, logical reasoner, and possessed great powers of discrimination and analyzation, no one who ever heard him can question. These, with his exceeding quickness of perception and rare gift of repartee, made him a dangerous antagonist to encounter in even so intellectual a body as the Federal Senate. He never participated in a discussion without first making himself the master of his subject, which gave him a great advantage over a less cautious opponent. This was true of Colonel Benton, who, in the memorable debate on the Territorial Omnibus Bill, greatly annoyed Mr. Clay by correcting his geographical errors.

Mr. Green's power of repartee was one of his strongest weapons in debate. It is a rare gift, and is oftener found among the Scotch and Irish orators than those of any other nation. Who does not recollect the famous reply of James Boswell to his father, Lord Auchinbeck, while he was pleading before him at the Scotch bar? The old judge, offended at something his son had said, peevishly exclaimed, "Jemie, ye're an ass, man."

"Not exactly, my lord," answered the junior; "only a colt, the foal of an ass."

Mr. Green's chief reputation was obtained in the Senate, in the debate between himself and Mr. Douglas in 1859, upon the territorial or squatter-sovereignty question. In a running debate they had no superiors, and when they came in conflict it was *Greek* meeting *Greek*.

Space will not permit us to give even a synopsis of the discussion, but the following will impart to the reader some idea of Mr. Green's power in a hand-to-hand conflict:

"MR. GREEN. It has been admitted by the senator from Illinois that Congress has the same power, and the territory has the same power, and no more, over slaves as other property in the territory. Now, I ask this question distinctly, in the presence of the senator, can the Territorial Legislature of Kansas, Nebraska, or Utah prohibit the introduction of any other kind of property? Can they discriminate in regard to any kind of property? For I hold if they cannot by direct means prohibit it, neither can they by dishonest indirect means accomplish the same thing. That which you cannot do directly you cannot do indirectly; and it is a dishonest subterfuge to presume that such will be done. Can you prohibit the introduction of mules, of horses, of plows, of patent reapers? No; they are property known to the Constitution. Are not slaves property known to the Constitution? Yes. Can they, then, be prohibited? The senator says, Yes; I answer, No. The power to prohibit one is coextensive with the power to prohibit the other; and no legislative authority in the territory or out of the territory will permit of a discrimination between different species of property, so far as its protection and security are concerned. * * * But it has been admitted by the senator from Illinois, and I hold him to the admission, that a territory has no power except what is conferred by Congress. Is there any power to make such discrimination in the organic act creating the territorial government?

"The senator says — and I was sorry to hear him say it, for I have the highest regard for him, not only as a man, but as a jurist — that under no circumstances could he be induced to intervene, by the action of Congress, to protect the rights of persons to slaves in any territory. I was sorry to hear it. I have said that the South do not ask it now, because, as yet, they have never seen the necessity; and the time may come when it will be proper this power should be exercised. The power certainly exists. But I was sorry for another reason. When Utah, by her misconduct, had propagated polygamy, the senator was loudest and foremost to propose the intervention of Congress to stop it. 'Yes, that is a case that will justify Congress in intervening.' 'Stop polygamy — '

"MR. DOUGLAS. When? Where? When did I speak so loud for intervention to stop polygamy? When? Where? What measure? What speech? What report?

"MR. GREEN. Well, Mr. President, I said *loudest*, because he generally speaks loudest. I said *when*, because it was the 12th day of June, 1857, and *where*, because it was said at Springfield, Illinois.

"MR. DOUGLAS. I deny it. That speech will show I was for repealing the organic act because they were alien enemies to the United States, and not because of that domestic institution.

"MR. GREEN. I have got the speech before me, and I generally speak by the record.

"MR. DOUGLAS. Read it.

"MR. GREEN. I know he lugged in other considerations, but he did not confine himself to them. He did say they were alien enemies, but it was their misconduct, including polygamy, that he complained of. He had given them an organic act, and he then said, I will take it from you.

"MR. DOUGLAS. Read it.

"MR. GREEN. I *will read it.* I know of what I speak. You had no evidence of it then. You have no evidence of it to-day. It was an assumption *then.* It is an assumption *to-day.* But whether so or not, it cannot change the power of Congress to interfere, if the public good requires it. But you *will* intervene. Why? Because it is assumed they are alien enemies. How do you know but what there are alien enemies in Kansas, judging from their acts, as there are in Utah? How do you know that there are not as many in Nebraska as in Utah? But he will not intervene there, for those alien enemies only destroy the rights of slave property; but he will intervene in Utah, for those alien enemies propagate polygamy.

"That is the doctrine of the senator, and he cannot escape from it. Now I will read the extract from his speech on the subject, and see whether he did not claim the right to protect persons and property by congressional intervention."

[Here Mr. Green read from the Springfield speech, and the debate between them continued. Should the reader feel any inclination to peruse the entire discussion, he will find it in the *Congressional Globe*, part II, 1858–9.]

Mr. Green became one of the most active supporters of the Rebellion, and, as in the case of Governor Polk, it proved his political grave. He was destitute of any military capacity, and the South presented no field in which he could obtain any renown. He sacrificed everything for a cause in which he had nothing to gain and all to lose.

After the war he settled in St. Louis, with the intention of returning to his profession, but his health, which had become impaired by irregular habits, soon gave way, and on January 19, 1870, he departed this life, at the age of about fifty-two, leaving a family to mourn his loss. Meetings of the bar in St. Louis and elsewhere were held, and the usual tributes of respect paid to his memory.

Mr. Green's social habits gave him many warm and attached friends, who adhered to him even after his star began to disappear behind a cloud. In person he was tall and thin, with features somewhat resembling Mr. Clay—indeed, he resembled Mr. Clay in more respects than one. He had that clearness of voice, distinct enunciation, and high and commanding figure which were so conspicuous in the great Kentucky statesman.

PRIESTLY H. MCBRIDE.

This gentleman was a judge of the Supreme Court of Missouri during 1845 and 1846.

He was a native of Kentucky, and born, raised, and educated near Harrodsburg. He received a good education, studied law in Kentucky, came to Missouri when quite young, and located in Columbia, Boone County. On December 11, 1830, he was commissioned as judge of the Second Judicial Circuit.

On January 1, 1836, the Legislature adopted and passed a constitutional amendment which, among other things, vacated all the judicial offices. Judge McBride, however, refused to give up his office, stating as a reason that the amendment had not passed by the requisite majority, and alleging, also, other irregularities. An information in the nature of a writ of *quo warranto* was taken against him, requiring him to show cause by what authority or commission he continued to exercise the duties of the office, etc. In answer to this the defendant pleaded his commission of December 11, 1830. To this plea a demurrer was filed, and the question of the validity of the action of the General Assembly was thus raised. The real point in the case was this: the amendment had been ratified by a vote of two-thirds of a quorum of the House, but not two-thirds of all the members, which the judge contended was necessary. The case went to the Supreme Court, where it was held that two-thirds of a quorum was sufficient. This, of course, ousted Judge McBride from the office. The reader will find the case reported in 4th Missouri Reports, page 303.

The same Legislature organized a new circuit, composed of the counties of Marion, Lewis, Clark, Monroe, and probably Shelby, and Judge McBride was appointed to that circuit, where he remained until he was appointed judge of the

Supreme Court, in 1845. During part of his judicial service he resided in Paris, Monroe County.

We met Judge McBride on several occasions, but had only a slight acquaintance with him. In politics he was an uncompromising Democrat, but took no active part in the political contests of the state while on the bench. In January, 1829, he was appointed by Governor Miller secretary of state, and resigned, in 1830, in order to accept the judgeship of the Second Judicial Circuit. These are the only public positions he held.

He was in no sense a brilliant man, though he made a fair judge. It was alleged that he seldom gave a reason for his opinion. He must have taken his cue from the saying of a very eminent jurist, "That any judge could give a good opinion, but few could assign a good reason for it." He was an earnest man, of strong convictions, strong prejudices, and strong attachments, jovial in his disposition, and of undoubted personal integrity. His published decisions will be found in volumes 9 to 11, inclusive.

AARON H. CONROW.

Like many others whose names appear in this volume, Mr. Conrow was, in the broadest sense of the term, a self-made man. His father was too poor to give his son even a common-school education, but the son determined to have it, and through an energy and will that marked his career in life he succeeded in obtaining his wish. At the age of fifteen he taught what might be called an infant school, receiving as his pupils children between the ages of six and twelve, and at the end of the first year laid up enough money to pay his own tuition in an established academy. Thus, by becoming teacher and pupil alternately, he acquired a good English education, embracing the higher branches of mathematics, and made some progress in the Latin and French languages. The example thus set by Mr. Conrow is most commendable, and should encourage those who are seeking an education under adverse circumstances.

Mr. Conrow was born in the vicinity of Cincinnati, Ohio, on June 9, 1824. While yet a child, his parents removed to Pekin, Illinois, and after a few years' residence there, came to Missouri and settled in Ray County. This was about 1840. Having selected the law for his profession, he entered the office of Philip L. Edwards, whom we recollect as a promising and rising lawyer of that county. After several years of close application and diligent study he was admitted to practice by Judge Napton, of the Supreme Court, and commenced his professional career in Richmond, the county-seat of Ray County.

Mr. Conrow rose gradually in his profession, and obtained a large and valuable practice. This was no small compliment to a young lawyer, who had to contend with such men as General Doniphan, Judge Dunn, Governor King, Charles Hughes, and others, who practiced in that circuit. The bar

of Ray has always been strong, and to succeed there a lawyer must possess considerably more than an average ability.

Mr. Conrow continued to practice in the Ray Circuit until the breaking-out of the Rebellion. During that time he was for four years circuit attorney. He also served for a short time as judge of the Court of Common Pleas of Ray County, by appointment of Governor Sterling Price, and was also at different times public administrator and county treasurer. In all these positions he displayed marked ability and the utmost fidelity.

In 1848 he married Miss Mary Ann Quisenberry, a daughter of Colonel David H. Quisenberry, of Ray County, by whom he had six children, of which three sons and a daughter still survive him.

In 1860 Mr. Conrow was elected to the General Assembly as a State-Rights Democrat. Having strong slavery and Southern proclivities, he united his fortunes with the secessionists, and, leaving home and family, entered the Confederate army and attained the rank of colonel, when he was elected to represent his fellow-soldiers in the Confederate Congress. Upon the adjournment of that Congress he returned to the army, and at the close of the war went into Mexico with General M. M. Parsons, and with Parsons, Standwitch, and others was there robbed and murdered by Mexican soldiery. For a full account of the massacre see our memoir of General Parsons.

Like thousands of others who had the promise of a long and happy life, Mr. Conrow fell a victim to our unnatural and bloody civil war. That he was sincere in his convictions of duty we have no right to question, for he sacrificed fortune, family, and life to advance a cause from which he could derive no possible benefit.

Mr. Conrow had a legal mind, and with his habits of study and application might have secured a high rank in the profession. He was not an orator, and yet possessed one of the chief elements of oratory, the power to impress his audience with a high sense of his earnestness and honesty of purpose, without which there can be no effective oratory.

Truth is the foundation of elocution; in fact, it is the arch upon which the orator builds his structure, and when that weakens, the structure must fall. However much we may differ in opinion with a speaker, yet if we are impressed with his sincerity and honesty, we are disposed to give due weight and consideration to all he says.

At the time of his death Mr. Conrow had reached his forty-first year. He was a Royal-Arch Mason, and stood high with his brethren of the order.

LOUIS G. PICOT.

We have no recollection of meeting this gentleman prior to 1852. He was then a practicing lawyer at the St. Louis bar, and had been for several years.

He was a native of Richmond, Virginia, was of French descent, and born May 15, 1816. On his becoming twenty-one years of age he married Miss Margaret A. Roberts, of Baltimore. He received a good academic education, spoke French fluently, and made some progress in Latin. He studied law in Virginia, but, before completing his course, came in 1842 to St. Louis, bringing with him letters to Judge Bryan Mullanphy. Upon the invitation of the judge he entered his office as a student, and studied until 1844, when he was admitted to the bar. Judge Mullanphy had a large estate to manage, and employed Mr. Picot to assist him. This led to an introduction to Mrs. Ann Biddle, sister to Judge Mullanphy, and he took charge of her large estate also, and at her death became her executor. It was common in England, Spain, and other countries for able lawyers to devote their whole time to the management of large estates, and although it kept them from acquiring much renown in their profession, they found it very remunerative. So it was with Mr. Picot, for although he was far above the average lawyer, he obtained no distinction, but it enabled him to accumulate a handsome estate. He was a most devoted student, and made himself very familiar with our old French and Spanish titles, and became, in fact, an excellent land lawyer.

He was a fine-looking man of medium size, with dark hair and dark and sparkling eyes, and pleasant and agreeable manner. We often met him in the recorder's office diligently searching the records, for in those days we had but few reliable agencies for the investigation of titles.

We once listened to a long and able argument of his before a jury in a contest between a Spanish grant and a New Madrid location. He occupied a part of two days, and was constantly eating oranges to keep his voice from becoming hoarse. In a jocular way we suggested to him that he ought to divide his oranges with the jury, otherwise they might think him selfish. We don't vouch for the fact, but were told that in concluding his argument, the next morning, he had a dozen on the table, and was feasting the jury with that delicious fruit. We also learned that it was an invariable practice with him. He was a fluent, argumentative speaker, but at times rather tedious and long-winded.

He lived at Carondelet, and built a residence on the top of a high hill, constructing over it an immense tower, which went by the name of "Picot's Folly." In grading the streets he was left high and dry, with great difficulty of egress and ingress.

He was esteemed an honorable and upright man. He died at home, August 24, 1870, leaving a widow and six children. His wife is still living.

At a bar-meeting held immediately after his death a handsome tribute was paid to his memory. The various courts, Federal and state, took action in reference to his death, and caused the resolutions of the bar-meeting to be spread upon their records. Upon the occasion of the meeting referred to, Colonel Louis V. Bogy, late United States senator, spoke of Mr. Picot in the most eulogistic terms as a lawyer of ability and great integrity. Said Colonel Bogy:

"He was not brilliant, and did not pretend to great attainments; but he was a man of peculiar mind, and possessed a strong, retentive memory. As a land lawyer he had no superior. I doubt if he had his equal, though others won greater distinction. I doubt whether a lawyer understood the law applicable to our land titles better than Mr. Picot."

ROBERT T. PREWITT.

In 1862, while holding a term of the Supreme Court in Jefferson City, we became acquainted with Mr. Prewitt, who was then a lawyer in full practice, residing in Fayette, Howard County. He attended the terms of the court at Jefferson City regularly, and delivered several oral arguments which made a favorable impression upon us, both as to his ability as a lawyer and his pleasant and gentlemanly demeanor.

He was the son of Rev. Joel Prewitt, a Christian or Campbellite minister, of Kentucky, and was born in Bourbon County, in that state, August 1, 1818. His father brought his family to Missouri about 1824, and settled on a farm within a few miles of Fayette. After receiving a good academic education he commenced the study of the law, in 1840, with Abiel Leonard, one of the most eminent lawyers in the Western country. After remaining with Mr. Leonard about two years he went to Kentucky, and completed his studies with his uncle, Judge John Trimble, of the Supreme Court of that state, a noted jurist. He then returned to Missouri, took a desk in the office of General John Wilson, at Fayette, and entered upon the practice. His opportunities for a legal education could not have been better, and he improved them well, for he became thoroughly grounded in the principles of the law. He soon obtained a reasonable share of business, which gradually increased through life.

In 1852 he was appointed circuit attorney for the Second Judicial District, and discharged the duties of the office with marked ability until the latter part of 1856. He necessarily had to encounter some of the ablest lawyers of the state, for his circuit embraced some of the oldest and wealthiest counties, such as Howard, Boone, and Callaway. We are not aware of his holding any other office, except as a mem-

ber of the Constitutional Convention called in 1861 to determine upon the relations of the state towards the Federal government. The Convention was organized in 1861, and delegates were elected from the senatorial districts. His district comprised the counties of Howard, Randolph, and Chariton, and was represented in part by General Sterling Price. In 1863 General Price was expelled for disloyalty, and Mr. Prewitt elected in his place, and took his seat on June 17th. The labors of the Convention were gradually drawing to a close, so that he had but little opportunity of making reputation as a forensic debater. One of the main questions then to be decided was in reference to the emancipation of the slaves. Mr. Prewitt took strong ground in favor of the Union, but was very conservative in his course, and, while he admitted that slavery was doomed, he thought that sound policy dictated that the loyal slaveholders should to some extent be compensated for the loss of their slaves. This policy was strongly advocated by Mr. Lincoln in the commencement of his administration. There were more slaves in Mr. Prewitt's district than any other, and the loss of property by abolition or emancipation would necessarily fall heavily upon his constituents. It was natural, therefore, that he should advocate some measure for the protection of the loyal slaveholder. That the reader may better understand the views of Mr. Prewitt on this subject we give the following extract from one of his speeches in the Convention:

"We are told that this slave property must be taken away from us without compensation, notwithstanding that the Constitution guarantees that property to us, or its equivalent. Was it not in virtue of that Constitution, and in full reliance on it, that the people were invited to settle in this state? And are we now to be told that this contract is to be canceled and no compensation made? Gentlemen tell us to be patriotic; we desire to be so. Gentlemen tell us to stand by the flag of the country, and to put everything out of the way that prevents its advance. We desire to do so; we mean to do so, and to stand by the Union and the government of the United States against all foes, come from wherever they may. But are gentlemen who are so generous and profuse in their demands upon us prepared to make equal sacrifices? Are gentlemen who ask my constituents to give up perhaps an only slave, quite ready to display equal patriotism? Can it be that these glowing appeals to our patriotism come from gentlemen who neither offer nor expect to make any sacrifices? There are,

perhaps, 100,000 slaves in Missouri. Gentlemen require that those slaves should be given up by their owners. Some of these owners may be disloyal; if so, their property is confiscated by the laws of the United States; but my appeal is in behalf of the loyal slaveholders of Missouri. Sir, we are embarked in a great undertaking; but the loyal men of Missouri, shoulder to shoulder, are marching steadily forward: the state rebellion is crushed, the government and the Union will be maintained, and peace will be again restored to our distracted land."

We regret that space will not permit us to publish more of this speech, but the reader will find it in full in the published proceedings of the Convention for 1863.

Mr. Prewitt was a man of noble impulses and of the highest integrity, and was much beloved by all who knew him. He was a fine-looking man, and his genial disposition and happy temperament brought him a large number of devoted and attached friends. He was a fluent and impressive speaker, but not an orator. His style of declamation was more conversational than otherwise. He was, moreover, a close student, and never neglected the interests of his client.

In 1844 he married Martha A. Williams, daughter of F. E. and M. A. Williams, of Howard County, a most estimable lady, who with five daughters survives him. He died at Fayette, in September, 1873, at the age of fifty-five.

MATHIAS McGIRK.

This popular and able jurist was one of the three judges first appointed to the supreme bench of Missouri. His colleagues were John D. Cook and John Rice Jones, and their commissions issued in 1820.

He was born in Tennessee about 1790, studied law there, and came to St. Louis when quite a young man. He could not have acquired much practice in St. Louis, for about 1827 or 1828 he removed to Montgomery County and practiced in all the courts of that circuit, and his name appears among those who attended court in old Franklin. Shortly after going to Montgomery County he married a Miss Talbot, who belonged to an old and influential family, some of whom are still living in that section of the state.

Judge McGirk was fond of agriculture, and built himself a beautiful residence on or near Lautre Island, one of the islands of the Missouri River, and nearly opposite the present town of Hermann. We spent a night with him there, about 1838, and he entertained us with true, genuine hospitality.

He was a man of medium size, about five feet ten, and somewhat inclined to corpulency. He was not favored with a classical education, and his reading, outside of the law, was not extensive. There was no brilliancy about him, but he had good, practical sense, with a naturally strong and vigorous intellect, and a fine, retentive memory, which enabled him to gather a large amount of legal learning. He was not at the bar long enough to build up a reputation as a practitioner. When he had his friends about him he was disposed to be humorous, but among strangers was very reticent.

Judge McGirk remained on the bench until 1841, and was, during most of his judicial services, presiding justice. As a jurist he grew rapidly in reputation and public favor, and was always popular with the bar. His opinions will be found in

the first six volumes of our Reports, and will compare favorably with those of any other judge of his time.

His language was strong, concise, vigorous, and terse, and remarkably free from doubt and ambiguity. There was nothing stiff or strained in his diction, nor did it show any indication of having been studied or measured. He was a fluent conversationalist, and wrote as he spoke. In examining his published opinions the reader will look in vain for anything like studied phraseology or verbiage. His style is easy, flowing, and natural, and in perfect harmony with his thoughts and reflections.

It has been stated, by those who had the means of knowing, that he seldom rewrote an opinion, nor did his original draft contain many changes or alterations.

In politics he was an Old-Line Whig, very decided in his views, and probably would have been very active but for the restraint imposed by his official position. The only public positions he held were those of judge of the Supreme Court and member of our Territorial Legislature. He must have come to the state as early as 1814, for in 1816 he was the author of the bill to introduce the common law into Missouri, and presented it as a member of the Legislature. It passed as he framed it, and many other important statutes were introduced and passed of which he was the author.

Judge McGirk never had any children, but his widow survived him many years.

Among the able men of our state who studied law under him is the Hon. John D. S. Dryden, late judge of our Supreme Court, who speaks in the highest terms of Judge McGirk's probity and judicial learning.

ROBERT W. WELLS.

We are conscious that any sketch of the early life and career of this able jurist and long-tried public servant which may be prepared from the scanty material on hand must necessarily be very imperfect. We first saw him at Jefferson City in the winter of 1836–7, while on a visit to the capital to obtain from the Supreme Court admission to the bar. Although never on intimate terms with Judge Wells, we met him frequently from that time till his death.

He was a son of Richard Wells, of Winchester, Virginia, and was born there in 1795. The impression that his education was classical and thorough seems to have been generally entertained, but the contrary is true, for the only school he ever attended was an ordinary common-field school, such as prevailed at that early day throughout the Old Dominion. None but wealthy planters and gentlemen of fortune were able to send their sons to a college, and as Richard Wells did not fall within either of these classes, he was forced, from necessity, to deny his son the benefits of a liberal education. But he instilled in his young mind the necessity of self-exertion, and encouraged him by pointing to the brilliant career of many self-made men who had attained the highest distinction in the various pursuits of life with no adventitious circumstances to aid them. Young Wells was fond of his books, being a constant reader, and, with the assistance of such translations of ancient authors as fell in his way, he acquired a fair knowledge of the classics. He must have studied Latin under some private tutor — most probably about the time he was preparing himself for admission to the bar — for in after years we noticed in his large library many Latin works that gave evidence of much use, with marginal notes and references in his own handwriting.

When he reached his nineteenth or twentieth year he en-

tered upon the study of the law with Judge Vinton, of Marietta, Ohio, and nearly completed his studies with that gentleman. He then came to Missouri, and commenced his professional life at St. Charles. This was during our territorial government, and was probably as early as 1818 or 1819, if not before that time, for upon the admission of the state into the Union he had acquired considerable practice, and was appointed prosecuting attorney in the St. Charles Circuit, embracing St. Charles, Lincoln, Pike, Ralls, and other counties. Judge Rufus Pettibone was the judge of the circuit, and the first appointed under the state government.

The political trouble growing out of the admission of Missouri formed one of the most exciting and important epochs in our nation's history, and came very near precipitating us in a bloody revolution. Some of the strongest articles which appeared upon that subject in the Missouri press were attributed to the pen of Mr. Wells. He was certainly a writer of more than ordinary ability. We are unable to state how long he filled the office of circuit attorney, but most probably until about the time he was appointed attorney-general of the state, which was January 21, 1826. This responsible and highly honorable office, which had been previously filled by Edward Bates and Rufus Easton, was held by Mr. Wells for a period of ten years. It was no sinecure, for the attorney-general was, *ex officio*, reporter of the decisions of the Supreme Court, prosecuting attorney for the Cole Circuit, superintendent of common schools, one of the Advisory Board of the Penitentiary, and legal adviser of the Legislature, governor, and all other state officers. The long period for which his services were retained is the best evidence of his diligent and faithful discharge of the complicated and laborious duties of the office.

Upon retiring from the office of attorney-general he was appointed judge of the United States District Court for the District of Missouri, and continued in this position until his death, which occurred April 2, 1865, at Bowling Green, in Kentucky, while on a visit to his married daughter. He had nearly reached his seventieth year.

Judge Wells was twice married — the first time, in 1832, to a daughter of Major Elias Barcroft, of St. Louis County. Major Barcroft was state auditor from 1823 to 1833. By this marriage he had a son and two daughters. A few years after the death of his first wife, in June, 1840, he married Miss Covington, of Kentucky, a very estimable lady, who still survives him. By this marriage he had two daughters. One of his daughters by his first marriage married General Monroe Parsons, who was waylaid and murdered by Mexican outlaws.

Though a slaveholder during most of his life, Judge Wells became satisfied that the institution was a stumbling-block in the progress of his state, and at a very early time advocated a gradual system of emancipation. With him it was a question of interest, for he had no prejudices to encounter in opposition to slavery. He saw no hope for the development of our agricultural and mineral resources except through free labor and capital, neither of which would encounter slave labor. With him, therefore, it was a question of dollars and cents, of local interest, and he was ready to adopt any policy which in his judgment would invite immigration, labor, and capital.

We visited Jefferson City at the opening of the Legislature in 1860, and found that body so strongly imbued with the spirit of secession that it was actually dangerous to make open opposition to it. A few of the Union men met in private consultation, and to agree upon some plan of resistance to the treasonable designs of Governor Jackson and his followers. In this little patriotic assemblage we found Judge Wells, ready to coöperate with the friends of the government, and his counsel and advice upon that occasion proved most valuable and serviceable. We saw but little of him afterwards, but up to the last he proved a most devoted friend to the Union.

In 1845 a State Convention was called to revise the Constitution, and Judge Wells was elected a delegate from the Cole Senatorial District, and upon the assembling of the Convention was selected as its presiding officer. During

the session he made several speeches evincing much knowledge of constitutional law. He was a close, logical reasoner, and always secured the full attention of his hearers, but he had but few of the elements of oratory. His voice was sharp, shrill, and effeminate, and he was anything but graceful in his gesture or delivery. He never spoke without ample preparation, and was happy and effective in his illustrations.

A constitution was framed, and submitted to a vote of the people, but by reason of one or two unfortunate provisions became obnoxious, and was rejected at the polls.

Judge Wells was a consistent Democrat through life, and though not a man who had many warm personal friends, was greatly admired for his general learning and legal erudition. He intended, after completing his visit to his daughter in Kentucky, to spend a few months in the East to recruit his health, but he never left her house alive.

As soon as his death was telegraphed to St. Louis a bar-meeting was held in the city, and appropriate resolutions adopted eulogistic of his character as a man and a jurist. These resolutions were spread upon the records of the Federal and state courts held in St. Louis. A committee was also appointed to receive his remains at the depot on the opposite side of the river, and to escort them through St. Louis on their way to Jefferson City. The bar of Cole County also assembled and paid a suitable tribute to his memory. The Hon. Thomas T. Gantt presided over the St. Louis meeting, and his letter to Mrs. Wells, inclosing the proceedings, furnishes not only a true exhibit of Judge Wells' character as a jurist, but is one of the most beautiful tributes to the memory of a distinguished man that has ever fallen under our observation, and we cannot refrain from giving it to the public:

"ST. LOUIS, *October 1, 1864.*

"*Mrs. R. W. Wells,*

"*Jefferson City, Mo.*

"MY DEAR MADAM: The melancholy duty of transmitting to you a copy of the proceedings of the bar of St. Louis, on the occasion of the death of Judge Wells, has been assigned to me.

"In performing it I cannot refrain from adding to what has been said by my

professional brethren an expression of the feelings to which the event gave rise in *my* mind.

"For more than twenty-five years I had known Judge Wells. For more than twenty years I had been honored by his friendship. During all that time he laid me under continual obligations by the courtesy of his demeanor and the wisdom of his counsel. Often in circumstances of perplexity I have been led by the light of his understanding to a clear view of what, a few hours previous, seemed hopelessly obscure. He illustrated and adorned the judgment-seat. He attracted respect to the administration of the law, and, by the conspicuous impartiality and even-handedness of his course, conciliated the esteem of those even against whom the principles of jurisprudence obliged him to decide. He has done more than any judge, living or dead, for the elucidation and correct exposition of the United States statutes on which land titles in Missouri depend. He has left to those to whom his name descends the priceless inheritance of the memory of the useful, unstained citizen, the kind and public-spirited member of society, the firm and zealous patriot, and the learned, upright, indefatigable, and most meritorious judicial magistrate.

"I know how idle and vain these words seem to you in the hour of your bereavement, but I could not say less without violence to the emotions of respect and regard with which I have been so long imbued towards your deceased husband. When such a man falls, it is no ordinary calamity.

"The state is impoverished by his death — the bench has lost its chief ornament; and, while the blow falls on his family with peculiar and crushing severity, a large circle of attached friends, from a respectful distance, offer to his devoted household their condolence and sympathy.

"I have the honor to be, with the highest respect,

"Your most obedient servant and friend,

"THOMAS T. GANTT."

Judge Wells was never favorably impressed with the utility of "trial by jury," except in criminal cases, notwithstanding it was sustained by immemorial usage. He regarded the system as it prevailed in the United States better calculated to defeat than attain the ends of justice. He thought that one man educated in the law, and who had experience in the analyzation of testimony and in its application to the fact sought to be established, was more likely to elicit the truth than a jury of twelve men selected from all classes of the community, some of whom are unlettered, while others are readily moved by prejudice or popular commotion.

The author avails himself of this occasion to place upon record his own views upon this subject, predicated upon an experience of forty years at the bar. "Trial by jury" existed

at a very early period in England, and we borrowed it from the mother country. Strange to say, at one period it became very unpopular by reason of many abuses to which it was then subject, and these led to the organization of the celebrated "Court of Star Chamber," about A. D. 1500. The preamble of the act creating this memorable tribunal refers to combinations which had been formed for the obstruction of justice; cites the partiality of sheriffs in making up their panels, the taking of money by jurors, and the riots and unlawful assemblages which served to defeat the fair administration of justice. The lord chancellor, the treasurer, the keeper of the privy seal, with a bishop and temporal lord of the council, and the chief justices of the King's Bench and Common Pleas, constituted the court. It had no power over the life of the subject, but inflicted the most cruel and barbarous punishments.

It is said by Mr. Emory Washburn, in an able article which appeared in the October number, 1877, of the *American Law Review*, from which we have drawn some valuable information respecting the origin of this court, that it was undoubtedly created for salutary purposes. But whatever evils may have existed in the jury system at that early period of time, the Court of Star Chamber failed to remove them, and the court itself became an engine of oppression.

At the present day the jury system in England is well guarded by law, and is unquestionably one of the greatest safeguards of the British subject.

In the United States it has always been popular, but it is evident to every one whose attention has been called to the subject that for the last quarter of a century it has gradually declined in public estimation. This is not the fault of the system, but grows out of the want of proper legislation to guard against its abuses.

It is patent to those who have been in the habit of attending the courts of St. Louis that at least five out of seven of the juries there impaneled are totally unfit for jury service. It not unfrequently occurs that two-thirds of a panel do not understand the English language. It is also true that men

are frequently smuggled on a jury for the sole purpose of preventing a verdict; particularly is this the case in the Criminal Court. If the accused has money and influential friends, or either, a conviction is next to an impossibility.

Another objection lies in the fact that such a body of men, with minds differently constituted and habits greatly diversified, are too liable to disagree, and these disagreements necessarily entail additional costs and expenses upon parties litigant. This objection has much weight.

For several years past the press throughout the country, and particularly in St. Louis, has freely criticised our jury system, and these criticisms have led to no little legislation. In St. Louis we have a jury law applicable to St. Louis alone, and yet no visible change can be seen in the character of our juries. Unless some plan can be devised to remedy the evils we have suggested, "trial by jury" will eventually become a mere mockery. We do not pretend to suggest the remedy, but the law should at least be so modified as to limit the number and class of cases upon which a jury can pass. We have been gradually floating into the habit of submitting to juries issues of fact arising in chancery suits. This is a most pernicious practice, and unless checked by suitable legislation will lead to the overthrow of chancery jurisdiction.

To avoid disagreements in civil cases a given number (nine has most frequently been suggested) should be permitted to find a verdict.

It is to be hoped that some public benefactor, equal to the emergency, may yet be able to suggest a plan which will restore this ancient rite to public confidence. It has too long prevailed, and is too deeply imbedded in the hearts of the American people, to be now wholly abandoned.

ALEXANDER L. SLAYBACK.

Those of the early inhabitants of Marion, Shelby, and Lafayette Counties, in this state, who still survive must retain a pleasant recollection of the gentleman whose name is above, for he was not only one of those genial spirits who never fail to secure many warm and attached friends, but was a man of learning and promise, and bade fair to make a high reputation in his profession. Death, however, "who loves a shining mark," cut him down in the morning of life, and at a time when fortune was responding to every wish of his heart.

He was a son of Dr. Abel Slayback, of Cincinnati, and was born in that city in 1817. When but fifteen years of age he was sent to Marion College, in Missouri, an institution of learning under the direction and control of the Presbyterian denomination, and conducted on the manual-labor plan. It was then regarded as the best college in the state, for we had no state university or educational institution under the endowment of the state, or maintained by state aid. Young Slayback pursued his studies here with much diligence, and during his vacations entered upon a course of reading, under the direction of his father, which it was supposed would be advantageous to him when he commenced the study of the law, for at an early period he had fixed upon the legal profession as best suited to his order of mind and personal inclinations. In this he was encouraged by his father, who discerned in the son mental traits that in his judgment fitted him for a professional life.

In June, 1838, he was admitted to the bar by Judge McGirk, of the Supreme Court. As stated elsewhere in this work, an application for a law-license at that time had to be made directly to the Supreme Court, or one of the judges thereof, in vacation, and the examination was strict

and searching. Judge McGirk congratulated him upon the good examination he had passed, and gave him some good advice with reference to his future course, which the young claimant for legal honors fully appreciated.

In July, 1837, he married Miss Anna M. Minter, eldest daughter of I. A. Minter, Esq., of Philadelphia, and opened a law-office in Shelbyville, the county-seat of Shelby County. He soon obtained a fair amount of business, but to a young practitioner, without fortune, and solely dependent upon his own exertions, it was necessarily a life of toil and privation; but he was greatly encouraged by the reception he received from the people, and by the womanly devotion of his good wife, who ever made his home happy and cheerful. He practiced in Shelby, Knox, Lewis, Marion, and Audrain Counties, and on special occasions attended courts in other counties.

In May, 1847, he concluded to change his residence, and moved to Lexington, in Lafayette County. Lexington was growing rapidly in population and wealth, and not only afforded a larger field in which to prosecute his profession, but presented greater facilities for educating his children. His great probity of character, close application to business, and fine oratorical powers readily attracted the attention of the people of Lafayette, and he was soon retained in many prominent cases pending in the courts of that circuit. Though a public-spirited man, he took but little interest in politics, and never would permit his name to be used for a public office. He was a very ardent Mason, and labored hard to secure the location of the Masonic College at Lexington, and in 1848 delivered the address at the laying of the corner-stone of that institution.

He died August 19, 1848, very suddenly, in his thirty-first year, leaving a widow and five children, the youngest of whom survived him but a short time. The three sons, Alonzo W., Charles E., and Preston T., are now residents of St. Louis, the former being well known as an able and prominent member of the St. Louis bar.

The subject of our sketch did not live long enough to ob-

tain that distinction in his profession which his talents, practical Christian habits, and great personal integrity entitled him to, and no doubt would have secured to him. We have made no reference to his cheerful and genial disposition, which made him a favorite, particularly with his co-laborers at the bar. He was the life of every company in which he entered; had a copious fund of good humor, and was never wanting in a good anecdote to amuse others. He was an exceedingly fluent and ready speaker, and his discourses abounded in pathos and dignified wit, and his manner was wholly free from the appearance of labored preparation. His unexpected death was not only a terrible blow to his confiding family, but proved a serious loss to a profession which has not many such men to spare.

Mr. Slayback was a practical and true Christian, having united with the Presbyterian Church when only sixteen years of age, and his life furnishes a contradiction to the commonly-received opinion that a successful lawyer cannot be a sincere Christian. Upon this subject we have made some comments in our life of Josiah Spalding, and since writing that sketch have fallen upon the words of that great lexicographer, essayist, and critic, Dr. Samuel Johnson. Johnson studied law, though he never practiced, and had a good conception of the duties of an attorney. His biographer, Boswell, credits him with saying: "A lawyer is not to tell what he knows to be a lie; he is not to produce what he knows to be a false deed; but he is not to usurp the province of the jury and of the judge, and determine what shall be the effect of evidence, what shall be the result of evidence, what shall be the result of legal argument. A lawyer is to do for his client all that his client might fairly do for himself, if he could. If, by a superiority of attention, of knowledge, of skill, and a better method of communication, he has the advantage of his adversary, it is an advantage to which he is entitled. There must always be some advantage, on one side or the other; and it is better that advantage should be had by talents than by chance. If lawyers were to undertake no causes till they were sure they were just, a man

might be precluded altogether from a trial of his claim, though were it judicially examined it might be found a very just claim." These views of Dr. Johnson cannot, in our judgment, be successfully controverted. An experience of forty years at the bar, in which we have defended persons charged with crime from the lowest to the highest degree, has satisfied us that when a lawyer is called upon to defend an alleged criminal, the chief duty incumbent upon him is to see that his client has a fair trial; that he is not prejudiced by false testimony or false clamor; that he receives the full benefit of every presumption of the law that may be in his favor, and of all facts and circumstances that may tend to mitigate his offense. The lawyer is not to be theorizing upon the probabilities of guilt, but, in the absence of any positive knowledge, is to presume, what the law presumes, that his client is innocent until the contrary is proved. He is to bear in mind that the jury is to pass upon the question of guilt or innocence, under such instructions as to the law as the court may give. When he has done this he has discharged his duty. A contrary course would deprive his client of the benefit of those safeguards which the law has thrown around him for his protection, and which are wisely provided to elicit the truth.

It is said that Mr. Slayback in his youth exhibited many of those traits of character for which he became noted in manhood It was Milton who said,

> "The childhood shows the man
> As morning shows the day."

He was slender in person, and about six feet four inches in height, and had light brown hair. He was fond of music, and played well on the flute and violin.

JOHN C. RICHARDSON.

No man living can sketch the life of this popular and distinguished lawyer and do his memory justice. It is not the purpose or office of eulogy to magnify the virtues of the dead, but to exhibit those really possessed as examples worthy of imitation, and to keep alive in our memory the good deeds performed through life. It furnishes a stimulus to the rising generation, and offers an incentive to noble action. If called upon to furnish a model of a good lawyer, a good citizen, and one who most deservedly ranked as one of God's noblemen, we should instinctively name John C. Richardson. We knew him well — we knew him intimately; we loved him, for it was impossible to know him and not love him.

He was born, raised, and educated in Kentucky, and received his legal education at Transylvania University. We have not the date of his birth, but it must have occurred in 1817. On reaching his majority, in 1840, he came to Missouri and settled in Boonville, where he practiced many years, and took rank with the best lawyers of central Missouri. Nature had provided him with all the elements of a successful lawyer. His mind was purely logical, and he delighted in legal research and in the investigation of apparently difficult problems of law. He was not an orator, but as a speaker was clear, lucid, argumentative, earnest, impressive, fluent, and convincing. Such was the confidence placed in him by courts and juries that it was difficult to combat any proposition which he earnestly maintained, and this gave him a success which few lawyers ever enjoyed.

After obtaining as high a reputation as any man could obtain in the courts of central Missouri, Mr. Richardson in 1850 moved to St. Louis, and opened an office there in connection with Sinclair Kirtley. Business came to the firm

very rapidly, but Mr. Kirtley's health soon failed, and he went to California. Mr. Richardson then became the partner of Samuel T. Glover, Esq., and the firm of Glover & Richardson did an immense business, and was retained in almost every case of great magnitude. No firm in the Western country ever enjoyed a higher reputation or did a more lucrative business than that of Glover & Richardson.

In 1853 he held the highly honorable and responsible office of city counselor of St. Louis. In 1857 a vacancy occurred on the bench of the Supreme Court, and Mr. Richardson received an almost unanimous call from the bar to fill it. He had no ambition for office or public position, but the call was so general and so urgent that he was induced by a sense of duty to accept it, and he was elected by an overwhelming majority of the people. As an evidence of his ability as a jurist the reader is referred to his written opinions as found in volumes 25 to 28, inclusive, of the decisions of our highest court. They are clear, lucid, and profound, and will compare favorably with those of any judge who ever sat on the supreme bench.

Judge Richardson soon became convinced that the duties of the office would impair his health, and in 1859 he resigned, much to the regret of the profession throughout the state. He returned to the practice, and again entered into partnership with Mr. Glover. While a resident of Boonville, Judge Richardson married a Miss Lionberger, of that place, an accomplished and intelligent lady, and the match proved an exceedingly happy one.

On September 21, 1860, he died in St. Louis, in his forty-second year. His death created a profound sensation throughout Missouri. An immense meeting of the bar met at the court-house, to take action with reference to his death. The Hon. Edward Bates was called to the chair, Judges Wood and Lackland appointed vice-presidents, and M. R. Cullen, Esq., secretary. Judge C. D. Drake, from a committee appointed by the meeting, reported a series of resolutions which were unanimously adopted. We here give the most important:

"*Resolved*, That the members of the St. Louis bar, assembled on the occasion of the sudden decease of their professional brother Hon. John C. Richardson, desire in an especial manner to express the profound grief with which they received the intelligence of that sad event, and with which their hearts are moved as they come together to do honor to his memory. They feel that any ordinary terms used on such occasions would be wholly unsuited to this. The deceased was personally and professionally a man of elevated and superior nature, who never failed to impress those about him with his intelligence, his gentleness, and his geniality, as well as with the uprightness, the dignity, and the purity of his character. In professional and in private life he was equally above reproach, equally without enemies, and equally the object of sincere respect and cordial attachment of all who knew him. As a lawyer, his acquirements, his industry, his fidelity, and his amenity adorned and illustrated the profession, and as a judge, during the brief period of his service as such on the supreme bench of this state, he displayed qualities which, had he continued in that sphere, would have placed his name in the annals of jurisprudence among the highest lights of this country. His departure from our midst in the very prime and vigor of manhood is a calamity to the bar and the community, over which we have only to mourn with deep and heartfelt sorrow."

When Mr. Glover rose to speak of his late partner he was so overwhelmed with grief that he could scarcely give utterance to his thoughts. He said Mr. Richardson's character spoke the language of truth. It reflected no false lights, but it did certainly and surely stand out from the community, in a little while, to the eyes of those who beheld him, in its larger proportions of superiority. Mr. Glover alluded to an interview between himself and Governor H. R. Gamble, at the time Mr. Richardson was called upon to become a candidate for the supreme bench. He said Governor Gamble was one of the first to initiate the call, and remarked to him "that he considered Mr. Richardson, by reason of his correctness of mind, his patient industry and soundness of judgment, the proper man to be placed upon the bench; that an eloquent man was always liable to make a very poor judge — that he would fail in the analyzation of the subject, that he would theorize to please his fancy, to the neglect of those tedious, dry, and more uninteresting details the consideration of which was essential to proper adjudication, and to bring out the justice of the case under the law that is applicable to it."

Major Uriel Wright said his was a round character, with no angular point about it either in morals or intellect.

Several others addressed the meeting in terms of the highest eulogy. We noticed in the meeting many merchants, mechanics, and manufacturers, all of whom seemed to manifest a deep feeling of regret at the great loss which had been sustained, for his death cast a deep gloom over the entire community.

His widow and several children survive him.

CHESTER HARDING, JR.,

Second son of Chester Harding, the celebrated Boston artist, was born in the village of Northampton, Massachusetts, in October, 1826. When of proper age he attended the public school of his native village, and afterwards in Boston and Springfield, Massachusetts, till he was fourteen years of age, when he entered Phillips Academy, at Exeter, New Hampshire, where he fitted for college and entered the sophomore class of Harvard University, Massachusetts, in the year 1842. During his whole collegiate course he stood high in all his college classes, and was distinguished for probity of character and manly bearing. He was universally esteemed and beloved by his classmates.

After leaving college Chester Harding came to St. Louis, and commenced the study of the law, in the early part of the year 1847, under direction of his brother-in-law, Hon. John M. Krum, then judge of the St. Louis Circuit Court. Early in 1848 he entered the law school at Harvard College, where he graduated in 1850. In the same year he returned to St. Louis and commenced the practice of law, and in 1852 became a partner of his brother-in-law, Judge Krum (who had retired from the bench), and continued in practice in the firm of Krum & Harding till the outbreak of the civil war, in April, 1861, when he promptly relinquished his professional business and entered the army, commissioned as colonel. He was made assistant adjutant-general, and assigned to duty on the staff of General Nathaniel Lyon, headquarters at United States Arsenal, St. Louis.

We will first speak of the personal and professional character of Mr. Harding. He was a diligent student in his profession, and soon took front rank at the St. Louis bar. He was generous, magnanimous, and the soul of good nature. Honor and integrity marked his intercourse with his fellow-

men, and his noble character was appreciated and respected by all who knew him. His strength as a lawyer appeared in his complete grasp and appreciation of every proposition of law that arose in his practice, and his discussions of legal questions were always clear, logical, and forcible, though always demonstrated in a simple, unostentatious manner. Both the bar and the bench regarded him, though young, as one of the leading lawyers in the state of Missouri.

Mr. Harding took little part in political affairs, rarely attended political gatherings, and never was a candidate for, or held, a political office. When the first gun of the civil war was fired at Sumter, every energy of Harding was aroused, and every thought and feeling of his nature was awakened and centered in his country's cause. This leads us to speak of his military career. In the inception of the civil war it is well known that St. Louis and Missouri occupied a conspicuous position. Captain Nathaniel Lyon (afterwards general) was then in command of a small military force at the United States Arsenal and Jefferson Barracks, St. Louis. A semi-state military organization (suspected of being in sympathy with the secessionists) was then encamped at Camp Jackson, in the suburbs of St. Louis. The whole country was in an excited state, and alarmed. Mr. Harding, without an hour's delay, laid aside his professional business, and tendered his services to the government in its great emergency. As stated, Chester Harding was commissioned, May 1, 1861, colonel in the United States army, and assigned to duty, as assistant adjutant-general, on the staff of Brigadier-General Lyon, at St. Louis. Though undisciplined in any branch of the army service, he showed great fitness for his position, and no officer in the service performed more important, difficult, as well as delicate duties than he did in the organization, fitting out, and forwarding military forces in the Western Department.

After General Lyon moved with his army to south-west Missouri Colonel Harding was senior officer in command at St. Louis. His labors in this service were most arduous, and were continued until he was relieved, on the accession to the command of the Western Department by Major-General Frémont,

in the following month of August. The reports of General Lyon and other officers to the adjutant-general of the army, one and all, teem with expressions of their high appreciation of the services of Colonel Harding while on the staff of General Lyon and in command at St. Louis.

Immediately after Colonel Harding was relieved from duty at the Arsenal he was authorized to recruit a regiment, which he did, and on being mustered into service his regiment was ordered to join the forces under command of General Prentiss, in south-east Missouri, who was soon after superseded by General Grant.

After the battle at Belmont some of the Missouri regiments (including Colonel Harding's) had become so depleted in numbers they were ordered to be consolidated. This left the colonel without a command. He returned to Missouri and was authorized by General Halleck, who was then (April, 1862) in command of the Western Department (or, as it was then called, the Department of the Mississippi), to recruit another regiment, which he did in a very short time. His new regiment, on being mustered into service, was ordered to join the reinforcements of Major-General Pope, in the vicinity of Corinth, whither General Halleck proceeded, after receiving reports of the Shiloh battles, and assumed command of all the Union forces. After the evacuation of Corinth by the rebels several of the regiments (including Harding's) in Pope's division were ordered back to south-east Missouri, to hold the enemy in check along the southern border of the state. After the evacuation of Fort Pillow and Fort Randolph Colonel Harding, with his regiment, was ordered into Arkansas, in the vicinity of White River from its mouth to its source in Missouri, and while in service there he was promoted to be a brigadier.

Space will not permit us to follow in detail the varied military services of General Harding. Therefore suffice it to say that he continued from the beginning to the termination of the war, with relentless energy and unfaltering patriotism, to uphold the honor, integrity, and union of the United

States, and he was mustered out of service with the honors accorded to a faithful soldier.

General Harding, after the war, resumed the practice of his profession in the city of St. Louis, and continued it with varied success to the time of his death, which occurred in February, 1875. His remains rest in peace in Bellefontaine Cemetery.

On the demise of General Harding the members of the St. Louis bar paid a just and beautiful tribute to his worth and memory, by the following proceedings:

"At a meeting of the members of the St. Louis bar, held in Circuit Court-Room No. 1, on Thursday, February 11, 1875, for the purpose of paying their tribute of respect to their late brother, General Chester Harding, the following proceedings were had:

"On motion, Colonel James O. Broadhead was called to the chair. On motion, a committee, consisting of Albert Todd, A. N. Crane, John W. Noble, J. D. S. Dryden, and H. M. Jones, was appointed to draft resolutions, and said committee reported the following:

"We, the members of the St. Louis bar, have heard with profound regret of the death of General Chester Harding, and in testimony of our regret and to his memory do resolve —

"1. That by the death of General Harding the bar of St. Louis has been deprived of one of its most learned and honorable members, the community of a brave, upright, warm-hearted, and patriotic citizen — one who was unselfish and steadfast, who loved his fellow-men, and who through a long career in our midst has been distinguished for purity, candor, and justice in all his private relations, and for the honest, persevering, and intelligent discharge of his public duties and engagements.

"2. That we will mourn with those nearest and dearest to him, and sympathize with them in their sad bereavement.

"3. That we, in further token of our regard for our deceased brother, will in a body attend his funeral."

AIKMAN WELCH.

This gentleman was a native of Missouri, and born in Warren County, May 25, 1827. After receiving his preliminary education he was sent to Columbia College, Washington, D. C., where, if we have not been misinformed, he graduated. After returning to Missouri he spent two years in the study of the law, was then admitted to the bar, and located at Warrensburg, in Johnson County. He soon gave evidence of more than ordinary legal ability. In 1860 he represented Johnson County in the State Legislature. In December, 1861, he was appointed, by Governor Gamble, attorney-general — certainly a very high compliment to his professional ability when we consider that Governor Gamble was himself without a superior at the Missouri bar.

It was about this time that we made Mr. Welch's acquaintance. He was a tall, spare-made man, and seemed to be suffering from weakness of his lungs — indeed, he died a few years afterwards with pulmonary consumption. We heard him make one or two arguments in the Supreme Court which evinced no little knowledge of the law. He was very affable in his manners, and, as a speaker, fluent and argumentative. He never could have excelled as an orator, nor did he make any pretensions in that sphere. His excellent common sense, and practical views upon all questions which he discussed, secured the ear and close attention of his audience.

In the Convention called to take into consideration the relations of the state with the Federal government, and which convened at Jefferson City in February, 1861, he took his seat as a delegate from the Fifteenth Senatorial District, composed of the counties of Henry and Johnson. He at once took strong ground against the severance of the Union, and denounced secession as absolute treason. Very few of the members took a more active part in the debates, and few

sustained themselves better in the warm and heated contests which arose in the Convention. After he became attorney-general Governor Gamble consulted him freely upon all matters pertaining to the administration.

Mr. Welch married Miss Annie Hitch, of St. Charles County, Missouri. He died July 29, 1864.

NEWTON D. STRONG.

This gentleman, with whom we were well acquainted, was the second son of William L. Strong, a Presbyterian minister, who for more than twenty-five years was pastor of a church in Connecticut, and afterwards of a church in central New York. Newton was born October 17, 1809, at Somers, Lolland County, Connecticut, and there he spent his earlier years. He was prepared for admission to college by his father, and entered Yale as a freshman in 1827. He took a high position in his class, and maintained it until his graduation, in 1831. Not only did he rank high in general scholarship, but paid much attention to reading the English classics and to English composition, and early secured a reputation as a vigorous and elegant essayist. After his graduation he taught in a select school in Philadelphia one year, and in 1832 succeeded his elder brother, Hon. William Strong, now one of the justices of the Supreme Court of the United States, as a teacher at Burlington, New Jersey, in a classical and mathematical school of a high order. We served with this brother in the Thirty-first Congress. He was chairman of the Committee on Elections, and became distinguished as a legislator, and few men have since obtained more reputation as a jurist.

In 1834 Newton was appointed a tutor in Yale College, and continued so two years, when he resigned, and entered the law-office of his brother at Reading, Pennsylvania, where he completed his studies and was admitted to the bar. For a few months he remained at Easton, Pennsylvania, and then came West and located at Alton, Illinois, and entered into a partnership with his old college classmate, Junius Wall, Esq. They obtained a lucrative business, and Mr. Strong was elected to the Legislature.

In September, 1844, he married Miss Matilda R. Edwards,

eldest daughter of Hon. Edgar Edwards, of Alton, with whom he lived happily until her death in February, 1851.

In 1847, at the earnest solicitation of his brother William, he removed to Reading, Pennsylvania, and took charge of the business of his brother, who had been elected to Congress.

In 1851 he came West again and settled in St. Louis. His reputation acquired in Illinois followed him to St. Louis, and secured for him a commanding position at that bar. In 1853 he formed a partnership with his cousin, George P. Strong, Esq., who is well known as an able lawyer, and the firm did a very large business. The loss of his wife, in 1851, threw a cloud of sorrow and disappointment over his remaining years, and, having no children to stimulate him to further professional exertion, he devoted the remainder of his life to the cultivation and indulgence of his taste for general literature. He was a great reader and a deep thinker, and whatever subject engaged his attention was thoroughly mastered. He was a thorough-read lawyer, and his tastes and habits fitted him particularly for the discussion of legal questions before an appellate tribunal. We heard him make several arguments in our Supreme Court which elicited much praise from both bench and bar. He had an easy and pleasant delivery, and spoke with that confidence which only a thorough knowledge of his subject could inspire. Few men possessed a more thorough comprehension of the political events which were occurring in his time, and when the Rebellion broke out he took an open and decided stand for the Union. We often met him in a social way, and found him a most agreeable and entertaining gentleman.

After the close of the war his health began to give way, and in August, 1866, he closed his earthly career in the fifty-seventh year of his age. His remains were taken to Reading, Pennsylvania, where they repose by the side of his wife.

ROBERT WILSON.

Our personal knowledge of General Bob Wilson, as he was familiarly called, is very limited, but he was well known as one of the pioneers to Missouri, and as a prominent Whig politician for a third of a century.

He was born near Staunton, Augusta County, Virginia, in November, 1800. His father was a very respectable farmer of English descent, and his mother was a Yancey, and belonged to the noted family of that name in the Old Dominion. Robert received a fair English education, and it was the intention of his father to give him a collegiate course, but, becoming financially embarrassed, he was forced to take his son from school.

At an early age Robert was placed in the circuit-clerk's office at Staunton, where he remained several years, writing and copying. He there learned many of the forms of legal proceedings, which in after-life proved very serviceable to him. In the spring of 1820, before reaching maturity, he came to Missouri and located at old Franklin, in Howard County, then the most promising town in the state. Being without means, he went to Chariton County and opened a school near the old town of Chariton, where he taught some time. After the removal of the county-seat of Howard to Fayette he went there, and obtained a job in the clerk's office, at the same time officiating as deputy postmaster. In 1823 or 1824 he was appointed, by the governor, probate judge of Howard County, the duties of which he discharged until 1827, when the probate business was transferred by law to the County Court. In 1825 he married Miss Peggie Snoddy, and moved on a small farm, near the present site of Roanoke. Upon the organization of Jackson County he was tendered, by Judge David Todd, the office of clerk of the Circuit Court of that county, which he declined. About 1828

he was appointed clerk of the Circuit and County Courts of Randolph County, and held that position until 1840. He then entered upon the practice of the law. It does not appear that he pursued a regular course of legal study, but had received instruction from his brother, General John Wilson, who lived at Fayette, but afterwards moved to California and died there.

In 1837 or 1838 he was appointed brigadier-general of the Missouri militia, and had command of a brigade in what was known as the Mormon War. He was a member of the court-martial convened to try some of the Mormon leaders, and gave the casting vote to turn them over to the civil authorities. From that time until 1852 he enjoyed a large practice at the bar in Randolph, Chariton, and other counties in that section of the state, and ranked among the best lawyers of central and western Missouri. He was a fluent and pleasant speaker, and richly endowed with good, hard common sense, which is not a general commodity even among the legal fraternity.

He represented Randolph County in the Legislature at the session of 1844–5. He was afterwards elected to the State Senate from the district composed of the counties of Andrew, Holt, and Atchison. The district was decidedly Democratic, but General Wilson's personal popularity enabled him to overcome the Democratic majority. He served two terms, a period of eight years, and was the acknowledged leader of his party in the Senate. He became one of the most prominent politicians in the state, and for a long period, in conjunction with a few others, led and controlled the Whig party. He was a great admirer of Mr. Clay, and a very decided hater of Colonel Benton. Being a fine stump-speaker, he never let an opportunity pass to empty the vials of his wrath upon the head of the Missouri senator.

At the breaking-out of the Rebellion he declared himself openly for the Union under all circumstances, and was elected a delegate to the Constitutional Convention in 1861. He became a Conservative Democrat, and, in conjunction with Hon. Willard P. Hall, Hon. H. M. Vories, and a few

other patriotic men, kept north-western Missouri from embracing secession. He was a man of great probity of character and undoubted patriotism, and exercised a large and salutary influence in the Constitutional Convention. He was vice-president of that body, and, if we mistake not, ultimately became its president.

In 1862 he and John B. Henderson were appointed United States senators in place of Judge Waldo P. Johnson and Governor Trusten Polk, whose places had been declared vacant by a resolution of the Federal Senate.

General Wilson died at Marshall, Missouri, on May 10, 1870, in the seventieth year of his age. He was a good man, and much beloved by all who knew him.

JAMES H. PECK.

Of the early life of this noted Federal judge there is really nothing known, nor is there any one living at the present time who can impart any information as to the time and place of his birth or the character of his early education. It is known, however, that he came from the East to Missouri about the time of the organization of the state government, and that he was a man of varied learning and classical attainments — in fact, he had the reputation of being an accomplished scholar and a thorough lawyer.

He was appointed judge of the Federal court at St. Louis, and in 1826 became involved in a personal difficulty with Luke E. Lawless, an eminent lawyer at the St. Louis bar, which resulted in his being tried before the United States Senate upon articles of impeachment. Mr. Lawless was counsel for many of the old claimants under Spanish concessions, and had several cases pending in Judge Peck's court which were decided adversely to his clients. Apprehensive that the decision of the Federal court, though an appeal had been taken, might have a disastrous effect upon the value of these claims, Judge Lawless undertook, in a communication to *The Missouri Advocate and St. Louis Enquirer*, over the signature of "A Citizen," to show that the judge had erred in his decision, and that the claims would eventually be recognized as valid by the United States Supreme Court. There was nothing in the language of the communication disrespectful to the judge, it being a simple criticism upon his opinion. Judge Peck, however, thought its tendency was to bring the decisions of the court into disrepute, and he determined to punish the offender. He made a rule on the proprietor of the paper to show cause why an attachment should not issue against him for contempt of court in publishing a false statement, calculated to bring

odium on the court and impair the confidence of the public in the purity of its decisions. The publisher replied, denying the jurisdiction of the court, inasmuch as an appeal had been taken in the case. He also affirmed that it was a fair and correct statement of the decision of the court, and concluded by giving the name of Luke E. Lawless as the author.

The rule was then made on Mr. Lawless, who, in reply, admitted that he was the author, but contended that the object of the publication was to counteract the effect that the opinion of the court was calculated to produce on the value of the unconfirmed Spanish and French land titles. He also denied the jurisdiction of the court. Judge Peck sentenced him to twenty-four hours' imprisonment in jail, and suspended him from the practice for eighteen months.

On December 8, 1826, John Scott, the sole representative in Congress from Missouri, presented to the House of Representatives a memorial from Mr. Lawless, charging Judge Peck with tyranny, oppression, and usurpation of power, and praying that the House would prefer articles of impeachment against him. No action was taken upon it at that or the next session, but finally the memorial was referred to a committee, who reported charges, and Judge Peck was summoned before the Federal Senate for trial.

It soon became evident that it was destined to be one of the most important trials that had ever come before the Senate, for it involved the questions as to the extent that a court could punish for supposed contempt, and what the powers of a court were in that respect, and what in point of fact amounted to a contempt. The utmost interest was felt in the result, for it was contended that if a fair criticism upon the judgment of a court could be made the foundation for a criminal prosecution, or what was tantamount to that, then the liberty of the press was a mere delusion. So important was this question regarded by the House of Representatives that they selected, as managers to conduct the prosecution, Mr. Buchanan, of Pennsylvania; Stoors, of New York; McDuffie, of South Carolina; Spencer, of New York; and Wickliffe, of Kentucky. Mr. Meredith, of Pennsylvania,

and the celebrated William Wirt, of Virginia, were retained for the defense. What gave the trial a still greater interest was the fact that among the members of the High Court of Impeachment who sat as triers of the fact were Webster, Clayton, Livingston, King, Poindexter, Grundy, White, Forsyth, Chase, Tazewell, and other eminent jurists. Such an array of talent, both on the part of counsel and court, was never known before in this country, and will probably never be again.

Half of the St. Louis bar were summoned to Washington City as witnesses, among them Colonel Benton, who, by reason of being a witness, did not take his seat in the court. The trial occupied six weeks, and resulted in Judge Peck's acquittal by the following vote: guilty, 21; not guilty, 22.

The reader will not expect us to give the particulars of this famous trial, but he will find them, together with the argument of counsel, in Stansbury's report of it, which is in every public library in the country. In preparing the pleadings Judge Peck and Mr. Lawless exhibited the highest traits of legal ability, and collected all the law that existed upon the subject both in England and this country.

The trial settled, for all time to come, all questions relating to the powers of courts to punish for contempt.

Judge Peck remained on the bench but a short time after this trial.

ALBERT JACKSON.

The recent death of this judge, so generally noticed by the press, recalls to memory the celebrated impeachment trial before our Legislature, in which he figured as defendant. Of his place of nativity, boyhood, and early life we have sought information in vain. He was a married man, but his wife and children preceded him to the grave, and there is no relative in the West, or elsewhere, to whom we can apply for the incidents of his life prior to his coming to Missouri.

It is said that he was an Eastern man, and received part of his education at West Point, and as far back as we have any recollection of him he bore the title of general. He came to Missouri about the year 1840, and commenced the practice of the law in Jackson, Cape Girardeau County, where he remained through life. He had not practiced long before he was elected or appointed circuit attorney of his circuit. Soon after this he was elected judge of the Fifteenth Judicial Circuit, embracing the counties of Stoddard, Wayne, Reynolds, Shannon, Oregon, Ripley, and others. In 1865 he succeeded Judge Thomas B. English on the bench of the Tenth Judicial Circuit, Judge English having been removed by the Drake Radical Constitution, which swept out of office the entire judiciary of the state. It was while holding this office that the impeachment trial was instigated.

He was a man of good address, a fine declaimer, and by no means deficient in his knowledge of the law; but he imbibed strong prejudices and dislikes, and towards many of the members of the bar who practiced in his courts he was overbearing and tyrannical. This led to his impeachment upon various charges, such as tyranny, oppression, and favoritism, and the entire bar of his circuit was summoned as witnesses to Jefferson City.

Judge Jackson appeared *in propria persona*, and the old adage that "he who tries his own case has a fool for a client" was certainly not verified in his case, for he made a successful defense, and proved a full match for those appointed managers on the part of the state. His answer to the charges preferred against him was prepared with much skill and ingenuity, and elicited no little praise from the profession generally. He remained on the bench but a short time after his trial, and died in April or May last at his residence in Jackson. He was too vindictive in his disposition to have many attached friends, and on the bench made no effort to conciliate those who were opposed to him.

GEORGE W. GOODE

Was a well-known lawyer at the St. Louis bar. He was born at Whitly, Henrico County, Virginia, on November 9, 1815, and was of English descent. His father, John G. Goode, was for many years clerk of the court of that county, and educated his son with the view of making the law his profession. He first went to Rappahannock Academy, and when he became sufficiently advanced to enter upon a collegiate course his father sent him to the University of Virginia, at which institution he graduated with honor. After completing his law studies he obtained a license to practice, and opened an office at Richmond, and for a time was associated with the Hon. James A. Seddon, who, it will be remembered, was secretary of war under Jeff Davis during the Rebellion.

While practicing in Richmond an incident occurred which no doubt led to his removal to Missouri. One of his intimate friends was involved in a personal difficulty — had in fact received an insult, but was prevented by his religious scrupules from inviting his adversary to the field, and Mr. Goode took up the quarrel and sent a challenge, which, under the laws of his state, incapacitated him from holding civil office. He then came to Missouri and settled in St. Louis, making a partnership with Tully R. Cormick, an old classmate in college; but the connection was soon dissolved by the ill health of his partner. We are under the impression that he never again practiced in partnership with any one.

He never entered into a general practice, but confined himself to a few cases, in one of which he obtained considerable reputation as a land lawyer. We allude to the case of Bissell *vs.* Penrose, reported in 8th Howard's (U. S.) Reports, page 317. It involved the title to a large tract of land adjoining St. Louis, of immense value. It was taken to

the Supreme Court of the United States by writ of error from the United States Circuit Court for the District of Missouri. The plaintiff derived his title from a confirmed Spanish concession, under act of Congress of June 30, 1836, and the defendant under a New-Madrid location, under act of Congress of February 17, 1815. Both titles rested upon acts of Congress, and depended upon the interpretation which was to be given them. The principal question was whether at the time of the location of the New-Madrid certificate the land was reserved from sale by act of Congress, and if so then the location was void. Messrs. Benton, Gamble, and Geyer appeared in behalf of the plaintiff in error, and Mr. Goode, and Thomas L. Ewing, of Ohio, in behalf of the defendant in error. The court below had sustained the Spanish concession, and the judgment of the Supreme Court was in affirmance. The immense value of the land, added to the eminence of the counsel engaged, invested the cause with unusual importance. Upon the decision depended the title to property worth $1,000,000. The opinion of the bar generally was favorable to the New-Madrid location, but the decision of the United States Supreme Court established the contrary doctrine. Mr. Goode devoted a long time to the consideration of the case, and, although associated with a very eminent lawyer, received the greatest praise for his legal acumen. It is said that his fee in the case amounted to $60,000, which to some extent was no doubt contingent.

He married a daughter of Judge Wash, a lady of beauty, refinement, and intelligence, and on several occasions we visited them at their country residence in the vicinity of St. Louis.

Mr. Goode was by nature a gentleman. He could not be otherwise. The meanest dog that walks the streets could not enter his house without meeting a hospitable reception.

About this time his nervous system became impaired, and he suffered greatly from neuralgia. His physicians advised him to repair to the country, and he purchased a farm on the Meramec River, about forty miles from St. Louis. He lived there some time, and with his pack of hounds fre-

quently indulged in the chase, an amusement exceedingly attractive to most Virginians. But his health continued to fail, and finally resulted in the softening of the brain, from which he died on January 14, 1863, in the forty-ninth year of his age.

We never heard Mr. Goode make a speech or argument, but it is said he was fluent and logical, and his manner vehement and impressive. He made no attempt at oratory, but aimed to convince the understanding. He was a man of strong prejudices, and most uncompromising in his adherence to slavery. He was unwilling to concede to others anything growing out of their education and place of birth, but looked upon every man who did not concur with him on that subject as an Abolitionist, and necessarily inimical to the South. By this course he lost many friends, and his irritability was no doubt greatly enhanced by the disease which constantly preyed upon him. He was a man of a high sense of honor, and his integrity was beyond a question.

JONATHAN M. BASSETT.

We regret that our information in regard to Mr. Bassett is almost confined to our personal knowledge. We met him in the Legislature in 1844 or 1846. He represented in part the county of Buchanan, and was a practicing lawyer residing at St. Joseph. He was born in Oxford County, Connecticut, February 17, 1817, and had the advantage of an excellent education. His first location after coming West was at Quincy, Illinois, where he practiced some, and took charge of the editorial department of a political paper. From Quincy he went to Plattsburg, Clinton County, Missouri, and as soon as St. Joseph became the county-seat of Buchanan County he moved to that place, where he remained till his death. He first formed a partnership in St. Joseph with John Wilson, son of Colonel Robert Wilson, upon the dissolution of which he entered into a partnership with J. C. C. Thornton, and the last partnership was with Wash Jones.

Mr. Bassett was a fine-looking, portly man and a handsome, fluent speaker. He was esteemed a good lawyer, and always enjoyed a good practice, which extended over a large section of country. He stood well in the Legislature, though not as active and influential as many others.

Shortly after leaving the Legislature he married Miss Nancy Dixon, a belle of Jefferson City, and daughter of Henry Dixon, Esq. She was an interesting lady, and a particular friend of the author.

It is possible that Mr. Bassett may have filled other offices, but we cannot recall any. He was highly esteemed in the north-west, not only for his ability as a lawyer, but for many personal attributes which he possessed. He died January 4, 1871, leaving a widow and two children — a son and daughter.

WALTER L. LOVELACE.

The history of this gentleman furnishes an apt illustration of what industry, self-will, and determination may accomplish in the face of the most adverse circumstances. His father was a Baptist minister in Virginia, and died in that state in 1833. He was twice married, and had seven children by each marriage. Walter was by the second marriage, and was born in Charlotte County, October 1, 1831. His parents were in very limited circumstances, and unable to give their children a liberal education. Upon the death of the father, the mother with her children came to Missouri and settled in Montgomery County. This was in 1833. She died in 1862. During Walter's boyhood he worked on a farm during the summer and went to a country school in the winter. In 1850 he taught a district school in Montgomery County at a compensation of $30 per month. With this, and some money he borrowed from friends, he was enabled to spend several terms at the University of Columbia. On his return to Montgomery County he again taught school. In 1853 he married Miss Eliza A. Bush and opened a school at Danville, and, while teaching there, commenced the study of the law under Ben Sharp, a prominent lawyer of that place. In 1854 he was admitted to the bar, but for several years had a hard time to make a living. In October, 1862, he lost his wife, and in June, 1864, married her sister. He was twice elected to the State Legislature—in 1862 and 1864. In the latter year he was chosen speaker of the House of Representatives, and in 1865 was appointed judge of the Supreme Court. He died in Danville, August 5, 1866, leaving a widow and several children surviving him. During his judicial term he suffered greatly with weakness of the lungs, and finally died with consumption. His death was no doubt greatly accelerated by the labors of the bench. His ambition to discharge

his judicial duties, and to satisfy the expectation of his friends, caused him to undergo a greater amount of labor than his physical condition justified, and he survived but a short time.

We had not the pleasure of Judge Lovelace's acquaintance, but among those who knew him intimately he was regarded as a promising jurist. He was by no means brilliant, but was thoroughly read in his profession, and, if life and health had been spared him, would undoubtedly have made a reputation on the bench. He was a man of great personal integrity and studious and moral habits. A strong desire to discharge every duty incumbent upon him characterized his entire life, and the people of Montgomery County will never cease to venerate his memory.

At the time of his death he had not quite reached his thirty-fifth year.

CHARLES WHEELER.

This gentleman was connected through his professional life with the Lincoln County bar. He was born in Hancock County, New Hampshire, in April, 1795, and after finishing his preparatory course in the common schools of his native county entered Dartmouth College, and graduated there in 1818. In 1820 he emigrated to the West, first stopping at New Castle, Kentucky, where he took charge of the New Castle College for a full term of nine months. Thence he went to Bedford, in the same county, and taught a private school until 1825, in the meantime employing his leisure hours in the study of the law, under the instruction of the Hon. David White, who was a circuit judge in Kentucky, and afterwards represented his district in Congress.

Mr. Wheeler came to Missouri in the latter part of 1825, and entered upon the practice of the law in Lincoln County. It is possible that he may have been admitted to the bar before leaving Kentucky, but we cannot speak advisedly in reference to that. He was certainly licensed in Missouri immediately after coming here.

He remained a bachelor until 1835, when he married Miss Parmelia Redman, a daughter of Dr. William Redman, of St. Charles County. About six years prior to his marriage he was appointed a justice of the peace by Governor John Miller, and held the office until a short time before his death, which occurred in February, 1873, in his eightieth year. At that time the office was one of honor and responsibility, for though the jurisdiction was very limited, it took in fully a third of all the litigation of the county, and the incumbents were taken from the best class of citizens. Mr. Wheeler had an illustrious example in the case of Mr. Jefferson, who, after retiring from the presidency, served many years as a justice of the peace in Virginia. The people of Lincoln County

knew the value of Mr. Wheeler's services too well to dispense with him, and he was too patriotic a public servant to withhold them. For a short period he also filled the office of justice of the County Court, which was then invested with probate business. Having ample means, there was no incentive to do the drudgery of a lawyer, and as he was not a fluent and ready speaker, he was content to serve the people in a capacity more congenial to him.

Mr. Wheeler had three children — two daughters and a son. He was a man of much will and tenacity of purpose, which came very near resulting in serious trouble at the time of his marriage. Upon the occasion of the marriage ceremony, at the residence of the bride's parents, a noisy crowd assembled for the purpose of giving them a *charivari* — a French custom, more in vogue then than now. He refused to comply with their demands, alleging that his case was not a legitimate occasion for such mirth, as neither of the parties had ever been married before. They replied that he was an old bachelor and his bride a pretty young girl. He kept them at bay with a shot-gun for two nights, and finally triumphed. He was a man of much wit and dry humor, and in his private intercourse genial and pleasant.

LEWIS V. BOGY,

Late a United States senator from Missouri, and the only native-born Missourian who ever sat in that august body, was of French origin — born in the town of St. Genevieve, on April 9, 1813. His education was very limited, for in that day there were but few schools, and none in which a pupil could obtain a knowledge of the classics. The want of a finished education Mr. Bogy felt throughout life. In the early part of 1832 he commenced the study of the law with Nathaniel Pope, then a rising lawyer of Kaskaskia, and soon after enlisted as a private in Captain Jacob Freeman's company, in a regiment commanded by Colonel Gabriel Jones, of Henry's brigade, in the Black Hawk War, and participated in the battles of Wisconsin Heights and Bad Ax. Upon the close of the war Mr. Bogy was sent to Lexington, Kentucky, to attend the law school of Transylvania University, where he graduated in 1835, and soon after was licensed by Judge Wash. He then opened a law-office in St. Louis, with Logan Hunton as a partner, and continued there in the practice till 1849, in the meantime serving a term in the State Legislature. In the year last mentioned he again took up his residence in St. Genevieve, and was again elected to the Legislature, and became interested by purchase in the Pilot Knob, one of the most remarkable deposits of iron ore in the world. This investment, from the want of labor and transportation, proved unprofitable, and Mr. Bogy was forced to resume his practice, which he continued until the breaking-out of the Rebellion.

In 1867 President Johnson tendered him the appointment of commissioner of Indian affairs, which he accepted, and during the short time of his occupancy made himself very familiar with our Indian affairs, which afterwards proved of great value to him as a United States senator.

During most of this time Colonel Bogy took an active part in the political troubles of the country, often addressing the people from the stump, and in fact obtained considerable reputation as a stump-speaker. It is stated that at an early period of his life he formed a great desire to become a United States senator, and all his efforts in life were aimed in that direction. It seemed to him a position as high as any honorable ambition should aspire to. During the war he kept very quiet, though it was well known that his sympathies were largely with the South. Before the meeting of the General Assembly, in the winter of 1872–3, he publicly announced himself as a candidate for the United States Senate. His time had come for the gratification of his ambition, for, on the assembling of the Legislature, he was elected over General J. B. Henderson by a large majority. Colonel Bogy at that time was supposed to be quite wealthy, and it was currently reported that he had expended large sums of money to procure his election, but this he stoutly denied, and challenged the most scrutinizing investigation; but there was no evidence of the fact beyond the ordinary custom of giving suppers and entertainments. He, however, was not satisfied to let the matter rest there, and demanded a full investigation by a committee of the House; whereupon a committee of five was appointed, with ample power to make a thorough and searching examination, and the majority report, signed by all but one — four out of five — fully exonerated him, and the House, by a vote of sixty-one to twenty-one, adopted a resolution declaring that their confidence in his purity and honesty was unimpaired.

Colonel Bogy took no reputation with him to Washington, as a statesman, but when he began to participate actively in the debates he disclosed forensic powers which soon attracted the attention of the country and gave him a national reputation. His early speeches on Indian affairs showed how thoroughly he had examined that subject, and his views and opinions were eagerly sought by the Indian Bureau. He was placed on several of the most important committees, and when the subject of the late presidential election came before

the Senate he boldly led off in the attacks upon the Returning Board of Louisiana, and proved to the satisfaction of the country that Governor Tilden was cheated out of his election by the most gigantic frauds ever perpetrated in any civilized country. In that memorable debate he tackled Morton and other Republican senators with an ability that surprised the country and greatly gratified his constituents. His exertions upon that occasion impaired his health, and upon the adjournment of Congress he repaired to Colorado to avail himself of that healthful climate; but the disease which had fastened itself upon him was beyond the reach of climate or medicine, and he returned to St. Louis to die among his friends.

That Colonel Bogy exhibited in the Senate mental powers far beyond what he was credited with is now universally conceded, and the people of the state are just beginning to realize the loss they have sustained in his death. Colonel Bogy made no pretensions to eloquence, but he was a bold, fluent, and ardent speaker, and whatever he said was uttered with an earnestness that carried conviction to the minds of his hearers. He was never at a loss for language, and had a clear and distinct enunciation, with just enough of the French accent to produce a pleasant and agreeable sound.

At the time of his death he was gaining rapidly in public estimation, and had his life been spared a few years longer he must have secured a position in the Senate which few public men ever attain.

He was a man of large public spirit, which often led him to embark in enterprises beyond his means, keeping him in a constant state of pecuniary embarrassment. He took a deep interest in developing the mineral resources of the state, and invested large sums of money in the Iron Mountain and Pilot Knob.

In his intercourse with others he was social, free, and liberal, and ever ready to respond to the calls of charity. He was exceedingly free in the expression of his opinions, but uttered them in a way so as to avoid giving offense to those who might differ with him. He was eminently a fair man,

and never indulged in vituperation or abuse; nor would he let prejudice or bias lead him to form an unfavorable opinion respecting a political opponent. During the exciting debate in the Senate respecting the fraudulent election-returns from Louisiana and Florida, many charges were made by the Democratic press not complimentary to the personal integrity of the late Senator Morton; but Colonel Bogy sought the first occasion to let Mr. Morton know that they had not in the least diminished his confidence in him as a man of honor.

Senator Morton was a man of extreme views and strong prejudices, and would go almost any length to advance the interests of his party; but that furnished no reason upon which to predicate a doubt as to his moral stamina, for party ties are very strong and exacting, and few who seek political promotion have the nerve to resist them.

While Colonel Bogy was actively engaged in his profession he was retained chiefly in land suits, for, being a native of the state, he was familiar with the old Spanish and French titles, and perfectly understood the habits and peculiarities of the old French inhabitants, and, as few of them understood the English language, Colonel Bogy's knowledge of French gave him a decided advantage over an opponent who was ignorant of it.

The close application and confinement which success in the profession demand were not suited to Colonel Bogy's taste; hence we often find him engaged in other pursuits, and only returning to the practice when driven to it by necessity. He died in St. Louis, in 1877, in his sixty-fifth year. In the hall of the Mercantile Library at St. Louis there is a full-length portrait of him, but by whom painted we are not advised.

JAMES K. KNIGHT.

The people of St. Louis have not yet recovered from the shock produced by the tragic death of this lawyer, who, while a judge of the St. Louis Circuit Court, took his own life. Judge Knight was born in the village of Canandaigua, Ontario County, New York. He was of Irish lineage, and his ancestors were mostly farmers, and the judge himself worked on his father's farm for many years. They come from a very long-lived family, for the judge's father, who still survives him, is upwards of ninety years of age, and his father died at one hundred and fifteen.

In 1831 the family left New York and settled in west Michigan. James first received an academic education, and then entered the freshman class of the University of Michigan, where he remained until he reached the junior class, when he left the institution and entered Union College, at Schenectady, New York, where he graduated with much honor. He then returned to Michigan, and after spending a year working on the farm, he commenced the study of the law, was elected county clerk, and in 1854 admitted to the practice. Probably from laborious study, as much as any other cause, his health began to fail, and, under the advice of his physician, he commenced traveling, and visited Florida, Texas, and most of the southern cities, and in 1855 located in St. Louis.

Soon after entering upon his profession he turned his attention to admiralty cases, which confined him almost exclusively to the United States courts.

In 1865 he took a trip to Europe and visited most of the prominent cities on the Continent, and was able to store his mind with that information which travel alone can give. He was absent little more than half the year.

Judge Knight was a very popular man with the people, as

a service of eight years on the bench of the Circuit Court by election fully attests. In his intercourse with others he was genial, affable, and entertaining. In fact, he was an open, generous-hearted, and polished gentleman, with no enemies and a host of attached friends. He was also a man of varied accomplishments, and Major W. H. H. Russell, who delivered a beautiful eulogy upon the occasion of presenting to one of the courts the resolutions of a bar-meeting called to pay a tribute of respect to his memory, informs us that he was a lover of music, the fine arts, history, *belles-lettres*, and the drama. He certainly had many qualities that made him a very desirable companion, for he possessed a fine fund of humor, and told, as well as enjoyed, a good anecdote. While we did not regard him as learned a jurist as some who have graced our circuit bench, still he had many fine qualities as a judge, which greatly endeared him to the bar. He had no prejudices to encounter and no partialities to combat, and treated every lawyer, party, and witness in his court with the utmost courtesy. If he showed any leaning in favor of any particular class of the bar, it was to the younger members, who, in the commencement of their career, often meet with many difficulties and embarrassments. To them he was especially kind and indulgent. Another excellent trait which he carried upon the bench was a patient hearing of argument. His freedom from bigoted opinion, or self-conceit, and his anxiety to avoid error, caused him to indulge counsel in argument to a greater extent than seemed to us necessary. He seemed to be thoroughly impressed with the idea that a *nisi-prius* judge, called upon suddenly, without time for reflection, and in the hurry and excitement of a trial, was liable to commit error; and hence, when counsel pressed for a new trial upon the ground of error in the instructions of the court, or in the admission or refusal of evidence, he listened patiently to their argument and consulted freely the authorities cited.

Judge Knight was a bachelor, and lived at a beautiful country-seat eight or ten miles below St. Louis, on the Mississippi River. He spent several years in adorning it, and

was proud of its beauty and attractions. There was nothing to indicate that he was not leading a very happy and contented life, when about two years ago the intelligence reached the city that Judge Knight was dead — had committed suicide by shooting himself through the body. We saw him on the bench the day before, and he seemed to be in his usual good spirits. There is a mystery surrounding Judge Knight's death which no one can solve. He was in the habit of sleeping with a pistol under his pillow, for he had no police protection, and his place was accessible to tramps and roving vagabonds, who might at any moment enter his premises to rob and plunder. He had been afflicted for years with erysipelas in one of his legs, which gave him much pain and anxiety, but beyond that there was no apparent cause for mental despondency. Towards his last moments he stated that it was an accident, and charity leads us to assign that as the true solution of his untimely end.

WILLIAM M. COOKE,

At one time a prominent lawyer in Hannibal, Missouri, at a later period judge of the Court of Common Pleas of that city, at a still subsequent period a practitioner at the St. Louis bar, and finally a member of the Confederate Congress, was born in Portsmouth, Virginia, on December 11, 1823. His education was obtained at the University of Virginia, where he graduated with honor in 1843. Being a fine classical scholar, with a well-balanced mind and studious habits, he commenced the study of the law under the most auspicious circumstances, and in due time became well grounded in the principles of the common law. After completing his legal studies he came to St. Louis and commenced the practice, and in 1846 married the accomplished daughter of Henry Von Phul, one of the oldest and most influential merchants of St. Louis.

In 1849 Mr. Cooke left St. Louis and settled in Hannibal, and there obtained considerable reputation in his profession. About this time the business of Hannibal rendered an additional court necessary, and the Legislature created the Court of Common Pleas. Mr. Cooke was appointed its judge, and discharged the duties of the office to the entire satisfaction of the bar and the people. In order that Mrs. Cooke might be near her father, who was getting far advanced in years, the judge returned to St. Louis, and in 1854 resumed his practice, and continued to practice at the St. Louis bar until the commencement of the Rebellion. Judge Cooke was strongly pro-slavery in his views, and in connecting himself with the Rebellion was no doubt actuated by a sense of duty, for no man influenced by any other motive would leave a wife and interesting family of children, to embark in a cause which, to say the least, was extremely doubtful in its result.

Judge Cooke was in several engagements, and, under fire,

cool, calm, and collected, not only evincing great bravery himself, but inspiring those around him with the same sentiment. He became a member of the Confederate Congress, but it does not appear that he took a very active or prominent part in its proceedings. He was never again permitted to join his family, for he died in Richmond before the close of the war.

That Judge Cooke was a well-read lawyer, and possessed a logical, analyzing mind, cannot be questioned by any one who knew him. It is true that he never entered the field of eloquence to gather its flowers, but, what is of far more value, he addressed himself to the understanding of his hearers, and sought to influence them by reason rather than flowery declamation. His style was purely conversational. Judge Cooke frequently wrote for the press, and many of his articles evinced a classical taste and a high order of mental training. His sad fate is only one of the many results of a war most unnatural and most uncalled for.

ROBERT M. STEWART.

This gentleman, who filled the office of governor of Missouri, was born in Truxton, Cortland County, New York, March 12, 1815, and received an academic education. At the age of seventeen he commenced teaching school, and continued to teach until he became of age. Before reaching his majority he moved to Kentucky, taught some there, and studied law at the same time.

In 1837 he was admitted to the Kentucky bar, and commenced the practice at Louisville.

In 1839 he came to Missouri and settled at Bloomington, in Buchanan County, and shortly afterwards took up his residence in St. Joseph and formed a partnership with the late Judge Solomon Leonard, and, at a later period, with Laurence Archer.

In 1845 he was elected as a delegate to the Constitutional Convention, and there obtained considerable reputation as a debater. It will be seen, by reference to the published proceedings of the Convention, that he took a very active part in its deliberations, and endeavored to inaugurate a general system of internal improvements. It will be recollected that a constitution was framed, and submitted for approval to the people, who, by a large majority, rejected it. It was submitted as a whole, and defeated by a combination of all who objected to any particular part of it.

In 1846 he was elected to the State Senate, which position he held until 1857, when he was elected governor of the state, to fill the vacancy created by the resignation of Governor Trusten Polk.

It should be stated that in 1847 he raised and organized a military company for the "Oregon Battalion," in the Mexican War, was elected its captain, and went as far as Fort Kear-

ney, but by reason of ill health was compelled to resign and return home.

In 1848 he was appointed register of the Land Office at Savannah, Andrew County, but soon resigned to take charge of the survey of the Hannibal & St. Joseph Railroad, and became the legal adviser of the company. He also projected the St. Joseph & Denver Road and also the St. Louis & St. Joseph Railroad. Governor Stewart spent a winter in Washington City, laboring for the interests of the Hannibal & St. Joseph Railroad, and by the most indefatigable labor and perseverance succeeded in obtaining from Congress a valuable grant of public lands, which largely aided in the construction of the road.

In politics Governor Stewart was a Democrat, and in his efforts in behalf of internal improvements had to encounter a strong opposition from his own party, particularly that portion which opposed the creation of a state debt.

Without being an orator, he was a strong and vigorous speaker, and his powers of irony, invective, and ridicule were so great that few felt any inclination to encounter him. He had many trite and odd sayings which he frequently used, particularly when under the influence of artificial excitement, for the governor was not a strict follower of Father Matthew. When he wished to express his contempt for the mental capacity of another he would often say, "*He don't know how to keep a hotel.*"

In 1861 he was elected to the Constitutional Convention, and during one of the debates a member who was making a speech quoted as authority the name of some distinguished writer, when the governor, who was in a *happy condition*, rose and very gravely asked the speaker if the writer whose name he had invoked as authority *knew how to keep a hotel.* There was nothing particularly suggestive in the inquiry, but the cool manner and inimitable gravity with which the governor propounded the question *brought the house down*, to the great disgust of the speaker.

The governor seemed to be impressed with the idea that when a man had attained that knowledge which would en-

able him to master the intricacies of hotel-keeping, he had reached the highest point of mental excellence.

We have alluded to Governor Stewart's warm advocacy of a liberal system of internal improvements. While governor of the state he let no opportunity pass to impress upon the members of the General Assembly, and through them the people, the necessity of immediate action and liberal legislation.

States, like individuals, are apt to go from one extreme to another, and thus it was with Missouri. When we were in the Legislature, in 1842–4–6, it was impossible to procure the smallest appropriation for any public work. The debt contracted by the state of Illinois for canals and other improvements was held up as a warning to other Western states; and he who had the courage to vote for a few dollars to aid in the navigation of the Osage River was regarded as a doomed man. But a few years elapsed, however, before we launched forth in the most reckless system, and, to maintain it, bonds of the state were issued bearing ten per cent interest; and now the people are taxed beyond endurance to meet the interest on those bonds. But the evil did not stop there — counties, townships, and municipal corporations followed suit, until the public debt has become so large as to threaten repudiation and bankruptcy.

When we left the county of Franklin the debt of the county did not exceed $5,000; now it is over $500,000, and the people have nothing to show for it but an old, dilapidated court-house, a jail that any old woman could break out of in an hour, and a few miles of worthless macadamized road. Two railroads, it is true, pass through the county, but the county did not contribute a dollar to the construction of either. The history of Franklin is but the history of half the counties in the state.

Governor Stewart was a man of much originality of thought, and with his thorough knowledge of men and fine discriminating powers, aided by a classical education, he could not otherwise than become a man of note. As a speaker he was fluent and logical, and if at times his lan-

guage was not so refined as to meet the requirements of a fastidious taste, it was nevertheless expressive and unequivocal. During the unfortunate and disastrous civil war he remained a steadfast friend of the Union, supporting Mr. Lincoln in all measures designed to maintain the laws and the unity of the government.

He was elected a member of the Constitutional Convention of 1861, took a very active part in the debates, and the published proceedings of that body contain a few of his speeches and reports which evince much ability.

Governor Stewart, though born in a non-slaveholding state, was in no sense an Abolitionist. He had no prejudices on the subject, but regarded it from a utilitarian point of view. At the very outset of the war he predicted the overthrow of slavery as a necessary and inevitable consequence of the war. Had he been an inspired prophet he could not have predicted with greater certainty the result that followed.

He was not only a fluent speaker, but a ready and vigorous writer. His report, in the Convention, from the Military Committee is a fine exposition of the relative positions of the Federal and state governments, and exhibits much scholastic accuracy and a thorough mental training; and yet it is said he wrote rapidly and with great facility, and with but little preparation. He died several years ago. He was never married.

MONROE PARSONS

Was a member of the Cole County bar, and born on May 21, 1822, in Charlottesville, Albemarle County, Virginia, and moved with his father to Missouri in the spring of 1835. The family first settled in Cooper County, but soon after moved to Jefferson City. He was educated partly in Virginia and partly in Missouri, and completed his studies in the college at St. Charles. He studied law in the office of J. W. Morrow, judge of the Cole Circuit, and was admitted to the bar in the spring of 1846. Soon afterwards the Mexican War broke out, and young Parsons raised a company and joined the regiment of General Doniphan, and proceeded to Santa Fé, in New Mexico, under General Kearney.

The history of that expedition, with its battles and forced marches, is too well known to admit of repetition here, but it is sufficient to say that Captain Parsons' company rendered very efficient service, and he proved himself a gallant soldier. When the time for which they enlisted expired, and they reached New Orleans on their way home, they were so ragged that it was with the utmost difficulty they could hide their nakedness. They were paid off at New Orleans, which enabled them to throw away their rags and appear in a new garb; and it is said that after the change took place they did not know each other until each gave his name.

On reaching home Captain Parsons resumed his practice, and in 1856 was elected to represent Cole County in the lower branch of the General Assembly. In 1858 he was elected to represent his district in the State Senate.

Captain Parsons was one of the finest-looking men we ever saw. He was over six feet high, straight as an Indian, had a large frame and dark and piercing eyes. His head was large, his forehead wide and expansive, and his manner dignified and graceful. Few men, indeed, presented a finer

appearance. He was gradually rising in the profession when the Rebellion broke out. He joined the Confederate army, and was appointed by Governor C. F. Jackson brigadier-general of the Missouri volunteers, participated in most of the battles of Missouri and Arkansas, and, after the engagement at Helena, was promoted to the position of major-general.

Upon the termination of the war he started, with others, for Mexico, with the intention, as supposed, of settling a colony in some part of the Mexican territory. He, with two or three others, got separated from the main body, and were massacred by Mexican banditti.

The facts connected with the massacre of General Parsons and his companions are about these: After the Confederate surrender at Shreveport, Louisiana, in May, 1865, Parsons was permitted to keep his transportation, and with his personal effects to cross the Rio Grande into Mexico. He entered the Mexican territory in July, crossing the border at Eagle Pass, and in company with the Hon. Aaron H. Conrow, a member of the Confederate Congress, Colonel A. M. Standwitch, his brother-in-law and adjutant-general, and his faithful servant known as "Dutch Bill," who had been his orderly from the commencement of the war, proceeded in the direction of Monterey. After reaching Monterey they fell in company with General John B. Clark, ex-member of the Confederate Senate, and General Sidney Jackman and others of the Confederate army, and the entire party started for Camargo, intending to leave Mexico and return to the United States. On August 14, 1865, while between Camargo and Monterey, they stopped at a water-tank near a small town called China, just beyond the San Juan River, and on the neutral ground between the French and Liberal forces. Here the party divided up, and encamped within reach of the tank — Clark and Jackman in one place and Parsons and his party in another. It was their intention to have encamped together, but one of Parsons' party, Colonel Williams, of Tennessee, was delayed by a lame horse, and Parsons waited for him, and went into camp before

reaching Clark. Shortly after midnight Parsons and his party were attacked by Mexicans, and, after a severe fight, overpowered and butchered, and their bodies thrown into the *chaparral* or San Juan River. Their money and property were divided among their captors, and while the division was going on, Colonel Don Platon Sanchos, adjutant-general of the Liberal forces, rode up and claimed his share of the booty. Among other things he obtained General Parsons' watch, and afterwards boasted of having taken it from a Confederate general.

Under the treaty of July 4, 1868, the Mexican government was compelled to pay $50,000 in gold for this outrage, and $100,000 additional to the families of those of his companions who were killed. Mrs. Standwitch, the widow of Colonel Standwitch, a most estimable lady and a sister of General Parsons, is now a resident of St. Louis, and has charge of the Blind Asylum.

HENRY SHURLDS.

Our relations with Judge Shurlds were of a most pleasant and agreeable character. We met him on frequent occasions in the social circle, and occasionally transacted business with him while he held the responsible position of cashier of the old State Bank of Missouri. His free and cordial manner secured him a host of personal friends, and his unflinching integrity gave him a passport to public confidence. Judge Shurlds was a native of the Old Dominion, and born in Gloucester County, November 21, 1796. He received a classical education at one of the colleges of his native state, and read law under that great and eloquent jurist, William Wirt, with whom he practiced for a brief period at Richmond.

Few young men started out in life under more auspicious circumstances than Henry Shurlds, for, in addition to a naturally strong intellect, he had all the advantages that could accrue from a thorough education and the best legal preceptor in the old commonwealth. The learned professions at that time, particularly in Virginia, were somewhat crowded, and young Shurlds determined to try his fortune in the West. In 1819 he came to St. Louis, and after remaining there about a year took up his residence in Potosi, Washington County, which was the center of a large mining district and the home of many of the most prominent men of the West, including Moses Austin, who held a large grant of land from the Spanish government, and was looked upon by the early settlers as a grandee. In addition to other attractions Potosi had a very refined society, which continued in after years within the personal knowledge of the author. Mr. Shurlds was not long at the bar, for upon the organization of the state government he was appointed judge of his circuit, then comprising the counties of Washington, Jeffer-

son, St. Genevieve, and others. In 1822 he married Miss Jane Jameison Bush, an accomplished lady of Potosi, by whom he had several children.

The judiciary at that time were very poorly paid, and Judge Shurlds resigned to take the position of secretary of state, which was far more congenial to his tastes.

At a session of the General Assembly commenced November 19, 1832, Judge Shurlds was elected secretary of the Senate, and in February, 1833, was appointed by the governor, with the advice and consent of the Senate, auditor of public accounts, the duties of which he faithfully discharged until March, 1837, when he resigned to take the cashiership of the State Bank, which had just been organized by an act of the Legislature. There was a constitutional limitation against creating more than one bank, though this bank was empowered to establish branches not exceeding five in number. Judge Shurlds held this office for about fifteen years — in fact, until within a few months of his death — when ill health forced him to resign.

The bank was chartered at a time when the country was suffering from a great financial crisis and a total want of public confidence, and when it required the utmost financial skill to conduct any moneyed institution with success. Judge Shurlds, however, proved equal to the occasion, and with the aid of a prudent and cautious directory the bank sailed clear of the rocks and quicksands which had proved so fatal to most of the banks of the country. As a financier Judge Shurlds had but few equals, and the confidence reposed in him by the business men of the country gave the bank a strength which otherwise it could not have enjoyed. The directors were selected from men who had carved out their own fortunes and been successful in life, and whose good sense confined the operations of the institution within the limits of its legitimate business. Such a policy could not otherwise than secure financial success, and the notes of the bank kept at par, and found their way into old stockings and hidden recesses, as furnishing the best depositories for unemployed capital.

Judge Shurlds was a man of most pleasing address and winning manners, but it was within the sacred precincts of home he appeared most brilliant. Exceedingly domestic and simple in his habits, he was always happy in the midst of his family, who bestowed upon him the utmost affection.

He died at his residence, just beyond the limits of St. Louis, August 2, 1852, at the age of fifty-six. He left a widow, one son, and five daughters to mourn his loss. Of his daughters, one married George W. Dent, Esq., now a resident of San Francisco; a second became the wife of B. H. Batte, Esq., of St. Louis; a third one married W. D. W. Barnard, Esq., a well-known merchant of St. Louis — in fact, all of them married men of good standing and position. His son, Edward, died in 1865.

Judge Shurlds was too domestic in his habits to desire public position, otherwise he might have secured almost any office within the gift of the people, for his personal popularity was unbounded and his acquaintance coextensive with the state. He was not a brilliant lawyer, but well grounded in the principles of his profession and a safe and prudent counselor.

APPENDIX.

We here append some very interesting letters, which have never before been published (with the exception of the cipher letter from Burr to Wilkinson). They are not only interesting because of their antiquity and the prominence of the writers, but for the reason that they refer to several of the most eventful periods in American history; and, in order to give the reader an idea of the style in which these letters were written, we insert them *verbatim*, following the capitalization and punctuation.

The first is a joint letter from Generals Washington and Putnam to a church in Woodstock, Connecticut, of which the Rev. Abiel Leonard, grandfather of the late Abiel Leonard, of Missouri, was pastor, and the object of the letter was to obtain the consent of the church to their pastor joining the army and fighting for his country. Having previously refused their consent, the patriotic and belligerent pastor quietly visited the camp of Washington, at Cambridge, and there found the Father of his Country and "Old Put," as they called him, poring over some ancient maps and charts, and, making known to them the object of his visit, procured the letter written March 24, 1776—over a century ago. It is as follows:

"*To the Church and Congregation at Woodstock.*

"Mr. Leonard is a man whose exemplary life and conversation, must make him highly esteemed by every person, who has the pleasure of being acquainted with him. The Congregation of Woodstock know him well, it therefore can be no surprise to us to hear that they will be loth to part with him. His usefullness in this army is great—he is employed in the glorious work of attending to the morals, of a brave people who are fighting for their Liberties, the Liberties of the people of Woodstock, the Liberties of all America, We therefore hope, that knowing how nobly he is employed—the Congregation of Woodstock, will cheerfully, give up to the public, a gentleman so very useful, and when by the

blessing of a kind providence this glorious and unparaleled struggle for our Liberties, is at an end, we have not the least doubt, but Mr. Leonard will with redoubled joy, be received in the open arms of a Congregation so very dear to him, as the good people of Woodstock are. This is what is hoped for, this is what is expected by the Congregation of Woodstock's sincere well wishers and

"Very Humble Servants

"G. WASHINGTON.
"ISRAEL PUTNAM.

"*Headquarters*
"*Cambridge 24th March 1776.*"

LETTER FROM GIDEON GRANGER, POSTMASTER-GENERAL UNDER MR. JEFFERSON, TO JUDGE RUFUS EASTON, OF ST. LOUIS.

"WASHINGTON CITY *March 16th 1805.*

"MY DEAR FRIEND: I have just received yours of the 17th of January, together with Sundry communications in relation to the Territory of Louisiana, which I have forwarded to the President of the United States at his seat. Congress has created your Territory into a New Government of the first grade. It goes into operation on the 4th day of July next. The President has appointed James Wilkinson Commander in Chief of the United States, Governor of the Territory. He is one of the most agreeable, best informed, most genteel, moderate and sensible republicans in the nation. Doctor Browne of New York is appointed Secretary upon the special and single recommendation of Aaron Burr — J. B. Lucas of Penna. Chief Justice — *My friend Rufus Easton one of the Assistant Judges*, the other Judge I know not. I hope and trust that your will find yourself most agreeably situated and next after a conscientious discharge of the duties of your office, and those you owe to the President and government of the nation, allow me to advise you by all means to cultivate the affection esteem, and the confidence of your worthy Governor by whom I shall write to you again, and to whom I shall give a letter of introduction. We have had an extraordinary winter here, the elements of nature have been in a state of distraction, and the passions of men have kept pace with them. The Jackobins have denounced your friend — he meets the shock undaunted, and still thrives and prospers.

"Yours, affectionately,

"GID'N GRANGER.

"*Rufus Easton Esq*
"*St. Louis Louisiana.*"

LETTER FROM GIDEON GRANGER TO RUFUS EASTON.

"GENERAL POST OFFICE, *April 4, 1805.*

"SIR: Yours of the 25th is received; You cannot be allowed any thing for letters sent, or office rent — for a desk You will be allowed to charge this office ten dollars.

"Nothing new has occurred since my last, excepting that every mail increases the majority for Langdon.

"Yours affectionately

"GID'N GRANGER.

"*Hon Rufus Easton*
St. Louis Territory of Louisiana."

This letter shows the rigid economy then observed in the departments at Washington, and strangely contrasts with the extravagance of our public functionaries at the present day.

LETTER FROM RUFUS EASTON TO GIDEON GRANGER, RELATING TO THE BURR CONSPIRACY.

"*February 17, 1807.*

"SIR: Was it not that I am convinced the President has been led into errors by the misrepresentations of those who are inimical to him, as well as the government of the United States I should not have addressed him anticipating certain events, but conscious equally at this moment as heretofore that my statements have been correct, and from information received from different quarters of the Union, that the President can no longer doubt them, I beg leave to call his attention to several extracts from the communications made by me at an early period, to those of other gentlemen and to the particular circumstances of the times. If the President will look at my communication of the 17th January 1805, he will find the following, to wit,

"'It is believed by the best informed that the number of inhabitants at this day will exceed 12,000 souls, about two fifths of whom are from french extraction, the others emigrants from the United States. The Creoles are in general peaceable, civil, & hospitable, possessing honest dispositions. They are good citizens but know nothing of the police of any government. They have no fixed political principles & are liable to sudden changes of opinion as they may be influenced by the more artful and designing. That they are in general enemies to the change of Government requires no argument to prove. When it was rumoured thro the country that a re-cession to Spain was about to take place joy gladdened in their breasts. This must not be taken however for a general sentiment, it is only that of the few who have feasted and fattened upon the labors of the more ignorant and industrious. Many have sufficient discernment to discover that the cession of the country advanced their property at least two hundred per cent — they thank the stars, and are willing to give the praise to whom it is due.'

"In support of these observations I refer the President to a letter of Allan B. Magruder Esq printed in a Kentucky paper which is enclosed. It is no longer to be doubted that a traitorous project to divide the Union has for some time existed amongst some influential characters of the Union, & which is now attempted to be carried into effect. I was convinced of this project more than a year past; and altho I had not the proof to substantiate to others

my belief, I did not hesitate to write the President as follows on the 20th Oct. 1805: 'That General Wilkinson had put himself at the head of a party of a few individuals who are hostile to the best interests of America; who do not possess the confidence of the great body of the people of this country, & who from being the leaders of the Fromentine faction have always been my enemies.'

"He might have supposed me too warm & probably too severe upon General Wilkinson. If so the circumstances of my belief will plead my excuse which was communicated to a gentleman high in the government, high in the confidence & affections of the President, & one who is warmly his friend, & that of the Government of the United States. It may be worthy of remark that during the session of Congress in 1803 I became acquainted with Col Burr, then Vice President, at the city of Washington — during that session I had written my friends who were of the Clinton party in New York, as will appear by their numerous testimonials in my favor, now with the President — the propriety of supporting Brockholst Livingston, or some other character then of the Republican party in preference to Mr. Lewis, being convinced that he was not calculated to govern the state, & they would find the necessity to desert him if elected. They persisted in the support of Mr. Lewis, & at the election in 1804 I threw my feeble support into the scale of Mr. Burr. The sequel terminated as was predicted. Mr. Clinton & most of his friends have ever since been at war with Mr. Lewis. And whilst propositions of a reunion between the Burr and Clinton interests were going on in New York during the last winter Mr. Easton was denounced at the City of Washington as a Burrite by characters who suppose that because a person ought to be independent, he has no right to act independent. Soon after my appointment as judge, Colonel Burr (though I believe he had no agency in procuring it) on the 18th March wrote me expressing the utmost pleasure at this event as well on my own account as on that of several of his friends who were about to remove hither. He mentioned the Governor, General Wilkinson as having been long his intimate friend and Doctor Browne the secretary was his near relation. That I should be highly gratified by the acquaintance of these two gentlemen, and that he should take care to inspire them with a wish for my friendship and esteem.

"Whilst Colonel Burr was at Massac on the 7th of June last in company with General Wilkinson he wrote me again in substance as follows:

"'That before leaving Washington he transmitted me a few lines the principal object of which was to promote a friendship and mutual confidence between me and Governor Wilkinson. That he had this object so much at heart, & deemed it so important to me that he took the liberty again to repeat and urge it. The Governor, he said, was a man of high sense of honor, of delicate feelings; and warm sentiments — a frank ingenuous deportment on my part could not fail to attach him. That the Governor was disposed to be useful to me and would have it greatly in his power. That he had prepared the way for me by exciting prepossessions in my favor which I must foster. That the Governor was intimately informed of the *views* of the Executive, & that I need not be told that my standing with the Administration would depend on the zeal and ability with which I should promote those *views*. That he hoped to see

me at Saint Louis in August or September when it would afford him the highest gratification to find me not only in harmony but in confidence & friendship with the Governor, and at all times, and at all places assured me of the great respect & regard with which he was my friend' &c &c.

"Colonel Burr arrived at Saint Louis about the 17th of September whilst I was at Kaskaskia, & was accompanied by General Wilkinson and Mr. Delaunay of this place, since made Adjutant General of the Territory to the District of St. Charles. I returned to Saint Louis during their absence: upon their return Col Burr made me a visit. My answer to a question which he asked I have reason to believe broke off all further communication between us. He was afterwards closeted with Governor Wilkinson one or two nights till very late.

"Immediately after the departure of Colonel Burr, General Wilkinson broke out upon me in the form & manner with which you already have been informed.

"The part I have always taken illy fitted me for their *views*—which *views* they constantly proclaimed as the *views* of the Executive of the United States, which declarations were not generally disbelieved in the western country until the President's proclamation of the 27th of November last.

"I have the honor to be, Sir,

"With high consideration & respect,

"Your obe't humble serv't,

"R. EASTON.

"*Feby 17th 1807.*"

LETTER FROM GIDEON GRANGER TO RUFUS EASTON.

"WASHINGTON CITY, *April 9th 1807.*

"*Rufus Easton Esqr.*

"SIR: A conversation happened yesterday respecting you, between the Secretary at War and myself. In the course of it I was told, that Government had certain information by Major Bruff of your possessing full knowledge of the plans and designs of Col Burr and his associates, from the avowal of Burr, which you offered to communicate to Bruff, if he would pledge himself to secrecy, which he declined. This was the first idea I ever had of your possessing any other foundation for the suspicions you have suggested than what arose from the character of the persons, and general appearances which were alike in the power of all persons of equal observation and reflection.

"I confess I was really astonished, because altho I presume you received the information under injunctions of secrecy, altho I well know the great impropriety of communicating *almost* any thing given in confidence, and the extreme delicacy under any circumstances—yet I do think that when the proposed act is of a treasonable nature, tending to destroy the Government of the country, or to involve it in foreign or domestic war—whereby the nation will be made miserable, and the lives of thousands lost, or even where murder, robbery, arson, or the like, is contemplated, it is the duty of the person to whom the information is given, to communicate in the one case to the Government to pre-

vent the evil; in the other to the citizen, to save him from ruin, the knowledge he possesses. Do not sound morals require this? Does not the law of the country demand it? What is the doctrine respecting accessaries? Have you a right to lock in your breast a secret, which kept, destroys, divulged saves the nation? Have you a right to allow the murderer or Robber to go forth prowling for his innocent prey, and dealing out death and destruction? And is this right founded on the single circumstance that he has thought proper to divulge in confidence his concerted schemes of iniquity? Would you allow a man to take my life by poison because he had told you in confidence that he designed it? No — you would not, and would you go further to save *me* than the *nation?*

"But there is another consideration which removes the squeamishness of what is (improperly) called honor. When a friend offers to confide a secret to a man of honor who is his friend — the man of honor has a right (if he is not bound) to believe that the secret is of such a nature that he may keep it consistent with the duty he owes to the country. He may therefore pledge himself with propriety.

"The pledge cannot be considered as an assent to do wrong, or omit a moral duty of the first importance to society. If the communicant states any thing, which consistent with duty, must be disclosed, it is at his peril — the act is his — it cannot be considered as included in the promise of secrecy. Indeed when correctly considered it is an offence to the person and an attack on the character of the Depositary.

"You know I do not mean to extend this doctrine to a case where a man basely worms himself into the confidence of another — gains his secrets, & then betrays him. The facts I have stated have made an impression here.

"I believe you acted with upright intentions — but I must think you have misjudged as to your duty.

"I shall be happy in receiving such reply to this letter as you think proper on *reflection:* and whatever that answer may be, it will be communicated to Government.

"Rest assured of my friendship.

"GID'N GRANGER."

To this Colonel Easton immediately replied, denying emphatically the statement of Bruff, and reiterating that he had communicated to the government all the information he possessed in regard to the conspiracy. The government became fully satisfied of this, for in due time Colonel Easton received from Mr. Granger the following letter:

"WASHINGTON CITY *October 28th, 1807.*

"*Rufus Easton Esq* —

"DEAR SIR: Upon my return to this place I was favored with yours of July 14th, Aug 11th, and Sept 10th, also with enclosures &c &c. I enclose you two newspapers and the President's message — by the last you will perceive the state of public affairs, and by the former the fate of the public prosecu-

tions, as well as some attack on yourself personally, by the witnesses before the court. I have read with attention your lengthy deposition; and I am happy to find that there *never was* any thing in your *power* to communicate against the accused. I was always satisfied both from my belief in the correctness of your principles, and from the *tenor of your* correspondence, that so far from being leagued in the conspiracy, you held *it* and *its* authors in *abhorrence.*

"It certainly appears that I erred as to the information you possessed, recent events induce me to fear, that this has not been my only, or most important error; strange things are afloat in the world — the times are searching — I fear that there will be further consequences resulting from the grand conspiracy.

"May every blessing attend you and your family.

"Yours most sincerely and affectionately,

"G. GRANGER."

LETTER FROM GIDEON GRANGER TO RUFUS EASTON, IN WHICH HE DENOUNCES THE POLICY OF TAKING THE PRESIDENTS FROM ONE STATE, AND IN NOMINATING BY CONGRESSIONAL CAUCUS. ADDRESSED TO EASTON WHILE A DELEGATE IN CONGRESS.

"*Feb. 11, 1816.*

"*Dear Easton*

"I am pleased with yours of the 2d. I pray to Heaven for the preservation of our Liberties which must be lost if one State keeps within itself the executive power. I think Clinton has great qualities, & has suffered unjustly — I presume there will not be a *caucus* at Washington. The practice is abominable — Please keep me informed — It shall not injure you — What means the storm in my old office? Who raised it? Who will it destroy? What a weight Madison took from my shoulders! May that act atone for a thousand of his follies.

"Your old friend

"G. GRANGER.

"*Rufus Easton Esq.*

"*Washington City.*"

LETTER IN CIPHER FROM AARON BURR TO GENERAL WILKINSON, AS INTERPRETED BY WILKINSON AND BORNE BY SWARTWOUT. (REFERRED TO IN OUR SKETCH OF EASTON.)

"*July 29, 1806.*

"Yours postmarked 13th May is received. I (Aaron Burr) have obtained funds, and have actually commenced the enterprise. Detachments from different points and under different pretences will rendezvous on the Ohio, 1st November — everything internal and external favors views — protection of England is secured. T—— is gone to Jamaica to arrange with the Admiral on that station, and will meet at the Mississippi —— England —— Navy of the United States are ready to join, and final orders are given to my friends and followers — it will be a host of choice spirits — Wilkinson will be second to Burr only — Wilkinson shall dictate the rank and promotion of his officers.

Burr will proceed westward 1st August, never to return: With him go his daughter — the husband will follow in October with a *corps of worthies.*

"Send forthwith an intelligent and confidential friend with whom Burr may confer. He shall return immediately with further interesting details — this is essential to concert and harmony of movement. Send a list of all persons to Wilkinson west of the Mountains, who could be useful, with a note delineating their characters. By your messenger send me four or five of the commissions of your officers, which you can borrow under any pretence you please. They shall be returned faithfully. Already are orders to the contractor given to forward six months provisions to points Wilkinson may name — this shall not be used until the last moment, and then under proper injunctions: the project is brought to the point so long desired: Burr guarantees the result with his life and honor — the lives, the honor, and fortunes of hundreds, the best blood of our country. Burr's plan of operations is to move down rapidly from the falls on the 15th of November, with the first five hundred or one thousand men, in light boats now constructing for that purpose — to be at Natchez between the 5th and 15th of December — then to meet Wilkinson — then to determine whether it will be expedient in the first instance to seize on or pass by Baton Rouge. On receipt of this send Burr an answer — draw on Burr for all expenses &c. The people of the country to which we are going are prepared to receive us — their agents now with Burr say that if he will protect their religion, and will not subject them to a foreign power, that in three weeks all will be settled. The Gods invite to glory and fortune — it remains to be seen whether we deserve the boon. The bearer of this goes express to you — he will hand a formal letter of introduction to you from Burr, a copy of which is hereunto subjoined. He is a man of inviolable honor and perfect discretion — formed to execute rather than project — capable of relating facts with fidelity, and incapable of relating them otherwise. He is thoroughly informed of the plans and intentions of Burr, and will disclose to you as far as you inquire, and no further — he has imbibed a reverence for your character, and may be embarrassed in your presence — put him at ease and he will satisfy you — 29th July."

LETTER FROM DAVID BARTON, UNITED STATES SENATOR FROM MISSOURI, TO JUDGE SILAS BENT, OF ST. LOUIS, IN REFERENCE TO THE PROBABLE ELECTION OF JOHN QUINCY ADAMS TO THE PRESIDENCY BY THE HOUSE OF REPRESENTATIVES AT WASHINGTON IN 1825.

"WASHINGTON CITY *2d February 1825.*

"*Dr Sir*

"You will have seen that Col McKee has been appd. our Surveyor General — I hope he will purify that office & free it from the banditti who have hitherto surrounded and lived on it.

"Perhaps the existing state of the Presidential election will be interesting. It is now understood here that the most of the N Western States, Kentucky inclusive, will vote for Mr. Adams notwithstanding his taste for codfish and his adulteration of the Mississippi by permitting the continuation of a British

canoe voyage thereon. Should this be the result, I shall have good cause to raise a loud laugh at those miserable jockies who have bestrided the gallant steed of Kentucky, and attempted to ride him dragoon-like over our peaceable heads, but it shall not be the laugh of censure. It is of course charged on Mr C as an intended coalition.

"Had he joined Jackson the charge would have been the same. The indiscretion of some of the General's boys is working a silent conviction of the wisdom of the choice. For these attaches are converted by the imagination into a gang of courtiers, surrounding a throne. Of all the unnatural coalitions (not to say most insincere) is that of our Senator Pomposo, of imperial port & mien, with the General! Now for a ride upon 'the second choice' of our State. Should the hobby not refuse the rider, it may be strong enough to carry him; but a quere about the sincerity of the preference, will be indulged by a people considerate enough to make the revolution which Missouri has accomplished within a few years.

"The president, with the advice of his cabinet (except Adams) advised us to blockade Cuba in time of professed peace! We refused 37 to 10 — whether any were influenced by the correct dissent of the apparent Lord of the ascendent I know not. If we had done so it would have justified the Berlin & Milan decrees & all countervailing measures of England, against which we have so loudly & so justly protested.

"I remain Yours,

"DAVID BARTON.

"P. S. The President still suffers the offices of Aj Gen & Col 2d artillery to remain vacant, or filled by unconstitutional *acting* incumbents. This is mulish enough but not so magnanimous as *Princes* should be. Our recent anti-blockading vote will at least show his Exc'y that we are not humbled below our *duty*, by the Autocratical attitude of our executive officer.

"D B"

David Barton was elected a United States senator from Missouri immediately after the organization of the state government, served four years, was reëlected, and died before the expiration of his second term. He was a natural orator, and a man of transcendent ability. The following letter, written at Washington, and addressed to Colonel Easton, at St. Louis, is interesting by reason of its reference to the then recent election, in 1825, of Mr. Adams to the presidency, over General Jackson, by the Federal House of Representatives. John Scott, of St. Genevieve, the only representative from Missouri, cast the vote of his state for Mr. Adams. The letter also contains an allusion to the supposed coalition between Adams and Clay, which elicited from John Randolph, of Roanoke, on the floor of the House

of Representatives, the allegation that it was a union of the Puritan and the Blackleg. This the reader will recollect caused the famous duel between Randolph and Clay:

"WASHINGTON *16 Feb'y 1825.*

"DEAR SIR: You see that Adams was elected President upon the first ballot. The attacks upon Mr. Clay for his final determination upon this matter have been very abortive.

"They were intended as a grand effort to retrieve the fortunes of the day; but they did not do it. Clay's motives, I believe, were conscientious and patriotic. He is not to be considered as leading, more than following his friends in the North West.

"They claim one of the Heads of Department from the Western States, & there is no man so well qualified as Mr. Clay upon whom so many would unite; and I expect the Department of State will be offered to, & accepted by him, not as his, but as their, claim. In all which I shall acquiesce as a good (and *moral*) citizen should do.

"The result would have been the same on subsequent balloting by the votes of the states favorable to Crawford; and I concurred with Scott in the belief that he ought to vote for A on the first ballot, & thereby decide the contest at once. For all which I expect the approbation of Missouri, if not of Tennessee.

"We are now engaged on Col Johnson's bill to extend the circuit system to the Western States, and more especially to require a greater number of Judges to support the Const. U. S. against a Kentucky Statute, than against any other repugnant thing! I shall vote agt the whole project, because I believe the age, & extent of our Union, now require a separation of the courts of original and appellate jurisdiction; & that the close of a short session is not the best time for the adoption of the proper system.

"Very Respectfully Yours

"DAVID BARTON.

"P. S. Cod-fish have risen 25 per cent, and the City Ladies pronounce the name 'court fish' since the 9th February."

The following letter from John C. Calhoun to Colonel Easton, written in 1825, is worthy of a place in this Appendix:

"WASHINGTON CITY *24th Dec 1825.*

"DEAR SIR: Enclosed you will find the receipt of Mr. Force. I am under great obligation to your kind expression of friendship.

"It has ever been my constant object since the commencement of my public life to elevate our beloved country to the highest degree of prosperity, and to place her liberty on the most durable basis, and I am consoled with the belief from the favorable opinion of my fellow citizens that my efforts have not been in vain.

"I am certainly not insensible of the public honors conferred on me, but if I know myself I place a much higher value on the consciousness of having faithfully discharged my duty to the country.

"With great respect
"I am &c &c
"J. C. CALHOUN.

"*Hon. R. Easton.*"

In our sketch of Colonel Rufus Easton's life the reader will find three letters from Colonel Aaron Burr to Easton, two from Gideon Granger, one from President Jefferson, and one from DeWitt Clinton. The fac-similes of three are given. As these letters have never before been published, they will be read with considerable interest.

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